

# THE EUROPEAN JOURNAL

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THE JOURNAL OF THE EUROPEAN FOUNDATION



LORD CHALFONT  
A DIVISIVE COMMON POLICY



BILL CASH, MP • FREDDIE GJERTSEN • RUPEN RAITHATHA  
MATTHEW ELLIOTT • DAVID BUIK • DANIEL KRUGER  
SARA RAINWATER • TIMOTHY LESS • DIRK VAN HECK  
HUGH NORTON-SMITH • ANNUNZIATA REES-MOGG  
LAURA COOGAN • DR LEE ROTHERHAM

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### Contents

For reference, numbers on pages are as in the printed copy  
Articles below are hyperlinked – use the hand icon, point and click

Original    PDF  
Page      Page

### EDITORIAL

<b>BILL CASH, MP: Renegotiate or Fight</b>	2	3
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### UP FRONT

<b>FREDDIE GJERTSEN: Government on the Constitution: Over-confident or Misguided?</b>	3	4
<b>LORD CHALFONT: A Divisive Common Policy</b>	5	6
<b>RUPEN RAITHATHA &amp; FREDDIE GJERTSEN: Facts</b>	7	8
<b>MATTHEW ELLIOTT: Brusselsbourger</b>	8	9
<b>Letters to the Editor</b>	9	10
<b>DAVID BUIK: ECB, the French Foreign Legion or Devil's Island</b>	10	11
<b>RUPEN RAITHATHA: The Euro in the Press</b>	10	11

### IN DEPTH

<b>DANIEL KRUGER: The European Constitution: A Briefing Note</b>	12	13
<b>SARA RAINWATER: "A Paradise for Lobbies"</b>	14	15
<b>SARA RAINWATER: Europe's Relations with the Developing World</b>	15	16
<b>TIMOTHY LESS: How Federalist are the Eastern Europeans?</b>	18	19

### AND FINALLY...

<b>DIRK VAN HECK: reviews <i>Paradise and Power: America and Europe in the New World Order</i> by Robert Kagan</b>	20	21
<b>HUGH NORTON-SMITH: reviews <i>Made in Britain</i> by Simon Buckby</b>	20	21
<b>ANNUNZIATA REES-MOGG: reviews <i>Global Studies - Europe</i></b>	21	22
<b>LAURA COOGAN: Brussels</b>	22	23
<b>DR LEE ROTHERHAM: Chunnel Vision – Ins and Outs</b>	24	25

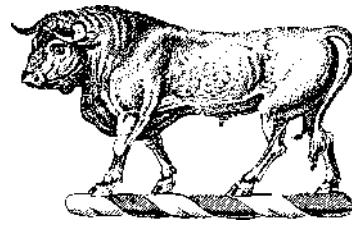
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# Renegotiate or Fight

## Convention proposes withdrawal



Now that the Iraq War is almost over, the European nettle has to be grasped. The European Convention has neither concluded nor is it, in itself, the definitive statement of events – this will depend on the final text and then on the Intergovernmental Conference between the then Member States of the European Union. But the die is cast for a European Constitution for European government. On 23rd April the Convention Secretariat published the 73 pages of draft Articles on “external action”, designing institutions to shape the Common Foreign and Security Policy.

We cannot wait until the last moment – we have to be prepared for the Constitution, and so does public opinion. This means that we have also to examine the options for proceeding, analyse the facts, consider what is at stake and put in train the strategy for a General Election campaign and/or a referendum on the Constitution. To do otherwise would be to run away from the impending need to organise and to arrive at the right decision for the right reasons, in good time, in the national interest. And not only in the national interest – for the matters at stake are equally important for Europe, for the wider world and for democracy itself.

Let us look at the facts. The Convention on the Future of Europe has come close to its conclusions. Those participating have already made clear by an overwhelming majority that there is to be a European Constitution. Not one member state has objected to this and the UK Government has agreed to it in principle. It will undermine our democracy, as this *Journal* has so often shown. For practical purposes, it will devour the European Communities Act 1972. This is because, unlike the constitution of a golf club (as in Jack Straw's analogy) this constitution will become the wellspring of law and state power, which has hitherto remained vested in the Crown. We will hear of the fiction that the Constitution is incorporated and implemented in the UK by virtue of the 1972 Act but, by emasculating our Parliament, the new Constitution will take primacy over it – a reverse takeover. Something similar happened to the Monarchy in the 18th and 19th Centuries when democracy took over, but now it is European government which will prevail over our democratic system. On this basis we cannot leave the 1972 Act as it stands. The sovereignty of Parliament must be reaffirmed and entrenched.

I recently put down two questions to the Secretary of State for Foreign Affairs (which I addressed to the Prime Minister but which he avoided by passing them to Jack Straw who, in turn, passed the buck to his junior Minister, Denis MacShane), as follows:

**Mr Cash:** To ask the Secretary of State for Foreign and Commonwealth Affairs if he will make a statement on the legal basis upon which Her Majesty's Government will give legal effect to (a) the principle of a Charter of Fundamental Rights and Freedoms and (b) the European Constitution.

**Mr MacShane:** The product of the Convention on the

Future of Europe will be a draft treaty. The draft, including any references in it to the Charter of Fundamental Rights, will require the agreement of all member states in the next Intergovernmental Conference. The Government has put forward its views in detail on the draft text produced by the Convention so far. These have been placed in the Libraries of both Houses.

Any new restructured treaty, or amendments to the existing treaties, will need to be ratified according to the individual constitutional requirements of all member states. In the UK, as with the Nice Treaty, and all other treaties amending the original treaty structure, any new amendments would have to stand up to vigorous scrutiny by Parliament before the UK would ratify.

**Mr Cash:** To ask the Secretary of State for Foreign and Commonwealth Affairs if he will publish a White Paper on the legal and constitutional implications of his policy of acceding to a European constitution.

**Mr MacShane:** The Government will continue to ensure full opportunity for the involvement of Parliament in considering the draft Treaty articles being produced by the Convention and which will be considered in the next Intergovernmental Conference. We are considering further how best to do this as the Convention approaches its conclusion before the IGC begins.

He in turn ducks the questions. But what remains clear is the need to prepare now and not on the basis that there are parts of the proposed Constitution to which we could accede or which we might seek to amend. It is the principle of a European Constitution superseding the residual sovereignty of Parliament that we must oppose (in addition to the need to renegotiate what has already been conceded in the Treaties from Maastricht to date). If they will not listen, then we must make clear our refusal to concede that principle.

The process towards deeper and further European integration has accelerated in the past ten years. Indeed, it was the Maastricht Treaty (which sold the pass for European government, including the now discredited Common Foreign and Security Policy) which led to the Maastricht rebellion and was my reason for creating the European Foundation, which now celebrates its tenth anniversary. The consequences of that Treaty, since followed by Amsterdam, Nice and now the proposed European Constitution, speak for themselves.

Notice that the answer I received from MacShane merely referred to his proposal that “any new amendments would have to stand up to vigorous scrutiny by Parliament before the UK would ratify.” No mention of principle or opposition in principle, and bear in mind the huge majority Tony Blair's Government enjoys with the support of the Liberal Democrats, which he hopes will not be decimated at the next Election. He will not agree to opposing the Constitution in principle and refuses to concede a referendum. This points to the possibility

that he will put the issue to the public at the next General Election following an Intergovernmental Conference.

Why do I place such emphasis on the principle of the European Constitution and the absolute requirement to steer our own course (as I indicated in the pamphlet I wrote two years ago for the Foundation, *Associated but not Absorbed*, and in my Election Address for the last General Election) if renegotiation is refused? Even the European Convention has now accepted that withdrawal is on the cards in its latest draft Article 46, 'Voluntary Withdrawal from the Union', primarily on the basis of qualified majority voting. The proposed provision states at Article 46.3, "*This Constitution shall cease to apply to the State in question as from the date of entry into force of the withdrawal agreement or failing that two years after the notification referred to in paragraph 2.*" The timing of the notification may prove to be crucial.

By then, Tony Blair's Bill to implement the Treaty would accept the principle of supremacy of the European Constitution. Now is the time, before the Intergovernmental Conference is concluded and once the Convention is concluded, which could be as early as June this year, to prepare the electorate for the greatest battle for democracy we have ever fought in peacetime.

This Constitution would reduce our Parliament to a talking shop set in the rubble of national democracy. General Elections would become largely irrelevant. John Bruton, the former Irish Prime Minister and now a member of the Praesidium of the Convention, recently stated that, in effect, the national parliaments were wasting their time and should simply accept their fate of subordination to European government.

UK politicians had better wake up and turn the burden of proof onto those who promote the Constitution – demanding to know how they and the broadcasting media can justify it, rather than those of us who oppose it being expected to accept it, on the basis that it is pro-European, when in fact it is anything but. It is not in Europe's best interest (and not democratic) to construct for it a new constitution and basis for government without consulting its peoples.

At a lunch in the summer of 1990 in 10 Downing Street with members of the Cabinet, Margaret Thatcher asked me, "*What do you feel about Europe?*" I replied, "*Your task is more difficult than Churchill's – he was faced with bombs and aircraft, you are faced with pieces of paper.*" So it remains. We must not fail.

*Bill Cash is the Conservative MP for Stone. He is Shadow Attorney-General and Chairman of the European Foundation.*

## Government on the Constitution: Over-confident or Misguided?

by Freddie Gjertsen

AS THE CONVENTION on the Future of Europe grinds out progressively more final drafts of a European constitution, the precise nature and impact of the document should be the subject of wide and fierce debate. Many suspect that the 'small' step of a constitution will foment further European federalism, and thus represent a giant leap towards a unitary European state. Not, though, the British government. Thus far, the Government has lauded the exertions of the conventioners as a useful exercise in increasing European transparency; to paraphrase its view: the constitution is an attempt to clarify the distinction between the competences of the European Union and of the member states, and therefore to determine that the power of the Union stems from its members, and not vice versa. This sanguine analysis has permeated, and prevailed, in the public arena. Thus, the proposed introduction of a European constitution has gone largely without comment from the British electorate.

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analysis and take exception to the document's underlying federalist theme. It has a pre-emptive defence prepared against any such criticism. It dismisses it on the basis that the constitution is a constitution in name only: nothing new, just a simplification of existing treaties. Jack Straw iterated this when he told BBC News that the British Government is "*interested in ... a simplification of the legal framework in which the EU operates. You can call it a constitution if you like... In effect, the*

*existing treaties are already an EU constitution. However, they are overly complex and unclear. For this reason, the Government supports redrafting and restructuring the treaties.*"

The lack of government concern regarding the Convention is founded upon an endemic denial of any relevance or significance to the emerging constitution. This denial is based upon an underlying confidence, if not arrogance, that the present government can shape a European constitution as it wills. Mr Blair, international statesman extraordinaire, will simply meet his European counterparts and inform them of the sections that are, and are not, allowed.

This self-assuredness is evidenced by a Foreign Office letter to the Democracy Movement that, in response to concerns about the content of draft EU constitutions, instead of genuinely engaging with the details of unpalatable sections, repeatedly cites Foreign Secretary Jack Straw stating the function an EU constitution "*should*" perform. This method of response demonstrates no recognition that the final

constitution may reflect the influence of any parties other than the British government. Such overweening complacency was also demonstrated by Peter Hain, Secretary of State for Wales, in a recent House of Commons Debate on the Convention on the Future of Europe. *"There are items in it [the EU Constitution] ... that I do not like, and we are seeking to amend them... What we have shown since 1 May 1997 is that we consistently win the argument."*

### Claims that the constitution is a genuine step towards a unitary or federal European state draw denial and prevarication from the British government

As described, claims that the constitution is a genuine step towards a unitary or federal European state draw denial and prevarication from the British government. But, although they frame it as harmless, they are eager to avoid a referendum on its adoption. When challenged over the issue, the excuse is wheeled out, somewhat limply given the recent liberal use of referenda in Scotland, Wales, Northern Ireland, London, and even Hartlepool, that they are committed to Parliamentary democracy. This is supplemented by the claim that treaties are best ratified through Parliament *"because, frankly, that is the best way to ensure the detailed scrutiny and accountability necessary to secure real democratic legitimacy for the outcome."*

The latter argument does carry some weight. Despite the current process of re-

### The European constitution remains a dense and abstruse document

structuring, the European constitution remains a dense and abstruse document, not easily accessible to the average voter. This is not something the Government should exploit. This inaccessibility is being used by the Government as an opportunity to ignore, and to fail to engage with, the true nature of the emerging constitution. Instead they are relying upon the electorate unquestioningly believing their claims that the constitution is nugatory and irrelevant. It is therefore necessary that opponents of federalism call for a referendum in order to stimulate debate on this important topic.

Such a debate on the European constitution is necessary. Necessary because this constitution was always intended as a federalist document, as demonstrated by the presence of outright federalist language in the original drafts. Such language has since been removed, but its memory serves to indicate the approach and expectations of the conventioners. It confirmed that they see themselves as founding fathers, not slaving wordsmiths tasked with rephrasing the more arcane passages of European treaties. It confirmed that the whole leaning of the new constitution is towards a further centralisation of powers, towards shaping a future European state. This is manifest within the constitution in the proposed expansion of the use of Qualified Majority Voting and the granting of a legal personality to the European Union. The EU does not currently engage the British voter, who, alongside the average British

politician, fails to realise the significance and power that its institutions wield. Any increase in governance at EU-level will, consequently, not be democratically representative of, or accountable to, the British public. Handing additional powers to Brussels is at present unnecessary and inappropriate.

However, this is what will happen if the British government is allowed to maintain that the sole aim of the Convention on the Future of Europe is to simplify the plethora of European treaties. The removal of reams of verbiage from European treaties is not the aim of the constitution; it is an associated benefit, and a marginal one at that. The aim of the constitution is to create a framework for further European integration and to allow further powers over the governance of Britain to pass into the Union's hands.

The British government are unwilling to acknowledge this and the British electorate seem unaware of it. A referendum campaign and the associated debate is therefore necessary. The principle of a referendum is supported by the vast majority of the European public according to the eVote website. 86.3% of those polled thought that an EU constitution should be approved by a vote of the EU citizens. Only 4.1% preferred Tony Blair's supported method, that of a decision of national parliaments. Without a referendum there will be no campaign and no debate. Debate would bring out the negative, as well as the positive, elements of the constitution and force the government to justify its position. Britain will then, at least, be made aware of the significance of the adoption of a European constitution.

*Freddie Gjertsen is Deputy Editor of the European Journal and a freelance journalist.*

### ... news in brief

#### Poland votes sovereignty over moral matters

The Polish parliament has voted a declaration stating that its national laws on moral questions take precedence over European laws. Approved by 374 votes to 25, the text says that *"Polish legislation on matters concerning the moral order governing social life, the dignity of the family, marriage and education, as well as the protection of life, cannot be limited by international provisions."*

This declaration comes several weeks before the referendum on Polish membership in June, and is intended to allay the fears of conservative and Catholic voters who fear that the EU will force Poland to change its abortion laws. In Brussels, officials have been purring that this declaration does not contravene EU principles because the EU, in virtue of the principle of subsidiarity, has no competence in these

matters anyway. If there was any change in this, they say, it would be up to the European Court of Justice to decide who has the final say – one way of stating that the declaration might be rendered null and void one day. For it is clear that if the EU ever did adopt a law on such matters, it would have to be applied in Poland as much as anywhere else.

A phrase has recently been inserted into the text of the draft Constitution which specifies that EU law trumps national law. Peter Hain, the British government's representative on the Convention, tried to stop this sentence being inserted because he said that public opinion would misunderstand it. But Jean-Luc Dehaene, one of the Convention's Vice-Presidents, retorted, *"Your problem is that you are afraid of saying clearly to European citizens just what the European Union is."* Peter Hain gave in and the sentence was inserted. [Thomas Ferenczi, *Le Monde*, 13th April 2003]



# A Divisive Common Policy

by Lord Chalfont



MANY OF US who have been strongly supportive of the Common Market and the growth of a European Customs Union or free trade area of sovereign nation states, have watched with some concern as federal enthusiasts in Europe have built a foundation for something quite different – namely a European Federal State – a United States of Europe.

The proceedings of the Convention on the Future of Europe have deepened those concerns, and the draft of the first 16 Articles of the Constitutional Treaty have left no room for doubt about what is planned. In the first Article of the Treaty, the f-word makes an immediate appearance:

*“Reflecting the will of the peoples and the states of Europe to build a common future, this Constitution established a Union [entitled ...], within which the policies of the Member States shall be coordinated and which shall administer certain common competences on a federal basis.”*

Although there has been some argument about the meaning of the word ‘federal’ in different languages, in English there can be no doubt that it signifies a high degree of integration and centralisation. Of course, by the time the Treaty reaches more considered

drafts, that word and much else might have changed but, if we are to influence those changes, now is the time to debate these matters and to decide what, from the United Kingdom’s point of view, any Constitutional Treaty should contain.

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According to the Convention on the Future of Europe, the final Treaty will contain nearly 50 articles and, if it is accepted, it will change the whole political face of Europe. I intend to concentrate on

what I hope I may regard, without hubris, as my own area of expertise, namely defence and security. These subjects make their first appearance in Article 10 of the draft where the categories of competence of the Union are explained. Competence in this context is a relatively new piece of euro jargon, but it means, in effect, the power to make laws and in Article 10 the following appears:

*“The Union shall have competence to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.”*

In the explanatory note to this Article, the following appears:

*“The common foreign and security policy and coordination of the Member States’ economic policies are given separate paragraphs, in order to reflect the specific nature of the Union’s competences in those areas.”*

It is not quite clear what is meant by the specific nature of the Union’s competences in foreign and security policy. I believe, however, that we are entitled to assume that it means something and I think we might be justified in suspecting that it means exclusive competence, which means that only the Union may make laws, the Member

States being able to do so themselves only if empowered by the Union. This suspicion is strengthened if one reads Article 14 of the draft Treaty:

*"Member States shall actively and unreservedly support the Union's common foreign and security policy in a spirit of loyalty and mutual solidarity. They shall refrain from action contrary to the Union's interests or likely to undermine its effectiveness."*

Some of the implications of all this were contained in the report from the Working Group on Defence presented at the plenary session of the Convention on 20th December last year, where there was no consensus amongst member states with regard to what a European defence capability might look like. However, they did say:

*"... agreement on some general principles was secured: focus ought to be given to crisis management, the fight against terrorist threats, deployment outside the Union, and armaments capabilities. Other proposals include: enhancing the role of the High Representative to allow him to take decisions in times of emergency and to take responsibility for coordinating defensive action; creating a special military pool for the joint training of troops to respond to natural catastrophes; and the creation of an agency for armaments procurement. The majority of speakers in the debate said that while they could broadly subscribe to both groups' recommendations, there needed to be greater*

*clarity before agreement could be secured on every detail."*

It seems to me that there is no longer any room for sophistry about this matter. If there is no change in the provisions of the draft Treaty regarding foreign and security policy, the implications are quite clear, especially if the recommendations of the Working Group are accepted. The United Kingdom government would no longer have total control over equipment procurement, command and deployment of our armed forces. Not only would we be obliged to undertake military operations at the behest of the European Union, but we would not be able to engage in any operations outside the Union without its consent. We would not, for example, be able to mount an operation similar to that which was mounted for the recovery of the Falkland Islands. In contemplating the sort of situation in which the new United States of Europe might be required to engage in military action for foreign common policy objectives, one only has to think of the shambles which accompanied the recent attempt to agree on a second resolution at the United Nations to deal with the Iraq crisis.

In conclusion I feel bound to ask a question: "Has all this now gone too far?" Unless the draft Treaty is radically revised and amended, it is difficult to see how the United Kingdom can possibly accede to it

without a damaging loss of national sovereignty. We may have to contemplate different arrangements, and the possibility of withdrawal might not seem as fanciful as it has in the past. Many people have advanced the argument in the past that there is no need to choose between being Atlanticist and being European or, to use the shorthand, to choose between Europe and America. It may be that the time has come, in fact, to make that choice.

The whole structure of international power has changed since the end of the Cold War and will certainly change again after the war in Iraq. It would be a brave man who would try to describe what the new world power structure will look like, but one thing is, I think, clear. It is that the focus of power is moving away from Western Europe, where the Franco-German power base has been irreparably damaged. The time may have come to make some decisions of fundamental importance if we are to retain our status as a sovereign nation state. At least we should ensure that there is a referendum of the British people before this new Constitutional Treaty takes its final shape.

*Lord Chalfont was Minister of State for Foreign Affairs in the first Wilson Government, having previously been Defence Correspondent of The Times. He now sits in the House of Lords as a Crossbench Peer.*

### ... news in brief

#### EU suppresses critical reports on Poland

The EU has kept confidential its reports criticising candidate countries, including Poland. One of these confidential reports made its way into the hands of a Dutch reporter: it claims that the Polish judiciary is not independent and that criminal cases are subject to political influence there. But this information never made its way into the EU's published reports on the accession countries. The negative report was withheld from the European Parliament, which voted in favour of enlargement last week. The confidential report had been written by a Dutch judge, who confirmed that his team concluded that Poland was not fit to join the EU. [KRO Reporter, 10th April 2003]

#### Italy votes to send troops to Iraq

The Italian parliament has voted to send some 2,500 to 3,000 Italian troops to Iraq. The idea is that they will be responsible for delivering humanitarian aid. [Corriere della Sera, 16th April 2003] The soldiers are expected to leave shortly after Easter, and will be composed mainly of carabinieri (military police) units which have served in Kosovo and Albania. [La Repubblica, 16th April 2003] The vote was supported by some of the opposition and the motion was carried despite massive public opposition in Italy to the war, which culminated in yet another anti-war demonstration in Rome. The fact that the government has supported the war in the face of such opposition has weakened its popularity.

#### Italian parliament speaker wants UN seat for EU

The president of the Italian Chamber of Deputies, Pier Ferdinando Casini, has said that the United Nations has not been rendered irrelevant by the Iraq crisis but that the institution needed to be reformed by giving a seat to the European Union. He said that he regretted the absence of a common foreign policy in the Iraq crisis and that Italy should work towards rebuilding relationships damaged in the crisis.

*"Perhaps this is the time to resurrect the idea of a permanent seat in the Security Council for the European Union, which could speak with one voice. The Iraq crisis has pitilessly revealed how far Europe is from a common foreign and security policy, even though it now has a single monetary policy and even though it is consolidating its own continental identity by enlargement."*

Casini said that Italy's role should be to outline "what political physiognomy Europe should assume in the 21st century." He went on, "There is no prospect of peace in the world without the Euro-American bridge; if it distances itself from Europe, the United States would deprive itself of an indispensable pillar for the New World Order. If Europe distances itself from the US, Europe would grow weaker in irrelevant and fanciful nostalgia. A Europe which is more united and stronger can only be a more solid and more responsible ally of the United States. We must rapidly fill the gap which has widened between the two shores of the Atlantic by making a mutual examination of conscience which must, above all, involve public opinion." [Corriere della Sera, 15th April 2003]

# FACTS

## Malta

Malta has voted to re-elect the pro-EU Nationalist Party. The keenly contested election prompted 96% of the eligible voters to turn out on Saturday 12th April – such high participation is common in Maltese general elections.

The result was close. Preliminary figures show that the incumbent Nationalist Party, obtained 51% of the votes while the Labour Party got 47% – a difference of around 10,000 votes.

## Turkey – Fischer

Candid comments made by the German foreign minister and filmed by a Danish TV producer could derail the entire political process of aligning Turkey with EU membership.

Danish foreign minister Per Stig Møller was taped in a corridor saying “*I am a good friend of Joschka, and he tells me that Turkey will never join.*” According to *Berlingske Tidende*, the German foreign ministry has already sent out an official denial through its Ankara embassy.

## EU Committee System

A 178-page study published by Swedish political scientist Professor Torbjörn Larsson sheds light on the hitherto shady world of the EU committee system. His book is the first attempt to catalogue just how the European Commission goes about its daily business, who knows what is going on, who does not and who should.

There are an astounding 1352 different groups in and around the Commission – of which an “*overview is rather lacking*”, as the Swede delicately puts it. For example, in one area 40% of the 120 groups were unaccounted for. Nobody knows if they are active or not.

Of the 1352 groups, 193 are “passive.” In effect, this means they loiter with intent. The Commission does not dismantle a group unless it is really sure that it will never be needed again because to set up the committees requires so much time and effort.

## OLAF

The European Anti-Fraud Office has recently closed an investigation into the misuse of European funds in Greece. The funding – from the European Agricultural Guidance and Guarantee Fund – was destined for the creation of ecological parks in Greece.

Malfeasance appears to have occurred with the making of claims for ineligible land and the receipt of money for undertakings that have either not begun or not been completed. A minimum of €3.4 million was either misused or wrongly obtained.

## WTO: EU tables proposal for sustainable fishing

The EU has called for international action by the WTO to put an end to over-fishing by banning all subsidies which cause over-capacity in the fisheries sector. This was a key goal of the Doha Development Agenda, and part of the EU’s commitment to sustainable development.

According to various estimates, global fisheries subsidies account for anything between 17 and 25% of turnover in the

sector. Reflecting concerns of the potentially harmful trade, and developmental and environmental effects of sector subsidies, EU Trade Commissioner Pascal Lamy said: “*This is another example of the EU’s commitment to sustainable development, a key goal of the Doha Development Agenda. By banning these subsidies today, we can indeed help to ensure a sustainable future for fishermen around the world.*”

## Iraq

The European Commission has adopted an emergency humanitarian aid decision for €10 million in response to the urgent post-war medical needs in Iraq. The funding is part of an overall €100 million package agreed upon in March.

The Commissioner for Development and Humanitarian Aid, Poul Nielson, said: “*It is clear that the war has seriously affected the delivery of basic health services in Iraq. As always, children are among the worst affected and it is vital that adequate treatment should be available for these innocent victims of the conflict.*”

## Institutional Reform

The Convention on institutional reform has proposed the slimming down of the Commission from 20 to 13 members, with the creation of up to 12 Commission “counsellors”. In addition, it suggested the creation of a full-time President and Vice-President to replace the present rotating leadership. It also recommended the creation of a seven-member “Bureau”, headed by the new President and including an EU foreign minister, to coordinate all EU activities.

In response to these proposals, the Commission, while reiterating the need for reform, took exception to the way in which the proposals had been presented, and to their substance. In making public its proposals, the Convention has made the prospect of compromise more problematic, the Commission claimed.

With regard to the content, the Commission said the proposed bureau “*would undermine the checks and balances in place between the EU institutions. It could also lead to unequal treatment of Member States and this would jeopardise the trust between them*”, effectively damaging the Community method based on equilibrium between Council, Parliament and Commission.

Overall, the proposals fell short of clarifying the role of executive and who should be playing that role, and instead, claimed the Commission, would contribute to institutional fragmentation. Increasing the number of Presidents and Vice-Presidents would only lead to confusion, when the objective should be to “*simplify executive powers, not to allow them to proliferate*”.

*FACTS is compiled by Rupen Raithatha & Freddie Gjertsen. Rupen has recently completed his Masters degree in International Relations at Warwick University and is Research Co-ordinator for the European Foundation. Freddie Gjertsen is Deputy Editor of the European Journal and a freelance journalist. Sources for the above are Europa.eu.int and EUObserver.com.*



## BRUSSELS BOURGER

### 1000 years in 1000 words

ACCORDING to the latest Eurobarometer opinion poll, only 28 per cent of people in the European Union are aware of the 'Future of Europe' Convention. To put this figure in perspective, 92 per cent have heard of the European Parliament. Although the Convention is largely unheard of, the resulting European Constitution will – if ratified – shape our political system for *'an unlimited period'* (Part Three, Article H). With 929 words to go, here is a précis of the draft Constitution as it stands.

The Constitution is split into 3½ parts: three official parts and two draft protocols added on. Part One begins by defining the objectives of the Union (Title I). According to Article 1, the Union *"shall administer certain competences on a federal basis."* This definition means that policies would be administered on a regional, national or European level (which, incidentally, would achieve *"legal personality"* or statehood in its own right) as defined by the Constitution.

*"The Union's objectives"*, outlined in Article 3, seem to include everything but motherhood and apple pie. *"Sustainable development based on balanced economic growth and social justice"* – tick. *"Solidarity between generations"* – yes. *"Discovery of space"* – affirmative. *"Motherhood and apple pie"* – unfortunately, not included.

Title II incorporates the infamous Charter of Fundamental Rights as an *"integral part"* of the Constitution. Infamous, that is, for having *"no more legitimacy than a copy of the Beano"* according to the British Government. With regards to citizenship, were this Title to be passed unamended, our European citizenship would be *"additional to [i.e. separate from] national citizenship"* rather than through our nationality as it is at present.

The competences that would be administered on a federal basis are named in Title III. Exclusive competences (i.e. policy areas covered solely by the Union) would include the free movement of persons, goods, services and capital; competition policy; the customs union; a common commercial policy; monetary policy for the Euro zone; and the conservation of marine biological resources under the common fisheries policy (Article 11).

Shared competences would only be administered by national governments where *'the Union has not exercised or ceases to exercise its competence'* (Article 12.3). The *'principal areas'* covered would include the internal market; the area of freedom, security and justice; agriculture and fisheries; transport; trans-European networks; energy; social policy; economic and social cohesion; environment; public health; and, consumer protection (Article 12.4). Also included is the coordination of national economic policies *"taking into account the common interest"* (Article 13) and foreign policy. Article 14, drafted before the recent Gulf War, says: *"Member States shall actively and unreservedly support the Union's common foreign and security policy [CFSP] and refrain from action contrary to the Union's interests or likely to undermine its effectiveness."*

Areas for supporting action – the lowest level of competence – are: employment; industry; education, vocational training and youth; culture; sport; protection against disasters; and, national employment policies (Article 15). For any policy areas not already covered, a *"flexibility clause"* (Article 16) allows for additional Union action following unanimous approval by the Council.

These policy areas would be administered through three different *'legal instruments'* (Title V). Legislative acts include *"directly applicable"* European laws and *"binding, as to the result to be achieved"* European framework laws. Non-legislative acts consist of directly applicable European decisions and European regulations for largely administrative measures. And non-binding acts – recommendations and opinions – are for floating ideas or encouraging harmonisation. Confused? It was even worse before this simplification by the Convention.

The following Titles are less unambiguous. Article 35a of Title VI could provide for state funding of established pan-European political parties. Title VII could lead to the Union supplementing its *'own resources'* with a direct European tax. And Title IX could be used as a means of encouraging further enlargement through the development of *"special relationship(s) with its neighbouring States"*. These matters need clarification.

The final section of Part One of the Constitution is certainly not ambiguous. Article 45 of Title X on the *"Suspension of Union membership rights"* is designed with

Jörg Haider in mind. Had the Constitution been in place when the Freedom Party achieved their electoral triumph, two-thirds of the Council (a qualified majority) would have been able to suspend Austria's voting rights within the Union whilst maintaining her obligations under the Constitution. The question is: could this be used against Member States legitimately pursuing their self-interest, such as the UK going to war against Iraq?

Part Two of the Constitution provides more detail on the CFSP and the area of freedom, security and justice. The most important change is the abolition of the pillar structure – a movement from *'inter-governmental cooperation'* to *'supra-national harmonisation'* in these areas. The following chapters provide a legal basis for a common asylum and immigration policy, a European Border Guard and a European Public Prosecutor, i.e. a European Home Affairs policy.

Part Three was covered in the Introduction (the duration of the Constitution is *'an unlimited period'*), leaving only the extra half. Negotiations are often analysed in terms of give and take. If Parts One to Three are about giving power to the European Union, the additional protocols are meant to be about taking it away. The protocol on *"the role of national parliaments"* basically commits the European institutions to forwarding documentation to Member States' legislatures. And the protocol on *"the principles of subsidiarity and proportionality"* reaffirms the Union's commitment to decentralisation.

Unlike previous commitments, however, these words are meant to have teeth. If one third of national parliaments agree that a certain European Commission proposal contravenes these principles, the Commission *"shall review its proposal"* (Paragraph 6). Readers can judge for themselves whether the bark of these proposals is worse than their bite: *"After such review, the Commission may decide to maintain, amend or withdraw its proposal. The Commission shall give reasons for its decision."*

For many people, the draft Constitution is too federalistic; but for others, it is too intergovernmental. But whatever our personal opinions, we should all campaign for a referendum. Let the people decide.

*Matthew Elliott, a researcher in both the British and European Parliaments, can be contacted at [elliottm@parliament.uk](mailto:elliottm@parliament.uk).*

# LETTERS TO THE EDITOR

## Atlantis Refounded

from Mr Morris

Dear Sir,

I value the *Journal's* excellent analysis but I am puzzled by your policy. Over the thirty years of our membership the EU has shown itself to be the assembling framework of a European State, in principle authoritarian, in practice corrupt and by its nature unreformable, as Lady Thatcher has designated it. Why therefore attempt to reform from within an institution which so clearly ought to be got out of? Why not advocate instead a union of truly sovereign nations of common democratic and libertarian values and outlook – call it Atlantia? Recent events show the need and perhaps the beginnings.

Yours faithfully,  
Mr Morris, Stowmarket

## Take a Stand

from Mr L.G. Holt

Dear Sir,

As ever in the *Journal* – this time it is Messrs Redwood and Fabricant – there are Conservative MPs telling its readership how awful the EU is for the UK. However, we know this already; but equally we also know that the UKIP is the only party that, currently and overtly, takes a stand against it to the point that it would get out of the EU rather than put up with it. Where, by analogy, is the Conservative Party and its leadership while, for example, all this EU ‘constitutionalising’ is going on? Will it, as

with e.g. Maasticht, in the end just go quietly (or even noisily) into a ‘superstate’ as acceptable to Labour and the Liberal Democrats? Presumably the problem is that, whereas there is only one UKIP, there are two Conservative Parties.

Yours faithfully,  
L.G. Holt, Chiselhurst

## Gibraltar

from Mr Desmond Rose

Dear Sir,

Tony Lodge writes that the Gibraltarians want to take their own time to say whether they want to have joint sovereignty with Spain, but in the meantime they want the status quo to be as it is.

Denis MacShane promotes the idea that the Gibraltarians are going to have joint sovereignty whether they like it or not.

To get to the reason why Mr MacShane says what he does, the people to ask are Sir John Kerr and Baroness Symonds. Their view will be that Gibraltar is not going the same way as the Falklands. The following has been put to the Baroness and the lack of response makes the case.

The negotiations between the UK and the Argentine government (was it joint sovereignty?) broke down.

When Argentina invaded the Island, the Foreign Office then told the Government almost ‘not to worry – we have got a unanimous resolution from the UN that Argentina removes its troops so that negotiations can restart’. That did not happen.

There are enough of you on the board of this *Journal* to know that at that point there was nothing a UK government could do about it. You can fume to your hearts content, but that is all.

But this is what happened. The nation – and I mean the nation which included me – said to their humble servants in the House of Commons, ‘can you do something to right a wrong?’ The House of Commons listened.

I put to you what I have put to Mr Blair. The United Kingdom told the world we did not want to do this because we knew it would be painful but if United Nations resolutions are to have any meaning, then this is our contribution to it.

Why then did everyone complain? If democracy is to have any meaning why has there been no movement from any political party, (and I do not care which), which will say in the House loud and clear, that until the people of Gibraltar do agree to joint sovereignty their status does not change.

Yours faithfully,  
Desmond Rose, Essex.

The *European Journal* would like to apologise for having given the impression that the views contained in paragraph 6, page 16 of Volume 10, Number 5 were those of Lord Lawson. His intention was to give an outline of what he perceived the Prime Minister's views to be.

## ... news in brief

### Hungary votes ‘Yes’ to Europe

On a very small turnout, Hungarian voters have approved their country's application to join the EU. The headline figure of 83.8% in favour hides the fact that a mere 45.6% of the electorate bothered to vote. Or, to put it another way, the people opposed to EU membership probably stayed away deliberately. In most post-communist countries, a 50% turnout is required for a vote to be valid. This low turnout contrasted with government predictions, and opinion polls, which said there would be a 70% turnout. The figure recalls the 49% turnout at the referendum on NATO membership in 1997. The ‘Yes’ vote followed the confiscation by Hungarian police of 9,000 anti-EU posters, which compared Hungary's integration into the EU with the takeover of the country by the Nazis and then the Soviets. The police justified their seizure of these posters saying that they contained prohibited symbols of tyranny. Meanwhile, the chief Slovak negotiator with the EU, Jan Figel, has said that the positive votes in Hungary and Malta will encourage a

‘Yes’ vote in his own country, where a referendum is due to be held on 16th–17th May. [*Radio Free Europe Newslines*, 14th April 2003]

### Germans vote against Czech EU membership

The vote by CSU MEPs against Czech membership of the EU has upset people in the Expellees Association as well as in Prague. The vote had been led by Bernd Posselt, the president of Pan Europa Union Deutschland and head of the Sudeten Germans association. He said that the Czech Republic should not be admitted because of its continuing discriminatory effect of the unjust Beneš decrees. Other members of the expellees' association, however, criticised Posselt. Herbert Werner of the German-Czech Future Fund, and Walter Rzepka of the Ackermann Community, said Posselt had caused “a chance to be missed”. They said that the past should not rule over the present and the future, and thanked those who had voted ‘Yes’ to Czech EU membership. Posselt said he had no regrets about voting ‘No’, and claimed that 100 MEPs would have done the same if the vote had not been subject to party discipline. [*Die Welt*, 15th April 2003]

# ECB, the French Foreign Legion or Devil's Island

by David Buik

WHEN GORDON BROWN started delivering his Budget Statement on Wednesday, 9th April, he started off by extolling the virtues of the UK's economic performance in recent times against that of the Eurozone, Japan and the US. Many interpreted his comment as being the signal that full membership of the single currency would be postponed. Half an hour later he entered into a long-diatribes on house prices and flexible mortgages, which pandered to the Prime Minister's relentless quest to drag us in screaming. Of course, he conveniently omitted to tell the elected chamber that the percentage of house owners in the UK is significantly higher than in Europe. Even in the wake of the debacle at the UN in March, Mr Blair still seems determined to persuade the country that UK entry will help heal the weeping sores of disagreement over Iraq. How misguided can you be?

THE SAME ANALOGY applies to appointing Wim Duisenberg's successor as Chairman of the ECB. If his successor is not Jean-Claude Trichet, then the appointment will be political rather than purely pragmatic and economic. The old-fashioned terminology is 'horse-trading'. Wim Duisenberg was perceived to be Hans Tietmeyer's lap dog. The chain-smoking 68 year-old Chairman of the ECB, who is finally due to throw in the towel on 9th July 2003, has been asked to postpone his retirement indefinitely, until such time as M. Trichet has had time to clear his name. It has been generally believed that Jean-Claude Trichet of La Banque de France would succeed him. There was nothing

official. However it was common knowledge that President Jacques Chirac had 'horse-traded this appointment', after Germany endorsed Mr Duisenberg's appointment in 1998, much to M. Chirac's considerable irritation and chagrin.

M. J-C Trichet is currently answering allegations in court that, when he was chairman of Credit Lyonnais, there were some financial 'cover-ups' during his 'stewardship'; charges which he has vigorously repudiated. Financial irregularities are deemed to have triggered the demise and reincarnation of Credit Lyonnais. A proposed acquisition of Lyonnais by Credit Agricole is currently being negotiated. These irregularities are rumoured to include injudicious loans to a doubtful Italian ex-waiter to buy a stake in MGM and to Robert Maxwell's enterprises, as well as the ownership of no less than 36 golf courses – hardly synergistic with banking. All these and many other issues are receiving intense scrutiny from the Paris Prosecution Service and court proceedings could well go on until June of this year.

Christian Noyer was, some months ago, considered to be the natural alternative to

M. Trichet, were he to fail to satisfy his accusers. A few more respected 'rags' were submitted for consideration. However they really qualify under the 'Desperation Stakes'! Jean Lemierre, the President of the European Bank for Reconstruction and Development and Yves Tibault de Silguy, the European Commissioner for Economic & Monetary Affairs would both be acceptable candidates in many circles. The 'France Syndrome' WILL prevail as far as Jacques Chirac is concerned. Were M. Trichet to be exonerated by the Courts, he would be a nailed-on certainty to fit snugly into Duisenberg's boots. Les Messieurs Lemierre et Tibault de Silguy have been installed at 5/2 joint 'jollies'. Many consider that M. Tibault de Silguy might now have taken hold of the bit at the business end of the race. This appointment has nothing to do with merit or accommodating different cultures, it's all about politics and power – France and Germany against the rest of Europe. Big is beautiful!

*David Buik is Head of Marketing at the spread-betting company Cantor Index.*

Jean-Claude Trichet – Banque de France	– 5/2
Jean Lemierre – President of EBRD	– 5/2
Yves Tibault de Silguy – European Commissioner	– 5/2
Christian Noyer – Retired Vice President ECB	– 4/1
Pascal Lamy – EU Commissioner	– 8/1
Dominique Strauss Kahn	– 8/1
Andrew Crockett – Formerly with BIS	– 12/1
Eugenio Domingo Solans – Spanish Central Bank	– 16/1
Antonio Fazio – Bank of Italy	– 25/1

## The Euro in the Press

Compiled by Rupen Raithatha

*Daily Mail*, April 15, 2003 – Steven Glover

"The war Tony Blair really wants to win"

The British people opposed him over Iraq, but have come around. They oppose him over the euro, and they will come around over this as well... Apart from a small eurosceptic rump, the Labour Party is now overwhelmingly in love with Europe and the euro, partly because it is often viscerally anti-American. Much of the party resents Mr Blair's close relationship with America, and especially with a rightwing president. He could do nothing better if he wishes to win back the goodwill of many alienated Labour MPs than call a

referendum on the euro... Of course he might fail. In fact, I think it quite likely that he will. A referendum on the euro might be his Waterloo. The British public may be unpersuadable by Mr Blair even with Mr Mandelson at his side. But let's be in no doubt about what he would like to do. The war this triumphant warrior really wants to win is the euro.

*The Times*, April 15, 2003 – Michael Gove

"Playing the euro card is a gamble too far for Blair"

Every economic indicator shows that on the fundamentals, the

pound is still a safer bet than the euro. It is time the Prime Minister appreciated that we will not let even such an accomplished gambler as him take a huge, and unnecessary, risk with what, after all, is still our money.

*Independent*, April 16, 2003 – Johann Hari Young

"There will never be a better time to go for the euro"

He [Tony Blair] said that one of his key aims in government was to secure Britain's destiny within the EU. He knows only too well that, without the euro referendum, he will be remembered in Europe as the man who pushed Britain even further away from the continent by publicly scrapping – to the glee of the Murdoch press – with Chirac and Schröder... And if Blair is serious about ever going for the euro – as I believe he is – there will never be a better moment than now. After the next election, the few remaining pro-Europeans in the Tory party will be ageing and further from the public's memory than ever. Edward Heath, Michael Heseltine and Ken Clark already have one foot in the grave; they will look more grey and less plausible as each year passes... It would be a huge leap into the void to call a referendum – but today, with Tony Blair still buzzing from vindication in Iraq, anything is possible.

*Financial Times*, April 14, 2003 – Christopher Adams

"Blair 'would prefer euro vote in this parliament'"

Sixty-eight percent of the public would vote against joining the euro, according to a poll by ICM for the No Campaign. It said the diplomatic row over Iraq had made people more sceptical about deeper integration with Europe.

*Guardian*, April 14, 2003 – Michael White and Charlotte Denny

"Blair prepared to push aside Brown's euro verdict"

The pro-euro camp believes that Mr Blair could force the pace and win a referendum next year, allowing sterling to join the euro around 2006, after the next election. Strategists in the Prime Minister's inner circle believe he should capitalise on the successful toppling of Saddam Hussein.

*Sunday Telegraph*, April 13, 2003 – Matthew d'Ancona

"Blair won't forget who stood by him – and who didn't"

And the euro? The prime minister wants it as badly as ever: even more now, probably, given his Panglossian ambition to make the peace between Europe and America. But it was always a mistake to think that he would rush from the war into a snap referendum, as if victory in Iraq would suddenly, somehow, make the British public more amenable to the single currency. All attempts to connect the two are contrived. It was obvious, in any case, from Mr Brown's Budget speech last week that he is not about to recommend entry to EMU: as we report today, he will say 'Not Yet' when he announces the results of his five tests – probably next month – with the promise of further assessments by the Treasury. That means Mr Blair may have to wait until after the next election for a referendum.

*Mirror*, April 14, 2003 – James Hardy

"Not yet; Brown rules out euro ... for now"

Pro-euro campaigners also called for a rethink before the next general election. A spokesman for Britain in Europe said: "Today

No would be wrong for Britain. All the economic evidence points to the time being right and Britain is already paying a high price for being isolated from the euro."

*Sun*, April 14, 2003 – Trevor Kavanagh

"It's time to vote ... time to vote No"

On the euro, most voters, union chiefs, business leaders and newspapers are vehemently opposed. They are not Europhobic. They have made up their minds after watching the way the EU mismanages the European economy. They know a one-size-fits-all interest rate policy is daft. And they can see the price 20million jobless Europeans have paid. Most of all, they have learnt that France and Germany are dangerously unreliable allies. Don't let that put you off Tony. Let's do it. Let's clear the air once and for all. Let's have a referendum and stick by the inevitable verdict. Keep the pound.

*Independent on Sunday*, April 13, 2003 – Jason Nisse

"The ideas exchange: The famous five tests will be casualties in the Treasury's war with Europe"

The European Commissioner in charge of tax issues, Frits Bolkestein, is angling for greater tax harmonisation across Europe – and this includes the UK, even though we're outside the euro. Plus his mate in charge of competition, Mario Monti, believes different tax rates across Europe are "unfair competition", so he may take action if certain countries are using their tax policies to help businesses unfairly... Taking a tough line on Europe does not bode well for the famous five tests for euro entry. Mr Brown has put the assessment back to the beginning of June. There cannot be any economic reason for this. If we meet the five conditions today, we won't fail to meet them in seven weeks' time... Don't bet on a referendum in the near future.

*Mail on Sunday*, April 13, 2003 – Michael Portillo

"Blair now believes he can walk on water"

But he [Blair] hasn't become a eurosceptic. The idea that he might lead Europe in a new direction will renew his zeal. My bet is that he will, after all, try to win a referendum on the euro this side of the General Election. How better to show he isn't America's poodle, but deeply committed to Europe? It would unite much of the Labour Party and be one in the eye for Gordon Brown. The only argument against is the polls show we don't want to give up the pound.

*Observer*, April 13, 2003 – Faisal Islam

"It's not all over for the UK and the euro"

So the budget has not closed the door on the euro at all. Much depends on whether the French are still prepared to accommodate a glorious British negotiating victory to join the euro. The Five Tests won't get an unequivocal 'Yes'; they won't get a 'No' either. Everything hinges on a heated discussion pending between the Prime Minister and his Chancellor.

*Rupen Raithatha has recently completed his Masters degree in International Relations at Warwick University and is Research Co-ordinator for the European Foundation.*



# The European Constitution: A Briefing Note

by Daniel Kruger

THE EUROPEAN CONSTITUTION, drawn up by the Convention on the Future of Europe under former French President Valéry Giscard d'Estaing, is due to be presented to national governments in June, finalised at an Intergovernmental Conference in December, and ratified as early as next year. It marks the formal creation of a new state.<sup>1</sup>

According to the current draft, the present institutional architecture of the European Union will be consolidated into a single structure. The Union will have a "legal personality" of its own, distinct from the member states (Article 4 of the Draft Text<sup>2</sup>). It will derive its powers not from member states but from the authority of the Constitution. Its law will have primacy over the laws of member states, and member states will have an obligation (called the "principle of loyal co-operation") to implement the acts of Union institutions (Article 9).

EU OFFICIALS will represent internationally, and be empowered to sign Treaties on behalf of, the Union as a whole (Articles 1 and 11). People living in EU countries will have "dual citizenship" – i.e. their local nationality, but also defined membership of and duties towards the Union (Article 7). The Constitution details the transfer to the EU of the power to "administer certain common competences on a federal basis" (Article 1). These "competences" are not simply pan-European, but national: they determine the domestic policy of the member states. They include: monetary policy in the eurozone, trade policy throughout the EU, commercial relations with non-EU nations, agriculture and fisheries policy, transport policy, energy policy, environmental policy, public health policy, and policy relating to "freedom, security and justice" (Articles 11 and 12). The text grants the Union the right to "co-ordinate" foreign policy, defence policy and economic policy in general (Articles 13 and 14), and – through the incorporation of the Charter of Fundamental Rights – extends EU jurisdiction into industrial and employment law (Article 5).

Some of these policy areas are described as the "exclusive" competence of the EU and some as the "shared" competence of the EU

and member states. But the distinction is meaningless, for it is stated that in all cases "member states shall exercise their competence only if and to the extent that the Union has not exercised its" (Article 10).

European "common" foreign and security policy, in particular, is defended against national unilateralism by the requirement that member states "actively and unreservedly" support, and do nothing to undermine or prejudice, the Union's policy in this field (Article 14). This in the year that Britain, Spain and Italy fundamentally disagreed with France, Belgium and Germany (and most officials of the EU itself) over the most important foreign policy issue in a decade.

The principle that the EU reserves the right of action in all areas, and that member states exercise power only on sufferance, is made clear by the "Flexibility clause" (Article 16). This allows the Union to take "appropriate measures" in pursuit of the objectives set out by the Constitution – sustainable development, social justice, equality, social cohesion and so on (Article 3) – even where "the Constitution has not [explicitly] provided the necessary powers" to do so. So much for the fig-leaf of subsidiarity: the presumption of power is with the EU.

FINALLY, it should be pointed out that the Constitution will apply for "an unlimited period" (Part Three, Article H, General and Final Provisions<sup>3</sup>), and that it has no provision for amendments or alterations.

Why is this Constitution happening? It is plausibly argued that the EU has grown so much since its foundation, with the addition of many new members and many new institutions and treaties, that its legal basis needs "rationalisation" and "clarification". Furthermore, it is commonly said – by the British Government in particular – that the Constitution draws "a line in the sand", detailing the functions of the EU and of the member states in a manner which defends the principle of a "Europe of nations" and prevents pan-national unification.

It is undoubtedly true that the EU has grown enormously over the last thirty years, both in breadth (number of members) and, more importantly, in depth (extent of integration). Indeed, insofar as the Constitution simply clarifies the extent of integration up

till now, it paints an astonishing picture of the erosion of national sovereignty which successive governments have agreed to.

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## The Constitution goes much further than clarifying existing arrangements

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But the Constitution goes much further than clarifying existing arrangements. Not only does it include the Charter of Fundamental Rights (which itself goes much further than the Social Chapter which John Major kept us out of at Maastricht) and the right of the Union to "co-ordinate" economic policy in general. By making almost all policy areas subject to Qualified Majority Voting, it involves a direct loss of power – that is, the power to initiate and implement decisions – of every single department of state in the UK government.

If the Constitution merely drew "a line in the sand" it would be very welcome. We do need some formal declaration of the role of the EU and of the essentially subordinate nature of its relationship with national governments. But this Constitution is not that declaration. It is the fullest and most explicit statement of the principle of total political unification; it is, indeed, the official realisation of that principle. As the Laeken Declaration setting up the Constitutional Convention stated, "The unification of Europe is near. At long last, Europe is on its way to becoming one big family."

The British Government emphasises that the current draft is merely that – a set of proposals, which can be altered at the Intergovernmental Conference in December. However, Tony Blair has already conceded the central aspects of the draft – including the principle that the Union must become an autonomous body with the "authority and capability to act" independently of the member states.<sup>4</sup>

BY DECEMBER, unless public opinion makes itself heard in time, an irresistible momentum will have built up in favour of the existing document. It is likely that some superficial concessions will be won, which the Government will present as

a major triumph for national sovereignty – the dropping of the word ‘federal’ from the Constitution, for instance, or even the exclusion of the Charter of Fundamental Rights. It is also likely, following the recent disagreements over Iraq, that Tony Blair will insist on the retention of national sovereignty in foreign and security policy. But the bulk of the thing will go through – unless we stop it.

The UK Government has a veto over all new Treaties (a power it will lose, by the way, if the current Constitution is adopted – or which will become a redundant weapon, for no further treaties will be necessary to fulfill the integrationist agenda). Sufficient public pressure could force the Prime Minister to use this veto, and negotiate alternative arrangements for the UK. More directly, there is an overwhelming case for a national referendum before the final document is ratified.

**T**HE CONSTITUTION is of far greater significance than the euro – not to mention the tiny degree of self-government

allowed to Scotland, Wales, Northern Ireland and London, all of which were agreed to by a popular vote – yet the Government is proposing to ratify it on its own authority. You have to be at least 46 years old to have been eligible for a vote in the last referendum on Europe – the 1975 decision to remain in the Common Market. The public should be consulted again: if we are to lose our status as a democratic, self-governing nation, let us at least vote it away ourselves.

Please write to your MP. Politicians do pay attention to public opinion, and they really do read their letters. They're always on about what their ‘postbags’ say; it's the only contact with the outside world they have. If you type your postcode in at <http://www.locata.co.uk/commons/> it will tell you your MP's name and e-mail address. You can also write to him or her at: The House of Commons, London, SW1A 0AA.

Please do this – just a simple line asking what your MP's position on this is, and stressing that you are keen that the new Constitution recognises rather than abro-

gates the principle of national sovereignty, would be a great help; alternatively or additionally you might demand a referendum before any new Constitution is ratified. I would write a form letter for you to print and sign but these have far less effect on MPs' minds than an individual letter.

- 1 The state's name is being debated in the Convention. Article 1 of the Preliminary Draft (October 2002: CONV 369/12) suggests “European Community”, “European Union”, “United States of Europe” or “United Europe”. The Preliminary Draft is at <http://european-convention.eu.int>
- 2 February 2003: CONV 528/03. The Draft Text is at <http://european-convention.eu.int> under ‘Articles and Protocols’
- 3 April 2003: CONV 647/03. ‘Part Three’ is at <http://european-convention.eu.int>
- 4 Speech at Cardiff, 28 November 2002

*Daniel Kruger is the Director of Studies at the Centre for Policy Studies. This article is written in a personal capacity, and does not reflect the views of the CPS.*

### ... news in brief

#### Israel accuses Europe of anti-Semitism

The Israeli prime minister, Ariel Sharon, has said that he will take no lessons from European countries, which he says are anti-Semitic. “*Some European countries cannot accept the idea of the existence of the state of Israel,*” he said in an interview with the Israeli daily *Maariv*. He said that he had not the slightest intention of feeling guilty, or of justifying himself, as a result of the (unspecified) allegations made by these (unspecified) countries. Sharon has recently accused France of anti-Semitism and advised French Jews to settle in Israel. [*Frankfurter Rundschau*, 15th April 2003]

#### Four EU states want to launch common defence

The diplomatic advisers of the heads of government of France, Germany, Belgium and Luxembourg met in Brussels on 9th April to prepare a summit on EU common military policy which will be held on 29th April. The four countries are convinced that they need to make progress towards common European military policy, following the extreme disagreements during the Iraq crisis, even if for the time being this common policy is supported only by a small “*avant-garde*” of countries. The four propose, in other words, to invoke the “*reinforced co-operation*” procedure provided for by the Nice treaty. The four countries have asked Javier Solana and the Greek prime minister Costas Simitis (current president of the European Council) to attend, although it is not clear yet whether they will do so. It is also not yet clear what will come out of the meeting, although one option is of course that the four put forward a proposition which other countries would be invited to join. The four seem to envisage a co-operation “*outside the treaties*”, similar to the Schengen accords. But of course they would hope for whatever agreement they reach eventually to be integrated into the EU treaties. The Belgians are in favour of an integrated military command structure, which is not how the European Rapid Reaction Force is supposed to operate; the Germans are more reticent and want to work with existing

organisations like the Eurocorps. [Henri de Bresson & Arnaud Leparmentier, *Le Monde*, 11th April 2003] Germany's plans to create a European defence pact outside the EU treaties and in parallel to NATO have provoked negative reactions in other European chancelleries and in NATO itself. The supreme commander of NATO, General James Jones, said it was “*redundant*” to create parallel security systems at this time, because NATO itself plans a NATO Response Force of 21,000 soldiers. Germany has proposed that the European force operate initially as an agreement outside the EU treaties, and that it be independent of NATO. Britain, Spain and Italy have also expressed concern. NATO officials said the proposal was “*not very useful*” in dispelling American prejudices about old and new Europe. EU officials said that the proposal would not get off the ground without British participation, and not if it was directed against the US. [*Die Welt*, 11th April 2003]

#### Beneš row rumbles on

The continuing disagreements between the Czech Republic and Germany has been exacerbated by the opening of a Sudeten German representative office in Prague. One Czech political commentator has said that the outrage at this is greater than if Al-Qaida had opened an office. One Czech Social Democrat deputy who attended the opening ceremony enraged his party colleagues so much that they voted for a special motion condemning him (which failed to pass formally only because there was not a quorum). The Communists and the Civic Democratic Party (ODS) called for the office to be closed. The Communist Party newspaper, *Pravo*, published the address of the new office, and gave the colour of the building: the weekly *Respekt* accused *Pravo* of doing this so that demonstrators would go there and break the windows. Czechs who are opposed to EU membership will be watching the next congress of the Sudeten Germans, which takes place on the second weekend in June, for any harsh words addressed to Prague, for the Czech referendum on EU membership is a week afterwards. [Hans-Jörg Schmidt, *Die Welt*, 15th April 2003]

# "A Paradise for Lobbies" – Is this a justified criticism of the Brussels policy-making process?

by Sara Rainwater

INTEREST GROUPS come in various shapes and sizes in the European Union and have been actively influencing policy-making since the early days of the European Coal and Steel Community (ECSC). While interest groups play a significant role in the day-to-day functioning of the Community, Brussels is not yet a 'paradise for lobbies'. If anything, Brussels is a small oasis consisting of a pond and a few palm trees in the desert called the EU, not yet quite the desired refuge for the weary lobbyist. Instead, the ideal haven remains the national governments.

Before the mid-1980s, lobbying in the Community was traditionally done by national organisations through national political or administrative structures. Until this time, the Council of Ministers held the locus of decision-making power, and since the "*Luxembourg Compromise*" effectively gave each national government a veto over proposals ... many groups relied almost exclusively upon national officials to defend them at the European level.<sup>1</sup> Interest groups were much more concerned with the content of national legislation. What limited interest there was in European decision-making was approached through national officials. Brussels was by no means a paradise for lobbies at this point in time.

However, the introduction of the Single European Act in 1986 widened the scope of the Community and altered the distribution of power amongst the institutions. The SEA most notably introduced the co-operation procedure, making the European Parliament a much more attractive lobby target. It also strengthened the powers of the Commission, introducing qualified majority voting (QMV) to areas pertaining to the single market, which kept it as the focal point of EU-level lobbying. Later, the Treaty on European Union continued toward supranationality, moving even more power away from national governments. Interest groups were forced to focus more of their attention to the institutions of the EU, and the shape and size of lobbies began to change accordingly. Brussels was becoming a retreat for interest groups, but the paradise was still the national governments.

Four main types of lobby groups have emerged in the Community since the 1980s:

subnational levels of government; private and public companies; national interest groups; and Eurogroups.<sup>2</sup> Subnational levels of government, including regional and local sectors, have begun to influence the EU decision-making process, but do so primarily through their national governments. However, some areas such as the Basque region and the Canary Islands have been extremely successful in directly lobbying Brussels in the past few years, showing the preference of many regional groups to surpass their national governments.<sup>3</sup> Private and public companies represent one of the largest sectors of the EU lobby community, of which multinational corporations are most active in Brussels. Many non-EU companies, especially American and Japanese, find direct lobbying in Brussels the most effective. National interest groups also consist of EU and non-EU organisations; the American Chamber of Commerce, to date, being one of the most successful lobbyists in Brussels. However, most EU-based national lobbies prefer to target national governments. There are over 700 Eurogroups recognized by the Community which bring together relevant national associations under an EU-wide umbrella with the hopes of promoting their interests more effectively. However, Eurogroups tend to be largely underfunded, which generally causes them to be reactive instead of proactive, and suffer from the effects of divergent intra-group interests, which creates a 'lowest common denominator' overall policy.<sup>4</sup>

The four main routes for lobbyists into the Community decision-making procedure – national governments, the Commission, the European Parliament, and the European Court of Justice – each have a specific role in interest intermediation. The EP and ECJ, however, are less significant than either the Commission or national governments. The increased role of the EP in decision-making has made it more attractive to lobbyists in recent years, and many groups find MEPs an easy target to push their particular interests, as MEPs are typically well-established personas from national politics and already have clearly defined relationships with national lobby groups. The ECJ, on the other hand, has

become the target of lobbying because of its primary function, which is to interpret and enforce Community law. Mazey and Richardson note that groups such as women's rights advocacies and environmental organisations have "*used the Court as a means of forcing recalcitrant national governments to implement EC legislation*".<sup>5</sup> If a group has lobbied the decision-making bodies successfully, targeting the ECJ ensures the policy is carried out; a vital step when fighting for clean water, workers' rights or equal pay between men and women.

But it is the national governments that are the easiest targets for interest groups. Relationships with EU-level officials or institutions are relatively young in comparison to the typically long-standing relationships accrued at the national level. Many interest groups, especially national ones, often find it more conducive to their programming to approach national agencies. Wyn Grant remarks on this occurrence

*"If a national interest organization is worried about, say, a draft Community directive, then its best course of action may well be to use its established contacts with national governments. If the national government can be persuaded to adopt the association line as the national line, then the association has the assurance that its position will be defended in the place where final decisions are actually taken, the Council of Ministers."*<sup>6</sup>

National governments provide the key into the Council of Ministers, which is far less penetrable, and assist interest groups in delving further into the Commission. By winning a national government over, groups can exert even more control over the policy-making process. Although the national level usually provides the best results, Grant suggests that "*of course, interest organisations are not so naïve as to rely solely on one channel of access*".<sup>7</sup> Thus lobbying is performed at the national and Community level simultaneously to enhance the chance of success.

At the Community level, the Commission is the most important institution for interest groups. The Commission is the key to entrance into Community policy-making,



and an important contributory reason why the Commission attracts so much attention is simply that it is known to be approachable".<sup>8</sup> Interest groups themselves play an important role in policy formation. Mazey and Richardson comment on the Commission, calling it an *"adolescent bureaucracy ... still very dependent upon national experts and groups for detailed information about the diverse technical standards, legislation, and organizational structure throughout the EC"*.<sup>9</sup> Commissioners use the hard work of interest groups, who often have large repositories of highly specialised information, to their advantage. Lobbyists promote the interests of Community citizens, businesses and industry, thus they provide an essential path from EU officials to the people they are meant to represent. For Commissioners and officials, this can be seen as a means of reducing the democratic deficit for which the EU is so notorious. Commission lobbying has increased rapidly in recent years and is evident with the increase in the number of professional lobbies, law firms, and non-EU lobbies in Brussels in recent years.

Even with the increased transfer of decision-making power to the European level witnessed after Maastricht, however, lobbyists still prefer national governments as a main target for promoting their interests. Again, Mazey and Richardson theorise on why most interest groups are still reliant on national ministries for support. They provide three distinct reasons: the level of policy-making that remains in the hands of national governments; the necessity of a close relationship between national interests and national governments; and the *"recognition of mutual interests and interdependency in dealing with Europe"* which calls for a harmonized national group-government strategy.<sup>10</sup>

However, the introduction of a Constitution for Europe poses a serious threat to the structure of the European Community, burying powers once strictly reserved for national governments under the guise of a European super-state. This has significant meaning for interest activity within the Community, especially for Euro-groups, which will increase in number and size. Indeed, the interest group community in the EU will become over-saturated, and many smaller organisations may find promoting their interests very difficult in a European super-state. National governments will continue to play an important role in the lobby process. But, with the proposed shift of power to the EU, suggested in the draft Constitution, national governments and administrations will become the place where groups go to lobby after policy is decided, in order to have an effect on the implementation. It will no longer be the haven for pre-policy lobbying that it is today.

But are some interest groups pushing for further integration within Europe? It can be argued that economic interest groups in particular have accepted integration as a means to further foster European business and industry on the world market. Other interest groups may also find it beneficial to co-ordinate their efforts into larger Euro-groups which could promote their interests more easily in a federal EU structure. This is an area that eurosceptics will need to pay close attention to in the coming months and years, especially if lobby groups begin placing more pressure on the participants of the Convention on the Future of Europe. Pressure here will be limited to the development of a more federal entity, with the ulterior motive of centralising the lobby process. This will essentially make the work of lobby groups easier. Instead of sixteen,

and later twenty-six, major focal points (member states plus EU headquarters) for lobbies to target, there will be one: Brussels. This could create a paradise for lobbies there, similar to the US system where major lobbying energy is directed to the White House. But for the time being and until member states agree to a further increase in Community powers, national governments remain the paradise; the Las Vegas of the European policy-making structure.

<sup>1</sup> Mazey, Sonia and Richardson, Jeremy. "Introduction: Transference of Power, Decision Rules and Rules of the Game" in Mazey and Richardson *Lobbying in the European Community*, Oxford, 1993, pp.5-6.

<sup>2</sup> As identified by Nugent, Neil (ed.) in *The Government and Politics of the European Union*, New York, 1999, pp.302-304.

<sup>3</sup> Mazey, Sonia and Mitchell, James. "Europe of the Regions: Territorial Interests and European Integration" in Mazey and Richardson (1993) p.105.

<sup>4</sup> Grant, Wyn. "Pressure Groups and the European Community: An Overview" in Mazey and Richardson (1993) p.28.

<sup>5</sup> Op.Cit.Mazey and Richardson (1993) p.14.

<sup>6</sup> Op.Cit.Grant (in Mazey and Richardson 1993) p.31.

<sup>7</sup> Op.Cit.Grant (in Mazey and Richardson 1993) p.29.

<sup>8</sup> Op.Cit.Nugent (1999) p.309.

<sup>9</sup> Op.Cit.Mazey and Richardson (1993) p.10.

<sup>10</sup> Op.Cit.Mazey and Richardson (1993) pp.247-48.

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## Europe's Relations with the Developing World

by Sara Rainwater

THE RELATIONSHIP between the African, Caribbean, and Pacific countries (ACP) and the European Community traces back to the formative years of the integration process, and consistently proves to be a major aspect of the EU's development and external relations policy. Dialogue and cooperation with the ACP countries began as early as 1957 with the Treaty of Rome. Since then, the Community has expanded

its cooperation policy as a means of outreach to the ACP through both trade initiatives and development aid. The latest development in ACP-EU relations, the Cotonou Agreement of 2000, signals a new era in cooperation between the two groups of nations. The policy changes under this agreement hold promising potential for future development in this group of second-tier nations. This relationship is now, more

than ever, moving towards a truly co-operative management structure, with civil society and programming playing a more prominent role.

The ACP-EU relationship first began with the European Development Fund (EDF) established by the Treaty of Rome. The prime objective of the EDF was to support a number of former colonies with which the EEC had trade relations. At this



point, France offered to share her colonial markets with the new community in return for special assistance to the francophone countries, mainly in Africa. This was a major bargaining tool for France, who insisted that such provisions be included in return for French participation in the EEC. The EDF gave aid to specific overseas territories in the form of grants and loans and is the instrument still used in this particular area of EU external policy today. Specifically, Articles 131 and 136 of the Treaty of Rome created the EDF “with a view to granting technical and financial assistance to African countries”.<sup>1</sup>

Shortly after the establishment of the EDF, the EEC signed the first formal convention with the group of developing countries in Yaoundé, Cameroon in 1963. As with the first EDF, the Yaoundé Convention focused on the special colonial relationship by granting commercial advantages and financial aid through the second EDF to 18 former French colonies.<sup>2</sup> Development of the former colonies was promoted through continued trade relations and political dialogue with the EEC, while in return Europe gained access to agricultural and mining products in the former colonies.<sup>3</sup> Seen as an adequate external policy for the time, Yaoundé was renewed in 1969 and this time included the countries in the former British East Africa and incorporated new provisions for preferential trade agreements and access to raw materials for the EEC.<sup>4</sup> It has been noted that the Yaoundé Convention “thus reflected a sense of responsibility to former European colonies as well as an element of self-interest” and were “but the beginning of a series of formal cooperation agreements between the EU and developing countries”.<sup>5</sup>

The deepening and widening of the ACP–EU relationship coincided with the first enlargement of the Community when the United Kingdom, Ireland and Denmark became Community members in 1973. The first Lomé Convention, signed in the Togolese capital in 1975, further broadened the scope of the special relationship between the EC and former colonial territories of its members, and was designed to replace the “obsolete and parochial” Yaoundé Convention.<sup>6</sup> In efforts to accommodate their new member, the EC incorporated 20 members of the British Commonwealth into their development and aid programme. This decision expanded the EU’s policy to include not only Africa, but now the Caribbean and Pacific, thus formally

creating the ACP group of states. Commenting on the nature of Lomé, one expert remarked:

“...unique and ambitious, a *sui generis* arrangement that was expected to serve not merely as a model for North-South dialogue but also as an exemplification of a European Community that was assuming international responsibilities as a responsible actor in the global arena.”<sup>7</sup>

FROM 1975 TO 2000, the ACP–EU relationship was governed by a succession of Lomé Conventions. The series of agreements, what Ole Elgström calls “aid and trade pacts”, introduced several new characteristics to the EC’s policy.<sup>8</sup> The most significant of these was the principle of non-reciprocal preferential trade on most goods exported from ACP states to the Community. This, Elgström notes, abandoned “the sacred General Agreement on Tariffs and Trade principle of reciprocity”.<sup>9</sup> Lomé also included economic assistance programmes under the EDF scheme, pacts for industrial and technical cooperation, and decision-making institutions such as the Council of Ministers, the Committee of Ambassadors, and the Joint Assembly.<sup>10</sup> Each renegotiated Convention implemented new mechanisms to better facilitate the agreement. For instance, STABEX and SYSMIN, introduced in Lomé I and II, acted as stabilizing insurance schemes for agricultural and mineral producers respectively. By Lomé III and IV, however, Western attitudes were beginning to change and these two agreements took the relationship to a new level. Both incorporated similar trade and aid characteristics to the former conventions, but an increase in attention to ethics and morals led Lomé III and IV to seriously focus on social issues for the first time in the ACP–EU relationship. Lomé III concentrated on regional, social and cultural cooperation, while Lomé IV gave such areas as human rights, democracy, women’s rights, environmental protection, and the role of civil society “a more prominent position”.<sup>11</sup> By this point, the EU attached political conditions to the granting of aid to ACP, what Elgstrom calls a form of “ideational diffusion” which began transforming EU external policy by the mid-1990s.<sup>12</sup>

The ACP–EU relationship took an evolutionary path since inception, and was clearly moving away from the early days characterised by colonial ties and a predominantly non-political and trade

oriented policy. Despite the new ethics-charged initiatives introduced in Lomé III and IV, it was evident to the EU that the previous Conventions had been, “to say the least, disappointing”.<sup>13</sup> The ACP economies were simply not being successfully integrated into the world market. By 1999, more than half of the ACP states were classified as Least Developed, and ACP trade with the EU had “lost importance in relation to trade with other countries and regions”.<sup>14</sup> This lack of success, changes in the world situation (the end of the Cold War and a move toward democratisation throughout the globe) and a more ethically conscious world attitude prompted a serious overhaul of the ACP–EU agreements.

The renegotiation of Lomé IV resulted in the Cotonou Agreement, signed in Benin in 2000. The new agreement is much wider in scope. It is now inclusive of 77 ACP states, reaching beyond simple ‘trade and aid’, and incorporating even more political conditions than Lomé III or IV. Cotonou creates a new framework for cooperation between the ACP and the EU, whilst retaining the main instruments of the previous agreements. Its main objective stated in Article 1, Paragraph 1, is “reducing and eventually eradicating poverty ... and the gradual integration of the ACP countries into the world economy”.<sup>15</sup> Cotonou’s new approach to management includes a strengthening of the political dimension, more flexibility and increased responsibility for the ACP states themselves. Good governance is a fundamental principle, and ACP states are expected to abide by internationally accepted guidelines of human rights, democratic principles and the rule of law, although ‘serious corruption’ is technically the only stipulation under which aid can be suspended.<sup>16</sup> The most significant economic changes under the new agreement are the introduction of Regional Economic Partnership Agreements (REPA’s) and the elimination of the previous non-reciprocal trade preferences, which bring the relationship in line with WTO guidelines. Both of these measures are aimed at successfully integrating the ACP into the world economy.

Even more significant is the stress placed upon the role of civil society in the new agreement. The contributions of civil society to the governance of nations, in general, and development and aid programmes, in particular, have become highly valued in the world. In the context of Cotonou, civil society incorporates a wide selection of

organisations including human rights, women's, environmental, media and farmers' groups to name but a few. The inclusion of non-state actors in public policy making has "become a major feature of political life, both in Europe as well as in the developing countries" and proves the EU's commitment to aligning their external policies and relations to current world trends.<sup>17</sup> The EU and the ACP have committed themselves to support the emergence of an active and organized civil society that can play a complementary role to governments and provide its own contribution to the development process. Guggi Lareya notes that this "appears to be a fundamental change in the 25-year partnership, which was essentially conducted on a government-to-government basis".<sup>18</sup> It is the first time a wide range of non-state actors have been invited to become genuine development partners in ACP-EU co-operation. Commenting on this new focus on participatory development, the ACP Secretary-General remarked, "The cooperation objectives, which give top priority to the struggle against poverty, would be more easily attained by sharing responsibilities in a more efficient manner."<sup>19</sup>

The move to participatory development and the new focus on civil society shows the EU's willingness to hand over more control of programme management to local ACP populations. This works in conjunction with the programming initiative unveiled under Cotonou. The EU's aim with the initiative is similar to the US's after World War II. Washington knew a large aid programme was essential in the rebuilding of Europe after the war and believed the Europeans themselves had to play an active role in aid management. The Marshall Plan was built on this premise, and similarly the EU has aligned the ACP relationship accordingly. Cotonou has been designed to promote the involvement of each segment of society, and incorporates new Country Support Strategies (CSS) to achieve this goal. The Commission and each individual ACP state will develop a CSS, which will set the guidelines for using aid. Civil society is to play a vital role in the local development of each strategy, providing essential insight and ideas that can only come from such organizations. Athanassios Theodorakis, Assistant Director General of DG Development cites, "This redefinition of programming has a simple goal: ACP countries should take over and manage their own development."<sup>20</sup>

It is apparent that the ACP has undoubtedly become less important to the European Union economically in the last decade and that the world requires its actors to be responsible. As the international climate changes, so does the ACP-EU relationship- it has evolved with the times and will continue to do so in the future. With the opening of areas such as Eastern Europe and the continued growth of economic areas such as Latin America, the EU has been forced to pay attention to its own economic needs, and thus shift external policy focus away from the still predominantly stagnant ACP region (especially sub-Saharan Africa). Economically, the ACP simply is not as vital to the Community today as it was forty years ago. Also, the move away from colonial ties, as was characteristic of the Yaoundé and early Lomé Conventions, has played a major role in the renegotiation of the ACP-EU relationship. However, the EU still sees the ACP relationship as 'special', and has gone to great lengths to ensure continued co-operation with its longest standing external partner.

This is a major reason for the shift to social issues and political conditionality, and one of the most important reasons why Cotonou includes civil society and the new programming initiative. By reducing pressure on the trade and aid aspects of the agreement which have had minor success, the EU can continue the special relationship, thus appeasing the ACP states while at the same time proving to the world that the Community is serious about external social and political issues.

Cotonou can be seen as an innovative external policy, one that appreciates the importance of local actors, both civil and governmental, in the maintenance and administration of development and trade. It holds a great deal of potential for the ACP states in that it gives the people directly affected a louder voice in the decision-making process. It calls for governments and peoples of the ACP states to act ethically and morally. But after the relative ineffectiveness of earlier agreements to bring this portion of the second-tier into the world economy, Cotonou has a significant amount of ground to make up. This is not aided by the protectionist policy of EU subsidies and trade barriers. Only time will tell if such measures as have been introduced under Cotonou will prove more successful than those of its predecessors. Globalisation is occurring at an ever-

increasing rate, and without continued assistance the ACP states could fall through the cracks of the international system, leading them deeper into the Least Developed Country category.

<sup>1</sup> "European Development Fund" from <http://europa.eu.int/scadplus/leg/en/lvb/r12102.htm> (19/03/03).

<sup>2</sup> The 18 former French colonies also known as the Association of African and Malagasy States (AASM).

<sup>3</sup> Bjørnskov, Christian and Krivonos, Ekaterina. *From Lomé to Cotonou: The New ACP-EU Agreement*. SJFI Working Paper no. 14/2001, 2001, p. 10.

<sup>4</sup> Former British East Africa being Kenya, Tanzania, and Uganda.

<sup>5</sup> Op. Cit. Bjørnskov and Krivonos (2001), p. 10.

<sup>6</sup> Babarinde, Olufemi. "The Lomé Convention: An Aging Dinosaur in the European Union's Foreign Policy Enterprise?" in *The State of the European Union: Building a European Polity?* Boulder, 1995, p. 471.

<sup>7</sup> Ibid. p. 471.

<sup>8</sup> Elgström, Ole. "Lomé and Post-Lomé: Asymmetric Negotiations and the Impact of Norms" in *European Foreign Affairs Review* 5, 2000, p. 176.

<sup>9</sup> Ibid p. 176.

<sup>10</sup> Op. Cit. Babardine (1995) p. 471.

<sup>11</sup> Op. Cit. Bjørnskov and Krivonos (2001) p. 13.

<sup>12</sup> Op. Cit. Elgström (2000) p. 184.

<sup>13</sup> Forwood, Geneva. "The Road to Cotonou: Negotiating a Successor to Lomé" in *The Journal of Common Market Studies*, vol. 30, no. 3, 2001, p. 425.

<sup>14</sup> Op. Cit. Bjørnskov and Krivonos (2001) p. 14.

<sup>15</sup> Lareya, Guggi. *The Cotonou Agreement: a gateway for civil society engagement in development co-operation?* from [http://www.socwatch.org.uy/en/informelmpreso/pdfs/cotonoucivilsoc2001\\_eng.pdf](http://www.socwatch.org.uy/en/informelmpreso/pdfs/cotonoucivilsoc2001_eng.pdf) (19/03/03) p. 1.

<sup>16</sup> Op. Cit. Elgström (2000) p. 191.

<sup>17</sup> "Promoting an active and organized civil society: how can it be done?" from Euforic [www.euforic.org/resource/en/doss/civilsociety/promoting.htm](http://www.euforic.org/resource/en/doss/civilsociety/promoting.htm) (19/03/03).

<sup>18</sup> Op. Cit. Lareya p. 1.

<sup>19</sup> Quoted in Kasasa, Aya. "Civil Society: a new role under Cotonou?" in *The Courier*, Issue 188, Brussels, 2001.

<sup>20</sup> Theodorakis, Athanassios. "The Cotonou Agreement: innovative programming" in *The Courier*, Issue 186, Brussels, 2001.

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# How Federalist are the Eastern Europeans?

by Timothy Less

FOR MANY EUROSCEPTICS IN THE WEST, the accession to the EU of ten sovereign-minded (dare it be said, even nationalistic) countries from the East has been awaited with great anticipation. Everyone knows that decades of foreign domination have made the Eastern Europeans extremely touchy about the idea of sacrificing their hard-won independence to a federalised EU. Apart from the Eastern Europeans themselves, the great winners in the enlargement process are therefore expected to be the British and the Scandinavians. In the ongoing debate about Europe, their ranks are about to be augmented by ten loyal foot soldiers to the cause of anti-federalism. *"The candidate countries", our Prime Minister has declared, "share the British perspective about Europe, that it should be a union of nations that come together and cooperate as sovereign nations."*

Most have now adopted a stance on Europe that, for better or worse, can only be described as federalist

No one doubted that, having been invited to participate in the Convention on the Future of Europe, the candidate countries would throw in their lot with the eurosceptic camp in advocating a good, old-fashioned intergovernmental model of Europe. Not a bit of it! In actual fact, if anything, quite the opposite has happened. In the last few years, oblivious to most observers (including Mr Blair), the Eastern Europeans have quietly but surely undergone a decisive ideological shift. Gone are the xenophobic politics that predominated in the region at the start of the 1990s. In their place, most have now adopted a stance on Europe that, for better or worse, can only be described as federalist.

In fact, the Eastern Europeans have made no secret of their desire for a federalised EU. In the last couple of years, various heads of state and foreign ministers from the region have been making increasingly federalist noises, particularly in the run up to the Convention. The former Czech Deputy Foreign Minister Jan Kohout, for example,

has argued that Prague, *"favours a future structure that considerably resembles a federal organisation"*. The Slovak Prime Minister Mikuláš Dzurinda has declared that *"the federalist model of the EU ... could become a good basis for a just and equal position among its members."* The Romanian Prime Minister, Adrian Nastase has asserted that *"some Member States strongly favour a federal model ... Romania sees certain advantages in this method."* The Slovenian Foreign Minister, Dimitrij Rupel, has stated that *"the notion of federation should not disturb us."* The former Hungarian Minister for Foreign Affairs Janos Martonyi, has declared that *"the future lies not with the nation states but with a community of communities."* And even Toomas Ilves, the ex-Foreign Minister of the Estonia, that unofficial bastion of Thatcherism in the region, has argued that *"the solutions offered by a federalist approach resolve rather than create the problems we fear."*

In the last few months, these federalist tendencies have come to the fore time and again in the course of discussions at the Convention. Of the ten Eastern European countries attending proceedings, only the Latvians (and to a lesser extent, the Poles) have raised objections to Article I in the draft constitution published late last year which states that a Union of European States shall *"administer certain common competences on a federal basis"*. All have given the nod, or at a least acquiesced, to Article XII of the constitution on *"shared competences"* which identifies a plethora of policy areas, including the economy, security, social policy, health, justice and transport, on which national governments may legislate *"only when the Union has not exercised or ceases to exercise its competence"*. And all the Eastern Europeans have accepted the legal incorporation of a 'Charter of Fundamental Rights' into the constitution and the establishment of an independent 'legal personality' for the EU.

HOW SHOULD WE EXPLAIN this rush of fervour for federalism by the countries in Eastern Europe given the risks to their hard-won sovereignty inherent in the construction of a federalist Europe?

Some of the reasons are not unlike those that enthuse the more federally-minded countries in Western Europe. One of these is

national identity. Just as Germans, Italians and Belgians are, for historical reasons, much less attached to their nation states than, say, the British or the French, so some Eastern Europeans too have a rather ambivalent relationship with their nation states. The Hungarians are the prime example of this. Due to the manner in which the Austro-Hungarian Empire was dismembered at the end of the First World War, now as much as half the original Hungarian nation lives outside Hungary proper, in neighbouring Romania, Serbia, Slovakia and the Ukraine. Inside Hungary, this situation has translated into a desire for a Europe that erodes, to the fullest possible extent, the national boundaries that currently separate Hungarians at home from their ethnic kin abroad. A similar situation pertains with regard to Poles in Lithuania, Czechs in Slovakia and Slovaks in the Czech Republic. Shut off from their motherland, the Russian minority in the Baltic States also relates much better to the concept of a multicultural European super-state than their sometimes inhospitable adopted countries. Eastern Europeans may still be nationalist, but their loyalty is to the nation rather than the state.

... they surmise that the more integrated the continent, the bigger the jobs on offer

Another reason is the personal ambition of the elites. After the clearout of the old political classes in the early 1990s, many government positions were filled by bright young technocrats, whose main qualification was to be more or less untarnished by connections with the old regime. (Rumour has it that in one government in Estonia in the mid-1990s, the average age of a minister was just 32). For this reason, Eastern Europe is full of politicians in their late 30s and early 40s who are already reaching the highest levels of government. For those with ambition for the next 25 years of their political careers, the only way forward is to take a big job in Europe. Just like Mr Blair, they surmise that the more integrated the continent, the bigger the jobs on offer.



Electorates also have their reasons for favouring deeper integration. Like some of the EU's Mediterranean members, Eastern Europeans are inclined towards a federalist EU because of a serious lack of faith in their own politicians and institutions. Although the region has been fairly successful in establishing the democratic institutions and procedures common in Western Europe, the quality of democracy in many countries even now leaves much to be desired. Many politicians still lack the subtle arts of compromise and persuasion, and approach even the most innocuous issues with a vehemence that would accompany a debate in this country only on, say, abortion or capital punishment. Not only has this led to decidedly wobbly government in the region over the last few years, but frequent public spats between politicians have also served to alienate large numbers of citizens from national politics altogether. At the same time, high levels of corruption among political elites, certainly by EU standards, have done little to convince sceptical electorates that their governments are working in their respective countries' best interests. The situation, to borrow a phrase from de Gaulle, is not so much one of politics being too serious a matter for politicians; rather politics is seen as too serious a matter to be left to their own politicians. Many Eastern Europeans therefore welcome the prospect of a Europe in which large chunks of power are devolved upwards to more competent Western officials.

However, these reasons alone still do not explain the Easterners' apparent willingness to buy into the idea of a federal Europe, given the sacrifices involved. This is particularly so when very few Eastern Europeans seem to share the utopian vision, usually articulated by Germans, of an eternally peaceful, prosperous, ordered and law-bound United States of Europe, freed of the rivalries and nationalisms that have blighted the continent for centuries. (For obvious reasons, Eastern Europeans have learnt to be extremely sceptical of anyone who claims to have paradise within his grasp, whether communists or pan-European federalists). Nor do they have much time for French ambitions to create a European bloc to rival America, a second 'hyperpower' offering a civilised alternative to crude American capitalism and self-interested meddling in other country's affairs. Indeed, the Eastern Europeans appear to show pitifully little idealism in

connection with European integration. Many, no doubt, still share the view expressed by the Czech Prime Minister Vaclav Klaus in Athens, that membership of the EU is "*a marriage of convenience, not of love*".

In truth, to understand the real motivation for the East Europeans' newfound federalist zeal, we should forget about high ideals altogether. The real reason is something much more base: the bottom line in all matters of international politics - power. Having made the decision in principle to join the EU almost as soon as they achieved independence, the Eastern Europeans have examined their options and fairly concluded that their influence will be maximised not in a union of independent nation states but rather in a closely-knit federation. And the reason for that? Size.

Almost all of the ten candidate states are small by European standards: the three Baltic States and Slovenia are tiny; Slovakia has just over 5 million people; Bulgaria only around 8 million and the Czech Republic and Hungary have about 10 million, roughly the same as Portugal. The only large country in the region is Poland. As the Eastern Europeans see it, the best way to maximise their influence in the Union, or rather, to protect themselves against overbearing larger members, is to boost the power of the so-called Community institutions (in which small members enjoy disproportionately great power) at the expense of the inter-governmental institutions (where the big members tend to run the show).

Proposals put forward by the Eastern Europeans at the beginning of the Convention bear out these fears. Every country in the region explicitly advocated an extension of the Community method. Almost all of them expressed a desire to increase the powers of the European Commission, on which they are guaranteed one member, not least by the appointment of a President of the Commission (the 'President of the European Union'). Many of the Eastern Europeans argued for a greater role for the European Parliament, on which they are already over-represented, by giving it the powers to initiate legislation and raise taxes. Many also proposed a second chamber in the Parliament to which, like the American Senate, every country would send the same number of representatives, again increasing the representation of the small countries at the expense of the big. And in the Council of Ministers, the traditional guardian of the big countries'

national interests, most Eastern Europeans advocated an abolition of the right of veto and an extension of QMV to include almost every key policy area, including foreign, defence and tax policy. The recent renewal of the Franco-German axis and the French proposal for a President of the Council whose job, so the Eastern Europeans believe, would be simply to stitch up deals among the big nations behind the scenes, has only reinforced their resolve to lock big countries like France into a federal structure in which small countries wield disproportionately great power.

So what effect will the Easterners' federalist stance have on Europe over the next few years? Well, for those who advocate an intergovernmental model of integration, it clearly doesn't bode well. Even if the new Constitution fails to be ratified by one or more national parliaments, say, the French or Danish, the Eastern Europeans have nailed their colours to the mast of federalism and are unlikely to backtrack now. In this respect, the Lithuanian PM's belief that "*a reversion to intergovernmentalism would be wrong*" is typical. Instead, over the next few years, the Easterners will very likely augment the Belgians, Dutch, Germans and others in pressing for an ever-greater 'pooling of sovereignty'.

However, the picture is not entirely bleak. While many analysts have made the mistake of equating Eastern Europeans' penchant for free markets and pro-American foreign policies with scepticism about greater federalisation, the Eastern Europeans do not see why federalism and their taste for things Anglo-Saxon should be mutually exclusive. Perhaps out of naivety, or perhaps out of hubris, the Eastern Europeans are gambling that in a federal EU, they can exploit the disproportionate powers granted to small states to outvote France, Germany and others and halt the march towards a centralised, harmonised, bureaucratised, anti-American, 'Social Europe'. Many have their sights set even higher. Once inside the EU, they will try to use those very powers to reverse the direction of policy and start bringing Europe round to their broadly Anglo-Saxon way of doing things. Now that can't be all bad, can it?

*Timothy Less is a freelance analyst of Eastern Europe. He is also taking a PhD in politics at London University's School of Slavonic and East European Studies.*



# BOOK REVIEWS

## Paradise and Power: America and Europe in the New World Order

by **Robert Kagan**, Atlantic Books 2003, ISBN 1 84354 177 7, pp104, £10

*Reviewed by Dirk van Heck*

THIS LITTLE BOOK has been hailed as the definitive analysis of the present geopolitical impasse, compared with Francis Fukuyama's *End of History* and Samuel Huntington's *Clash of Civilizations* before it. It is a work of the 'realist' school, and reiterates throughout that, in view of the growing disparity in power between Europe and the USA, we should not find the emerging tensions surprising.

Kagan's thesis is that short-term global perspectives are determined by a nation's power. When the fledgling USA was a group of former colonies surrounded by European great powers, it played to its strengths by committing itself to international laws and institutions that drew on the Enlightenment worldview then on the march and offered a way of promoting American interests and security in the absence of military might. By analogy, the modern EU does something similar against a postmodernist backdrop. *"For Europeans, ideals and interests converge in a world governed according to the principle of multilateralism."*

The irony of the present situation is that Europe's rejection of power politics and devaluing of military force as an instrument of international relations have depended on American military protection during the Cold War. *"Most Europeans do not see or do not wish to see the great paradox: that their passage into post-history has depended on the United States not making the same passage."* Kagan frames American and European perspectives according to a simple dichotomy: Americans see the world as a Hobbesian *"war of all against all"*, whilst Europeans inhabit Kant's world of *"perpetual peace"*. The US has solved the problem for Europe posed by a *"perpetual peace"* brought about by a supranational government; that such a monopolist of power must become *"the most horrible despotism"*, by obviating the need for European power – the EU has established peaceful supranational governance beneath the cloak of American protection. The success of the European project has led to a

kind of faith in Europe's new 'civilizing' mission: to bring Europe's multilateral, postmodern system and values to the world. America's Hobbesian worldview is inevitably a threat to and a repudiation of this mission.

American hegemony is, however, something that Europeans must get used to, Kagan argues. The demographic future of the US is favourable compared to that of Europe, and the former continues to spend a higher proportion of GDP per head on defence. The challenge for Europeans is to make American hegemony work to their advantage, which can only be achieved by a *"double standard"* in the foreign policy of European nations: negotiation with each other, and force against weak non-Europeans. So far, Tony Blair alone among European leaders has accepted this reality.

It is widely believed that, after the disintegration of the USSR, American foreign policy makers sought a return to *"normalcy"*, and the attacks of September 11th 2001 only made the US more pre-occupied with itself. Yet Kagan argues that the nature of American nationalism; belief in the superiority of the values of the liberal, constitutional republic, makes the USA internationalist and that its isolationist tradition is *"a myth"*. *"The dangers of the present transatlantic predicament ... lie neither in American will nor capability, but in the inherent moral tension of the current international situation."* Kagan argues that the best way to defuse that tension would be for the US to realise that it is not a Gulliver tied down by Lilliputian threads, but a hyperpower facing very few real constraints. By adopting this perspective, it would be better able to show magnanimity towards the postmodern order and try to build some international political capital for those moments when unilateralism becomes unavoidable.

*Paradise and Power* is a thought-provoking book on a geopolitical issue of central contemporary importance, and has a tight thesis. This is probably why it has been so widely discussed. The inevitable

obverse of its tight argument, however, is a certain narrowness of analytical scope; the phrase 'political economy', for example, does not appear once. Likewise its feeling of being somewhat rushed and repetitive is perhaps a corollary of its topicality. Nevertheless, it is a short and powerful realist analysis of transatlantic relations (and only £10 in hardback); 'required reading' for anyone wishing for a greater understanding of its subject.

*Dirk van Heck is Head of Research at the European Foundation.*

## Made in Britain

by **Simon Buckby**, Profile Books, ISBN 1861973594, pp. 204, £7.99

*Reviewed by Hugh Norton-Smith*

*Made in Britain* is a remarkable attempt to justify Britain's ongoing integration into Europe. In a time when the government remains mum and avoids discussing their ambitions in Europe (other than scant mention of the nebulous 'economic tests'), *Made in Britain* comes out all guns blazing. Instead of the usual shopping list of pro-European arguments, the book contends that it is our *patriotic duty* to immerse ourselves in Europe. It even goes as far as suggesting that European integration is the *"great patriotic cause of our age"*. In what the book claims is an era of decaying British values, the author proposes Europe as a way to preserve our cultural identity during a period of rapid globalisation. This is an attractive and canny proposition for euro-philosophes, as it hijacks one of the cornerstone arguments of the eurosceptic campaign.

Unfortunately, featuring a British bulldog on the book's cover, and wrapping the Union flag around the pro-European cause does not lend the case any more credibility. On the most basic level, the notion that we can maintain our sense of identity while simultaneously becoming part of federal Europe is deeply specious. It is also a coldly cynical and populist manoeuvre, akin to something Jo Moore might have cooked up on one of her more imaginative days. Certainly, the author's impeccable Blairite credentials are well documented. Simon Buckby is the campaign director for 'Britain in Europe', a European advocacy group founded by Tony Blair, Ken Clarke and Michael Heseltine. Before this, Buckby was the advertising manager of New Labour's

'97 campaign and also worked at the BBC. And it would seem that Buckby is supporting his old comrade at a critical time for the EU (though this close affiliation is masked by accusing Blair of "dithering" and calling for him to be "honest").

Fortunately, the book does not pertain to be an authoritative academic treatise and reads more as Simon Buckby's personal manifesto. After an ominous quote from Machiavelli, and a brief preamble about the apparently desperate state of contemporary Britain, Buckby unpleasantly dismisses his opposition. Instead of acknowledging the broad background of anti-European sentiment, Buckby pigeonholes the entire 'No' campaign into four almost Dickensian stereotypes, and provides descriptions of each: Old-Fashioned Socialists, Fogeys, Thatcherites and Chauvinists. I'm not entirely sure where I fit into Buckby's spectrum. Either way, this unnecessary tactic distracts from the key issues at hand.

Despite being a slim volume, the book is a confusing and ultimately unsatisfying read. The book glosses over some key issues, whilst labouring over other less important areas. Buckby concentrates almost exclusively on the political and social issues of the campaign, largely ignoring many of the weighty economic ramifications of European integration – which is surprising when discussing our relationship with an entity that was once called the European Economic Community. Certainly, come referendum, politics will take precedence over economics. However, by failing to adequately cover issues like a common monetary policy within fiscally independent states, inward investment, environmental capital and making odd generalisations like equating the demise of Britain's industrial sector *purely* with the strength of Sterling, Buckby leaves a considerable hole in his argument.

In addition, Buckby's bizarre appropriation of Winston Churchill as an early euro-enthusiast is misleading in the extreme. Incredibly, he even manages to enlist Margaret Thatcher, possibly the least European of politicians, as a supporter of the European Rapid Reaction Force.

This is a shallow book, packed with broad generalisations, non sequiturs and bald-faced lies. It also shows a complete lack of fresh ideas other than a desperate and unconvincing appeal to base patriotism.

*Hugh Norton-Smith is a freelance journalist with an interest in European affairs.*

## Global Studies: Europe

Seventh Edition, published by McGraw-Hill / Dushkin, 2002

ISBN 0-07-243357-4, pp. 261, £18.99

*Reviewed by Annunziata Rees-Mogg*

IN ORDER TO ARGUE any point of view one thing is crucial: facts. No discussion is complete without them. For the European debate there is a wide range of books providing theories and counter-theories. Often though, the usefulness of these publications is undermined by more emphasis being placed on argument than fact.

Whilst this book is clearly designed for the American student, and some of the facts are put in a way that would make the average British person smirk (such as "*In fact, the British Prime Minister and his or her cabinet ministers are members of Parliament and are elected as such*") it also contains a wide variety of interesting statistics, analysis and history. As textbooks go, this is invaluable for anyone (from either side of the Atlantic or the Channel) wishing to take an active part in any discussion on Europe.

*Global Studies: Europe* starts with a small fact file on the United States and Canada. This turns out to be very convenient as you get further into the book for allowing comparisons of growth rates, military spending, GDP or even newspaper circulation. (Sweden and Iceland top this league with more than half of the population reading newspapers, whilst in Portugal the figure is less than one in twenty.)

The book contains a brief but thorough history of the "*Centuries of Commonality and Conflict*" in Europe. This is a practical overview of the history of the continent, although it is, in the main part, focussed on the effects of 20th century relations. It also provides a good breakdown of the emergence of the EU from the political and economic shambles left by the Second World War. This section contains a concise timeline that puts the pieces of the European puzzle into place. As with most books there is still more up-to-date information available but this takes you from 1947 to 2000 in 23 steps. Whilst many other dates of note could have been included, this focuses on the proposals and processes.

By far the most interesting and useful part of this book is the Country Reports. The accession countries are covered briefly before a section that analyses 'Old Europe'

in greater detail. Each country's profile starts with a statistical breakdown of its geography, people, health, education, communications, transportation, government, military and economy. These figures are ideal for making clear and accurate comparisons between each of the member states, and then referencing these back to America. Every one of these mini fact-books are referenced to at least one website where one can find more up-to-date information when available.

Following each breakdown is a more in-depth study of each country, covering its history, background, political situation and something rather optimistically called "*Future*". This is the most suspect part of the book. Predictions are notoriously unreliable and this is unlikely to be any exception. It is, however, interesting to see where American intellectuals believe the EU is heading.

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**It is one of those books that  
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After the individual chapters on the countries is a section called "*Articles*". This is a wonderful and varied reprint of articles on European issues. These are mainly sourced from the American press and *The Economist* but still manage to provide a range of views.

The book concludes with a glossary that would be a great reference tool to those who are new to the subject of Europe, although it would add little to the more experienced reader's knowledge.

This is, without question, a textbook. It admits as much itself as part of the group that published it has been "*created to help you be more successful in college*." At the same time it is a well-written and astute reference book for everyone interested in the European debate. It is one of those books that can be dipped in and out of and every time a new and interesting fact plucked out.

*Annunziata Rees-Mogg is Editor of the European Journal.*



Basiliek Koekelberg



Grote Markt

Photos c/o Tourisme Vlaanderen © 2002 Niewenhoff

# BRUSSELS

by Laura Coogan

THE SITE OF BRUSSELS has been inhabited since the 7th century. Initially, it only covered a small island in the middle of the Zenne, but by AD 979 it became a permanent settlement, having been given to Carl of France by the German Emperor Otto the Second as part of Low-Lorraine. The French built a castle on the island and what we now know as Brussels began to spring up. The land continued to change hands with new fortresses being built and by the 12th century it had 5,000 residents.

The city then found itself a successful niche producing luxury goods and became an export centre. This period lasted until the end of the 14th century when a recession took place that lasted for 50 years. In the 15th century, all of present-day Belgium passed to the dukes of Burgundy, who strove to curtail local liberties. Simultaneously the wool industry declined, mainly because of English competition.

When Mary of Burgundy died in 1482 the Hapsburgs began their reign of the country. This lasted until the Belgian people followed the French lead with the Brabant revolution in 1789. Although the United Belgian States was proclaimed in 1790 it was a disjointed group and after a number of invasions from the Austrian side the revo-

lutionary French government took control. The country was then in the hands of the French, under Napoleon. In 1815 the French were defeated at Waterloo and, following the Congress of Vienna, Brussels came under the domination of the Netherlands.

It was not until 1830 that Belgium finally won independence, with the first Belgian King, Leopold I, taking the throne a year later. Brussels was chosen as the capital of this newly formed state.

The advent of independence caused a building spree in the city. The old city walls were destroyed and replaced with a ring road. The city expanded, both through enormous buildings being constructed and a number of scientific organisations being founded. This period also saw a lot of modernisation, with the first passenger railway being built to connect Brussels and Mechelen. This new prosperous centre attracted visits from artists, scientists and philosophers such as Karl Marx and Victor Hugo.

The next major event in the history of Brussels was the outbreak of the First World War in 1914. The brave stance of the neutral Belgians refusing free passage to the Germans (in order to invade France) and the consequent invasion of their country resulted in the British joining the War.

Between the two world wars Brussels continued to be a rapidly developing city. This was ceased with the second German invasion of the century. Following the

Phoney War Belgium, was invaded in May 1940 and, though it was again neutral, it quickly yielded to the overwhelming power of the German army.

The period after the war saw a lot of investment. The World Fair was held in Brussels in 1958 and in the '60s the headquarters of both the EEC and NATO were created there. This led to Brussels being nicknamed the Capital of Europe. Brussels is still the home of the European Union, with MEPs from around Europe making weekly trips to and from the city. Whilst in Brussels you can visit the Council of Europe, the European Commission and the European Parliament. Visits to all of these institutions are possible, normally by booking in advance (in the case of the Council, you have to book at least three months ahead of your planned trip).

Brussels is an attractive, cosmopolitan city, with a lot to see and do. Along with Switzerland, it is famous for its high-quality chocolates. There is also a thriving beer industry, with a wide variety of flavours, such as raspberry, available. The war memorials and museums are worth visiting, most notably the Fine Art Museum and the adjoining Modern Art Museum. A tram ride to the Atomium through the well-preserved art nouveaux boulevards is most enjoyable.

*Laura Coogan is a politics student at Nottingham University, specialising in European affairs*

## EATING

**Bobbenotje**

**Description:** Despite its traditional feel, this is no ordinary brasserie. It has a menu that includes traditional dishes served alongside crumbed pig's trotters, goose liver with parmesan and pigeon with truffles. The three-course weekday menu (many options are provided) features an impressive wine list.

**Where:** 72 Rue de Fiennes (De Fiennesstraat), Brussels 1070

**Tel:** (32-2) 523 72 03

**La Quincaillerie**

**Description:** Once an ironmonger's shop and now a trendy restaurant, this charming bistro is visited regularly by famous people from all over Europe, including Helmut Kohl. It serves delicious meat dishes including seasonal game, fish, oysters and the seafood platter, a specialty of the house.

**Where:** Edelknaapstraat 45 Rue du Page, Brussels 1050

**Tel:** (32-2) 533 98 33

**Wittamer**

**Description:** Absolutely heavenly for those with a sweet tooth. Next to the specialist chocolate shop is a great bakery to stop off for a teatime pastry.

**Where:** 6 Place du Grand Sablon, 1000 Brussels

## SHOPPING

**Sablon antiques market**

**Description:** Ideal to stroll around on a Saturday morning, a large market with a variety of antiques for sale.

**Where:** Place du Grand Sablon

**Open:** Every Saturday and Sunday morning

**Galleries Royales Saint-Hubert**

**Description:** An elegant collection of chic boutiques – great for window shopping. The Galleries are famed for the 200m long glass ceiling and live theatrical performances.

**Where:** Just 100m from the Grand Place

**Place du Jeu de Balle**

**Description:** A great flea market with something for everyone.

**Where:** Place du Jeu de Balle

**Open:** Every day from 7am – 2pm

## LOOKING

**Fine Art Museum**

**Description:** An art gallery possessing a wide range of artists including Breugel, Bosch and Rubens.

**Modern Art Museum**

**Description:** Attached to the Fine Art Museum this also has an impressive collection which includes Magritte and Wouters.

**The Royal Palace**

**Description:** The Royal Palace in Brussels was built on the site of the Palace of the Netherlands, formerly the palace of the dukes of Brabant, which burned down in 1731. It is a large complex, high above the old town.

**Where:** Place des Palais

**Open:** Variable throughout the year

## SLEEPING

**Royal Windsor Hotel**

**Description:** A luxury four star hotel featuring traditional European architecture. It is perfectly positioned in the heart of the city, for sights such as the "Grand Place".

**Where:** 5 Rue Duquesnoy, 1000 Brussels

**Tel:** +1-880-780-5734

**Cost:** from £65 to £350

**Floris Louise Hotel Brussels**

**Description:** A new four star deluxe hotel located in the heart of the business area and near to the prestigious shopping street Avenue Louise. It is within parking distance of the European Parliament and the cultural sites of the city centre.

**Where:** Rue de la Concorde, 59-61, 1000 Brussels

**Tel:** +1-880-780-5734

**Prices:** from £60 + taxes

**Van Belle Hotel**

**Description:** A warm, friendly hotel only a mile from the Grand Place, all rooms en suite.

**Where:** Chaussée de Mons 39, 1070 Brussels

**Tel:** +1-880-780-5734

**Prices:** from £35 to £70

## EUROPEAN INSTITUTIONS

**European Economic and Social Committee**

Rue Ravenstein / Ravensteinstraat 2, B-1000 Brussels Tel: (32-2) 546 90 11 Fax: (32-2) 513 48 93

Map: [http://www.esc.eu.int/images/mail/Ces\\_map.jpg](http://www.esc.eu.int/images/mail/Ces_map.jpg)

**Committee of the Regions**

Rue Montoyer / Montoyerstraat, 92 - 102, B - 1000 Brussels Tel: (32-2) 282 2211 Fax: (32-2) 282 2325

**Council of the European Union**

Rue de la Loi / Wetstraat, 175 B-1048 Brussels Tel (32-2) 285 61 11 Fax (32-2) 285 73 97 / 81

**European Parliament**

Rue Wiertz / Wiertzstraat B- 1047 Brussels Tel: (32-2) 284 21 11 Fax: (32-2) 284 69 74 (32-2) 230 69 33

Map: <http://www.europarl.eu.int/abc/visit/images/plangen2.gif>

**European Commission**

Rue de la Loi / Wetstraat 200 B-1049 Brussels Tel: (32-2) 299 11 11

## GETTING THERE

**Plane**

Numerous return flights are available from £65, try BMI on +44 (0) 1332 854000 or British Airways on +44 (0) 845 77 333 77

**Train**

Eurostar travels direct to Brussels with fares from £70. See [www.eurostar.com](http://www.eurostar.com)

**Car**

It is possible to drive to Folkestone and take the Channel Tunnel to Calais. This option costs from £179 as long as you book at least 7 days in advance. For more information see [www.eurotunnel.com](http://www.eurotunnel.com) or telephone 0870 514 3219

**Coach**

National Express operates a regular journey to and from Brussels with prices starting at £40 if booked in advance. The trip takes a minimum of 6 hours. Contact National Express on 08705 808080.



# CHUNNEL VISION

## Ins and Outs

by Dr Lee Rotherham

INTERNATIONAL LAW IS A NIGHTMARE. I make no apology for that. It can be a necessary element in understanding the EU. I say this purely because you may want to get a cup of tea before trying to get to grips with what follows. I did.

As a complex series of interlocking texts, the Treaties which set up the European Communities show up some serious metal fatigue. Perhaps nowhere is this clearer than in the confusion on how you might actually leave.

Two territories, of course, have left. A 52% vote for withdrawal in 1982 led to Greenland finally being allowed out three years later. The other instance was Algeria – whose littoral *départements* had been an integral part of France. Independence there somewhat put a dampener on their continued EEC membership.

But these departures were achieved by *force majeure*, involving elements on the periphery, a long time before the vast majority of the 97,000 pages of *acquis* found themselves incorporated into national law. Integrationists would quietly have sniffed at losing some insignificant rind on their great project. Indeed, Ted Heath in the 1970's put it bluntly when quizzed by the press about this apparent failing in the treaties: since it was unthinkable that anyone would want to leave, no provisions were necessary.

This treaty gap might have been filled by recourse to the Vienna Convention on the Law of Treaties (1969). But this is a dim lamp in our pit. Under Part V, all the participating states have to consent to a withdrawal, unless, for instance, a negotiator was threatened, or bribed. Alternatively, if a state was misled into the effect of the treaty, it may seek to annul it – but after four treaty changes and three accession waves since 1973, this wears thin as an argument.

But now the 'Constitutional Treaty' has put this on the agenda, and intertwined is the issue of how the Constitution is going to be ratified.

Any amendments to the current Treaty of Rome require the unanimity of member states. This is why life has been so awkward

for the MiB (Men in Brussels) over the past ten years, with pesky referenda getting in the way and blocking treaty upgrades.

Hence *Part Three* – the General provisions section of the new Treaty. This sets out how the Constitutional Treaty will come into force; and also *Title X*, on what happens when member states have had enough. Let's look at the latter first.

Article 46 covers what is plainly known as "*Voluntary withdrawal from the Union*". Setting aside all thoughts of church bells ringing, street parties etc. etc., the draft sets out explicitly for the first time that (i) member states have the right to depart if they wish (ii) they themselves select the means for deciding how they democratically confirm this conclusion. However, while Mountbatten may have had a calendar on his office wall showing the number of days before Indian independence, here the timing is more complex, with a default limit of 2 years – unless terms are reached before then.

Clearly, it is not in the departing member state's interest to tarry (especially if a net contributor), nor to give the pro-federalist camp the opportunity to wage a guerrilla war with the support of sympathisers in Brussels.

Vienna V (56) sets a default limit of one year. This seems closer to a reasonable transfer period – not so long as to hinder a democratic process, and not so short as to vanish like the Belgians in the Congo. (I am told they left only two trained local doctors behind to cover this vast country, one of whom was shortly afterwards eaten.)

The remainder of the draft clause is dangerously worded: section (2) states that "*The withdrawing State shall not participate in the Council's discussions or decisions concerning it*." One presumes this refers only to the remaining states' deliberations over the departure terms – but this is sloppy treaty workmanship, which could be vengefully misread.

Article 46, nevertheless, provides the first official basis for any state to leave, introduced as an attempt to achieve at least a scrap of the original Laeken mandate. But if we part the diaphanous curtains for a while, we can gaze on elements far more immediate.

In *Part Three*, Articles A and B recognise the historic procedure of Treaty succession: when the new Constitutional Treaty comes into force, the old ones are repealed, and the rights, obligations, and real estate are taken over by the new treaty.

But now look at Article G. It states that "*The Constitutional Treaty shall enter into force on [date tbc] provided that all the instruments of ratification have been deposited, or failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step*."

The new treaty therefore kicks in when either (a) everybody has signed it, or (b) after all the states have signed it *that are going to sign it*.

Now, Article G continues to state that if, two years after signing the Constitutional Treaty, 80% of states have ratified it but one or more states are having difficulties, then a Council meeting will look at the problem. But by that stage, under option (b) and Article A, the old treaties have been revoked. The countries which have ratified are in the Constitutional EU; those which haven't, are free of all commitments...

This may have been an attempt to hoodwink treaty opponents, and cajole future referendum voters that they have to sign or be damned. At the least, it is a mighty gaffe on the part of the Praesidium Treaty planners, who don't know their articles from their pantaloons. Indeed, this new ratification procedure itself breaks the first rule of Communities treaty law – in order to allow for the Constitutional Treaty to take effect in the first place, all the member states will have to ratify it to say what will happen if they don't ratify it! It flies in the face of the Vienna Convention (in particular, articles I (12)[2b], and III (30)[4b] – just in case you were planning on walking your dog, it's now raining, and you have access to the internet).

In short, Giscard's treaty is a mess. Forget the Treaty of Rome; it is the Fubar Constitution. It tries to allay genuine and widespread fears, by an escape clause whose wording removes the rights of states. It attempts to circumvent the existing treaties and treaty law under Vienna, by setting terms on when it will come into force if it doesn't come into force. At least one good thing comes out of this: Title IX. The Union, it is officially recognised, has an immediate environment, with non-member states around it with whom it intends to be nice. Given the way this Constitution's heading, one day, that could include us.

*Dr Lee Rotherham is secretary of Conservatives Against a Federal Europe and an adviser on European affairs.*

# THE EUROPEAN FOUNDATION

The *Great College Street Group* was formed in October 1992 in order to oppose the Maastricht Treaty. The group, consisting of academics, businessmen, lawyers and economists, provided comprehensive briefs in the campaign to win the arguments in Parliament and in the country. The European Foundation was created after the

Maastricht debates. Its task has been to mount a vigorous and constructive campaign in the United Kingdom and throughout Europe for the reform of the EC as a community of independent sovereign states. The Foundation continues to establish links with other like-minded institutes across Europe.

## Objectives

The objectives of the Foundation, set out in its constitution, are as follows:

- to provide a forum for the development of ideas and policies for the furtherance of commerce and democracy in Europe;
- to increase co-operation between independent sovereign states in the European Community and the promotion of the widening and enlargement of that Community to include all applicant European nations;
- to resist by all lawful democratic means all and any moves tending towards the coming into being of a European federal or unitary state and for the furtherance and/or maintenance of such end;

## Activities

The Foundation pursues its objectives by:

- organising meetings and conferences in the UK and in mainland Europe;
- publishing newsletters, periodicals and other material and participating in radio and television broadcasts;
- producing policy papers and briefs;
- monitoring EC developments and the evolution of public opinion and its impact on the political process in the main EC countries;
- liaison with like-minded organisations in other EC and EC applicant countries and elsewhere;
- liaison with trade associations and other professional bodies affected by EC action and policy.

## The Foundation

The Foundation addresses itself to the general public and to politicians, journalists, academics, students, economists, lawyers, businessmen, trade associations and the City.

It concerns itself with the following main topics:

- industrial and commercial policy;
- economic and monetary matters;
- foreign policy;
- security and defence;
- environmental issues;
- the Common Agricultural Policy;
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