

# CONTENTS

## 2 LETTER FROM THE EDITOR

*James McConalogue*

## 3 PRESIDENT OBAMA LAYS AN EGG

*Roger Helmer MEP*

## 4 DISASTER OF THE COMMON FISHERIES POLICY

*Dr Lee Rotherham & Professor David Bellamy*

## 5 FRENCH AND POLISH SELF-INTEREST IN ALL BUT NAME

*Bernadette Mill*

## 6 HOW EUROPE IS KILLING THE BRITISH PUB

*Editor comment*

## 7 GOVERNMENT HANDS OVER EU SUBSIDY FIGURES FOR BRITISH FARMERS

*Editor comment*

## 7 FLIGHT OF THE BUMBLEBEES

*Editor comment*

## 7 LABOUR DENIAL OVER TREATY BRINGS PARLIAMENT "INTO DISREPUTE"

*Editor comment*

## 8 EUROPEAN CENTRAL BANK – CRUNCH TIME LOOMS

*Howard Wheeldon*

## 9 RUSSIA NEED NOT FEAR THE EU'S GROWING RELATIONSHIP WITH FORMER SOVIET REPUBLICS

*Conservative report on Charles Tannock MEP*

## 10 CENTRAL EUROPE & THE EU: PART IV. THE ECONOMIC FAILURE OF THE EUROPEAN UNION

*Professor Christie Davies*

## 12 WHY REPLICATING EUROPEAN CAR SCRAPPING INCENTIVES IS UNLIKELY TO WORK SO WELL IN UK

*Howard Wheeldon*

## 13 DOES 85% OF BRITISH LEGISLATION ORIGINATE IN BRUSSELS? GOVERNMENT NOT BOTHERED

*Editor comment*

## 14 A NEW STRATEGY FOR EUROPE'S FISH FARMS

*Conservative report on Struan Stevenson MEP*

## 14 UK TRADE DEFICIT WITH EU STILL ASTRONOMICAL BUT TRADE SURPLUS WITH US RISES

*Editor comment*

## 16 EUROPEAN PARLIAMENT ENDORSES DRACONIAN EU "EQUALITY" LAW

*Margarida Vasconcelos*

## 17 COMMISSION TRANSPARENCY REPORT RECOMMENDS SELECTIVE EDITING AND NON-DISCLOSURE

*Margarida Vasconcelos*

## 18 THROUGH THE EU LABYRINTH

*Margarida Vasconcelos*

**Editor:** James McConalogue

**Publisher:** The European Foundation

83 Victoria Street

London,

SW1H 0HW

**Telephone:** 0203 178 7038

**E-mail:** [euro.foundation@e-f.org.uk](mailto:euro.foundation@e-f.org.uk)



**Web site:** [www.europeanfoundation.org](http://www.europeanfoundation.org)

**ISSN:** 1351-6620

For subscription and advertising enquiries, please contact the editorial office. A subscription form is printed on the inside back cover.

# Letter from the editor

Much has been done within and by the EU in the past month that I cannot possibly review everything here. (As I go to print, Sarkozy is pushing for tougher EU-wide regulations for the hedge fund industry, even though the majority of that European industry lives in the City). So to cover the widest range of material whilst remaining true to our euro-critical instinct, in this issue we look at:

- The democratic problem in Obama repeatedly calling for Turkey to be admitted to the EU;
- The fact that last month the European Commission astonishingly accepted the long-term failure of the Common Fisheries Policy after the 'Taxpayers' Alliance (notably, Lee Rotherham and David Bellamy) produced a critical report on its management and consequences. In this issue, we report on their basic findings;
- How the Union for the Mediterranean and the Eastern Partnership simply reflect French and Polish self-interests behind the cover of a united Europe;
- How the Government has accepted that Europe is killing the British pub;
- How the Department for Environment, Food and Rural Affairs has handed over EU subsidy figures for British farmers;
- How one Lib Dem MP welcomes the £10 million funding for bee health even though advancement in this area of treatment largely depends upon faulty EU regulations;
- Now is such a crucial decision time for Euroland that failure for the ECB to get it right now may well bring down the whole pack of cards;
- Conservative MEP, Charles Tannock's arguments that the Kremlin's accusation that EU is extending its 'sphere of influence' is redundant Cold War language;
- The way in which Central European countries hitched their wagons to an EU train that has slowed down and may well come to a stop;
- How the German, French and Italian government's introduction of various incentive schemes to pay owners of older cars to trade them in for scrap may not provide similar benefits in the UK as those seen in Continental Europe;
- Why the Government refuses to answer whether 85% of British legislation originates in Brussels;
- Conservative MEP, Struan Stevenson's reaction to the newly published Commission paper on aquaculture aimed at boosting Europe's fish farming sector;
- Why the UK trade deficit with the EU still astronomical whilst the trade surplus with the US rises;
- The European Parliament endorsing a draconian EU "equality" law;
- The European Commission's transparency report recommending selective editing and non-disclosure;
- The EU Parliament approving tyre-labelling proposal which will increase costs for the UK Government and tyre manufacturers;
- The way in which the Super-Commission has gone beyond its Treaty powers to harmonise penalties for countries breaking Common Fisheries Policy rules;
- The European Commission finally admits failure of the Common Fisheries Policy
- The way in which one eco-proposal that will damage small business is set to enter into force;
- The failed EU accounts for 2007 have been approved by the European Parliament;
- New rights or higher fares for bus and maritime passengers?
- How EU legislation is agreed behind closed doors before elections;
- Concerns on whether the Government Minister for Europe has actually read the Lisbon Treaty;
- Does your vote count at the European elections?

It is well worth turning to the last page of this issue which notes that the European Parliament since the first elections in 1979 has been acquiring more powers through the EU Treaties whereas voter turnout has declined from 63 per cent in 1979, to 56.8 per cent in 1994, to 49.8 per cent in 1999, to 45.6 per cent in 2004. It is important because there is a complete absence of democracy in the European Union amongst the people as it, part by part, takes over the governance of the United Kingdom.

*James McConalogue*  
*May 2009*



# President Obama lays an egg

*Roger Helmer MEP writes:* A Turkey Egg. The President's trip to Europe, and his first visit to a Muslim country, Turkey, has been widely hailed as a success. But he has annoyed French President Nicholas Sarkozy, and others, by repeatedly calling for Turkey to be admitted to the EU. Sarkozy responded by saying that this was a decision for EU Member States, and for once I agree with Sarkozy.

I am well aware of the arguments advanced by this US administration (and, to be fair, by the Bush Administration before it) in favour of Turkey's membership. Turkey has been a loyal member of NATO, the eastern bastion of the Alliance, and deserves EU membership as a "reward". It has supported the allies in Iraq. Turkey deserves our recognition and support as a moderate, democratic Muslim state, and therefore a living demonstration that an Islamic country can co-exist with liberal Western democratic values. Some even argue that Europe's ageing population needs an infusion of young blood, and young workers, from Turkey's teeming and relatively young population, which is 72 million strong — larger than the UK, and likely to overtake Germany, the EU's most populous state, in a few years.

But the counter-arguments are strong too. Turkey is large. Compared to most of the EU, it is very poor, and likely to be a drain on EU resources. But it is also radically different in cultural and (let's face it) religious terms. European countries can absorb immigrants of many backgrounds, but increasingly we are starting to ask "How many? And how quickly?" We are asking these questions not least in the UK, where historically exceptional rates of immigration are challenging our social infrastructure.

Without for a moment condoning anti-Turkish feeling, and still less anti-Turkish atrocities in some EU Member States, it is still legitimate to point to them as evidence that high rates of immigration, especially of people from very different cultures, create potential problems. It should not be so, but it is.

But for me there is one factor that clinches the issue, and that is the question of democracy. We have already allowed the majority of our laws to be made by coalitions of Lithuanians and Slovenians and Portuguese (and others), and

our UK vote in the deliberations of Brussels is down to around 8 per cent. If Turkey were to join the EU, our share of population would be down from 13.3 per cent to 11.5 per cent, and our vote on majority-voting issues would reduce proportionately. Meantime Turkey would no doubt expect the same voting weight as Germany, and more than any other member-state.

If we had the kind of EU that I would want, based solely on free trade and voluntary intergovernmental cooperation, I should be happy to welcome any democratic country of good will, under the rule of law, and with broadly free-market principles. Turkey. Israel. Ukraine. Taiwan. Let 'em all come. But if they are going to make the laws that govern me in Britain and my fellow citizens, then we have too many foreigners doing that already, thanks very much, and we don't need any more.

France has proposed that instead of EU membership, Turkey should be offered a "Privileged Partnership". I'm not sure what that would give Turkey beyond what it has now — it already has a free trade deal, and large numbers of Turks live and work in the EU. But it seems to me that such a partnership could give Turkey most of the benefits of EU membership with few of the costs and drawbacks. Indeed it sounds such a good deal, that as I said in a plenary debate in Strasbourg recently, I should like to see the same offer made to the UK as well.

Clearly Obama, in his rush to reward Turkey for loyalty, has not thought through the issues of democracy. He should listen to Belgian blogger Jean Quatremer who writes that Barack Obama's statement in support of Turkish membership of the EU is the equivalent of Angela Merkel, as "The newly elected President of the EU" declaring to Mexico's Parliament: "Let me be clear: the European Union firmly supports Mexico's candidacy to the United States." We should see how the American people would react to proposals that their domestic laws should be made by parliamentarians from other North American states. It has well been said that Turkeys don't vote for Christmas. And I suspect that EU citizens and Member States will not vote for Turkish accession either. [Roger Helmer, MEP]

**" The President's trip to Europe, and his first visit to a Muslim country, Turkey, has been widely hailed as a success. But he has annoyed French President Nicholas Sarkozy, and others, by repeatedly calling for Turkey to be admitted to the EU. Sarkozy responded by saying that this was a decision for EU Member States, and for once I agree with Sarkozy. . . We should see how the American people would react to proposals that their domestic laws should be made by parliamentarians from other North American states. It has well been said that Turkeys don't vote for Christmas. And I suspect that EU citizens and Member States will not vote for Turkish accession either. "**

# The failure of the Common Fisheries Policy

A veteran of European Union politics, **Dr Lee Rotherham**, and ecologist, **Professor David Bellamy** look into the disaster of the Common Fisheries Policy. Here, they report their findings.

The Common Fisheries Policy has proved a disaster:

- To fishermen
- To the economy
- To communities
- To the ecology

We recognise that poor stock management has generated a global fisheries crisis since World War 2. However, the data suggests that if the seas off mainland Europe had been better run, 1970s levels of UK employment and stock could have been maintained.

At fault is the CFP because of certain key elements;

- Communal management without particular responsibility
- A quota system based on lobby and barter
- A culture in Whitehall of managing inevitable decline
- A reluctance to end the CFP as this would signal an EU failure or retreat
- Political ambition in Brussels to drive for an integrated EU fleet system
- Governments operating as disinterested (UK) or self-interested (others) stakeholders

The United Kingdom could have followed the example of Canada, Iceland, Norway and others and expanded its own territorial waters as international law permitted. It couldn't, because those fell to common management under the CFP. Crucially, successive governments have declined several opportunities to make this an issue for renegotiation.

Ending the CFP would bring significant economic benefit to the country. Our estimate consists of costs ended (taxes, foreign subsidies, jobs, social services, societal) and benefits gained (over the long term by reclaiming the national waters and running them efficiently). These would alternately accrue quickly, or would realistically take a generation to recoup.

We believe that the following are best estimates for the annual cost of the CFP:

- Unemployment in the fleet and in support industries – £138 million
- Decline in communities – £27 million
- Pending damage to recreational fishing industry, low

estimate used – £11 million

- UK share of support to foreign fishing fleets under EU grants – £64 million
- UK share of support to foreign fisheries industry under EU grants – £1 million
- Redeemable UK share of EU third water fishing permits (allowing for half to be invested in development aid) – £12 million
- Loss of comparative competitiveness – £10 million
- Ongoing decommissioning schemes – £4 million
- Foreign-flagged UK vessels – £15 million
- Administrative burden – £22 million
- Loss of access to home waters under 200 nautical mile principle – £2.11 billion
- Higher food prices factored into social security payments – £269 million
- Economic value of dumped fish – £130 million
- Total economic cost to the UK of the CFP – £2.81 billion

**“ In particular, just counting three species, in just the North Sea, according to Government estimates, in just one year the CFP forced the dumping of 23,600 tonnes of cod, 31,048 tonnes of haddock and 6,000 tonnes of whiting. That 60,000 tonnes of dumped fish is enough to fill a 200 metre long supramax bulk carrier ship or keep Billingsgate fish market stocked for two and a half years. ”**

We cannot find any evidence of any similar attempt to provide a cost-impact of the CFP having been made before. As such, we would be delighted having opened the field to debate for more detailed and precise data to emerge into the public domain. In the absence of such, our estimates stand.

Alternatively, it is possible to look at it from the housewife's perspective. We estimate that the cost of the CFP in terms of higher bills is £186 per household per year – or £3.58 a week.

At the same time, the ecological impact of the CFP is severe. In particular, just counting three species, in just the North Sea, according to Government estimates, in just one year the CFP forced the

dumping of 23,600 tonnes of cod, 31,048 tonnes of haddock and 6,000 tonnes of whiting. That 60,000 tonnes of dumped fish is enough to fill a 200 metre long supramax bulk carrier ship or keep Billingsgate fish market stocked for two and a half years.

Thirty five years of foot dragging and tinkering have shown that the CFP is beyond reform. It is unredeemable, an act of ecological vandalism, and unquestionably not in the national interest.

# French and Polish self-interest in all but name

**Bernadette Mill** asks if the Union for the Mediterranean and the Eastern Partnership, simply reflect French and Polish self-interests behind the cover of a united Europe.

The Union for the Mediterranean and the Eastern Partnership were proposed by France and Poland respectively. Each country has presented these policies as a means of furthering the achievements of the European Union as a bloc and helping neighbours to achieve economic and democratic prosperity, however it appears that French and Polish interests are at the centre of these projects.

The Union for the Mediterranean (UfM) was launched by Nicolas Sarkozy on 13 July 2008. The main goal of the UfM is to modernise and develop upon the achievements (albeit, negligible) of the 1995 Barcelona Process. Membership comprises the 27 European Union nations and those of the Barcelona Process with the addition of Albania, Bosnia and Herzegovina, Croatia, Libya, Mauritania, Monaco and Montenegro. One of Sarkozy's possible reasons for bringing the Mediterranean to the fore of EU relations was that Europe's target of 2 per cent of foreign direct investment in the region is inadequate in comparison to the 20 per cent and 25 per cent America and Japan invests in the countries south of their borders.

The key priorities of the UfM were detailed as: The de-pollution of the Mediterranean Sea; establishing transport links; coordinated approaches to tackling man-made disasters; creating a plausible solar energy plan; the establishment of a Euro-Med University and a business development forum for small and medium-sized companies. The project has set ambitious goals but already leaves itself open to criticism. The Union lacks a detailed policy on freedom of movement which is of primary importance to the southern countries. The UfM is chaired by two countries for biennial terms, one from Europe and one from North Africa – this arrangement is wide open to abuse as chairmen have a lengthy amount of time to only pursue their respective national interests in an already fractious region.

The Eastern Partnership (EP) was presented in 2008 by Poland and to a lesser extent Sweden, as a means of counterbalancing the Union for the Mediterranean. The EP

launching summit with the member countries will be hosted on 7 May 2009. Poland supported the UfM on a proviso that Eastern neighbours would have access to a similar proposal. The EP aims to develop oil and gas routes around the Black Sea which do not fall within Russia's sphere of influence, with the added intention of strengthening EU regional dialogue with neighbours Ukraine, Moldova, Georgia, Armenia, Azerbaijan and Belarus.

The EP aspires to the creation of a free-trade area for agricultural products and services; visa facilitation with the eventual prospect of visa-free travel and increased cooperation in transport, environmental and immigration affairs.

The EU already funds Eastern Partnership countries except Belarus for programmes under the European Neighbourhood Policy Instrument. The agreed funding between 2007-2010 is; Armenia €98.4m, Azerbaijan €92m, Georgia €620.4m, Moldova €209.7m and Ukraine €494m. In 2008, Eastern European countries received a further €25.6m under the Cross Border Cooperation programme.

Both the UfM and the EP duplicate the intentions of the European Neighbourhood Policy, whereby neighbouring countries are offered closer cooperation and increased access to the EU single market in exchange for political and economic reforms. Not only have they been presented as progressive initiatives, they are also being used as vehicles by their countries of birth to pursue national interests.

The EU has failed to include agriculture in the UfM free-trade agreements even though the sector is of economic importance to southern Mediterranean countries. It has however, opened free-trade to service and industrial sectors where the southern nations struggle to compete with the EU's prowess. This is glaringly counterproductive and may be attributed to French over-protectiveness of the agricultural sector.

It can be argued that France is using the Union for the Mediterranean to pursue its own interests and strengthen

**“ The EU has failed to include agriculture in the UfM free-trade agreements even though the sector is of economic importance to southern Mediterranean countries. It has however, opened free-trade to service and industrial sectors where the southern nations struggle to compete with the EU's prowess. This is glaringly counterproductive and may be attributed to French over-protectiveness of the agricultural sector. ”**



influence in her former colonies. In the week he delivered a speech in Tangier extolling the virtues of a Mediterranean union, President Sarkozy signed commercial contracts with Morocco worth €3bn. France has also offered to advise North African countries on nuclear power in exchange for access to the region's gas reserves. The inclusion of Mauritania into the UfM is questionable – it is only partly in North Africa, has no direct access to the Mediterranean Sea and is for all intents and purposes a West African country.

Northern European countries, Germany and Austria in particular, were reluctant to fund a project they felt had such limited impact on their affairs. Sarkozy compromised on opening membership of the UfM to all EU members as a way of appeasing Chancellor Merkel and avoiding a split in the Franco-German alliance. This move was despite the fact that France and other southern EU member states have not been granted full membership of the Council of the Baltic Sea States. Sarkozy's actions are possibly due to the fact that France's position as the EU state of highest influence in the Union for the Mediterranean would not be threatened by her northern counterparts. Also, the UfM has further implications as it encompasses the protagonists of the Arab-Israeli conflict. It is arguable that France realised it would need full EU cooperation if the UfM is to make progress in neutralising the ongoing disputes in the region, although it was supine during the recent hostilities.

It is also clear that Poland is keen to export its success at

political transformation and eventual EU membership to its eastern neighbours, and is particularly loyal to her former colony Ukraine. Ukraine has been at the receiving end of conflicting statements as a member of the European Neighbourhood Policy. On the one hand, ENP countries are

told that the policy is not a route to EU membership and on the other hand the EU's High Representative for foreign policy, Javier Solana has referred to the ENP as a "comfortable waiting room" for future candidates.

The Eastern Partnership could help the EU to achieve (or at least appear to achieve) cordial relations between Armenia and Azerbaijan. One way to ease tension would be to exploit the natural resources of both nations, thus forging strong trade links and reducing the dependency on Russian oil and gas supplies. This could be the reason why Eastern Partnership countries will have access to agricultural services and visa-free travel, whereby these options have not been made available to Union for the

Mediterranean member states.

By proposing the EP, Poland has the opportunity to elevate herself in the EU and consolidate diplomatic relations with her eastern neighbours. The prospect of irritating Russia by engaging non-EU eastern European countries into an EU initiative was probably noted but ignored, which is arguably due to the partial Russian embargo on Polish food products.

*Bernadette Mill is a Parliamentary Researcher*

## How Europe is killing the British pub

In a Commons debate on 23 April, Lib Dem MP, Martin Horwood, said to parliamentary colleagues "...Does he agree that having a differential duty that is more generous to beer and encourages drinking in traditional family pubs would actually create a social environment that militates against binge drinking, which is an important factor in the wider issue?" One Labour MP (Clive Betts) said "I think it does and I have written to my hon. Friend the Exchequer Secretary to say that a differential tax—on beer sold in supermarkets as opposed to beer sold in pubs—would be very helpful. It may well be that we cannot do that, but it is an issue that needs addressing." Then came the interesting part. The Exchequer

Secretary to the Treasury, Angela Eagle MP said, as she has made clear several times before, "On that very point, we have looked at this matter and I am afraid that EU directives work in such a way as to make it impossible to tax the same item differentially, according to where it is sold. That is simply not possible." So, we cannot tax items with some equivalence in different ways, and therefore remain reflexive, because we are stuck within an unfair framework of EU Directives, which bind HM Treasury to insisting on uniform VAT on beer in general. It is clear the dithering and inconsequential debate must end – the only practical way out is renegotiation. [Ed.]



# Government hands over EU subsidy figures for British farmers

UK direct payments	
<i>Calendar year</i>	<i>UK direct payments (modulation subtracted) (€ million)</i>
2009	3,370
2010	3,340
2011	3,330
2012	3,340

On 28 April, Labour MP, John Mann, put down a question to the UK Secretary of State for Environment, Food and Rural Affairs “To ask the Secretary of State for Environment, Food and Rural Affairs what estimate he has made of the sums to be allocated to farming subsidies by his Department in each of the next six financial years.” [Q.271798] Agriculture minister, Jane Kennedy MP, replied “The table shows ceilings (maximum amounts) that the UK can draw from the EU budget (which the UK contributes to) to make direct payments to farmers under EU support schemes included in

pillar 1 of the EU common agricultural policy. The totals reflect amounts subtracted where modulation arrangements have been applied (the subtracted funds being redirected to pillar 2). The vast majority of these payments fall under the Single Payment Scheme (SPS), and are decoupled from production. Actual payments will depend on future changes to EU legislation, future decisions on modulation, and factors such as the application of financial discipline; but will in any case be less than the permitted ceilings. Current forecasts are only available up to 2012.” [Ed.]

## Flight of the Bumblebees

Recently in the Commons, Lib Dem MP, Tim Farron and colleagues fell to discussing the Government’s award of £10 million of research money to the troubled British bee-keeping industry, to look into the health of bees required for pollination. Whilst Farron welcomed the £10 million funding, which may be one issue worthy of debate in a time of economic crisis, he was also well aware that much advancement in this area largely depends upon faulty EU regulations. Regulations insist that bees are classed as livestock – so only vets can use treatments. This led the MP to ask the Government: “I want the Minister to confirm that

she will lobby for a change in the EU regulations, under the veterinary medicines directorate, to allow not only vets but bee experts, including beekeepers, to decide on the use of treatments in order to ensure that we roll out those treatments effectively.” (29 April, House of Commons) It has been suggested that the chances of achieving a change in EU regulations is nil. This has led many to insist that the possibility of the £10 million actually being used by beekeepers to decide on the use of treatments for bee health remains quite remote. [Ed.]

## Labour denial over Treaty brings Parliament “into disrepute”

On 2 February, Shailesh Vara MP said in the Commons “It is important that the integrity of Parliament should be taken on board by all of us. It is not only the issue of finance that brings this place into disrepute; it is also the way in which politicians and Parliament operate. For example, if a party gives a manifesto pledge to hold a referendum on the European Union constitution, that party—the Labour party—should honour that pledge when it is elected back into

government. It demeaned the Prime Minister and the office that he holds when he said that the Lisbon treaty was a different document. This was particularly highlighted by the fact that many of his European Union counterparts said that the Lisbon treaty was a European constitution in all but name.” It was a welcome statement, it went unreported in this *Journal* and elsewhere and has only just been brought to our attention. [Ed.]

# European Central Bank – Crunch time looms

**Howard Wheeldon** argues that now is such a crucial decision time for Euroland that failure for the ECB to get it right now may well bring down the whole pack of cards.

The European Central Bank council should count itself fortunate that the highly respected Bundesbank President, Axel Weber is a member. Weber, an economist by training and head of Germany's 'central' bank since 2004 is given to talking a great deal of sense. Weber's view is that a one percent floor on ECB rates should be firmly placed and announced following a likely further 0.25 per cent cut widely expected at the next ECB meeting due on 7 May. Announcing a 1 per cent floor would at the very least provide Euro member commercial banks and other lenders with sufficient confidence to plan ahead with some degree of certainty. While the problems faced by US, Euro and many other nations that have been dragged in may differ in extent most agree that improving the health of commercial banks, the provision of sufficient short and long term liquidity availability and confidence so that they might kick start lending between themselves and subsequently, to business and consumer alike, remains at the heart of the current crisis. The rest of the twenty-two strong ECB council should take Weber's words of wisdom to heart. Not only is the influential German representative seeking to put a firm floor on rates though as he also favours that the current basis of 'unlimited' ECB liquidity provision to banks should be extended from the current six month maturity basis to at least one year and maybe even longer than that. Once again, this makes considerable sense.

Clearly, not all member states agree that putting a floor on ECB rates at 1 per cent is sensible but somehow these must be persuaded. At the heart of the various internal bickerings within the current ECB council debate lies the difficulty of achieving agreement not only on future interest rate movement but also agreeing a refinancing package for delivery next month that includes a plan to purchase debt. Importantly the hope will be that the ECB also comes up with something that can really benefit the weaker Euro member economies too and that reduces the domestic political pressure on them. That may be even harder to achieve. On the interest rate floor debate Weber is mainly

concerned that if benchmark ECB rates are brought too close to overnight rate this reduces incentive of banks to lend to each other. Clearly this has to be seen as a very sensible argument though achieving agreement on this within such a disparate council made up of 'central' bank chiefs from Euro based countries small and large and rich and poor will be equally hard.

With sixteen member states having adopted the Euro since the currency was introduced in 1999 this next month really is crunch time not only for the currency but also the ECB in my view. Central to the issue is how dominant economies such as Germany and France and the representatives of these on the ECB council take to heart the sufferings of smaller Euro member nations such as Portugal, Slovakia and Slovenia. Indeed, right now, we cannot even be sure that the Germans and French even agree. The voices of Spain, Ireland and Italy and that do not have the financial strength and power of France and Germany will also be heard.

Time is running out. Whilst there appears to be a slowing of economic decline in the US and even a touch more confidence amongst none Euro member states despite a host of other problems they might yet have to solve there is as yet no sign that the rot of decline in the Euroland economy has yet slowed.

Thus it is crucial that the ECB provides a firm lead in May on which all Euro member states can agree and work within. OK, so what we are talking about here is the stuff of dreams but increasingly the future of the Euro itself and of confidence that international investors have in the ECB economy and currency is dependent on seeing the ECB providing a jolt. After ten years in existence we should by now be able to view with confidence that the ECB is sufficiently established to provide the confidence that the rest of the world craves. Right now we just can't do that.

Whilst agreeing that the UK, Denmark and Sweden as leading EU members had been right to stay out of the Euro it is true to say that through its ten year history I have generally agreed the cautious stance taken by the ECB. Until

**“ With sixteen Member States having adopted the Euro since the currency was introduced in 1999 this next month really is crunch time not only for the currency but also the ECB in my view. Central to the issue is how dominant economies such as Germany and France and the representatives of these on the ECB council take to heart the sufferings of smaller Euro member nations such as Portugal, Slovakia and Slovenia. ”**

recent events, development of the Euro economy over the past ten years has been both slow but also sure and very sound. This was right but we are now in 2009 facing a very different set of consequences and events. Of necessity in my view the ECB must now come out of the closet and provide sufficient economic leadership to bring the EU economy out of the current mess. This will mean stepping up the amount of risk that it takes. Sure, that the majority, well at least half, of Euro members have been innocent bystanders in this crisis of confidence does require that the ECB takes due heed of their respective needs. For these nations, this should not be a simple case of 'you made your bed [joining the Euro] so lie on it'. Moreover it is that the ECB must take responsibility for providing sufficient special assistance to help them see their way through. Playing the blame game and joining in calls for substantial regulatory change may be right in essence but right now it is not what the ECB should see as first priority albeit that by providing views does at least provide part

confidence that it accepts its own system has failed.

What no Euro member needs now is to see the ECB and the council of members playing a game of bowls whilst the enemy – recession is not only at the door but rife amongst all member states. Until now I have avoided any criticism of how the ECB has behaved through this crisis and for just a few more weeks, at least until the package of measures promised is finally announced, I will stick to that policy. But, if the ECB fails to give a precise lead then and one that might begin to take this vast and important area away from deepening recession and also one that can be agreed and worked by all Euro member states then it won't only be me that turns on their hands. Indeed, this is now such a crucial decision time for Euroland that failure now might even bring down the whole pack of cards. Over to you M. Trichet!

*Howard Wheeldon is Senior Strategist at BGC Partners*

## Russia need not fear the EU's growing relationship with former Soviet republics

Recently **Charles Tannock, MEP**, has argued that the Kremlin's accusation that EU is extending its 'sphere of influence' is redundant Cold War language. A report on his remarks follow.

Russia is wrong to feel threatened by the EU's growing relationship with the six former Soviet republics to its east, Charles Tannock MEP said on 25 March in a debate on the conclusions of the recent European Council.

Dr Tannock, Conservative foreign affairs spokesman in the European Parliament, said the impending launch on the 7 May in Prague of the Eastern Partnership – which seeks to boost the EU's relations with Ukraine, Moldova, Belarus, Georgia, Armenia and Azerbaijan – should not be exploited by Russia as a pretext for more interference in its neighbours' affairs.

Dr Tannock said the Kremlin's assertion that the Eastern Partnership represented an extension of the EU's 'sphere of influence' was absurd, and that such language belonged to Cold War diplomacy, not modern international relations.

He added that Russia still thinks in terms of its own 'sphere of influence' or 'near abroad' as it is known in Russian government circles, and that this was obvious from Russia's war against Georgia last year and Moscow's intermittent political destabilization of Ukraine and the Baltic states.

He said that the EU's newly conceived Eastern Partnership and its parliamentary assembly EURONEST represented the EU's determination to help the six former Soviet republics to decide their own destinies and independent foreign policy as sovereign states.

The MEP went on to say that the Eastern Partnership should not be used by some member states as a way of

thwarting the EU membership ambitions of countries manifestly entitled to join the Union, such as Ukraine and Moldova.

Dr Tannock made his remarks following the announcement by the Council of the European Union, representing the EU's 27 member states, to double assistance to the Eastern Partnership countries to Euros 600m with a focus on negotiating deep Free Trade Agreements, Visa facilitated travel, increased security cooperation and the financing of better energy storage and gas transit infrastructure with new pipelines.

Tannock said: "The suggestion of Russia's foreign minister Sergei Lavrov that the eastern partnership is a means for the EU to extend its sphere of influence is absurd.

"Such language belongs to the 'machtpolitik' Cold War era, not to modern diplomacy... If anyone seeks a sphere of influence it is Russia, as underlined by last summer's war against Georgia and the Kremlin's intermittent political destabilization of Ukraine and the Baltic states.

"While I fully accept the right of Turkey and Russia to be observers in EURONEST, neither country should use this position for its own foreign policy ends. The members of EURONEST are sovereign states with the right to determine and advance their own Euroatlantic aspirations.

"The Eastern Partnership must not be used to stall the EU membership ambitions of countries manifestly entitled to apply for such status, namely Ukraine and Moldova."

# Central Europe & the EU: Part IV.

## The economic failure of the European Union

In the last in a series, **Professor Christie Davies** maintains that Central European countries hitched their wagons to an EU train that has slowed down and may well come to a stop.

When the Central Europeans joined the EU they hoped they were entering a rich man's club that was dynamic and prospering and that they would benefit from this. Superficially at least, enhanced exports to the EC countries and reasonably rapid growth in Central Europe since accession seemed to have confirmed this.

But how secure is the economic future of the EC? Recent years have seen lower growth and persistent double-digit unemployment in the core countries of France, Germany, Italy.<sup>1</sup> Within the Euro zone only Germany generates a substantial surplus through its exports. The others nearly all run deficits because their goods are uncompetitive. Their wages and costs are rising at home but they are trapped in the Euro and cannot devalue to become competitive on price with simple manufactured items from China or South-East Asia. If the Central European countries joined the Euro or if their tax and other fiscal policies were decided by the EU, they would suffer the same fate. Their advantage at present lies in low costs when calculated in Euros and their favourable investment conditions. The great threat to the nations Central Europe will come with forced harmonization, such as being made to join the Euro on

unfavourable terms or the insistence on having uniform business taxes throughout the EU, to prevent competition between tax regimes. Would the Central European economies prosper if deprived of the right to attract foreign investment by having conditions more favourable to investors than those in the richer EU countries and of the possibility of keeping export prices low through control of the exchange rate?

The EU is backward looking, fearful of the future, over-anxious about risk and change. Its obsolete agricultural policy together with sporadic protectionism against basic manufactured goods from Asia is backward looking; an attempt to preserve for ever forms of production that are already not viable. The way out is to shift to more sophisticated, science-based industries but here the EU actually gets in the way

The Lisbon strategy announced in 2000 aimed to make the EU "the most dynamic and competitive knowledge-based economy in the world" by 2010, through an emphasis on innovation, research and development. By 2004 at the time of the Kok report it was clear that there was no chance whatsoever of this target being met and the situation is no better today.<sup>2</sup> Do I still hear someone in the EU boasting 'we shall catch up and overtake the USA'?

Indeed Europe is becoming less competitive over time. The EU's use at Lisbon of targets such as total R & D expenditure, number of science and technology graduates, degree of consolidation as opposed to fragmentation and

duplication both to measure and to promote progress in innovation is not only inappropriate but distracts attention away from the real problem. The real problem is the waning of European *Unternehmergeist*, the entrepreneur-spirit, in a cautious, timid, precautionary European Union. Innovation occurs through a spontaneous economic process of creative destruction not as a result of EU exhortations and plans. In truth the European Union fears to be dynamic and competitive because this would disturb harmony and harmonization.. Europe's continued

failure to halt the steady onset of the 'European disease' is shown by the far greater number of patents registered in the United States than in the EU<sup>3</sup> and the far greater proportion of research and development (as well as the absolute quantity) carried out by private corporations in that country. Only three European companies are to be found among the top 10 investors in R & D, a list dominated by American corporations. Corporate investment in research is growing far faster outside the EU than within.<sup>4</sup>

Behind this wilful backwardness lies the absurd 'precautionary principle', the idea that a new product or method of production has to be proven to be safe and that no risks, even small ones, should be taken; a corollary of this is that approval of a product can be withheld even if there is not much scientific evidence to justify any ban. Under the

**" The real problem is the waning of European *Unternehmergeist*, the entrepreneur-spirit, in a cautious, timid, precautionary European Union. Innovation occurs through a spontaneous economic process of creative destruction not as a result of EU exhortations and plans. "**



REACH (Research, Evaluation and Authorization of Chemicals) programme, the precautionary principle is now to be applied retrospectively to widely used chemicals and indeed even to herbal medicines and vitamin supplements. The costs of applying these regulations will be large, of the order of 5 billion Euros,<sup>5</sup> and the gains small and uncertain, given that the chemicals and supplements have been available for a long time and epidemiological research has never indicated any serious problems.<sup>6</sup> More to our present purposes new chemicals and materials are an advanced knowledge based sector within the EU countries which enable Europe to compete with the Asian countries in the future in a way that reliance on basic textiles, clothing, simple manufactures can not and never again will. Already the time taken to bring a new chemical to market is far greater in the EU than in the USA.<sup>7</sup> Introducing ever more 'precautions' will lengthen this gap. It will also lead the EU's chemical industries to move their operations elsewhere, will discourage foreign investors and will lead to major disputes in the World Trade Organization. It is all part of a general EU distrust and fear of new technologies, a certain recipe for economic decline.

One clear example of a technophobic European resistance to innovate has been the EU's long lasting irrational opposition to and obstruction of the planting of GM (Genetically Modified) crops or even to the use of genetically modified organisms in industrial processes.<sup>8</sup> Now the EU and some of the constituent countries are reluctantly relaxing their rules but it is too late; the Americans have a commanding lead in the biotech business, in medicine and manufacturing as well as agriculture, just as they long have had and continue to have in information technology.<sup>9</sup> What is more, other countries such as Australia, Canada and China are seizing the opportunities that Europe missed. Even Romania took a more progressive view than the EU. What is the EU now going to do about agricultural produce from Romania?

When the leaders of the EU congratulate themselves on an 'ever-closer' union and speak of Europe as an 'empire' or a new 'pole' in world affairs, it is like twenty or more failing companies who proudly merge into one large company, which then goes bankrupt anyway. As I have indicated the EU has very little democratic political legitimacy, because it neither behaves in ways that acknowledge that all power is lent to rulers by the people, nor accepts the people's verdicts in referenda, nor enjoys the kinds of solidarities that nations can. National politicians prop it up mainly because it gives them the opportunity to prance on a bigger stage, to be received at the imperial court.<sup>10</sup> Such legitimacy as the EU enjoys among the people is that of a technocracy but such a legitimization depends utterly on a continued display of competence manifested in prosperity and innovation. This has now been called into doubt.

**“ It is all part of a general EU distrust and fear of new technologies, a certain recipe for economic decline. ”**

### What should the peoples of Central Europe conclude?

There are two main morals to the story for Central Europeans. The first is that the hopes of the Central European countries that joining the EU would mean an escape from the lack of democracy, the absence of free markets and the prevalence of corruption of the socialist era are not going to be fully realised. The European Commission is a castle of apparatchiks whose ideal is not democracy but a bureaucratic 'harmony' controlled by them in collusion with a few privileged political leaders from the individual nations. The EU's commitment to the free market and competition is faltering and we may well see it collapse. Because there is no enthusiasm for democracy or for markets, the essence of an open society, there is also no real concern to do much about corruption and no drive to innovate. The EU mind is closing.

Second, the twenty-first century has turned out to be for the core countries of the EU a time of economic stagnation.

If the Central European countries were to integrate their economies or their policies more closely with those of 'old' Europe, they too might stagnate. The future looks ever worse because of the failure to seize the technologies of tomorrow with sufficient speed and because of the serious demographic problems

in such large countries as Germany, Italy and Spain which have very low birth rates indeed. The Central European countries have hitched their wagons to an EU train that they thought was going to progress at a good speed. But it is slowing down and may well come to a stop. The EU has yet to learn that neither boastful words, nor pulling down the blinds to avoid seeing problems will get the train going again.

*Christie Davies is Professor of Sociology at the University of Reading.*

### REFERENCES

1. Mach, Petr (2006) *The European Constitution is not a remedy for European Economic Troubles* in Brodský and Loužek (eds) pp 47-55
2. *Lisbon Agenda* (2004). [www.euractiv.com](http://www.euractiv.com); *Growth and Jobs: Relaunch of the Lisbon strategy* (2007). EurActive October 12: [www.euractiv.com](http://www.euractiv.com)
3. Urban, Luděk, 2007, *A Troubled Way to an Innovative Europe*, Paper given at the international conference Střední Evropa v Unii a Unii ve Střední Evropě, Praha 19-21 /9/2007
4. Luybaert, Jochen, (2007). EU based firms continue to lag behind in research spending <http://euobserver.com/9/24919>
5. Gillingham, John, (2006). *Design for a New Europe*, Cambridge, Cambridge University Press
6. Neal, Mark and Christie Davies (1998). *The Corporation under Siege*, London, Social, Affairs Unit
7. Gillingham, John, (2006). *Design for a New Europe*, Cambridge, Cambridge University Press
8. Miller, Henry, 1997, *Biotechnology Regulation: the unacceptable costs of excessive caution*. London, SAU
9. Gillingham, John, (2006). *Design for a New Europe*, Cambridge, Cambridge University Press
10. Klaus, Vaclav (2006). What is Europeism? in Brodský and Loužek (eds) pp7-20.

# Why replicating European car scrapping incentives is unlikely to work so well in UK

**Howard Wheeldon** finds that German, French and Italian government's introduction of various incentive schemes to pay owners of older cars to trade them in for scrap may not provide similar benefits in the UK as those seen in Continental Europe.

All credit to German, French and Italian governments for introducing various incentive schemes that pay owners of older cars to trade them in for scrap. But, please don't run away with the idea that belatedly introducing a similar scheme here in the UK would provide similar benefits as those seen in Continental Europe. Why? Historically over the past ten years during more typical automotive markets, it is true to say that the majority of cars produced in the UK [around 75 per cent] have been exported. For the most part, that means cars purchased by British drivers and companies tend to be imported vehicles suggesting the significant benefits of a UK government sponsored £2,000 trade in for cars in a range of say nine to eleven plus years old would primarily benefit the likes of Renault, Peugeot and Ford that produce no cars in Britain. True, British consumers do purchase some of the cars produced by the likes of GM, Toyota and Honda here in the UK so there would be some small benefit. The same could be said of engine and component makers. Ford still manufactures substantial numbers of engines at Dagenham for export and driveline component manufacture GKN would clearly benefit if a UK incentive scheme managed to boost sales particularly at Jaguar and Land Rover. The point though is that while the German economy has enjoyed a dramatic 40 per cent monthly rise in car sales since the introduction of a EUR 2,500 scrapping incentive scheme last month does not automatically mean that similar economic benefit can be expected here in the UK.

If the above proves to be right, one may easily argue that the majority of benefits from such a scheme would be enjoyed by Continental European car workers as opposed to their British counterparts. For UK workers and the various subsidiary operations of the foreign owned car plants in the

UK to benefit requires not only a full Europe wide incentive scheme but also similar schemes across Asia and even the US. That isn't about to happen on anything like the scale necessary. The other issue here is that while any incentive scheme proposed by the government is almost bound to produce an uptick in UK new car sales it will also be helping

to create a somewhat artificial market. By this I mean simply that encouraging consumers to buy cars now surely means that they won't necessarily be doing the same in 2010 and 2011. If right, that could have impact on decisions by parent companies of UK car manufacturing subsidiaries on future investment. OK, so over a five to seven year cycle it should balance itself out and I have already made mention of the predominance of UK car production for export. Taxation and incentives to retain plants in the UK apart, what the rest of Europe and Asia does to incentivise consumers is probably of far more importance to industry chiefs than anything that the UK government might choose to do to boost domestic sales. Another argument worth noting in this particular debate - even if somewhat more difficult to prove in such an unprecedented market collapse as this - is that US car manufacturer incentive schemes that became the

norm in the post 2001 era could probably have made the bad situation that is very visible today significantly worse. Why? Simply because the huge competitive discount offerings from the big three indigenous US based car manufacturers let alone from the Japanese transplant operations plus various zero interest financing incentive schemes offered since 2001 persuaded many consumers to actually buy a new car that they didn't actually need. If so, one might well say that even if they could afford to buy a new car now and that they could actually get the finance they don't actually need to buy a new

**“ If the above proves to be right and assuming that the UK government does announce a similar scrap incentive scheme to Germany within the budget, one may easily argue that the majority of benefits from such a scheme would be enjoyed by Continental European car workers as opposed to their British counterparts. For UK workers and the various subsidiary operations of the foreign owned car plants in the UK to benefit requires not only a full Europe wide incentive scheme but also similar schemes across Asia and even the US. ”**

car for some considerable time. After all, in difficult times and despite massive incentives, buying a new car is a huge risk if you happen to be living in fear of redundancy. Added to this argument is the likely fact that the fall back in the price of oil, despite the recent small pick up in price of the black stuff, has probably removed part of the incentive to purchase more fuel efficient cars.

Clearly, if the UK government goes ahead with a similar incentive scheme there will be some beneficiaries. UK carmakers should be able to more quickly shift the already existing stock of cars stored at various sites around the country. In theory that should mean that currently mothballed production plants could get back into operation in the autumn and winter of this year. The real winners of any such a scheme would clearly be the struggling band of distributors and dealers but remember that whilst important, fewer jobs are involved here than in the manufacturing and component industries.

Arguably it would be right to say that compared to help that the US, German, French and Italian governments have

provided to their respective car industries that the British government has so far done little or nothing to help the struggling domestic car industry. OK, so using the good

offices of the European Investment Bank, £340m has been approved for Jaguar Land Rover and Nissan is also to get some help. The reality though is that despite plenty of waffle and promises UK Trade Secretary, Peter Mandelson has done virtually nothing to help this struggling yet vitally important industry that across the pistons employs so many jobs and that from an economic angle is so important for exports in that it helps offsets the overall automotive industry trade deficit. True, struggling as the nation is with the huge rise in government borrowing requirement, one may argue that we simply cannot afford to provide help for this industry on the scale of others. So be it but the government needs to remember that when the UK car manufacturing industry is gone it won't be that easy to get it rebuilt and it also needs to be aware

that by failing to help it is kicking the very people that probably voted it in.

**“ True, struggling as the nation is with the huge rise in government borrowing requirement, one may argue that we simply cannot afford to provide help for this industry on the scale of others. So be it but the government needs to remember that when the UK car manufacturing industry is gone it won't be that easy to get it rebuilt and it also needs to be aware that by failing to help it is kicking the very people that probably voted it in. ”**

*Howard Wheeldon is Senior Strategist at BGC Partners*

**“ It would entail disproportionate cost to research and compile the percentage of UK legislation originating in the European Union ”**

**Lord Malloch-Brown, Foreign and Commonwealth Office Minister**

# Does 85% of British legislation originate in Brussels?

## Government not bothered

Lord Stoddart of Swindon put down a question in the House of Lords on 28 April: “To ask Her Majesty's Government whether, in the light of the statement by German MEP Jorgo Chatzimarkakis that 85 per cent of German legislation originates in Brussels, they will state what percentage of United Kingdom legislation is of European Union origin.” [HL2941]

The Foreign and Commonwealth Office Minister, Lord Malloch-Brown, replied “It would entail disproportionate cost to research and compile the percentage of UK legislation

originating in the European Union: some European measures are directly applicable in member states and others require incorporation into national law through a variety of legislative or administrative means. It has been estimated that around half of all UK legislation with an impact on business, charities and the voluntary sector stems from legislation agreed by Ministers in Brussels, but this is a category of legislation which is more likely than legislation in general to have originated in the EU. It is likely that the overall proportion is therefore much lower.”[Ed.]



# A new strategy for Europe's fish farms

This month, we chart the comments of **Struan Stevenson MEP** in reaction to the newly published Commission paper on aquaculture aimed at boosting Europe's fish farming sector.

The European Commission has just published new proposals aimed at boosting Europe's fish farming sector and reclaiming the EU's place as world leader in aquaculture. This is a vitally important sector for Scotland.

The lucrative aquaculture industry has been developing rapidly over the past decade in both Europe and across the world. Today, a fifth of EU fish sold comes from aquaculture. The sector meets expanding demand from Europe's consumers with high-quality and healthy fish products, while providing more than 80,000 full and part-time jobs, often in remote, peripheral areas. At an annual output of £450 million, the UK is the second biggest aquaculture producer in Europe after France in terms of value.

Commenting on the newly published Commission paper on aquaculture, Struan Stevenson, Conservative Euro MP for Scotland and front bench spokesman on fisheries in the European Parliament said "Marine aquaculture is the fastest growing food sector in the world, growing at 9 per cent annually everywhere except the EU. Before they can sell a single fish, our fish farmers have to comply with 400 pieces of regulation, not to mention additional planning and environmental constraints in the Member States. At a time when demand for healthy fish products is growing and marine fish stocks are dwindling, the opportunities for the EU to be a global leader in aquaculture innovation and technological development are hampered by red tape.

"Despite its potential, fish farming in Europe has been stagnating and struggling to compete with non-EU

producers. Numerous EU regulations have caused the sector's stagnation in Europe and encouraged the growth of production in countries like China, Japan and Chile. Although EU countries are capable of meeting their consumers' demand for seafood, we are currently importing almost 50 per cent of the fish we eat from outside Europe.

"In addition to simplifying legislation, there is a great need for financial support for Small and Medium Enterprises in the fish farming sector. At a time of financial crisis in particular, reducing red tape and bureaucracy are a vital prerequisite for creating new jobs in a selection of fields, from research and technological development to marketing and advertising.

"In Scotland we have cutting edge technology, dynamic entrepreneurs, a perfect environment and a long background in aquaculture, which puts us in poll position to take advantage of any new initiatives from the European Commission. I welcome this report, which is long overdue, as a way of re-booting our fish farms and breathing new life into a once buoyant industry."

The Commission Communication is a result of a stakeholder consultation held in 2007 and highlights the current problems of the aquaculture sector, aiming to give a fresh impetus to the EU's fish farming industry. The initiative identifies ways of making EU aquaculture more competitive, focusing on maintaining sustainable growth in the industry and improving the sector's image and management.

## UK trade deficit with EU still astronomical but trade surplus with US rises

On 1 April, Conservative MP, Brooks Newmark, put down the question "To ask the Chancellor of the Duchy of Lancaster what the UK's trade balance in (a) goods, (b) services, (c) total excluding oil and (d) total was with (i) other EU member states, (ii) Germany, (iii) USA and (iv) Japan in each year since 1997." [268049] Government Minister, Kevin Brennan, responded "The information requested falls within the responsibility of the UK Statistics Authority. I have asked the authority to reply." Accordingly, a letter from Karen Dunnell, dated April 2009, said:

"As National Statistician, I have been asked to reply to your question asking for the UK trade balance in (a) goods, (b) services, (c) total excluding oil and (d) total with (i) other EU member states, (ii) Germany, (iii) USA and (iv) Japan in each year since 1997 (268049).

"The available figures are given in the table. The figures are consistent with those published in the Balance of Payments 4th Quarter and annual 2008 First Release published on 27 March 2008. Some detailed breakdowns are not available. Totals excluding oil can only be shown for trade with EU.



EU data for the 27 Member States are available from 1998 for Goods and from 1999 for Services.

“Separate estimates for Services for Germany are made during the annual Pink Book production, although the figure

for 2007 published in Pink Book 2008 has been updated in the table. The 2008 figure will be published later in 2009.”

[Ed.]

**Table: UK balances of (a) Goods, (b) Services, (c) Total excluding Oil, (d) Total with (i) EU 27, (ii) Germany, (iii) USA, (iv) Japan**

£ million							
	EU 27				Germany		
	Goods	Services	Total excl. oil	Total trade	Goods	Services	Total trade
1997	—	—	—	—	-4,947	1,483	-3,464
1998	-5,712	—	—	—	-4,496	1,512	-2,984
1999	-8,085	-1,727	-14,405	-9,812	-6,348	1,001	-5,347
2000	-5,185	-1,638	-14,546	-6,823	-5,673	1,977	-3,696
2001	-12,567	-836	-21,090	-13,403	-6,537	1,954	-4,583
2002	-22,194	-1,409	-30,722	-23,603	-10,378	2,097	-8,281
2003	-26,118	-1,143	-34,259	-27,261	-12,862	2,280	-10,582
2004	-30,873	520	-37,740	-30,353	-13,713	1,753	-11,960
2005	-36,577	-682	-46,163	-37,359	-16,144	1,388	-14,756
2006	-31,391	1,249	-41,119	-30,142	-15,058	1,798	-13,260
2007	-41,986	4,885	-46,307	-37,101	-19,866	2,153	-17,909
2008	-39,186	8,786	-43,117	-30,400	-16,574	—	—

£ million						
	USA			Japan		
	Goods	Services	Total trade	Goods	Services	Total trade
1997	-3,476	4,973	1,497	-4,851	1,555	-3,296
1998	-3,703	4,120	417	-5,997	1,505	-4,492
1999	-320	5,136	4,816	-5,818	1,924	-3,894
2000	860	6,069	6,929	-6,542	1,805	-4,737
2001	-101	5,708	5,607	-5,407	1,742	-3,665
2002	3,048	9,287	12,335	-4,496	2,395	-2,101
2003	5,815	9,115	14,930	-4,375	2,166	-2,209
2004	6,486	10,463	16,949	-4,246	2,517	-1,729
2005	8,729	8,201	16,930	-4,769	2,042	-2,727
2006	6,547	12,039	18,586	-3,748	1,526	-2,222
2007	6,310	14,198	20,508	-4,019	1,603	-2,416
2008	9,284	16,322	25,606	-4,598	1,491	-3,107

**Summary:** These are the official trade statistics. The UK surplus on its trade with the USA continues to rise in the seventh year. Compare that with the trade deficit with the EU as it continues to rocket. In 2008, the UK in its trade with the EU27 continues to trade with a large deficit. Compare that with our surplus with the US. The single biggest country component of the deficits with the EU (and with the whole world) is the deficit with Germany (£17.9bn in 2007).

[Ed.]

# European Parliament endorses draconian EU “equality” law

Last July, the European Commission put forward a proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation. A general framework for equal treatment in employment and occupation on the grounds of religion or belief, disability, age and sexual orientation is already established by the Directive 2000/78/EC. However, according to the Commission there are differences among the Member States on the level of protection from discrimination on these grounds beyond the employment areas. Consequently, the aim of the draft Directive is to prohibit discrimination on grounds of religion or belief, disability, age or sexual orientation, by both the public and private sector, in several areas outside the labour market including, healthcare, social care, social security, education and the supply of goods and services, including housing. In what concerns access to goods and services, the Commission proposal deals with commercial transactions therefore does not cover purely private transactions between individuals.

The Draft Directive will prohibit direct and indirect discrimination as well as would require harassment and the denial of reasonable accommodation to a disabled person to be treated as discrimination.

The Law Society is concerned about a prohibition of harassment on grounds of religion and belief in “open environments.” It gives the example of a shop with a notice board posting material that some people might find offensive on religious grounds. It stressed “even if they consider that the presence of the material violates their dignity or creates an offensive environment – which would amount to harassment under the existing legislation - that ought not to amount to actionable harassment in relation to religion or belief.”

The proposal does not cover national laws related to the secular nature of the State and its institutions, nor to the status of religious organisations. Under the draft directive Member States may “provide for differences in treatment in access to educational institutions based on religion or belief.” Moreover, Member States would be allowed to provide that differences of treatment on grounds of age are not to constitute discrimination if: “they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary.”

The proposal addresses the concept of ‘reasonable accommodation’ with regard to persons with disabilities. Under the draft directive providers would be required to make appropriate modifications or adjustments so as to enable people with disabilities to have non-discriminatory access to housing, transport, goods, social security, health care and education. According to the Commission such measures

would not be required if they would impose a disproportionate burden. The Commission provides a non-exhaustive list of factors that could be taken into account in assessing whether the burden is disproportionate.

Obviously, businesses are not pleased with the Commission proposal as they believe it will entail further costs. According to the Parliamentary Under-Secretary of State for Women and Equality at the Government Equality Office, Barbara Follett, the draft proposal “is broadly compatible with UK policy and legislation.” The new Equality Bill addresses many of the same issues. Nevertheless, the Government will further consider the Community’s competence to legislate on some of the issues covered by the draft Directive such as education and healthcare as well as the cost implications for health and social care. Article 50 of the EC Treaty defines services for the purposes of the Treaty and, consequently, for the purposes of the draft Directive, the Government has pointed out that health services are not included in the definition of “services.”

Whereas several Member States have questioned the need for EU legislation in this area and are concerned with the economic and financial impacts of the proposed directive, the European Parliament has recently endorsed the Commission’s proposal by adopting a consultation report with 360 votes in favour, 226 against and 64 abstentions. Manfred Weber, MEP for Bavaria with the Christian Social Union, has said “The EPP-ED group militates against any kind of discrimination. Nevertheless, we fear the additional red tape which would be generated by this new directive. Many of its regulations are not favourable to all parties involved, including disabled people.”

According to the European Parliament the directive should cover transport, telecommunications, information, financial services, culture and leisure. The European Parliament has voted to include ‘associative discrimination.’ The European Court of Justice ruling in the Coleman case has confirmed that Community law protects against discrimination on grounds of association with a disabled person.

According to the MEPs the directive should cover multiple discrimination, based on two or more grounds and discrimination by association. However, the Government believes that provisions on multiple discrimination should be dealt with in national legislation.

The Commission’s proposal provides that risk factors related to disability and to age use in the provision of insurance, banking and other financial services should not be regarded as a form of discrimination where they are key factors for the assessment of risk. The European Parliament has amended this provision in order to require service providers to demonstrate precisely the risks “by actuarial principles, statistical data or medical data.”

According to Dan Hannan, MEP, “The proposals, if interpreted literally, would mean that the Labour Party could be sued if it declined to hire Tories as its press officers, or the Royal Opera Company if it declined to interview men for soprano roles.”

Under Article 13 EC any directive on anti-discrimination requires unanimity in the Council in order to be adopted. The proposal goes through the consultation procedure.

*Margarida Vasconcelos is Head of Research at the European Foundation*

# Commission transparency report recommends selective editing and non-disclosure

The European Commission has recently circulated a “Vademecum on access to documents” to EU officials on DG Trade with “10 things to remember on Access to Documents.” The Commission has stated that “All documents, including e-mails, held by the Commission (...) are in principle subject to disclosure.”

The document stresses that any refusal to grant access to documents must be based on one of the exceptions in the regulation regarding public access to European Parliament, Council and Commission documents. However, the document is essentially an explanation on how EU officials should narrowly interpret any requests for access to documents held by the Commission.

The document reminds that “Under certain conditions, documents can be partially released”, hence it proposes, “When the released document also covers issues which were not mentioned in the applicant’s request, the parts that are not relevant to the request will not be disclosed.” Moreover, the document reads “Recent cases concern requests for information about meetings with “individual companies” on our FTAs which have allowed us to exclude business federations on the same points, or about meetings with “DG Trade officials” which have allowed us to exclude meetings on the same point with the Commissioner or the cabinet.”

Other examples are provided. For instance, the “decision making process” exception can also be invoked against requests for the minutes of meetings between the Commissioner and his opposite numbers, “if the content has ‘news value’ at the time of releasing the documents.”

The document reminds EU officials that their documents “including meeting reports and e-mails can potentially be disclosed.” It reads “You should keep this in mind when writing such documents” and stressed that “This is particularly the case for meeting reports and e-mails with third parties (e.g. industry), which are favourite ‘targets’ of requests for access to documents, especially by NGOs.”

The document provides the EU officials from the DG trade with “few tips” on how to write a meeting report and emails. Obviously, the EU officials must bear in mind that their documents “may be made public at some point.”

Therefore, EU officials, when writing a meeting report should “separate factual elements” from “assessments and

personal/subjective comments or opinions” and “follow-up points” which would allow them to “have to release only the factual part of the report, and avoid partial release.” In fact, the document goes further and says “The best thing to do is to make two separate documents, i.e. one factual report, and a separate one with the assessment of the report (and possibly suggestions for follow-up).” It reads “By doing this, we avoid having to “whiten” certain parts of the report, which creates an additional work burden (scrutinise the documents, determine what has to be deleted and justify why it has been deleted ...) and which always carries a risk of confirmatory action, or even recourse to the Ombudsman or the Court (who may ultimately find that the invocation of exception grounds was not justified and even order the deleted parts to be disclosed ...)” In this way it is easier for the Commission to hide from the public the important parts of such reports.

Moreover, EU officials should “avoid recording statements which may turn out to be politically embarrassing for those who have made them and avoid adding such comments to the report itself.” Hence, they are advised not to write what actually happened in those meeting into their reports.

As regards emails, the EU officials should “avoid making personal comments (...) which may be the object of disclosure.” The document gives an example, “when writing an e-mail to an external contact which you happen to know personally or have contacts with outside the professional sphere, refrain from any message that may be of personal nature (e.g. don’t refer to the great lunch you have had with an industry representative privately or add a PS asking if he/she would like to meet for a drink).” Hence, they have provided advice on not making any reference to contacts with lobbyists.

According to *EU Observer*, a European Commission spokesperson has defended the document, saying “Actually we think these are good instructions. It makes clear that no category of documents is excluded [from the regulation].” Now, it is even clearer how untransparent the Commission is.

*Margarida Vasconcelos is Head of Research at the European Foundation*





## Through the EU Labyrinth

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

# EU Parliament approves tyre-labelling proposal – to increase costs for UK Government and tyre manufacturers

Last November, the Commission put forward a proposal for a directive on labelling of tyres as part of the Second Strategic Energy Review package. In a record time, on 22 April, the European Parliament adopted, by a large majority, the Commission proposal with amendments. In fact, the European Parliament has adopted the proposal as an amended regulation. The Commission had proposed a Directive which would have to be transposed into national law. According to the European Parliament a regulation is directly applicable in all Member States hence the national transposition phase will be bypassed and tyre producers will have to comply entirely with the EU rules. The EU Member States would be unable to adapt the rules to their national circumstances.

The Commission has pointed out that the proposal for a Regulation on the general safety of motor vehicles will improve tyre rolling resistance, wet grip and external rolling noise by introducing new minimum requirements concerning those parameters. Furthermore, it has stressed that in order to reduce the environmental impact of road transport, to reduce traffic

noise and to improve road safety it is necessary to introduce provisions to encourage end-users to buy more fuel efficient tyres. Hence, the scope of the proposal is to harmonise product information. The draft Directive requires tyre manufacturers to provide standardized label information on fuel efficiency, on wet grip and external rolling noise. The Commission has proposed a labelling scheme for tyre parameters including fuel efficiency, wet grip and external rolling noise, addressing C1, C2 and C3 tyres (tyres fitted on passenger cars, light and heavy-duty vehicles).

A label similar to the one attached to electrical appliances would be provided for tyres showing values in bands running from A (best) to G (worst) for rolling resistance, wet grip and a single value for noise. In order to reduce logistics costs the industry is not required to attach a sticker in all Community languages but to provide a label comprising pictograms which must be

explained on a company's website. The Commission has stressed that "Tyre performances should be displayed at the point of sale by means of a sticker and on technical

**“ According to the European Parliament a regulation is directly applicable in all Member States hence the national transposition phase will be bypassed and tyre producers will have to comply entirely with the EU rules. The EU Member States would be unable to adapt the rules to their national circumstances. ”**



promotional literature such as catalogues, leaflets or web marketing.”

The MEPs are in favour of such a labelling system. The European Parliament has voted for such information to be also included in the invoices of distributors. The MEPs also introduced an obligation to include “a new “low noise mark”, showing a tyre with earmuffs if the noise level is below 68 decibels (C1), 69 decibels (C2 tyres) or 70 decibels (C3 tyres).”

The European Parliament has called on the Commission to create, by September 2010, an “EU tyre labelling website” which would be a “reference source of explanatory information for each component of the label.” Moreover, the MEPs have voted for suppliers to be required to provide a “fuel savings calculator” on their websites in order to allow consumers to make informed choices.

The Commission proposal requires such information to be provided in accordance with the harmonised testing methods laid down in the draft Regulation concerning type-approval requirements for the general safety of motor vehicles.

According to the Commission, in order to avoid the fragmentation of the market it would be necessary to determine minimum fuel efficiency classes where Member States put in place incentives in favour of fuel-efficient tyres. The Commission is considering as a complementary option the use of economic instruments and public procurement. In fact, C1 tyres, band B or C might be set as the minimum level for public procurement. Under the draft proposal, Member States would be prohibited for granting incentives to below fuel efficiency class C tyres. Lord Adonis, Minister of State at the Department for Transport,

said to the European Scrutiny Committee that the Government finds this provision on national fiscal policy “inappropriate and unacceptable.” It should be noted that the draft proposal legal base is Article 95 EC, which expressly excludes of its scope any application of fiscal provisions.

Member States would be required to monitor manufacturers, suppliers and distributors compliance of the labelling provisions through market surveillance. In this way, the Commission’s proposal would require Member States to put in place monitoring procedures as well as to test tyres for compliance with the declared values on stickers. Lord Adonis has stressed that such provision may impose a considerable cost burden on governments and it will duplicate tests on tyres that manufacturers are already required to conduct to demonstrate conformity of production under the type approval regime. The Commission proposal also entails additional costs to tyres manufactures as they would be required to ensure that information on the rolling resistance, wet grip, and noise of all tyre options is available. Producers are likely to pass on these costs to consumers.

The proposal will introduce a mandatory tyre label from November 2012. The EU Member States are required to adopt by 1 November 2011 regulations and administrative provisions necessary to comply with the Directive as well as penalties for non-compliance.

The proposal is going through the co-decision procedure with QMV required at the Council. It remains to be seen what will be decided at the negotiations between the Council and the European Parliament. It seems unlikely that the Council will accept the European Parliament’s amendments.

## Super-Commission goes beyond powers to harmonise penalties for countries breaking Common Fisheries Policy rules

The Commission recognises that in imposing penalties for the CFP, “The current control system is inefficient, expensive and complex and does not produce the desired results.” Hence, last November, it proposed a Regulation establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy.

The proposal is going through the consultation procedure with QMV required at the Council. On 22 April, the European Parliament adopted Raül Romeva’s consultative report on the Commission’s proposal.

The Commission wants to put in place a new system for inspection, monitoring, control, surveillance and enforcement of Common Fisheries Policy rules “throughout the market chain, from catch to the retailer.” All Member States would be required to inspect activities along the whole production chain of fishery products including landing, processing, transport and marketing. It also proposed to introduce a complete traceability system for fishery products in order that all fish and fisheries products can be tracked throughout the market chain.

Those involved in the landing and marketing of fish would be required to declare the quantities landed, transhipped, offered for sale or purchased. All fishery products transported within the Community would have to be accompanied by a transport document identifying their nature, origin and weight.

The draft proposal includes an extension of vessel monitoring systems (VMS) and e-logbooks to all vessels over 10 metres in length, rather than the current 15 metres, which will have cost implications for vessel owners.

According to the European Parliament the EU budget aid should be available for installing vessel monitoring systems and electronic logbooks. According to the European Parliament, "Co-financing from the Community budget shall be at the rate of 80 per cent."

The Commission draft regulation broadens the scope of inspections between Member States national fishery inspectors. Hence, officials from one EU Member State could inspect vessels from another country.

The Commission has stressed that the action taken following an infringement of the CFP rules is different from one Member State to another and that infringements are not subject to the same enforcement measures or sanctions. Presently, penalties are not established at the EU level but they are Member States' responsibility. However the Commission has decided, once again, to go beyond the limits of its competence, and proposed to harmonise the minimum and maximum levels of fines for serious infringements against the rules of the CFP. A maximum penalty would correspond to five times the value of the fishery products obtained by committing a serious infringement, or eight times in the case of a repeated serious infringement. If it is not possible to link the severity of the infringement to the value of any fishery products obtained in the process Member States would be required to ensure that serious infringement are punishable by an administrative fine of a minimum of 5.000 euros and a maximum of 300.000 euros. Moreover, Member States are required to impose an administrative fine of a minimum of 10.000 euros and a maximum of 600.000 euros for repeated serious infringement cases within a 5 year period. The EU Member States are likely to oppose to such provisions as they encroach with their competence and

they laid down harsher penalties than those foreseen in several Member State's legislation.

The Commission also proposed a penalty point system for infringements committed by masters, operators or beneficial owners of a fishing permit. When an infringement is committed, the appropriate number of points will be attributed to the offender in the national registry of fishery offences of the flag Member State. An implementation regulation, adopted through the comitology procedure, will fix the number of points to be attributed for specific infringements. Depending on the number of points operators might have their fishing authorisation suspended for six months or 12 months and in case of repeated offences the fishing permit will be automatically revoked. The European Parliament has introduced a provision under which operators found liable for a serious infringement will preclude from benefiting from the European Fisheries Fund or other public aid.

**" The Commission has also proposed a penalty point system for infringements committed by masters, operators or beneficial owners of a fishing permit. When an infringement is committed, the appropriate number of points will be attributed to the offender in the national registry of fishery offences of the flag Member State. An implementation regulation, adopted through the comitology procedure, will fix the number of points to be attributed for specific infringements. "**

Recreational fishing has dominated the debates on the proposal at the European Parliament. There were fears that the draft regulation would require recreational fishermen to register their boats and that all catches would be counted as part of limits on national catch quotas. Replying to a written question from the Conservative fisheries spokesman in the European Parliament, Struan Stevenson, the Commissioner responsible for Fisheries and Maritime Affairs, Joe Borg, has said that the "Commission has not made any proposals to submit all recreational or amateur anglers to quotas or controls similar to those applying to professional fishermen." According to Joe Borg the draft regulation "would not cover shore anglers" but "recreational fishermen who fish from a vessel in the open sea and who catch fish which are under

recovery plans, i.e. fish that are threatened by extinction."

The European Parliament has considered that recreational fishing must be monitored on the same level as commercial fishing. According to Raúl Romeva "it would be discriminatory to subject commercial fisheries to strict controls and limits while largely exempting non-commercial fisheries." The European Parliament has therefore amended the recreational fishing article in order to ensure catches by vessels operating in Community waters of stocks subject to a multiannual reconstitution

plan may be evaluated by Member States. The MEPs have proposed that within two years of the date of entry into force of the regulation, Member States may decide, with the Commission, which recreational fisheries are having a considerable impact on fisheries stocks and then Member States could decide whether they would include recreational fishermen in the regulation. According to the European Parliament if a recreational fishery has a significant impact, catches shall be counted against the relevant quota of the flag Member State. That Member State might decide to establish a share of the quota to be used solely for the purpose of that recreational fishery.

Jimmy Buchan from Trawlerman has said “I am delighted that the majority of recreational anglers are now taken out of the equation. However I am alarmed that for those who seek to sell their catch, quota will be deducted from hard-pressed commercial skippers to provide them with an allocation.” It should be recalled that, Struan Stevenson has tabled an amendment to delete Article 47 but it was rejected in the Fisheries Committee.

Moreover, the UK Government is concerned that the proposal would require the compulsory sale of all regulated stocks through auctions and this “would have serious

consequences for the infrastructure within the UK, where there is a significant level of direct sales to processors and merchants.”

It should be recalled that control and enforcement are the exclusive competence of the Member States. The Commission has powers of verifying implementation of the CFP rules by Member States. However, unsurprisingly, the Commission wants to strengthen its management powers. Commission inspectors would have the same powers as national inspectors. The Commission would be empowered to carry out inspections without prior notice to verify the control operations carried out by the competent authorities of Member States.

The Commission would be able to impose financial sanctions on Member States for poor management of their obligations under the Common Fisheries Policy. It has proposed measures such as the possibility to suspend or reduce financial assistance through the European Fisheries Fund and to deduct quantities from the following year's quota where a Member State has overfished.

It remains to be seen what will come out from the Member States negotiations. The Council is not bound by the Parliament's position.

## European Commission finally admits failure of EU Common Fisheries Policy

On 22 April, the European Commission adopted a Green Paper on the Reform of the Common Fisheries Policy. The Green Paper provides a state of play and analyses the shortcomings of the current policy and launches a public consultation on how these shortcomings should be addressed, kicking off a reform of the Common Fisheries Policy.

The European Commission has stressed that “European fish stocks have been overfished for decades and the fishing fleets remain too large for the available resources” pointing out that “The outcome has been a continuous decrease in the amounts of seafood fished from Europe's waters: more than half of the fish consumed on the European market is now imported.”

Having referred to the changes made to the CFP in 2002, the Commission noted that “the objectives agreed in 2002 to achieve sustainable fisheries have not been met overall” due to over exploitation of stocks, fleet overcapacity, heavy subsidies, limited economic resilience and a considerable decline in catches by European fishermen. The Commission identifies five structural problems in the CFP

as implemented since 2002: fishing fleet overcapacity, vague policy objectives that result in a lack of guidelines for decision making and implementation, a decision making system that is too focused on the short term, a framework that does not give sufficient responsibility to the industry and poor compliance with regulations.

The European Commission has therefore recognized that the CFP is not working and has resulted in disturbing levels of overfishing. Everybody has known for a long time that the CFP does not work. The Commission took a while to admit it. Too little too late! The British fishing industry is falling apart. The catch restrictions have been leading to millions of tons of dead fish being dumped back into the sea. The measures for fishery resources management, and the total allowable catch (TAC) and quota system are not operating effectively. The UK whitefish fishing fleet has been scrapped by 60 per cent and thousand of jobs have been already lost.

According to the European Commission “a fundamental reform of the CFP and remobilization of the sector can bring about the dramatic change that is needed to reverse



the current situation.” However, the time has come to repatriate fisheries policies to Westminster.

According to the Commission, fleet overcapacity is the “fundamental problem” of the CFP. The Commission referred to measures aimed at reducing the EU fishing fleet such as funding for vessel scrapping schemes. However, it has recognised that “permanent support for scrapping does not effectively reduce capacity, as operators simply factor the scrapping premium into future investment decisions.” It has suggested that transferable fishing rights might be a “more efficient and less expensive way to reduce overcapacity.”

The Commission has therefore stressed that it is imperative for the new CFP to create mechanisms to ensure that the “fleet size is adapted and remains proportionate to available fish stocks.” It seems that the Commission is planning to drastically cut the EU’s fishing fleet capacity.

According to the Commission the fact that all the CFP decisions are taken at the Council level has resulted in “a focus on short-term considerations at the expense of the longer term environmental, economic and social sustainability of European fisheries.”

The Commission is planning to re-evaluate the present approach on micro-management as it has admitted that Brussels micro-management has failed. One of the options considered by the Commission would be to delegate more of the existing detailed management to the Commission through the so-called comitology procedure. However, such an approach might grant too many powers to the Commission. Another option would be to rely “on specific regional management solutions implemented by Member States, subject to Community standards and control.”

The Commission believes that if the major principles and objectives are left to the Council’s and the European Parliament competence and implementation and technical rules decided by the Commission, the Member States or even the regions and local authorities, this would lead to a simpler and cheaper policy. Moreover, the Member States and the industry would be able to adapt “the implementation of the policy to their needs and to find the best solutions both technically and economically.”

The Commission acknowledges that “Bringing and keeping the capacity of the fishing fleets in line with fishing opportunities will inevitably lead to less overall employment in the catching sector.” It will therefore consider how fleet capacity can be adapted whilst addressing the social concerns faced by coastal communities and taking into account the situation of small and medium-sized enterprises. One option might be to have differentiated management regimes, one for large-scale fleets and another for small-scale fleets in coastal communities. The small-scale coastal fisheries would be managed through direct allocation of quotas. Public funding would be used to help small-scale coastal fisheries

to adapt to changing conditions in the wake of the CFP reform.

The Commission recalls that most EC fisheries are managed by setting Total Allowable Catches (TACs) of which each Member State obtains a national quota. The Commission has recognised that such system creates “unwanted by-catches when the quota of one species is exhausted while quotas for other species remain, which leaves fishermen with no choice but to discard the fish which they are no longer allowed to land.” The Commission believes by limiting the days a fishing vessel can go to sea would remove the discard problem.

The Commission pointed out that relative stability is a principle of the CFP since 1983, under which each Member States’ share of each Community quota should remain constant over time. According to the Commission “Relative stability has had the merit of establishing a mechanism to distribute fishing opportunities among Member States.” However, “After more than twenty-five years of policy and changes in fishing patterns, there is now a considerable discrepancy between the quotas allocated to Member States and the actual needs and uses of their fleets.” According to the Commission the principle of relative stability limits the flexibility to manage in several different ways. The fishing sector has limited flexibility to make efficient use of its resources. Moreover, it has been contributing to discards.

The Commission wants to reshape relative stability to better contribute to the objectives of the CFP. The Commission is considering replacing relative stability with a more flexible system, such as allocation of fishing rights or to “align national quotas with the real needs of national fleets.” The Commission is suggesting replacing the system of national quotas and awarded quotas directly to fishermen individually. Richard Laming from the Federal Union blog has said that “This creates a direct relationship between the EU and the citizen, rather than having that relationship intermediated by national governments. This is the essence of federalism.”

In the meantime, French Agriculture and Fisheries Minister, Michel Barnier, reacting to the Green Paper, has already stressed that there is no question of dismantling the Common Fisheries Policy or the quota system. He said “I am against all forms of deregulation that would place small-scale fishing and quotas at the mercy of market forces.”

According to the Commission, public financial support to fisheries often contradicts CFP objectives, such as the need to reduce overcapacity. The European Fisheries Fund is distributed by taking into account the regional convergence criteria and not the composition of the European fleet and its structural deficiencies. Hence, the reform will ensure that there is a closer link between public funding, particularly the European Fisheries Fund, and the objectives of the policy.

Moreover, the Commission pointed out that the new CFP would also meet social and environmental concerns, fit into the EU maritime affairs policy and contribute to the sustainable nature of fisheries.

This Green Paper is therefore the basis of a public debate on the future CFP. The Commission will present

conclusions on the direction of the CFP reform in the first half of 2010 and will then draft a proposal for a regulation in the context of the new financial framework. It remains to be seen which proposals the Commission will put forward and if the Member States are willing to accept them.

## Eco-proposal damaging small business set to enter into force

The 2005 Ecodesign Directive introduced rules establishing ecodesign requirements for energy-using products. It sets up a framework under which producers of energy using products are obliged, at the design stage, to reduce energy consumption which occurs throughout the product life. The Directive determines the conditions and criteria to the Commission to adopt requirements for products through the comitology procedure. Manufacturers who are marketing an energy using product covered by an implementing measure adopted by the Commission are obliged to ensure that their product observes the energy and environmental standards put forward by that measure. The energy using products which comply with implementing measures bear a CE marking and are placed on the internal market.

The Commission proposed, last July, to extend the scope of the Ecodesign Directive to cover all energy-related products with the exception of means of transport (*The European Journal*, September 2008 issue). The Ecodesign Directive currently applies to energy-using products such as heating, water heaters, electric motor systems, lighting, domestic appliances. The amended Directive would cover all energy-related products which are products that do not consume energy during use but have an impact on energy consumption, such as window frames, water-using devices and insulating materials. It will set compulsory minimum requirements to put the products on the market but the definition of such products is far from precise.

The EU's 27 Member States were initially divided according to the definition of energy related products. Nevertheless, Member States were able, at the December Energy Council, to reach a general approach on the proposal.

The Czech EU Presidency and the European Parliament have recently reached a compromise deal which supports the Commission's proposal to extend the scope of the 2005 Ecodesign Directive. In a record time, on 24 April, the European Parliament endorsed the deal allowing, in this way, a first reading adoption of the draft Directive.

According to the MEPs a clear timetable for further extending the product list should be set up. Hence, they

proposed that the Commission should present a proposal by 2012, extending the scope to all products with "significant potential for reducing their environmental impacts throughout their whole life-cycles." The Member States have not supported such provision, hence, according to the compromise, "the Commission shall assess notably the appropriateness of extending the scope of the Directive to non energy related products, in order to achieve significant reduction of environmental impacts throughout their whole life cycle." Hence, in 2012, the Commission may decide to further extend the Directive scope to all products that are not energy related.

There will therefore be a widened choice of product groups for which implementing measures can be adopted. The Commission will develop implementing measures for products with significant environmental impact, considerable potential for improvement as regards its environmental impact and significant volumes of sales and trade, or failure of market to deal appropriately with the issue. The products which will be targeted by the so-called implementing measures still need to be determined. The Commission will, in 2011, establish a working plan setting out an indicative list of product groups.

Member States would be required to take all the necessary measures to guarantee that energy related products affected by implementing measures may be placed on the internal market solely if they comply with such measures and bear the CE marking.

The Commission has been promising to reduce bureaucracy and introduce measures to encourage small and medium sized enterprises. However the review of the Ecodesign Directive will add regulatory burdens and increase costs and therefore it will discourage small businesses. Manufacturers would have to change their production methods in order to comply with the new rules which would have serious financial implications for them. The SME would have to comply with extra eco-design criteria for a CE mark, further administrative requirements and testing procedures. It should be recalled that Guido Lena, UEAPME Director for Sustainable Development has pointed out that there is a risk of a large number of

SMEs not being able to comply with minimum requirements and, therefore, such enterprises will not be allowed to place their products on the market.

The proposal will be soon adopted by the Council and the whole procedure will be formally completed.

## Failed EU accounts for 2007 approved by European Parliament

The European Parliament is the EU discharge authority. Each year it must close the financial year on the basis of the recommendation of the Council and the Statement of Assurance (DAS) provided by the Court of Auditors. By granting a discharge Parliament approves the implementation of the budget in respect of the relevant financial year.

On 23 April, the European Parliament gave a discharge to the Commission for the execution of funds in 2007, even though the Court of Auditors was not able to deliver a positive statement of assurance. It is well known that the EU Court of Auditors (for the 14th year in a row) has not signed the EU accounts. According to the European Court of Auditors report, the EU payments “have a too high level of error” and from €42bn paid out under cohesion policies “at least 11 per cent of the reimbursed cost claims should not have been paid out.” The European Parliament acknowledges this, but considers that efforts have been made and that the rate of error does not only depend on the Commission as Member States co-manage 80 per cent of the funds. MEPs have therefore urged the Member States to cooperate more closely in checking on EU spending and recovering incorrectly spent funds.

The European Parliament voted to postpone the grant of discharge to the Council for the 2007 budget, owing to the Council’s refusal to provide information on its accounts. According to MEPs, the Council is increasingly using part of its administrative budget for operational expenditure, chiefly in the area of foreign affairs and security policy. They believe that the “administrative expenditure of the Council ought to be scrutinized in the same way as that of the other European institutions as part of the discharge procedure.”

Unsurprisingly, the Council rejected the European Parliament’s arguments. The Council pointed out that the Treaty gives the European Parliament the power to issue discharge solely to the Commission and not to the Council or any other institution or body. According to the Council, it was the Parliament itself that introduced the practice of drawing up a discharge report on all the institutions.

The Council also stressed that “The position taken by the Parliament is not based on any factual observation relating to the quality of financial management by the Council” as the European Court of Auditors has found no irregularities concerning the Council’s 2007 budget.

Moreover, the Council pointed out that its budget covers only administrative expenditure and not operational expenditure which is financed either by the Community budget or by Athena which is a mechanism made up of contributions exclusively from Member States for military operations.

The Council bases its position on the 1970 ‘gentlemen’s agreement’, under which Parliament and the Council do not scrutinise the implementation of their respective budgets. Hence, the Council, respecting the gentlemen’s agreement does not formally respond to European Parliament’s requests relating to the discharge.

The MEPs have accused the Council of using funds designated for administrative costs for foreign policy, defence and crisis management operations. The European Parliament has noted that up to 66 per cent of budget line 2202 was transferred from interpretation to CFSP/ESDP travels and that in 2006 this amount was EUR 12 672 984. It has therefore asked to be informed of the amount for the same budget line for 2007 and demanded “the creation of an appropriate budget line for these purposes.”

The vote on discharge for the Council’s 2007 budget will take place in six months. The Council has till November to provide the information requested otherwise the European Parliament might reject its accounts for 2007.

The European Parliament also decided to postpone the discharge for the European Police College because of lack of information. CEPOL was created by the Council in 2001 as an intergovernmental body but since 2006 is an EU agency funded from the general budget of the European Union. The European Parliament has noted that the College did not have a proper commitment accounting system until November 2007 and it has failed to meet the deadline of June 2008 set in the 2006 discharge resolution to bring its financial management in line with the Financial Regulation. Moreover, it has not provided a report on internal audits for 2007 and provided incomplete information on the private use of public money detected by the ECA. The ECA found that appropriations were used to finance the private expenditure of CEPOL’s staff including mobile phones and furniture. According to the information which CEPOL provided at the request of the European Parliament rapporteur, the amount is around £20 000. CEPOL is under OLAF investigation.

The European Parliament has also approved its own



discharge for 2007.

The European Parliament noted that the voluntary pension fund for Members had an actuarial deficit of by EUR 30 917 229 as at 31 December 2007. However, the deficit has risen to €120 million by the end of 2008 following the financial instability in the markets. The European Parliament has guaranteed that all members of the voluntary supplementary pension scheme will receive their full entitlements despite the fund deficit.

The scheme had 1113 members, by spring 2008, including 478 active MEPs, 493 pensioners and 142 deferred members. The MEPs pay €1194 a month into the supplementary scheme and Parliament contributes with €2388. Hence, taxpayers already pay part of this pension which comes on top of national pension. Moreover, the members of the fund have been paying their one-third contribution from the general expenditure allowance rather than from their salary.

The Bureau has recognized that the European Parliament has the legal obligation to guarantee the supplemental pension rights of current fund members. It approved measures to increase the fund's liquidity in order to avoid the need for the Parliament to allocate extra money to the fund meaning using taxpayer's money. The Bureau has increased the retirement age for all members from 60 to 63, scrapped the option of taking out 25 per cent of acquired rights in a lump sum and scrapped the option of early retirement at 50 on a reduced pension. However, such decision is not free from being challenged by members of the fund since according to the Members of the European

Parliament Statute "Acquired rights and future entitlements will be maintained in full."

The European Parliament pointed out that according to the external auditor's statement "the final responsibility for the payment of benefits rests with Parliament, as provided for by Article 27 of the Statute for Members of the European Parliament (...), which provides that "acquired rights and entitlements shall be maintained in full." Nevertheless, calls on its Legal Service to provide its views "on the question as to whether ultimate financial responsibility for the voluntary pension fund lies with the fund and its members or with Parliament, bearing clearly in mind the interests of European taxpayers." The MEPs voted to say that "under no circumstances will Parliament in the prevailing economic situation provide extra money from the budget to cover the fund's deficit, as it did in the past, and that if it has to guarantee pension rights, Parliament should have full control over the fund and its investment policies."

Bruno Waterfield has said that "The European Parliament vote and the declaration are entirely meaningless." He pointed out that under the Statute for Members of the European Parliament "(...) public funds will be used, if needed, to make up the shortfall" and that such an obligation may only be changed by the Council. Consequently, he stressed that "This EU law (which gives the legal basis for the existence of MEPs) guarantees a bailout – regardless of how Euro-MPs voted on Thurs." Hence, taxpayers might have to cover the shortfall of the pension fund.

## New rights or higher fares for bus and ship passengers?

Last December, the Commission adopted two legislative proposals creating sets of rights for passengers using bus and maritime services on both domestic and international routes which are similar to the measures introduced for airline and rail passengers.

The proposals are going through the codecision procedure with QMV required at the Council. On 23 April, the European Parliament adopted two reports, on first reading, endorsing the Commission's proposals. The EU Czech Presidency is expecting to reach an agreement on both proposals, at the June Transport Council. Adopting such proposals would entail increased costs to operators which are likely to be passed on to passengers in the form of higher fares. It remains to be seen what will come out of the negotiations.

The Commission's proposal for a regulation concerning the rights of passengers when travelling by sea and inland

waterway covers domestic and international commercial passenger maritime and inland waterway services, including cruises within the Community. All Member States' support the general objective of the Commission's proposal to ensure non-discrimination of disabled persons and persons with reduced mobility as well as to strengthen passenger rights in general. Nevertheless, several Member States would like to limit its field of application. According to the Parliamentary Under-Secretary of State, Department for Transport, Jim Fitzpatrick the proposal applies a "one size fits all" approach. The Minister has explained to the European Scrutiny Committee that the scope of the proposal is too wide and "takes no account of the varying size of ports or the diverse nature of carriers providing services on inland waterways, ferry routes or cruises." Several Member States stressed that inland waterway services are often of short duration and that the sector

consists of many small businesses and whose harbour infrastructures are less developed than those of maritime ports.

The draft regulation covers all types of vessels carrying more than 12 passengers, including combined cargo and passenger ships. Some Member States believe that the draft regulation should not apply to ships operated mainly for the carriage of cargo. The European Parliament has voted to limit the scope of the draft regulation to passenger ships.

Under the draft proposal carriers would be required to offer tariffs which are non-discriminatory on grounds of nationality or residence. It also prohibits any discrimination on grounds of disability or reduced mobility as regards booking a trip or boarding a ship. It provides for special and free assistance for passengers with reduced mobility.

The draft regulation provides for obligations to be imposed on carriers in case of cancellation or delay of any service. In case of a more than 60 minutes delay, passengers should be offered free meals and refreshments or, if there is a delay overnight, passengers should be provided with free accommodation. The Commission has based this provision on the aviation model but the Government believes that this is not appropriate. Ports may not have catering facilities available therefore some operators might find it difficult to fulfill such requirements. Moreover, the Government believes that it is not proportional to require the carrier to pay for hotel accommodation for their passengers who are only a few miles from home. According to the Government the requirement to provide passengers delayed for more than two hours with alternative travel arrangements may also be difficult for many carriers to fulfill.

Under the Commission proposal, maritime transport companies will have to provide passengers with compensation if a journey is interrupted. Such compensation payments would not apply in cases of delay or cancellation caused by "exceptional circumstances" which could not be avoided even if all "reasonable measures had been taken." The European Parliament introduced a new provision under which the new rules will not apply in case of force majeure, such as weather conditions but also in case of government sanction, blockage, embargo, strikes, lockout or electricity cuts.

Member States would be required to designate bodies responsible for enforcing the regulation and for handling complaints from passengers as well as to establish penalties applicable to infringements of this regulation. The Government has doubts whether appointing a specific body to be responsible for the enforcement of the regulation would add any useful value. It will also consider during the negotiations whether there is a need to introduce penalties for infringements of the regulation.

The Commission has stressed that bus and coach passenger's protection is different from one Member State to another. Hence, it has proposed the draft regulation on

the rights of passengers on bus and coach transport.

The proposal would apply to regular bus and coach services on both domestic and international routes. Member States may exclude domestic urban, suburban and short-distance regional bus services covered by public service contracts from the scope of the regulation provided that the level of passenger rights enshrined in such contracts is comparable to the one set by the present regulation. However, this exemption fails to reflect that in the UK the majority of local bus services are provided on a commercial basis – therefore such an exemption would be of limited use. The UK's local bus services would not be able to take advantage of the proposed exemption hence the liability provisions would also apply in respect of domestic and international occasional services. The proposal will have an impact on local bus services in Northern Ireland that run to and from the Republic of Ireland which are authorised as international bus and coach operations. However the Parliamentary Under-Secretary of State, Department for Transport, Paul Clark MP, has said "many are essentially local bus services, are socially necessary and provide a vital link to those living in rural areas."

Under the proposal, without prejudice to social tariffs provided under public service contracts, contract conditions and tariffs applied by bus and coach operators must be offered to the general public without any discrimination based on the nationality. The Government is concerned that if concessionary travel had to be provided to visitors from the EU that may entail significant cost to public finances. According to the European Commission this provision is addressed at commercial operators, and it is not intended to prevent local authorities providing social tariffs to local residents using public money. The Government will seek, during the negotiations, to ensure that existing concessionary schemes are not affected.

The proposal also includes a requirement for bus and coach operators to issue passengers with one or more tickets as proof of conclusion of the transport contract which would entitle passengers to the rights provided in the regulation. This provision could have implications for the use of smart cards since if they are not considered a ticket passengers who used these cards would have no rights under the regulation.

The Commission has proposed rules on companies' liability for passengers and their luggage, establishing harmonised standards. Operators would be liable for loss or damage resulting from the death, personal injury or mental harm to passengers caused by an accident. The Commission has not proposed to subject this liability to any maximum financial limit but under certain conditions the operator would not be able to contest damages up to €220,000. Where the accident was caused by circumstances unconnected with the operation of the service and which

the operator could not have prevented, an operator would not be liable as well as in case of the accident being the passenger's fault. In case of injury or death caused by a bus or coach accident, passengers would be entitled to advance payments in proportion to the harm suffered, no less than €21,000 per passenger in the event of death.

The UK would have to change its practices on liability, chiefly as regards the provisions preventing an operator from contesting damages up to €220,000 as well as the requirement on the advance payments of damages prior to liability being established. Operators, in this way, will face higher costs through insurance premiums. The industry believes that such provisions could have a significant impact, principally on the viability of local bus services.

The draft regulation provides that passengers with disabilities or reduced mobility may not be refused the right to board a bus or coach on the grounds of their disability or lack of mobility, except for reasons which are justified on grounds of safety and prescribed by law. It provides for special and free assistance for passengers with reduced mobility. According to the Government as regards the rights of disabled people or people with reduced mobility the UK already provides much of what is being proposed.

The proposal requires terminal managers and operators to provide passengers with adequate information regarding the service before and during the journey. The draft

regulation is also aiming that, in the event of interrupted travel, all passengers are provided with assistance to make alternative travel arrangements where services are cancelled and receive compensation when services are cancelled or subject to long delays. The European Parliament has strengthened the provisions on compensation.

The proposal includes provisions requiring Member States to lay down sanctions for non-compliance and to designate bodies responsible for enforcing the regulation and for handling complaints from passengers. The Government is still considering the benefits of having a requirement for designation of a body to enforce the draft regulation and the requirement to introduce penalties for infringements. But it has doubts on whether actively enforcing and imposing penalties in respect of all aspects of the regulation would be beneficial.

Adopting such a proposal would result in better short-term benefits for passengers of bus and coach services. However, operators would have increased costs for compensating passengers who have experienced delays or cancellation of a service. There would also be increased costs to operators from the requirement to provide information and to put in place systems to deal with complaints. The costs of compliance to operators are likely to be passed on to passengers in the form of higher fares.

## EU legislation agreed behind closed doors before elections

The EU institutions are under pressure to adopt as many legislative proposals as possible before the European Parliament is dissolved for elections. The penultimate plenary session of the European Parliament prior to the elections was therefore very busy. Several informal negotiations took place behind closed doors between the European Parliament

representatives, the Czech EU Presidency and the European Commission to reach compromised deals on several legislative proposals. In fact, the European Parliament and the Council of Ministers have reached first reading agreements on several proposals at the expense of any proper debate. *[Margarida Vasconcelos]*

## Government Minister for Europe: have you read the Lisbon Treaty?

On 31 March, Shadow Minister for Europe, Mark Francois, asked the Minister for Europe in the Commons: "Given that the European economic recovery plan will not work if we cripple businesses with excessive red tape, can the Minister for Europe redeem herself from yesterday's incredible admission that she has not read the Lisbon treaty, and so does not know what Europe has to offer, by assuring us that the Government will work hard in the negotiations to protect the UK opt-out on the working time directive, which has as critical an effect on environmental employees as it does on

many others across this country?" Caroline Flint MP responded in her defence "Yesterday, the hon. Gentleman asked me whether I had read the elements of the Lisbon treaty that relate to defence. I answered honestly that I had read some, but not all, of it, but I have now done so. I have no doubt that he spends many nights and many hours—alone, I presume—poring over the Lisbon treaty to discover some hidden plot. ..." I believe the word she was looking for was 'No', on all counts. *[Ed.]*



# European elections: does your vote count?

The 2009 European elections will take place on 4-7 June 2009. This vote marks the 30th anniversary of direct elections to the European Parliament. However, according to a *Eurobarometer* poll from October 2008, only 26 per cent of respondents, from all EU Member States, were aware that European elections would be held this year.

It is interesting to note that the European Parliament since the first elections in 1979 has been acquiring more powers through the EU Treaties whereas the voter turnout has declined from 63 per cent in 1979, to 56.8 per cent in 1994, to 49.8 per cent in 1999, to 45.6 per cent in 2004.

According to the latest *Eurobarometer* survey, only 17 per cent of Polish, 21 per cent of Austrians, 22 per cent of British and 24 per cent of Portuguese intend to vote. It is projected that the average turnout for the European elections will reach its lowest this year.

The European Commission has made clear that it wants to change the idea that EU affairs “are too abstract and disconnected from the national public debate to be of interest to the citizens” and “to overcome the divide between national and European issues.” However, it is clear that all initiatives to connect with citizens – which cost millions of pounds of taxpayer’s money – have failed.

Europeans have long been losing confidence in the EU institutions. As former MEP, Jens-Peter Bonde said “People gave it a go and voted originally but, having seen that real decision-making is done by EU technocrats, they no longer bother to vote.” Citizens believe that they vote makes no difference since it would change nothing.

The European Parliament and the European Commission are trying to heavily influence the European elections in terms of turnout. Fearing a massive low turnout the European Parliament has, for the first time, launched a pan-European communication campaign with a budget of €18 million, five euro cents per potential voter, as noted by Alejo Vidal-Quadras, to persuade people to vote. The German agency Scholz & Friends won the tender and will be responsible for the essential content.

The European Parliament’s Vice-President in charge of issues relating to information and communication, Alejo Vidal-Quadras, has said that this is an “institutional campaign,” intended to “stimulate citizens in order to encourage them to vote [...] it is not a partisan effort, the influence of political debates will depend on the parties and candidates themselves.” The aim is to achieve an identical campaign in all Member States, with the common slogan, “It’s your choice.” The European Parliament is placing emphasis on the fact that citizens, by voting can influence the decision making process. However, do we really have a choice? As Roger Helmer MEP has said, “But

of course in a very real sense, it’s not your choice. (...) however you vote in the euro-elections in June, you will end up with an overwhelming majority of euro-luvvies in Brussels. The EU institutions have their own unstoppable momentum towards political integration, and nothing you can do in June will change that.”

The European Parliament is using posters, 3D installations in the streets. All the posters state: “Use your vote in the elections on 7 June.” The European Parliament is using a set of ten visual themes intended to illustrate the ways in which the European Parliament has an impact on people’s lives but they are misleading. There will be thirty-six multimedia “choice boxes” where voters can record a video message to Members of the European Parliament. Such messages will be played on a giant screen outside the Parliament and Commission buildings in Brussels and through *EuroparITV* and *Youtube*.

The European Parliament will communicate the elections as part of its daily activities, particularly by means of its online channel, *EuroparITV*. (It is important to mention that *EuroparITV* has less than 10,000 viewers per month since it launched last September and it costs 60,000 euros for one hour of broadcasting).

The European Parliament has also launched, on its website, a special section for the 2009 elections. This website has a section on “10 good reasons to vote” such as “... the European Parliament is a major and powerful player in European Union’s decision-making. Its votes shape final EU legislation that influences your everyday life ...” Moreover, it reads “In most cases, MEPs have as much weight as the Member States in EU decision-making. ... Many, probably most, laws enacted in your country are a transposition of European acts voted by MEPs – your representatives.” In fact, the role of the national Parliaments has been greatly reduced. The national Parliaments have been losing their legislative competencies in favour of the European institutions.

Concerned with the low turnout and its implications for the legitimacy of the European Parliament and the EU in general, the Commission is also participating in the awareness campaign to boost voter turnout at the EU elections. According to *Euractiv*, the European Commission has asked public service broadcasters to show a “politically neutral” advert to motivate European citizens to vote.

The EU is desperately trying to increase turnout at these elections. The European Parliament may bombard people with its awareness campaign materials but that will make no difference – the majority of European citizens do not believe in the undemocratic EU project.