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Letter from the editor

Apologies for the late arrival of this edition – I have been waiting for the outcome of several key events, not least the speech by Czech President, **Václav Klaus**, to the European Parliament and a debate secured by **William Cash** in Westminster concerning the effectiveness of the European Union. The speeches of both Klaus and Cash are printed here, for the purposes of political argument and historical record.

Vaclav Klaus' speech on page 4 is notable, perhaps most because it addresses the concerns of legitimising a trans-national Parliament which can never actually have legitimacy – because it has no demos. No democracy.

It is also superb to have on these pages once again the researches of **Bryan Smalley**, who further exposes the underpinning of Government plans for the Royal Mail privatisation with European Union legislation. It is not merely a matter of whether one agrees with full-scale privatisation or not or of Royal Mail's existence as it stands, but it is a matter of who controls the underpinning legislation, who decides, and whether it can therefore work in the local interests of the communities within Britain. If Europe decides, we have lost control.

Margarida Vasconcelos, **Howard Wheeldon**, **Roger Helmer MEP**, **Glen Ruffle**, **Don Anderson**, **John Laughland** and **Bernadette Mill** provide a varied range of spectacular briefings and observations on:

- The European Parliament calling for an EU army;
- The role of gesture politics in the European Parliament;
- The new economic realities for Euroland;
- The failures at Westminster in attempting to amend EU legislation;
- Croatia as the answer to the Lisbon Treaty question;
- The troubled German ratification of Lisbon;
- The disaster-management role of the EU being invented before Lisbon Treaty provisions have even been ratified;
- The Commission's VAT-fraud proposal with no anti-fraud benefit and likely to place burdens on business;
- The Union's return to the days of butter mountains and milk lakes;
- Commission legal action against the UK;
- EU control over Member State oil stocks;
- An unworkable European Court ruling on paid sick leave to impose burdens on business.

We also pursue in this issue the second in a series of Professor Christie Davies' analysis on Central Europe and the EU – this month, it turns to the failure of competition and whether Central Europe is condemned to more regulation (page 19).

James McConalogue
March 2009

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Bill Cash presents parliamentary Bill in Commons to support British jobs and British laws for British workers

Against the background of the current wave of strikes across the country, **Bill Cash MP** presented a Bill on 3rd February to the House of Commons, stating that "workers or members of a trade union who are UK nationals shall have rights of employment in the United Kingdom equal to or as favourable as those afforded to foreign nationals or conferred by the United Kingdom Parliament.."

At that time, Bill Cash said: "This reference to the United Kingdom Parliament is absolutely crucial because it is essential that legislation is passed by this Government overriding the rulings of the European Court of Justice in accordance with the formula in this Bill, notwithstanding the European Communities Act 1972."

"The posted workers directive which is at the root of the wave of strikes across the country was adopted on 16th December 1996, under John Major's Government, when Ken Clarke was Chancellor of Exchequer. European Court of Justice rulings cannot be changed except by the agreement of all the 27 Member States and in any case, the negotiations will take years. However, contrary to statements made by BBC correspondents, the problem can be solved by passing legislation at Westminster as John Monks, former head of a British trade union and general secretary of the European Trade Union Confederation stated this morning on the *Today* programme, effectively endorsing the Bill which was tabled last night.

"David Cameron, on becoming leader, in a modern progressive and principled statement, said in his speech to the Centre for Policy Studies in November 2005: 'For Britain, the first priority must be the return of powers over employment and social regulation. This would be the strategic imperative of my European policy.'"

Furthermore, the formula in this Bill follows Bill Cash's amendments in 2006, also under David Cameron's leadership (and in line with his speech of November 2005), which provided for the overriding of European legislation to relieve the burdens of British business and an obligation on the British judiciary to obey that legislation. Bill Cash's amendment was whipped in both Houses.

"The Bill is supported by former Secretaries of State and members of the Cabinet, including Peter Lilley, John Redwood, David Heathcoat-Amory and Michael Ancram and many other former ministers as well as MPs.

"It is clear and fair that UK nationals should have equal rights to everyone else, they should have rights on par with those of foreign nationals and also rights which are presented them to by their own sovereign Parliament. That is why I am presenting this Bill. We need British jobs and British laws for British workers."

As oil workers at the Lindsey Oil Refinery agreed to return to work on that day, Bill Cash MP insisted that the problem was not yet over:.

"The underlying legislation has not been dealt with and I expect the problem will spread to other areas. The Government blamed the entire situation on British workers, rather than attempting to deal with the offending European legislation.

"The answer to the current predicament is to fix our own domestic legislation. Given that the European Union would not take action, and has been at fault throughout, it is the role of Westminster to enact the necessary legislation. My Employment Rights Bill does just that.

"British workers should have equal rights to everyone else, they should have rights on par with those of foreign nationals and also rights which are presented them to by their own sovereign Parliament.

"I have now raised the question of fair treatment for British workers with a Government minister for Business and Enterprise in the Commons because this legislation must be put right. Britain ought to do what other European countries have already attempted to do: put in place domestic legislation to prevent terrifying situations such as this from coming about.

"As I already said in the House of Commons this week, given the strikes that we are facing in the United Kingdom, and given that European law is trapped by its own system into having the European Court of Justice make decisions that cannot be reversed, is it not vital to our own national interests to reassert the supremacy of our own Westminster Parliament and require the British judiciary to obey the latest relevant Act of Parliament? The Conservative party had agreed to that underlying proposition when it supported my amendment to the Legislative and Regulatory Reform Bill two years ago."

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Václav Klaus: making the EU more free & more democratic

A Speech by the President of the Czech Republic Václav Klaus in the European Parliament on 19 February 2009:

Mr. Chairman, Members of European Parliament,
Ladies and Gentlemen,

First of all, I would like to thank you for the possibility to speak here, in the European Parliament, in one of the key institutions of the European Union. I have been here several times but never before had an opportunity to speak at a plenary session. Therefore I do appreciate your invitation. The elected representatives of 27 countries with a broad spectrum of political opinions and views make a unique auditorium, as unique and in essence as revolutionary as the experiment of the European Union itself. For more than half a century, the EU has attempted to make decision-making in Europe better by moving a significant part of decisions from the individual states to the European institutions.

I've come here from the capital of the Czech Republic, from Prague, from the historic centre of the Czech statehood, from one of the important places where European thinking, European culture and European civilisation has emerged and developed. I come as a representative of the Czech state, which has always, in all its various forms, been part of the European history, of a state, that has many times taken a direct and important part in shaping this history, and which wants to continue shaping it also today.

Nine years have passed since the president of the Czech Republic last spoke to you. That was my predecessor, Václav Havel, and it was four years before our accession to the European Union. Several weeks ago, the Czech Prime Minister Mirek Topolánek, also held a speech here, as a leader of a country presiding over the EU Council. His speech focused on topics, based on the priorities of the Czech presidency, as well as on the topical problems the EU countries are facing now.

This allows me to focus on issues that are more general, and – at first sight – perhaps less dramatic than solving the current economic crisis, the Ukrainian-Russian gas conflict, or the Gaza situation. I do believe, however, these issues are of extraordinary importance for the further development of the European integration project.

In less than three months, the Czech Republic will commemorate the fifth anniversary of its EU accession. We will commemorate it with dignity. We will commemorate it as a country, which – unlike some other new member countries – does not feel disappointed over unfulfilled expectations connected with our membership. This is no surprise to me and there is a rational explanation for it. Our expectations were realistic. We knew well that we were entering a community formed and shaped by human beings. We knew it was not a utopian construction, put together without authentic human interests, visions, views and ideas. These interests as well as ideas can be found all over the EU and it cannot be otherwise.

We interpreted our EU accession on one hand as a confirmation of the fact that we had managed, quite rapidly, over less than fifteen years since the fall of communism, to become a standard European country again. On the other hand, we considered (and we still do) the opportunity to actively take part in the European integration process as a chance to take advantage of the already highly integrated Europe and – at the same time – to influence this process according to our views. We feel our share of responsibility for the development of the European Union and with this feeling of responsibility we approach our presidency of the EU Council. I believe that the first six weeks of the Czech presidency have convincingly demonstrated our responsible attitude.

At this forum, I would like to repeat once again clearly and loudly – for those of you who don't know it or do not want to know – my conviction, that for us there was and there is no alternative to the European Union membership and that in our country there is no relevant political force that could or would want to undermine this position. We have been therefore really touched by the repeated and growing attacks we have been facing; attacks based on the unfounded assumption that the Czechs are searching for some other integration project than the one they became members of five years ago. This is not true.

The citizens of the Czech Republic feel that the European integration has an important and needed mission and task. It can be summarized in the following way:

• removing unnecessary – and for human freedom and prosperity counterproductive – barriers to the free movement of people, goods, services, ideas, political philosophies, world views, cultural patterns and behaviour models that have been for various reasons over the centuries formed among the individual European states;

• a joint care of the public goods, existing on the continental level, meaning projects that cannot be effectively carried out through bilateral negotiations of two (or more) neighbouring European countries.

The efforts to realise these two objectives – removing barriers and rationally selecting issues that should be solved at the continental level – are not and will never be completed. Various barriers and obstacles still remain and the decision-making at the Brussels level is certainly more numerous than would be optimal. Certainly there are more numerous than

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the people in the individual Member States ask for. You, Members of the European Parliament, are certainly well aware of this. The question I want to ask you is therefore a purely theoretical one: are you really convinced that every time you take a vote, you are deciding something that must be decided here in this hall and not closer to the citizens, i.e. inside the individual European states?

In the politically correct rhetoric we keep hearing these days, we often hear about other possible effects of European integration, which are, however, of lesser and secondary importance. These are, moreover, driven by the ambitions of professional politicians and the people connected to them, not by the interests of ordinary citizens of the Member States.

When I said, that the European Union membership did not have and does not have any alternative; I only mentioned half of what must be said. The other – logical – half of my statement is that the methods and forms of European integration do, on the contrary, have quite a number of possible and legitimate variants, just as they proved to have in the last half century. There is no end of history. Claiming that the status quo, the present institutional form of the EU, is a forever uncriticizable dogma, is a mistake that has been – unfortunately – rapidly spreading, even though it is in direct contradiction not only with rational thinking, but also with the whole two-thousand-year history of European civilization. The same mistake applies to the a priori postulated, and therefore equally uncriticizable, assumption that there is only one possible and correct future of the European integration, which is the "ever-closer Union", i.e. advancement towards deeper and deeper political integration of the member countries.

Neither the present status quo, nor the assumption that the permanent deepening of the integration is a blessing, is – or should be – a dogma for any European democrat. The enforcement of these notions by those, who consider themselves – to use the phrase of the famous Czech writer Milan Kundera – "the owners of the keys" to European integration, is unacceptable.

Moreover, it is self evident, that one or another institutional arrangement of the European Union is not an objective in itself; but a tool for achieving the real objectives. These are nothing but human freedom and such economic system that would bring prosperity. That system is a market economy.

This would certainly be the wish of the citizens of all member countries. Yet, over the twenty years since the fall of communism, I have been repeatedly witnessing that the feelings and fears are stronger among those who spent a great part of the 20th century without freedom and struggled under a dysfunctional centrally planned and state-administered economy. It is no surprise that these people are more sensitive and responsive to any phenomena and tendencies leading in other directions than towards freedom and prosperity. The citizens of the Czech Republic are among those I'm talking about.

The present decision making system of the European Union is different from a classic parliamentary democracy, tested and proven by history. In a normal parliamentary system, part of the MPs support the government and part support the opposition. In the European parliament, this arrangement has been missing. Here, only one single alternative is being promoted and those who dare thinking about a different option are labelled as enemies of the European integration. Not so long ago, in our part of Europe we lived in a political system that permitted no alternatives and therefore also no parliamentary opposition. It was through this experience that we learned the bitter lesson that with no opposition, there is no freedom. That is why political alternatives must exist.

And not only that. The relationship between a citizen of one or another Member State and a representative of the Union is not a standard relationship between a voter and a politician, representing him or her. There is also a great distance (not only in a geographical sense) between citizens and Union representatives, which is much greater than it is the case inside the member countries. This distance is often described as the democratic deficit, the loss of democratic accountability, the decision making of the unelected – but selected – ones, as bureaucratisation of decision making etc. The proposals to change the current state of affairs – included in the rejected European Constitution or in the not much different Lisbon Treaty – would make this defect even worse.

Since there is no European demos – and no European nation – this defect cannot be solved by strengthening the role of the European parliament either. This would, on the contrary, make the problem worse and lead to an even greater alienation between the citizens of the European countries and Union institutions. The solution will be neither to add fuel to the "melting pot" of the present type of European integration, nor to suppress the role of Member States in the name of a new multicultural and multinational European civil society. These are attempts that have failed every time in the past, because they did not reflect the spontaneous historical development.

I fear that the attempts to speed up and deepen integration and to move decisions about the lives of the citizens of the member countries up to the European level can have effects that will endanger all the positive things achieved in Europe in the last half a century. Let us not underestimate the fears of the citizens of many member countries, who are afraid, that their problems are again decided elsewhere and without them, and that their ability to influence these decisions is very limited. So far, the European Union has been successful, partly thanks to the fact that the vote of each member country had the same weight and thus could not be ignored. Let us not allow a situation where the citizens of member countries would live their lives with a resigned feeling that the EU project is not their own; that it is developing differently than they would wish, that they are only forced to accept it. We would very easily and very soon slip back to the

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times that we hoped belonged to history.

This is closely connected with the question of prosperity. We must say openly that the present economic system of the EU is a system of a suppressed market, a system of a permanently strengthening centrally controlled economy. Although history has more than clearly proven that this is a dead end, we find ourselves walking the same path once again. This results in a constant rise in both the extent of government masterminding and constraining of spontaneity of the market processes. In recent months, this trend has been further reinforced by incorrect interpretation of the causes of the present economic and financial crisis, as if it was caused by free market, while in reality it is just the contrary – caused by political manipulation of the market. It is again necessary to point out to the historical experience of our part of Europe and to the lessons we learned from it.

Many of you certainly know the name of the French economist Frederic Bastiat and his famous Petition of the Candlemakers, which has become a well-known and canonical reading, illustrating the absurdity of political interventions in the economy. On 14 November 2008 the European Commission approved a real, not a fictitious Bastiat's Petition of the Candlemakers, and imposed a 66 per cent tariff on candles imported from China. I would have never believed that a 160-year-old essay could become a reality, but it has happened. An inevitable effect of the extensive implementation of such measures in Europe is economic slowdown, if not a complete halt of economic growth. The only solution is liberalisation and deregulation of the European economy.

I say all of this because I do feel a strong responsibility for the democratic and prosperous future of Europe. I have been trying to remind you of the elementary principles upon which European civilisation has been based for centuries or even millennia; principles, the validity of which is not affected by time, principles that are universal and should be therefore followed even in the present European Union. I am convinced that the citizens of individual member countries do want freedom, democracy and economic prosperity.

At this moment in time, the most important task is to make sure that free discussion about these problems is not silenced as an attack on the very idea of European integration. We have always believed that being allowed to discuss such serious issues, being heard, defending everyone's right to present a different than "the only correct opinion" – no matter how much we may disagree with it – is at the very core of the democracy we were denied for over four decades. We, who went through the involuntary experience that taught us that a free exchange of opinions and ideas is the basic condition for a healthy democracy, do hope, that this condition will be met and respected also in the future. This is the opportunity and the only method for making the European Union more free, more democratic and more prosperous. © *Václav Klaus*

Václav Klaus is President of the Czech Republic

How "effective" is the European Union?

A Speech by William Cash in A Westminster Hall debate on the 'Effectiveness of the European Union', 4 March 2009:

It is a great pleasure to serve under your chairmanship, Mr. Jones. I am sitting on the Front Bench because we do not seem to have a Front-Bench spokesman, but as I have been speaking from the front on this subject for the past 25 years, I do not see why I should stop. If the best way to keep a secret is to make a speech in the House of Commons, I have been keeping a lot of secrets in the past 25 years, because I have spoken about the European Union on many occasions.

I have chosen to speak about efficiency in the EU, because we need to look at the extent to which the institution has matched up to its promises. The word "effective" means making things work. On any reasonable standard, the EU has failed on the two fundamental tests that I would apply: first, it has failed on democracy and, secondly, it has failed on the economy, especially during the economic crisis that we are experiencing. The EU appears—people have thought this in the past but it has not yet happened—to be breaking up under the tensions.

. . .

In happier days, when the hon. Gentleman spoke with me in debate after debate on the European Court of Auditors report, among other things, I made that very point, as he will remember. The failure of administration is an example of the failure of democracy.

It is quite impossible to deal with this subject in the depth that it deserves in the 20 minutes for which I intend to speak today. I had a debate with Mr. Joschka Fischer last week. He was particularly pessimistic about the present world crisis. He argues for more Europe, but when I demonstrated to him all the reasons why Europe is not working, he became more and more unhappy at the figures and the arguments. Even my Europhile friends, including professors of international relations, former Cabinet members and others—Eurosceptics like me do have Europhile friends—never thought that the arguments made by myself and others in the past 15 or 20 years would be proved so right. I am not here to say, "I told you so". Rather, the debate is of immense importance to elected people and electors. They are the ones

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who matter.

I am concerned that the legal framework—the European Court of Justice adjudicates at one end, and an unelected Commission initiates legislation at the other—is creating an impossible situation and a compression chamber. The 27 Member States need to act unanimously to overturn an ECJ decision, which is a straightjacket. When things go wrong, such a concrete system is completely unacceptable and unworkable in a democracy. Democracies have to change with the times. Unfortunately, the EU is designed to continue, irrespective of anything else, towards further and deeper integration, whatever the consequences.

I will give the EU credit on its propaganda machine, which is heavily and brilliantly financed. I will not repeat the debate that we had with the former Minister for Europe—he is now Secretary of State for Transport—on "Plan D" in Standing Committee, but there is no doubt that the money that is made available by the European authorities for argument within the EU always goes in the direction of organisations that are in favour of integration, and not to those with other views. Of course, the question is who is right? More and more, it is becoming obvious that those of us who wanted to come out of the exchange rate mechanism, fought our own Government over the Maastricht treaty, and over the Amsterdam and Nice treaties, and have watched the referendums on the constitutional treaty in places such as France and Holland, were found to be right.

I was in France and in Ireland during referendum campaigns on the Nice treaty. The EU is bullying the Irish again, and I hope that it gets its comeuppance—the way in which the EU has ganged up on the Irish is disgraceful. In denying referendums to countries and by not complying with the decisions taken by ordinary people, it is distancing itself further and further from the people, which is out of kilter with the arrangements prescribed by the Laeken declaration. I did not believe in the declaration, but there we are. It is always theology first, democracy second.

A *YouGov* poll last week asked people how strongly they felt about 10 issues: immigration, the powers of the European Union, traditional family values, identity cards, prison sentences, taxation reduction, climate change, council tax, grammar schools and public services. Despite the deliberate attempts by all political parties to dumb down the European issue in the past year—I except the debate on the Lisbon treaty—immigration, which is very much an EU-related subject, came top by a very significant margin, and reducing the powers of the EU and increasing the powers of Britain's Parliament came second. There are serious lessons to be learned from that.

Back in the 1980s, I remember reading the Cecchini report. The Minister might think it a shame that I did not read all 16 volumes. Some 11,000 businesses were interviewed. The conclusion was that the report would trigger a supply-side shock to the Community economy as a whole, leading to lower prices, greater competition, lower Government deficits, reduced inflation and substantial job creation. That was the essence of the economic argument for the European Union's integration process, but not one of those things has proved to be the case. In fact, on almost every count, exactly the opposite has happened. Take Government deficits, for example: the promises that were made were outrageous. We predicted that it would not work, but the EU has continued down that course. The foreign workers issue, on which I have introduced the Employment Rights Bill to try to get fairness for British workers, is a good example of where the EU has gone wrong. People believe profoundly that there is unfairness in the European Union. That is bad for democracy and for the European Union.

There is also the question of the Lisbon agenda, which has not worked. I do not have time to go into all the details. On over-regulation, as Mr. Verheugen said, massive over-regulation—£100 billion worth a year—is endemic throughout Europe. I have done research on the benefits claimed in the Cecchini report, which were estimated at about €300 billion, but even advisers to the European Commission recognise that they have not been realised, as the single market document "Yesterday and Today" by Canoy and others clearly indicates.

On the costs of compliance, the Boyfield and Ambler and Chittenden reports demonstrate that financial regulation is costing the City £23 billion. A letter in the *Financial Times* only last week discussed the question of extending banking and financial services regulations to supersede our own in the City of London, which must be resisted at all costs. Majority voting will result in other Member States imposing on our country, and dictating to it, decisions that belong to us in our Parliament. I have consistently proposed a supremacy of Parliament clause in legislation. My party supported such a measure during debate on the Legislative and Regulatory Reform Act 2006. We lost the vote, but we won the principle within the party. After several Whips' meetings, they decided to endorse it, and I sincerely trust that they will continue to do so.

We must not only override European legislation but do more. When the voters who have elected us in general elections decide what they want, those wishes and democratic decisions should not be overridden by European legislation. We should exercise the veto where necessary. Where our Parliament, on the basis of our democratic credentials and the fact that we have been elected, wishes to disagree with the European Union, we, in line with a national association of nation states, must assert not only our latest Westminster Act of Parliament but require the judges to obey that Act and not the European Union and the European Court of Justice. That is a fundamental matter of democracy.

Riots are already occurring. That is not scaremongering, as there have been riots in Italy, Greece and Latvia. There are problems with regard to countries such as Bulgaria and Romania. The European Union is being extended and enlarged. As I said to the Minister for Europe the other day, we are enlarging to take in countries such as Macedonia, Kosovo, Bosnia and Herzegovina and Albania, which is a

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centre for the cocaine trade. That is ridiculous. We do not wish those countries ill by any means, but even from a European integrationist point of view, if we are considering bringing in those weak countries that must mean that we should put a halt to it.

The EU is throwing money at the pre-accession countries as well. I read in *The Daily Telegraph* the other day that the enlargement strategy is being put on hold, but that is not the impression that I got from debating with the Minister only the day before yesterday. The common agricultural policy is a complete mess. We should enable our farmers to engage in fair, free markets and to earn their own living, not put them on single payment arrangements irrespective of what they do and depending on acreage, not production.

Unemployment figures throughout Europe are critical. In Spain, they are escalating massively. None of the European Union promises—the Lisbon agenda and the economic recovery plan—are working. The arrangement is not efficient or effective, and that is not just because of the United States of America and the sub-prime mortgage crisis. Unemployment is rising, because the system is not working. Europe does not have any answers except to produce more integration, more laws and more complications way above the heads of the voters. I fear that the matter is not getting the coverage that it deserves.

The eurozone itself is in crisis. Several countries are said to be on the point of breaking down, and now we hear that Ireland is going to be promised a bail-out by Germany, no doubt to keep the referendum on the right side. At the same time, however, that will happen only on the basis that Ireland abolishes its corporate tax advantages. That is absolutely crazy politics. It is Alice in Wonderland stuff, and very, very dangerous.

What is going on—the turmoil inside that compression chamber as it begins to implode—will bring out substantial instability. The strikes and riots may well continue, and they may end up giving ground to dark forces. We must get ahead of the argument to forestall extremists such as the British National party which, by the way, managed to get two points ahead of the UK Independence party in the most recent *YouGov* opinion. This is a serious matter. I speak as a Member of Parliament with a constituency adjacent to Stoke-on-Trent, where BNP numbers are significant.

I speak to my own party as well as to others. I am sorry that we do not have a Front-Bench spokesman here today to speak for me, but I will speak for myself. We must keep ahead of the curve. We need to reorganise and radically reform the European Union. I appeal to the Government and to my own party to come up with policies that will change the EU. I am in favour of European trade and co-operation, but not European government. I believe profoundly that it is not anti-European to be pro-democracy. I am not arguing that we should leave the Union, like the hon. Member for Castle Point (Bob Spink), but it may well turn into that. It may become inevitable. The objective will be brought upon us.

. . .

Curiously, I do not disagree, and I have said as much. They put up the deputy leader of UKIP against me in the last general election. He lost his deposit and did not stay very long for the poll, but I had a public debate with him. I believe that the moderate, sensible attitudes that we in the Conservative party can develop towards achieving an association of nation states is the way to go. Trade, not government, should determine how Europe functions.

This is about who governs; it is about voters, elections and freedom of choice in the marketplaces of both the commercial and the political world. That freedom is the essence of a democracy. Both of them work, provided that they operate fairly. We want fair and free trade and fair and free politics. Within that framework, we can sort out the European Union. I am sorry that the media do not give as much attention to the subject as it deserves, because we are in a crisis in Europe—a vortex that could turn into a maelstrom if people do not get their act together and start renegotiating seriously for an association of nation states with the characteristics that I have described.

I conclude by saying, as a very wise former Cabinet Minister said to me this morning, that it is also a matter of national identity that we get this right. It is about keeping our nation together. The European Union is not a nation. We play the ridiculous games of majority voting and comparative advantage; we deal with the complications of UKRep, COREPER and the rest of it. The reality is that people want good government, they want stability and they want to know that when they vote in a general election, they will get the Government that they want, who will produce policies and laws that they are prepared to live with and obey. Where it turns out that they do not do that, because the European Union system deliberately prevents it, and we have unelected commissions and courts of justice laying down how people should live, the bottom line is that people will eventually revolt against it.

It may be that we can solve the problem by getting ahead of the curve, but right now we are hearing more and more calls for more and more integration. It is fundamentally undemocratic. As far as I am concerned, the Conservative party has an overriding duty, consistent with its traditions, to trust the people and to provide a model, both after the general election and in the manifesto before it, to assert the supremacy of our Parliament on behalf of the voters and to ensure that we have a referendum, whether or not the Irish vote yes on the second round, when they have been bullied into it. There should be a referendum whether or not there is ratification. We must then sit down and work out with our European neighbours a kind of Europe that will work and that will be democratic and effective, which it certainly is not at the moment. © *Parliamentary copyright*

Bill Cash is Member of Parliament for Stone and Chairman of the European Foundation

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'Modernise or Decline' – Government and EU Chicanery? How the EU is destroying Britain's Royal Mail system

Bryan Smalley writes: It is not easy to write this report because of the verbal misrepresentations of our politicians and their supportive members of the Establishment elite, and because the story develops almost daily.

There are probably three reasons why the Royal Mail system will not last for many more years.

The first reason is the Amsterdam Treaty which lays down detailed rules stating that grant aid to private and public companies must first be approved by the EU Commission. The Government has subsidised remote and unprofitable Post Offices for some years but this now needs EU approval. For the financial year 2008/09 the Government was only allowed to subsidise Post Offices with a €460 million subsidy provided it closed down 2,500 Post Offices.

The second reason emanates from the several EU Directives which have taken control of Royal Mail and incorporated it into a liberalised EU wide postal service.

The British postal system was founded in 1635 by Charles I, but it was in 1839 that Sir Rowland Hill introduced the business model where the sender pays, and mail is delivered at the same price throughout the length and breadth of the country. Many adjustments were made during its lifetime as new systems and practices developed, but the basis of equal cost throughout the land prevailed until it was destroyed by the EU. The wider public has great affinity with our mail system, although a survey shows that only 21 per cent of residential customers are familiar with the concept of the nationwide service with a uniform tariff.

Britain joined the EU in 1973 and in doing so adopted the Treaty of Rome which has since transmogrified to become the EC Treaty.

EU Directive 97/96/EC established the EU-wide postal service. The Directives which followed, clarified the way that the postal service was to be organised. In the UK the Royal Mail was appointed as the Universal Service Provider with responsibility for delivering mail to every address in the country and with a monopoly on mail weighing less than 350 grams. Mail above 350 grams could be delivered by other companies known as the Unreserved Sector. The weight below which Royal Mail has the monopoly has been reduced periodically until this year (2009) when the Directive states that mail in this country of any weight becomes entirely open to competition, although Royal Mail continues to have the responsibility to deliver to every address.

The main disadvantage of this arrangement is that the companies operating in the unreserved sector, comprising mainly the Dutch TNT and the German Deutsche Post trading as DHL, are able to cherry pick the profitable areas of mail services leaving the unprofitable areas to the Royal Mail. As they have no responsibility to deliver nationwide they are able to charge less and destroy the traditional nationwide service with uniform tariff. This competition now takes 20 per cent of the total volume of UK mail. If these companies find that they have accepted mail which is unprofitable they can pass it on to Royal Mail for a small fee. The Royal Mail, as the USP, is legally obliged to deliver it. Similarly if mail is received at an incorrect address and the occupier forwards it to the correct address, the Royal Mail must deliver it without charge. There are other responsibilities which fall unfairly on Royal Mail.

There are now 21 companies forming the Unreserved Sector which are licensed to provide postal services in the UK.

Britain was the first country to implement the Directives. Sweden and Finland followed making these three countries the only ones to obey. The German and Dutch postal groups and nine other member states refuse to abolish the last "reserved area" of postal services until other EU member states follow suit.

The effect of this unfair competition from the unreserved sector resulted in Royal Mail's profits falling by 86 per cent to £22 million in 2006/2007. In the following year it lost £33 million.

To overcome this the Government began to subsidise Royal Mail with the equivalent of €2.5 billion in order to introduce more and improved mechanical sorting equipment into the system although this was in breach of the Amsterdam Treaty. On hearing of this some time later, a number of Royal Mail's competitors, led by TNT and DHL, complained to the European Commission regardless of the fact that their Governments have not liberalised their postal service.

In February 2007, the European Commission announced that it had launched an in depth inquiry into the British Government's subsidy of Royal Mail. To date no result of the Commission's investigation has been announced.

In December 2007, the Government announced that it was launching a review of the postal services sector. Its terms

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of reference included "to consider how to maintain the obligations of the universal service". Richard Hooper CBE was appointed Panel Chairman with Dame Deirdre Hutton, Ian Smith and seven other members. It was emphasised that the Panel was entirely independent.

The Review Panel submitted its report to Parliament on 16 December 2008. It is entitled 'Modernise or decline'. The report describes Royal Mail as inefficient but it doesn't acknowledge that it is the EU that is thwarting the introduction of modern systems. Instead the report suggests amalgamating Royal Mail with one or more private sector companies.

The Report is comprehensive but it avoids a number of relevant points and it only mentions the EU's involvement in passing.

In identifying the 'stakeholders' in the postal service the report disregards the people at the 28 million business and residential addresses who use the mail service. It is also untruthful in saying that the practice of delivering mail throughout the land at the same price survives today.

The report admits that unless Royal Mail can modernise faster, a forced restructuring under European rules is highly likely. So the Government is in a quandary in that it cannot modernise whilst the European Commission prevents it, but if it doesn't modernise the EU will take it over.

A further comment is that "Parliamentary accountability for providing the universal service should be strengthened". Bearing in mind that the Government owns Royal Mail it is difficult to see how its accountability could be strengthened. The FSA, BERR and Postcom are the departments which should monitor Royal Mail. It is not a question of their accountability being strengthened, but that they should exercise their responsibility conscientiously and honestly.

One of the stumbling blocks to an amalgamation would be that Royal Mail has probably the largest pension deficit of any British Company. It is in the region of £6 billion. It is unlikely that a partner would accept a share of the pension fund deficit, so it is recommended that if a partner is found the pension fund deficit will remain with the Government.

The report is littered with comments which are either untrue, illogical or blindingly obvious. Examples follow:

- "Modernisation is the key to a positive and profitable future for the postal service".
- "Sustaining the universal service means removing the constraints which currently impede Royal Mail's ability to respond to a structural decline in the letters market".
- "Unless measures are taken to accelerate the process of modernisation, it is likely that Royal Mail will need to approach Government for emergency financial support".
- "Emergency financial support would lead to forced and rapid restructuring carried out under European rules on restructuring aid".
- "Liberalisation has had a relatively limited impact on Royal Mail's financial position",

The report fails to answer the crucial question "how to maintain the Universal Service". It should have been "how to restore the Universal Service".

The Report has received little publicity or press attention but Lord Mandelson, Secretary of State for Business, Enterprise & Regulatory Reform made a statement to the House of Lords on 16 December 2008 setting out the conclusions of the Hooper Report. He said that the Government has accepted a recommendation that the Royal Mail should "forge a strategic minority partnership" with another operator and that "the Dutch postal company TNT had already expressed an interest in taking a minority stake in Royal Mail" and "that this approach will safeguard the future of the service". He added that the Government "reject cutting back the universal service" and that this will provide "benefits for everybody" and that "It will protect the universal service for consumers. It will give Royal Mail new opportunities to modernise and develop. It offers the Royal Mail's staff a future in a modern, efficient postal operator with more secure pension arrangements. It offers the whole country a Royal Mail we can be proud of", and that securing a minority partner "will bring the Royal Mail fresh investment, new opportunities to grow in Europe and internationally and to offer new services". He concluded by saying that the Government "agrees with Hooper's analysis and the recommendations" and "we intend to take forward the recommendations as a coherent package of measures".

As expected by those who follow these machinations it is being presented with the slant that the EU's Universal Postal system is good for Britain and that it has not harmed our previous postal arrangements.

A study of our other utilities demonstrates how our economic structure is being deliberately and comprehensively dismembered. The electrical sector is an example. EoN the German energy giant bought Powergen. It supplies energy to every region of Great Britain. Électricité de France (EDF), one of the largest energy companies in the UK (whose major shareholder is the French Government) owns the South West Energy Board and South Eastern Energy Board. On 7 August 2007 the French President, Nicolas Sarkozy, ordered a two per cent limit on any increase in electricity prices in France and five per cent for gas, but EDF raised its gas tariff in Britain by 22 per cent and electricity by 17 per cent. It was also recently agreed that we would sell British Energy to EDF. Its nuclear powered plants generate about 20 per cent of British electricity capability.

On 19 January 2009 David Cameron appointed Kenneth Clarke to be the Conservative Shadow Business Secretary in opposition to Peter Mandelson. Ken Clarke's views on the EU are well known. Clarke and Mandeslson are like two peas in the same pod.

The first sentence in the Hooper Report emphasises that it is an independent review. That may be so in theory but a check in *Who's Who* shows clearly that its main members are part of the British Establishment.

The third reason why the Royal Mail will not last many more years is because of its name. The anti-royalist lobby in

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Parliament will undoubtedly dispense with the word 'Royal' as soon as possible. Many people who are concerned about Britain's loss of sovereignty write to the Queen – who passes the letter on to the appropriate government department for an answer. One such letter was passed to the Ministry of Justice recently. The reply dated 14 November 2008 reads: "The Queen no longer has a political or executive role" and that "Parliament, not the Queen holds sovereignty".

The Labour Party's 2005 manifesto reads "Our ambition is to see a publicly owned Royal Mail fully restored to good health, providing customers with an excellent service and its employees with rewarding employment." Another manifesto promise broken!

The Government has painted a picture of the Royal Mail as being inefficient, with poor industrial relations and a massive pension deficit. It has convinced the establishment that only a private sector company can save it. Having been through the process of spreading alarm with only one solution, the Royal Mail announced on 21 January 2009 that it has made a profit of £255 million in the nine months to Christmas 2008, and that all its businesses are in profit for the first time in almost 20 years. Royal Mail chairman, Allan Leighton, said: "A huge amount has been done to put the business on a stable footing", … "we are getting on with our modernisation plans and catching up on decades of under-investment." Chief executive Adam Crozier added: "We have plans in place to spend every penny of the £1.2 billion commercial loan agreed by the Government in 2007 over the plan's lifespan to 2011."

Two interesting points arise. First, it is remarkable that Royal Mail can produce detailed accounts only a few days after the accounting period has expired, and secondly it appears to demonstrate negotiations have taken place whereby we may continue funding improvements providing we pass part of the business over to a foreign competitor.

Our ultra-Socialist Government intends to destroy all Britain's traditional institutions whilst the population is supine and the feckless political opposition in Parliament largely supports EU domination.

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European Parliament calls for EU army

Margarida Vasconcelos reports: On 19 February, the European Parliament adopted by a large majority, 482 votes in favour, 111 against with 55 abstentions, Karl Von Wogau's own initiative report entitled "European security strategy and ESDP" which calls for a stronger foreign, security and defence policy. The EU Member States have been criticised by the European Parliament for not achieving progress on key aspects of the EU's foreign and security policy.

According to the MEPs in order to promote peace and international security, the EU needs to develop its strategic autonomy through multilateral cooperation in international organisations, such as the United Nations, and through partnerships with other key actors.

Whereas the European Parliament stressed the importance of the transatlantic relationship and coordination of actions between the European Security and Defence Policy (ESDP) and NATO it pointed out that it is necessary "(…) a more balanced partnership, without competition and with respect for each others' autonomy and mutual understanding where there are diverging strategic considerations."

It should be noted that security and defence questions are decided at intergovernmental level – therefore the European Parliament has no competence in this policy area. However, the European Parliament is seeking to get involved in the ESDP. It can adopt recommendations to be addressed to the Council and own-initiative reports, where it can express its views on this policy.

According to the European Parliament the EU defence "needs a new dynamic" – therefore it has made around 15 recommendations to the Council.

While criticising the Member States, urging them to be more concerned with their national security interests and neglecting the common responsibility for protecting joint European interests it has urged them to provide for more effective European security arrangements so that the EU can be a more important player on the international scene. The MEPs have deemed it necessary to define the EU's common security interests.

It is important to mention that last December the European Council has marked a decisive step for the ESDP. It was a great victory for the French Presidency as its proposals to strengthen the ESDP were endorsed by the European Council. Obviously, the European Parliament congratulated the French EU Presidency for its initiatives concerning ESDP. The European Council has stressed that Europe should be capable in the near future of deploying 60 000 men in 60 days for a major operation. But the EU leaders have not established any deadline or specific financial commitments. According to the European Parliament Eurocorps should be the core of the EU force of 60 000 soldiers permanently available. The EU leaders agreed that the EU should be able to conduct "two major stabilisation

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and reconstruction operations supported by a maximum of 10,000 men for at least two years" as well as "two rapid response operations of limited duration using the EU's battle groups." Moreover, the European Council has agreed that the EU should be able to conduct simultaneously "an emergency operation for the evacuation of European nationals, a maritime or air surveillance/interdiction mission, a civilian-military humanitarian assistance operation lasting up to 90 days" likewise "around a dozen ESDP civilian missions (…) of varying formats, in a rapid reaction situation which could last several years."

Obviously, the Council's commitments were welcomed by the MEPs. Nevertheless, the European Parliament has criticised the vague wording used on the conclusions since they failed to describe a real strategy.

The European Parliament has called for a White Paper to include proposals which endeavours to improving and complementing the European Security Strategy mainly "the definition of common European security interests and criteria for the launching of ESDP missions." However the Council has not accepted the suggestion. Moreover, the Council has not considered the Parliament's demands made in previous reports on the ESS and the ESDP such as the definition of common European security interests and the definition of criteria for the launching of ESDP missions. Consequently, the European Parliament called, again, for a White Paper on European security and defence.

The European Parliament has also called again for the establishment of a European Civil Peace Corps. It wants to transform the Peace-building Partnership into a European Civil Peace Corps for crisis management and conflict prevention. It is evident that such Peace Corps would duplicate the work of the UN.

The European Parliament has stressed the need for the EU to build up both civilian and military capabilities in order to strengthen the ESDP. The MEPs called on the Member States to pool and share existing capabilities and to jointly development new ones. The European Parliament has requested to the EU Member States to "focus their efforts on common capabilities which can be used for both defence and security purposes."

The European Council has subscribed to the declaration adopted by the General Affairs and External Relations Council on strengthening capabilities of the European Security and Defence Policy. The declaration has identified several military capability initiatives which were approved last November, by the EU Defence Ministers, aimed at reinforcing the EU's military capabilities as regards security and defence in the aviation, maritime, space and industrial fields.

Unsurprisingly, the European Parliament has welcomed such initiatives. In fact, the MEPs have stressed that Member States should focus cooperation efforts on certain sectors such as satellite-based intelligence, surveillance and warning equipment, unmanned air vehicles, helicopters and telecommunication equipment, and air and sea transport.

According to the European Parliament the Galileo and GMES (Global Monitoring for Environment and Security) systems should be used for security and defence purposes.

The European Parliament is calling for further European military integration. The European Parliament considers "that a common defence policy in Europe requires an integrated European Armed Force which consequently needs to be equipped with common weapon systems so as to guarantee commonality and interoperability." It has called for further cooperation between national armed forces "so that they become increasingly synchronised."

The European Parliament has therefore recommended a new process, named SAFE (Synchronised Armed Forces Europe), to reinforce cooperation between national armed forces. The European Parliament has proposed "(…) an opt-in model for the organisation of SAFE based on more intensive voluntary synchronisation." SAFE would be grounded in "the principle of a Europe-wide division of labour in military capabilities." This would be another step towards an EU army. If the idea is to "synchronise" EU Member States armies the aim behind it is to put in place a single army controlled and commanded by the EU.

According to the MEPs there should be a "European statute for soldiers", within the framework of SAFE, governing "(…) training standards, operational doctrine and freedom of operational action, issues relating to duties and rights, as well as the level of equipment quality, medical care and social security arrangements in the event of death, injury or incapacity." It seems that the MEPs are suggesting replacing Member States' army regulations with the "European statute for soldiers." A European army would undermine the UK's ability to use its own armed forces.

Sarkozy believes that the EU should have a "permanent and independent strategic planning capability" in order not to be dependent of the availability of national command capabilities or NATO resources. Hence, the question of strengthening the Military Staff of the European Union (EUMS) to transform it into a command centre capable of managing EU military operations is on the agenda. This idea has been opposed by the UK. However, there has been a general change in British policy on ESDP. The EU defence ministers had agreed to enhance the capacity of EU military staff in Brussels to carry out strategic planning for missions. According to the European Council Conclusions "The European Council would encourage the efforts of the Secretary-General/High Representative to establish a new, single civilian-military strategic planning structure for ESDP operations and missions." It seems, for the moment, a new directorate responsible for crises will be created within the EU Council. Obviously, behind this plan is the reform of the EU's crisis management structures.

The European Parliament has welcomed the European Council's decision. In fact, it has called for the development of an autonomous and permanent EU Operational Headquarters with the capacity to carry out strategic planning and to conduct ESDP operations and missions.

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It also favours the idea of creating a Council of Defence Ministers, instead of the present meetings of defence ministers in the Foreign Affairs Council composition.

The European Parliament has recommended strengthening the European Security and Defence College and transforming it into a permanent structure in order to enhance the development of a specifically European security culture. The European Parliament has called for coordination of crisis-related training and exchange programmes among armed forces in Europe.

France also wanted to promote joint European training courses as well as exchanges between national training bodies. The European Council has also backed the initiative for exchanges between young officers, inspired by the Erasmus programme with the aim to create a "European defence culture."

MEPs have suggested that the EU Member States should open up their armies to citizens of other EU Member States. However, people join the army because they feel the need or willingness to defend their own country. Why on earth the European Parliament believes that citizens from a Member State would like to enter the army of another Member State and what about their oath of loyalty to their country?

The European Parliament also adopted Ari Vatanen's report on the role of NATO in the security architecture of the EU. The European Parliament has stressed its support for "(…) the establishment of a permanent EU Operational Headquarters, under the authority of the Vice-President of the Commission/High Representative, having as part of its mandate the planning and conduct of military ESDP operations." According to the MEPs, such a structure would not duplicate NATO's work but it would complement the current NATO command structures. The European Parliament has proposed that "(…) each EU Member State which is a member of NATO should demarcate those forces that can be deployed only for EU operations, so as to prevent such deployment being blocked by NATO members which are not EU Member States; considers that duplication in the use of these forces should be avoided."

The EU is duplicating the work of the United Nations and NATO without adding value. There are no troops for all the NATO, EU and UN missions. Lt. Gen. Karl Eikenberrry, the deputy chairman of the NATO military committee, has recently criticised the ESDP as regards equipment, operations and political commitment. He said "European forces tend to go it alone. There is duplication, as well as quantitative and qualitative problems." Caroline Flint, the Minister for Europe wrote, recently to the *Guardian* saying "(…) Let me be clear - there are no plans for a European army; no such army exists (…)" However, Geoffrey Van Orden MEP, Conservative defence spokesman, replied saying that British ministers are "(…) sleepwalking towards a European army and seem to have little awareness of what is going on."

The MEP has also stressed that France has been given "one of the top two military posts in NATO: Supreme Allied Commander Transformation." Hence, according to Van Orden, "France will now have the opportunity to adapt Nato to suit its EU agenda." Moreover, he said in a letter to the *Guardian* "There is already the distraction of President Sarkozy's insistence on changing the seating arrangements; choreography designed to highlight France's place in the alliance; and a script setting out France's view of the relationship between the EU and Nato. The fact is, there is a determination to create what amounts to a European army."

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Euroland Shivers Toward New Industrial and Economic Reality

Howard Wheeldon writes: The sheer size and scale of Member State GDP decline may differ from nation to nation but the message is abundantly clear – the EU is headed for an unprecedented period of economic contraction from which it will take many years to recover. UK apart, the situation is far worse for those that are stuck with a grossly overvalued euro. We should care more for their plight. Having thrown away all independence to come under the spell of the European Central Bank, there can be absolutely no escape from further GDP devastation though 2009. How much longer I wonder before the political voices of discontent really do begin to be heard that the ECB, the guiding hand of the Euro and the great protector of the Euroland economy is failing to act? Perhaps not that long! And how much longer before voices of discontent from smaller euro members such as Ireland, Portugal, Greece, Spain and even perhaps Italy lose faith in the euro?

It is probably easy for some to believe that the treachery of abandoning the euro, creating a national currency that can be allowed to freely devalue and that would allow any current member nation to gain an upper hand competitive hand on export potential, the reality would be very different. Believing that it might be possible to make yourself more competitive is one thing, but for any weak nation the reality of abandoning the euro probably also means abandoning or being thrown out of the EU. I am in no doubt that there are some, including perhaps some of my own colleagues, that would love to see the EU begin to break down. I do not share

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such a view and neither do I wish to see an end to the euro. But what I do want to see is the ECB acting in a manner that reflects the seriousness of the current plight of all euro Member States – not just at the beck and call of Germany and France.

What I also want to see is the European Commission abandoning, even if only temporarily, rules that prevent individual action of Member States to provide genuine assistance to their respective industries. Neither do I wish to see a two tier Euroland develop any more than it already has. I believe too that the main institutions of Euroland, meaning the ECB, and the European Commission itself are duty bound protect all rather than just a few Member States. They created the bed – they must fair and make enough room for all to lie on it.

Back to the departure issue though, the problem behind any Member State actually abandoning the euro. Walking away from the euro is one thing - abandoning the Europe Union is surely quite another. To do that would essentially also mean being cast aside by the rest of Europe and maybe, if the external perception of rating agencies, and other fine institutions is that the economy is so weak and that there may be dangers of political unrest developing, being cast aside by the rest of the capitalist world too. My guess is also that the banking system in any country that left the euro would very quickly collapse and that they would be forced into the hands of the IMF. Thus, unless the situation weakens to the point that serious political unrest takes hold, I am forced to take the view that the barriers to leaving would be very much greater than the formidable existing barriers to entry.

For now then we should think it very unlikely that anyone will seek to abandon the euro. Perhaps we in the UK should be grateful for that. No matter what, with the die already cast there really is no alternative for the minority but to stay in the euro unless and if political unrest really did take hold. Even allowing for concern within some newer euro members, I think that situation very unlikely. Overvalued it may well be and with most Member States desperate to see some form of euro devaluation, for good or ill we must remind ourselves that over the ten years since it was formed the euro has probably done far more good than harm.

Back in the real world and given horrendous, if well anticipated, Q3 GDP figures for France and Germany this morning it seems that current IMF projections that the euro economy will decline by 2.5 per cent in the current year may well be far too low. We could be talking here of a 3 per cent or even 3.5 per cent decline in fiscal 2009. And just what is the European Central Bank doing to ease the plight of Member States? Little more than adjusting inflation expectations down and signalling that interest rates will be further cut next month. Slow, slow…..plod, plod….slow. Yes, it is playing the game of attempting to provide additional liquidity for banks and it has attempted to join in a co-ordinated approach with other global central banks to the economic ills we suffer when it could. But it has done nothing to alleviate the problem that the euro is too high. What should the ECB do? Exactly what the US and to a lesser extent, the UK is doing – throw caution to the wind and throw money at the system.

True, the ECB is restrained through a certain lack of freedom. It is responsible to all members of the euro and it is the individual Member States that in the end would need to effectively stump up. It isn't quite so easy for the ECB to pile into a quantitative easing strategy as it is say, for the UK. Essentially we are talking here about extending the national debt of each Member State to the point of breaking the self inflicted borrowing rules. And at some future point, anything the ECB eventually has to be paid for by those same Member States through higher taxes.

With Germany – the engine of the euro economy – posting a hefty 2.1 per cent GDP decline in Q3, Italy down 1.8 per cent and France down 1.2 per cent the extent of the problems facing the euro economy can be easily seen. At the heart of this is the decline in manufacturing exports that can perhaps predominantly be blamed on the uncompetitive euro together with the undeniable fact that as this is a global recession few nations are buying.

What you see is what you get and with Germany so reliant on manufacturing it comes as little surprise that the GDP decline here tops the list. Across the whole EU area, car sales have been devastated and with it production of steel and all related component activity. This is likely to get even worse in the months ahead. In part, due to the longer lead times necessary and the traditional rules of late cycle performance, heavy industries will also find the position worsening over the coming months and for these guys, there can be little comfort as they look toward 2010. Can Euroland industry survive this crisis intact? Much will depend on amounts of individual government cash that gets thrown at them. For instance, France has already thrown its car industry a lifeline in the form of a EUR6bn package of relief. Quietly Germany is seeking to do something similar despite the raging argument that individual relief packages – be they loans or whatever else governments seek to call them – are effectively protectionism by another name. Hardly fair on those euro based governments that do not have the resources to throw at their systems and that are now forced to be reliant on actions to reflate coming solely from the ECB. Not that any amount of complaining such packages are unfair is likely to worry either French or German governments even though we might well assume that sooner or later relief 'loans' such as those that we have seen announced by the French could well be outlawed by the European Commission. By then of course, it will be too late.

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Gesture Politics Rules OK

MEPs have recently had a letter (10 February) from the parliament's top civil servant Harald Romer, advising us that the parliament will be turning off the public-area lights for a whole hour-and-a-half on Friday 13 Feb, from 6 pm until 7.30. This is an energy-saving gesture designed to raise public awareness of climate hysteria and the need to conserve energy, and to reduce our carbon footprints (feetprint?). Members and staff are invited to join in by turning off the lights in their offices (and perhaps using candles instead?)

Since virtually all MEPs go home of a Thursday, and most staff will have left by six on a Friday afternoon, there will be almost no one in the building, and no power saving. And almost no members of the public will notice. It is, indeed, the most spectacular and gratuitous example of trivial, pointless gesture politics that you could imagine.

Now my good friend and colleague Mogens Camré, an extraordinarily sound Danish MEP, has written to Mr. Romer to ask him how much power, and carbon emissions, we should save if we were to close the Strasbourg building and stop the lunatic monthly commuting by the whole parliament. (Last time we asked, the answer was 90,000 tons of CO2). Some hope. The European Parliament is delighted to join in with pointless gestures and posturing. But do something to make a real difference? And upset the French? That would never do. [*Roger Helmer*]

EC Shows True French and German Colours while Lawson talks through his hat?

Howard Wheeldon writes:

Colour Blind EC….

While officials from the European Commission and certain EU Finance officials are absolutely right to highlight concerns that the sharp fall in sterling raises serious doubts about UK financial stability – contradicting UK government belief that with sterling now around 25 per cent lower against the euro than a year ago and well down against the dollar too that the UK economy will benefit from increased exports – it seems that this time officials have gone one step too far. In a report apparently prepared ahead of the last G7 meeting in Rome, the EU also makes plain that its concern over the fall in sterling is actually very one, or should I better say, fifteen sided. How come? Because the EU says that its real concern is that the pounds slump against the euro could make it far more difficult for the other fifteen EU members to export to what it calls its biggest trading partner – the UK . Talk about selfless interest, the behaviour from those that wrote this report is absolutely despicable. That exporting to Britain is going to be more expensive and less competitive for the fifteen other EU members may be hard on them but the point is that with Britain also a full member of the EU entitles the island nation to fair play. After all, still relatively fresh from a torrid experience with the EMU back in 1992 and with so much concern about Britain joining the new currency in later years ahead of the 1999 birth of the euro currency and the determination that we should meet the so-called seven golden rules if and before we ever joined, it is hardly our fault that we opted to stay out. Privately or not, it is not in my view the place of the European Commission or any group of senior officials from the EU to express concerns that the bulk of euro member countries may lose out at the expense of another that decided to stay away from the new currency. It is 'tough fromage' that those across the Channel will find it harder to export to Britain whilst those of us on this side and that don't actually export that much, could find it easier. Yes, the EC can criticise UK economic and political policy all it likes provided this is within its jurisdiction but please don't give us any lectures on our currency.

Economics the Lawson Way ….

Talking of history, did I hear a sudden outburst from a former UK Chancellor, Lord (Nigel) Lawson – you know, the one that really messed up the housing market back in the late 1980's encouraging would-be house and flat buyers to borrow all that they could but to do it before a certain date when he proposed to change various tax allowances rules for couples – telling us that Government would be forced to nationalise more banks to quell turmoil in financial markets? Twenty years on since falling out with then Prime Minister, Margaret Thatcher and having never had to face such hostages to fortune as the current chancellor now is begs the question what does Lawson know that the rest of us don't? Not a lot is my best guess and quite frankly, he is doing no one any favours suggesting that more banks will need to be nationalised – they won't. As a Tory grandee, one would have thought that Lawson's sensibilities would also be to support the party line which, as far as I know, while critical of Gordon Brown's handling of the economy and claiming that the government may well be giving too much ground to the

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banks, is actually against further bank nationalisation unless absolutely necessary. Not Mr. Lawson though…he has come out all guns blazing but, as is common in such events, providing no real alternative to what the government has already done. OK, so the added bonus is that Lawson criticised the Brown agenda for economic recovery – on that score I would probably agree. Quite for what purpose the 'svelte-like' former Chancellor, financial journalist and one time *Sunday Telegraph* editor allowed himself to be drawn into the current economic mess is anyone's guess. Perhaps it is because he doesn't feel that the shadow Chancellor is doing a good enough job in leading the way forward? Who knows but if it is, I for one would probably have to agree! And if you believe that experience counts then Lawson would win every round against Osborne. Nevertheless, while Lawson is entitled to his views one would prefer to read them in the time honoured fashion of published articles. That way he could at least explain more fully how he would be handling the self induced Gordon Brown crisis if he happened to be Chancellor now. No doubt this would make very interesting reading but hopefully not quite good enough to shed the peerage, grab a safe seat and get invited back on to the Tory front bench! [*Howard Wheeldon*]

It's not just the bankers to blame

Roger Helmer MEP writes: Politicians owe a debt of gratitude to the bankers. We politicians used to be the most unpopular and reviled profession in the country, until the bankers stole the limelight. Everyone hates the bankers. There's even talk of civil unrest in the summer with the middle-class unemployed besieging the banks. And on 24 Feb, in his first major speech to both Houses of Congress, President Barack Obama earned wild cheers and adulation for scarifying the bankers yet again. They were irresponsible, and selfish. They are the guilty ones. They are the source of all evil. OK, OK, OK. They were certainly at fault. They lent too much to people who couldn't be expected to pay the money back. Their bonus structures were excessive, and were far too focussed on the short-term, rather than on solid, sustainable performance. But let's not blame the fish for the water they swim in. Who created the regulatory environment that allowed the irresponsibility? Indeed the environment that forced the bankers to follow the herd, merely to stay in the business? Why it was the politicians and the regulators. Who stood back and did nothing while the credit bubble blew up to unsustainable levels? The politicians and the regulators. Who claimed to be prudent, to have eliminated boom and bust, while he built a false prosperity based on an ocean of debt? Gordon Brown. Who then claimed, in the House of Commons, to have Saved the World? Gordon Brown. So let's get it straight. We can go all the way back to a Democratic President, Jimmy Carter, who looked for ways to persuade the big US mortgage operators to relax their lending criteria and bring in more lower-income Americans to the American Dream of home ownership, and a rocking chair on the front porch. Another Democratic President, Bill Clinton, did the same, demanding more lending from Fannie Mae and Freddie Mac to low-income and ethnic minority families. That's where the Ninja mortgages started. And there are few votes in denying home ownership to the poor. In 1999, in one of the last gestures of his Presidency, Clinton signed the repeal of the Glass-Steagal Act of 1933, a measure to control speculation which created a separation between retail banks where granny keeps her savings, and investment banks that in their nature are higher-risk operations. The repeal dropped that condition. As a result, granny's savings were subjected to the same sort of risk as investment banking funds, with results that are all too clear. And it was not just politicians. Alan Greenspan, Chairman of the Federal Reserve, was a very clever man, but with hindsight we can see that he was wrong to ignore asset bubbles, which he thought would sort themselves out in due course. He was wrong to keep interest rates too low for too long, fuelling the debt mountain. This is not market failure. This is political and regulatory failure. As a recent US Ambassador to Brussels put it, Adam Smith has not failed us. We have failed Adam Smith. [*R. Helmer*]

Vaclav Klaus is magnificent

Vaclav Klaus is President of the Czech Republic. And by virtue of the EU's rotating Presidency, the Czech Republic holds the Presidency of the EU (Jan/June 2009). So today (19 Feb) President Klaus came to speak to the assembled Plenary session of the Parliament, in Brussels. I should say here that Klaus is one of my heroes. He is committed to conservative values – liberty, free markets, a small state. So clearly the kind of EU we have today is anathema to him. He is also a climate sceptic. And (let me brag for a moment), in his wonderful book "Blue Planet in Green Shackles" he was kind enough to cite my work. In a footnote on page 34. Now the European parliament is unaccustomed to hear dissent about the European project from visiting dignitaries in its plenary sessions, so there was great interest and a certain tension ahead of Klaus's visit. And he didn't let us down. After the obligatory remarks confirming the Czech Republic's historic place in Europe, he started with a forensic dissection of the EU's centralising tendency. He called on the parliament, each time we voted (and he was speaking during a break in a voting session) to pause and consider whether the decisions we were taking could be better left to national parliaments. He spoke at length about the "democratic

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deficit", the gap between MEPs and citizens, insisting that ordinary voters felt closer to their national MPs and their national governments than they did to remote EU institutions. More power, more centralised decision-making, such as that envisaged in the Lisbon Treaty, would increase the alienation from the political process already felt by citizens, who were caught up in a process which they did not own and could not control. More power for the European parliament, he argued, far from increasing democratic accountability in the EU, would drive a deeper wedge between the people and the institutions. A problem for sceptic MEPs in the parliament is that it is much easier to express support for a speaker, by clapping and cheering, than to express dissent (I and a few others have been fined by the parliament for expressing dissent too vigorously). So it was a delight to hear a sceptic speaker, and to find that the advantage of easy assent lay with us, and not with the bad guys. The fifty or so sceptics, myself included, applauded repeatedly throughout the speech, and though we were a minority, I think we provided considerable encouragement to the speaker over the intense but less audible waves of dissent from the federalists. But at the suggestion that more powers for the European parliament would be anti-democratic, quite a number of the federalists rose to their feet and walked out (a disgraceful affront to the Head of a Member State). A diminished audience, albeit with the applauding sceptics intact, remained for the rest of the speech. Klaus went on to hint in pretty clear terms that he saw close parallels between the centralisation and over-regulation of the EU, and the authoritarian régime which the Czech people suffered for forty years under the Communists. It is customary for the President of the parliament, currently German EPP MEP Hans-Gert Poettering, to reply to the speaker. Hans-Gert has the ability to express barbed disagreement and disdain in the most obsequiously courteous terms. But it was clear that he was angry. He petulantly rejected any parallel with Communism. But he also let slip something often claimed by sceptics, but frequently denied by europhiles: that the EU generates 75 per cent of the new laws affecting EU citizens. Now we have that explicitly confirmed straight from the horse's mouth -- or at least from Hans-Gert's mouth. And he concluded with a ringing assertion that "fortunately, in a democracy, it's the majority that counts". So let's conclude with a challenge to Hans-Gert. If you believe that the majority counts, Hans-Gert, let's have a referendum on the Lisbon Treaty. [*Roger Helmer*]

Europe and the road to civil protection

Glen Ruffle reports: The European Commission recently published a communication looking at how the EU can work to prevent natural and man-made disasters. These are situations such as earthquakes and droughts, and also disasters brought on by poor management of land or water.

COM (2009) 82 Final is a paper which outlines the Community role in the area of Civil Protection, and as a document, it seeks to push the Lisbon Treaty clauses under this title into action, despite the fact that Lisbon has yet to be completely legally ratified, and has been, in all except one European state, denied any form of popular vote.

The Lisbon Treaty gives the EU a new legal base to act in the sphere of natural and man-made disasters, requiring a qualified Council majority European Parliament vote in order for decisions to be made.

The Treaty articles allow the Commission competence to support, coordinate and supplement Member States actions in the area of civil protection (Article 6 of the Treaty on the Functioning of the European Union), and the Commission's recent paper makes it clear that Brussels wants to exploit this.

Using the argument that disasters do not respect national borders, the Commission wants to facilitate better coordination, warning and preventative measures across the EU area. Lisbon entitles the EU, under Article 196 TFEU, to 'encourage' cooperation, and support Member States actions at all levels of government.

Promoting cooperation between the national services and organisations of the Member States effectively means the Commission will push for standardisation, regulation and integration between national agencies into one common system. The treaty does explicitly say that the EU has no power to enforce harmonisation yet, but it is likely pressure will be brought to bear for an informal adoption of a new system. The Commission's report expressed frustration that so many national agencies measure situations in different ways, and chose this as the first step towards harmonisation and a common European system. Page 5 of the report states "The Commission will carry out a study on current practices of hazard and risk mapping in Member States", which must be a precursor to the development of a common system.

One can expect taxpayers to be less than pleased that the Commission is spending their hard-earned money on a team of researchers looking at how information is recorded, rather than concrete projects that will deliver real physical benefits.

The Commission's paper argues that natural and man-made disasters are negative for the whole of Europe because they negatively effect the whole EU's economic growth. This builds on the arguments Greece made in 2007 after the massive fires that caused extensive damage. The Greek government, in an act of national interest, called for a common European disaster response force, obviously preferring for the whole EU to pick up the cost of the

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damage rather than just Greece.

Such a centralised system, however, would work, as all centralised systems do, to stifle innovation and creativity, and could punish all of Europe for one states poor forest management policies or land-usage laws. It would also further the diminishing of democracy in Europe by handing more power to the unelected elites in Brussels and making it harder for national electorates to punish those who allowed the situations to develop through bad policies. If the EU causes a land-slide, what can a national electorate do?

The EU's venturing into this sphere is just another attempt by the Commission to create work for itself and justify it's bloated existence, whilst furthering the overall aims of the Euro-elite to continue their Euro-state project. We will never see any real beneficial outcomes from the EU's involvement.. [*Glen Ruffle*]

. . . Letting "I dare not" wait upon "I would"

Don Anderson writes: An agriculture debate on 'Country of Origin Labelling' need not occupy the attention of every MP and, to prove it, only a handful of honourable members turned up. The event engaged the House for 2½ hours on the 24 February and, for all it achieved, it might as well not have taken place at all.

Nick Herbert introduced the amendment calling for clear labelling to show where meat products came from, when they are offered for sale. As the law stands, chickens stuffed with hormones or animals which have been reared in conditions that would not be tolerated in the UK can be imported and, provided they are butchered, sliced or prepared in some form of final packaging, can be labelled as 'produced in Britain'. They can even be decorated with the Union Jack to give customers the misleading impression that they are buying homereared produce.

Speakers on both sides deplored this situation and the fact that retailers operate it under voluntary guidance only. Cases were put to show the impact it was having on farmers in their respective constituencies. Pig farmers in particular were going out of business, being unable to produce as cheaply under the UK rules of husbandry, as the Danes, for example, under the rules applicable there. MPs for Shropshire and Herefordshire proudly claimed that British beef was the finest obtainable and, similarly the quality of Welsh lamb was extolled. Our agriculture could, and should, largely feed the nation, saving food-miles of transport and foreign exchange to pay for foreign products.

The logic was unassailable and there was consensus from all parties – with the exception of Rob Morris (Lab) who thought the debate should not even be taking place.

The Secretary of State concluded the debate by complimenting the speakers on their thoughtfulness. He then rendered the whole exercise meaningless by saying that, although he basically agreed that the labelling should be accurate in showing the origin of the meat so that consumers should not be misled, he would not waste the EU Commissioner's time by proposing it, because it was certain to be rejected by him, with the concurrence of 26 other members, as an Irish proposal had previously been turned down.

It seems that the Europeans, having rigged the CAP to suit themselves before we joined the EEC, might lose some business if British buyers could see just where the the meat they were buying came from. This must show a lack of confidence in the comparative quality of the EU product, given the less zealous application of what are supposed to be common standards of husbandry. They are obviously nervous that British housewives might show a preference for home-grown local food, in the same way that they support farmers' markets. So although the Minister agreed with the principle of transparency, and recognised the damage being done to our farmers, he refused to take up cudgels on Britain's behalf, in order not to tarnish his European credentials.

Having rendered the debate irrelevant, MPs from wherever they had been lurking in the recesses of the building trooped dutifully into their designated lobbies to confirm, with Labour's inbuilt majority, that the matter would be consigned to Westminster's dustbin (presumably to be cleared fortnightly, if they can force the lid of the wheelie bin shut). The lobby fodder had not attended or participated in the debate, and it is doubtful whether they had interrupted doing their pools or chatting over a pint, to glance at a screen relaying the arguments, or thinking for themselves at all, before answering the division bell.

To what deplorable depths our government has descended! We are incapable of passing a simple piece of legislation, which MPs from all parties and the Minister himself agreed would be in our best interest, because we are too craven to say to the EU "this is what we are doing, like it or lump it".

Our membership of the EU is entirely politician-driven, with the electorate being denied any say in the matter. This was one futile debate, but the same futility applies to debates on subjects governed by competences that our politicians have ceded to Brussels, handing over sovereignty of which they were merely the custodians.

It is time for a rethink, a re-negotiation, a restitution of our governance – a return to real debate, a reversal of over-regulation and a reconnection with the voting public.

Don Anderson is a regular contributor to The European Journal

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Karlsruhe studies Lisbon

John Laughland reports: Die Welt reports that pro-European politicians in Germany – the vast majority – are beginning to fear that the appeal against the Lisbon treaty lodged last year with the Federal Constitutional Court by the Bavarian Eurosceptic, Peter Gauweiler, has some chance of success. This opinion (or fear) is in stark contrast to their earlier dismissive reaction to his appeal, which is only the latest in a series of appeals against successive EU treaties, none of which has prevented any of them from being ratified.

Although the German president signed the Lisbon treaty late last year, he has not yet submitted the instrument of ratification pending the Court's decision. This means that Germany is one of four countries which have still not ratified the Lisbon treaty – together with Ireland, the Czech Republic and Poland.

Until now, Gauweiler has been almost alone in the German political class in his hostility to further European integration. But his cause has been gathering supporters and others have launched appeals as well. The most famous is without doubt Franz Ludwig Schenk, Count von Stauffenberg, the son of the Claus von Stauffenberg who tried to kill Hitler and who is played by Tom Cruise in "Valkyrie". The most influential is perhaps Dieter Spethmann, the former boss of the enormous industrial concern, Thyssen. An appeal has also been lodged by Joachim Starbatty who also appealed against Maastricht.

Opposition to Lisbon also comes from the political Left. Klaus Buchner, the chairman of a small ecologist party, has been joined by the leaders of the much bigger left-wing party, Die Linke, Gregor Gysi (the former leader of the Communist Party) and Oskar Lafontaine (the former Finance Minister and former leader of the Social Democratic Party).

For different reasons, these various people all claim the same thing – that any further transfer of power to the EU will render the German parliament impotent and cause Germany to lose its national sovereignty. The judges will have to study whether or not the new treaty is in conformity with the German constitution. In previous rulings, the Court has given cautious approval to successive treaties, warning that they may be ratified "for so long as" certain lines are not overstepped. The present claimants say that they now have been. Stauffenberg says that there has been a progressive transfer of powers to the EU and that those which Lisbon provides for which turn the German political process into a "side show".

Gauweiler has drawn attention to the fact that Lisbon will allow the EU to transfer new powers to itself. If this can be proved, then there ought to be strong case for the Court to reject the treaty since one of the key reasons for approving Maastricht was that the EU would not receive the power to enlarge its own powers. A ruling on the treaty is not expected until the summer but in 2005 Karlsruhe proclaimed the European arrest warrant to be unconstitutional. In other words, there are precedents for the Court rejecting an EU measure. Although few commentators expect an outright rejection, some politicians fear that the judges may demand changes to the text. If this happened, then the whole process would have to start all over again and the treaty really would be dead in the water.[*Die Welt*, 9 February 2009]

Stauffenberg told *Die Welt am Sonntag* that his arguments before the Court compared the EU to the Weimar Republic, the constitutional system which brought Hitler to power. He said that Germany had learned after the war that everything must be legitimised by the people in advance, by which he presumably meant that a system could not be created which alienates the democratic sovereignty of the people. Stauffenberg, who himself once a Member of the European Parliament, said that the Lisbon treaty strengthened the Commission and the Council at the expense of national parliaments and that national MPs would be reduced to the role of "schoolchildren". He also used a nationalistic argument, saying that the European Parliament was not representative because there is no equality of representation: a citizen of Malta or Luxembourg has about 10 times more votes than a German. [*Die Welt am Sonntag*, 8 February 2009]

EUROPE NEWS



Schulz pleads for Europe

The leader of the Socialist Party fraction in the European Parliament, Martin Schulz, has expressed his frustration at the negative image of the EU. He complained that people were interested only in what Europe did for them. He said that people were in dangerous of talking Europe to destruction. He also expressed worry about the Karlsruhe verdict, saying that the judges should be aware what the effect of a negative verdict would be. [H. Corlly & Ch. B; Schlitz, *Die Welt*, 12 February 2009]

EU fisheries policy pushes up food prices, destroys jobs and harms economy

- EU fisheries policy increases the average family's food bill by £186 a year – £4.7 billion a year in total.
- The policy costs the UK economy £2.8 billion a year in higher taxes and lost business – £111 per family.
- Over 97,000 UK jobs have been lost – 9,000 in fishing and 88,000 onshore in dependent industries.
- 880,000 tonnes of dead fish are dumped into the North Sea every year.

[*TaxPayers' Alliance and Global Vision*, January 2009]

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The Commission's VAT-fraud idea has no anti-fraud benefit and places burdens on business

Margarida Vasconcelos reports: Last December, the European Commission adopted a Communication on a coordinated strategy to improve the fight against VAT fraud in the European Union presenting an action plan for future legislative measures to enhance the capacity of tax administrations to prevent or detect VAT fraud. The Commission has said that it is "conscious that a number of these proposals are quite substantial and touch on the difficult balance between burdens on business and effective tax administration; a sensitive issue that may provoke an extensive debate when the Commission tables its concrete proposals." Moreover, the Commission said, "certain long established administrative practices will need to be changed and member states will have to show the necessary flexibility and willingness to adapt." The Commission is, once again, not respecting the subsidiarity principle.

The European Scrutiny Committee has recently discussed the Commission Proposal for a Draft Directive amending Directive 2006/112/EC on the common system of value added tax as regards tax evasion linked to import and other cross-border transactions.

Presently, the importation of goods is exempt from VAT if followed by a transfer of the same goods to a taxable person in another Member State. The Member States laid down the conditions under which that exemption is granted. Such procedure is known in the UK as Onward Supply Relief. Relief is granted at initial importation if the VAT is declared, and paid, in the Member State of destination.

The Commission has decided to amend the Directive introducing three tight conditions under which the importer can benefit from the VAT exemption. The importer would therefore be required to be identified for VAT purposes or to appoint a fiscal representative in the Member State of importation, to provide at the time of importation, the VAT identification number of the taxable person to whom the goods will be sent in that other Member State and he shall prove that the goods will leave the Member State of importation in order to be transported or dispatched to another Member State. Presently, in the UK, the person invoking this exemption only has to certify that he will prove that the goods have been transported to another Member State, if requested.

According to the Financial Secretary to the Treasury, Stephen Timms, the existing rules on exemption from VAT at importation are inadequate however the Government believes that the Commission's proposal will have limited impact, while imposing further burdens on business as they would have to submit proof that the goods will be transported to another Member State.

The Commission has stressed that traders in intra-community supplies intentionally do not report their supply to the tax authorities. Consequently, the Member State of destination has no information about the arrival of goods on its territory, which hampers the detection of potential VAT losses.

The Commission's proposal is aimed at ensuring that businesses making intra-Community supplies of goods observe their obligation to report the supplies in a recapitulative statement (EC Sales List). The tax authorities in the Member State of destination (acquisition) become aware, with the recapitulative statement that goods have been supplied to a taxable person in their territory and that tax should be accounted for by the recipient.

The Commission's draft proposal would introduce a specific conditional and obligatory joint and several liability rule for cases whereby the supplier contributed by omission to a loss of the VAT payable in respect of the intra-Community acquisition of goods in another Member State by not presenting or presenting late his recapitulative statement or by not reporting all the information related to this intra-Community supply.

The Commission is aimed at establishing an automatic system that overrides proportionality in order to facilitate Member States to take action against alleged fraudsters. According to the Commission, the proposal respects the principle of proportionality since the measure introduces the liability of the supplier only if the acquirer has not submitted his VAT return related to the acquisition to his tax authority. Furthermore, the supplier may refute the presumption of liability by duly justifying his shortcoming in his reporting obligations to the competent tax authority.

The UK has already implemented domestic joint and several liability provisions and Stephen Timms said to the European Scrutiny Committee that the Government is willing to work at Community level in order that such provisions could be applied across borders. However, the minister is concerned with the Commission's proposed amendment. The Government has serious doubts over whether the proposal would have any anti-fraud benefit. The Commission wants to ensure that suppliers obey the obligation to report their intra-Community supplies of goods on their recapitulative statements. However, according to the minister the Commission proposal will have no effect as in the majority of cases suppliers involved in cross border fraud comply with their reporting obligations. The Government believes that the proposal is not proportional since a supplier would become liable for the tax obligations of the customer if it failed to submit a recapitulative statement properly, without the need

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to identify a tax loss. Furthermore, the tax authorities are not required to show the supplier intentionally contrived to facilitate the fraud or was negligent in facilitating the fraud to take place. The proposal has not provided for a requirement to prove involvement in fraud or for an assumption that the supplier was involved in fraud where both the recapitulative statement and VAT return are not completed properly. The European Court of Justice has ruled that it was essential that businesses had the opportunity to rebut any presumption that they had knowledge of the fraud.

The proposal provides that suppliers may not be held liable if they can justify their failure to submit recapitulative statement or any inaccuracies in it however the Government believes that such provisions are not clear and that "innocent traders could be affected."

Obviously, the Member State flexibility in tackling fraud effectively would be restricted. The Government is also concerned with the lack of Member State discretion under the proposal since they would be obliged to pursue the supplier, even when they would want to pursue another fraud player.

The proposal is going through the consultation procedure and unanimity is required at the Council. This is one of the few cases where the UK can, in fact, veto the proposal. It remains to be seen what will come out of the Council's negotiations. [*Margarida Vasconcelos*]

Central Europe & the EU: Part II The future of competitive markets or more regulation?

Professor Christie Davies writes: The Central European countries, having been preached at when seeking entry over the virtues of free markets and democratic institutions and the need to eliminate corruption and cronyism are now in a position to point to the shortcomings of the EU itself. In particular they can question the undemocratic nature of EU decision making, which is designed to avoid ever having to submit contentious matters to the will of the people,[1] the less than open markets of some of the existing members and the corruption that prevails at many levels. They can now demand the kind of reforms that were in times past demanded of them

Competition and Regulation

One downside of joining the EU for the Central European countries was having forced on them the acquis communautaire, an enormous body of the externally imposed regulations, the whole of which had to be implemented regardless of whether they fitted local conditions. Given that it had originally emerged from the interactions of a distant bureaucracy and politicians and pressure groups of 'old' member countries, whose experiences and situation will have been very different from those of the Central European countries; it is very unlikely that 'one size will fit all'. Also much of the acquis does not further the more general aims the Central European countries had when seeking to join. Many of the regulations restrict rather than facilitate the development of a free market. Also these are the ones most likely to be enforced and most likely to be extended in the future. By contrast measures to promote free market goals such as ensuring the free movement of services (as distinct from manufactures) such as financial services, or the buying of assets in so-called 'sensitive' areas such as energy, utilities, transport or banking by nationals of another EU country have stalled, not only because of continued protectionism quite contrary to the aim of having a free trade area but because of the self-interest of national bureaucracies who want to go on controlling and regulating entire.sectors of their economies.[2] In particular restrictive states often either own completely or have a considerable shareholding in national energy companies (gas, oil, electricity) that enjoy local monopolies and generate income both for the state[3] and for corrupt politicians.[4] They are keen to buy parallel assets in other EC countries but will not allow freedom of entry into their own markets.[5] France, Germany, Italy and Spain wish to retain restrictions and barriers to trade in these sectors and so the EC is tackling this problem with all the haste of an asthmatic and arthritic tortoise. Hence we may end up in the worst of all possible worlds where the EC issues ever more regulations of its own but is unable to overcome restrictive regulations at a national level. .

If the Central European countries are committed to a market economy then they must now treat the acquis communautaire not as a fait accompli, as something fixed but as a set of arbitrary regulations that in principle can be repealed and reversed. The EC is over-regulated and many of the regulations are there as a disguised form of protection of particular sectors in particular countries, sectors with a tradition of over-regulation that can only survive if everyone else has to shoulder the same burden. Indeed it may be a heavier burden for a poorer rival whose costs of enforcement are higher. The EC is not a level playing field but a cunningly constructed golf course where only some took part in the siting of the bunkers and not everyone knows where they are.

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The Czech Republic in 18th place on the Index of Economic Freedom now has a freer economy than France coming in 26th and both Hungary and Slovakia have also both overtaken France.[6] But what if there is pressure from the EC to drag them down to the French level in order to reduce their competitive position vis a vis France, for example by harmonising taxes on business or investors? The French President, Nicholas Sárközy, who was at one time reputed to be a liberal market reformer, has already insisted on removing the EU 's open-ended commitment to the 'free market' specfied in Article 3 of the Treaty of Nice[7] and wishes to make competition policy subordinate to his muscular industrial policy, which in practice means that he is seeking the continued protection and promotion of French controlled cartels. Rather what is needed in Europe generally and what would particularly benefit the Central European nations is the opposite of this self-interested harmonisation namely tax and regulatory competition.[8]

The Burden of EU Regulations for Central Europe

According to Gunther Verheugen, the EU Enterprise Commissioner the burden of the European regulations has grown to 600 billion Euros or 5.8 per cent of the EU's GDP.[9] There is no sign of the drift to an ever more tightly regulated Europe being reversed. The adverse consequences of the European regulations were inadvertently acknowledged by the British Chancellor of the Exchequer, now British Prime Minister, Gordon Brown in November 2005 when he said "for some time I have been concerned about…. the gold plating of European regulations where in the process of translation into our own UK laws we end up with additional and unnecessary burdens".[10]

When he spoke of gold plating the then Chancellor was referring to the tendency of British civil servants to interpret and apply European regulations in a precise and rigorous way and to implement them speedily. But if the nature of the regulations is such that rigour, precision and celerity in their enforcement produce greater burdens rather than greater benefits, it follows that is what Europeans regulations necessarily are for the regulated – a burden and a cost. The Central European countries would be well advised to adopt a policy of lead-plating that would enable these rules imposed from the outside to be implemented slowly and vaguely so as to achieve the minimal compliance necessary to avoid external penalties.

Many of the regulations may in a purely nominal sense have a worthwhile purpose (though many do not) but those who formulate them, by virtue of their very training, which is often merely legal or administrative rather than commercial and quantitative, and restricted and self-interested outlook, do not, can not and do not wish to envisage how much enforcement will cost. It often greatly exceeds any possible benefit.

Even in the apparently uncontroversial area of health and safety, new regulations adopted under the irrational ' precautionary principle' may well result in loss of life and well-being because the cost of enforcement diverts resources away from activities more important for the sustaining of life and health, such as medical care, improved diet, better housing or even merely by reducing levels of productivity and thus income and health or by causing unemployment to rise, a key cause of depression and suicide.[11] Everything has an opportunity cost. Whatever the working time directives may decree, there is no such thing as a free lunch-break.

Let me consider a particular example, the European rules about the maximum acceptable quantities of agricultural chemicals in drinking water which are set at an almost homeopathic level, close to the limits of the measuring instruments. The limits do not coincide with the WHO guidelines, are far lower than in comparable countries such as Australia, Canada or Japan and there is no medical justification for them.[12] They are a product of the obsession of the harmonising bureaucratic mind with purity and uniformity. . When these, or very similar, regulations on drinking water were about to be imposed on the Czech Republic as part of the acquis, it was estimated that the cost of complying with them would be $3 billion.[13] No one disputes that the cost of cleaning up a Czech environment polluted and damaged by the ravages of a socialist economy was and is high,[14] perhaps as much as 5 per cent of the Czech GNP, but within that clean-up the priorities can only be decided by the Czechs. Only they have the local knowledge necessary to make informed choices and in a democracy it is their preferences that should take precedence. It is illicit to argue that EU regulations of very dubious technical accuracy should prevail merely because the Central European countries have signed up to the acquis communautaire.

The key question that must be asked is ' why does the EU try to resolve issues bureaucratically that are better left to the market place?' Bureaucrats are not rational and disinterested actors and the rules they create are both inflexible and prone to corruption. Harmonization and Europeanization are of value, if and only if, they open up markets and strengthen democracy. They are only a means to these ends. If they tend in the opposite direction, they should be undermined and abandoned. [*Christie Davies*]

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Is Croatia the answer to the Lisbon Question?

Bernadette Mill writes: Croatia began its EU membership campaign with discussions in 2005, and hopes to gain full status as a member by 2011. These efforts were stymied in 2008 when Slovenia blocked the opening of further accession chapters to Croatia on regional policy and the co-ordination of structural instruments; the free movement of capital; the environment; and justice. Slovenia used her power of veto as a conduit to resolving the 18-year disputes with Croatia which include fishing rights, land and sea borders. Croatia has ignited Slovenia's fury by submitting maps to Brussels which the latter has stated prejudge the two countries' borders. These disagreements began after both countries declared their independence from the former Republic of Yugoslavia in 1991.

An area of contention is the Bay of Piran which Slovenia asserts is preventing its people from gaining direct access to international waters, a claim which Croatia's chief accession negotiator, Vladimir Drobnjak has described as "without merit".

Croatia's decision in 2008 to suspend the implementation of the Protected Ecological Fishery Zone to EU members, following a request from the European Commission, was viewed as an initiative to maintain cordial relations with existing EU members Slovenia and Italy.

The Commission has taken the view that this conflict is a bilateral matter and cannot form part of Croatia's membership negotiations. Although the Commission aims to uphold its position of neutrality (by stating that this border disagreement should not delay Croatia's membership bid) it is inadvertently accusing Slovenia of unfairly obstructing Croatia's EU ambitions.

Croatia believes that this dispute should be resolved by referring it to the International Court of Justice, however, Slovenia has stated that it is not prepared to follow this route. Both Croatia and Slovenia have now accepted the proposal by the European Union for a mediation group, tasked with the aim of resolving the existing dispute. The mediation group will be led by Finland's former President Martti Ahtisaari. Croatia was initially apprehensive about this proposal but agreed to it on the 9th March 2009, on a proviso that the disagreement would be eventually settled in the International Court of Justice. Slovenia has maintained her reluctance at taking the dispute to The Hague.

This decision by the EU to intervene in bilateral conflicts between Member States and aspiring members, places the Union in a compromising position as the degree to which mediation progresses - and the decisions reached - will invariably set a precedent in future negotiations between candidates and Member States. Although relations between Croatia and Slovenia have been amicable, there is a plausible risk that this could change irrespective of the denouement.

The Commission must now decide on the extent to which they will intervene in territorial disputes between EU Member States and countries with EU aspirations in the future. The Croat-Slovene disagreement is matched by friction between Greece and Macedonia, and Cyprus and Turkey – where Member States are deciding the fate of candidate countries with whom they have outstanding grievances.

It can be argued that EU overtures to Croatia and Slovenia may be due to the fact that these two countries have the potential to solve the Lisbon Treaty dilemma. With four Member States yet to sign the Treaty, namely Poland, Germany, the Czech Republic and Ireland, there is a chance that Lisbon will not be ratified in 2009 thus paving the way for the Treaty to be integrated into Croatia's accession treaty. In order to ensure that this scenario remains a viable option, Slovenia must lift her veto so that Croatia can complete all accession negotiations by the end of 2009. [*Bernadette Mill*]

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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 returns to old days of butter mountains and milk lakes

The Agriculture Commissioner Mariann Fischer Boel has announced several measures to support the dairy sector which has been hurt by exceptionally low prices for milk, cheese and other products. Marian Fisher Boel, stressing the fall in milk prices, has said "(…) Now it is time for the European Union to help. Measures introduced in the Health Check will give the dairy sector an important boost, but we need to do something now because the Health Check will only apply from next season."

The Commission has announced that it will start buying up stocks of dairy products on 1 March and will continue to do so until the end of August. The first 30,000 tonnes of butter wild be sold into EU reserves at a price fixed at 221.75 €/100kg. Intervention for skimmed milk powder is open from 1 March until 31 August 2009 at a guaranteed price 169.80 €/100kg up to a maximum quantity 109,000 tonnes.

The Commission will spend 254 million euros of taxpayer's money in butter and milk. Moreover, the Agriculture Commissioner expects that "it will be necessary to support the market beyond this limit." Hence, "Further quantities may be accepted with prices to be fixed through fortnightly tenders." The Commission has said that it plans to buy up stocks of dairy products as short term measures – however there are fears that such intervention will lead to an EU butter mountain and milk lakes.

The Management Committee has recently decided to reintroduce export refunds for certain dairy products for the first time since June 2007. Exports of butter, cheese and skimmed milk have declined in the last few months – therefore the Commission wants to encourage sales of these products to third countries. According to the Commission, EU exporters are not able to compete presently with world market prices. Hence, the Commission will reactivate export refunds not only for butter and skimmed milk powder but also for whole milk powder and cheese.

The Commission has said "The measure will only apply for as long as market conditions so dictate." From 22 January, operators have the possibility to submit bids with the assurance of receiving a subsidy. The maximum refund for skimmed milk powder has been set at 200 EUR per tonne and bids were accepted for a total of 5,612 tonnes. The maximum refund for butter has been set at 500 euros per ton and bids were accepted for 2,299 tonnes. For butteroil, bids were accepted for 80 tonnes at a maximum refund of 580 EUR per tonne.

It is important to recall that the UK was not successful during the CAP "health check" in its demand to end all market intervention instruments.

The EU measures will undermine farmers in developing countries who cannot compete with EU subsidies. According to *The Times*, Elise Ford, Head of Oxfam International's EU office, has said, "With such measures, the European Union is undermining the possibility of finding global solutions to hunger and to make agriculture work for the poor. It can unleash a series of responses from other countries that could be dangerous in the long-term." Trade ambassadors from the Cairns Group which is composed by countries such as Argentina, Australia, Brazil, Canada, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Peru, the Philippines, and South Africa have called on the EU to repeal its decision to offer subsidies for dairy products leaving the European Union. They said in a joint statement "Increasing trade distorting measures and protectionism in a time of a crisis carries a very high price."

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Commission strikes again with legal action

On 29 January the European Commission has decided to take legal action against several Member States, including the UK, over various issues.

The European Commission sent a reasoned opinion, second step of the infringement procedure, to the UK, formally requesting it to amend its legislation on inheritance tax reliefs granted for agricultural and forestry property. According to the Commission the UK's legislation provides for discriminatory inheritance tax relief. The Commission has stressed that under the UK's laws the taxpayers are entitled to the relief if the inherited agriculture property as well as the inherited forestry property is situated in the UK. Consequently, there is no tax relief when the inherited agricultural and forestry property is situated elsewhere in the EU. According to the Commission "The limited scope of the relief may dissuade taxpayers from investing in agricultural and forestry property outside the UK." The Commission claims that that the UK's legislation is not compatible with the free movement of capital enshrined in the EC Treaty.

The Commission is expecting a "satisfactory reaction" from the UK within two months otherwise the Commission may exercise its discretionary power to refer the matter to the Court of Justice. Hence, the UK will be taken to the ECJ if it does not amend its legislation in order to allow inheritance relief for all agricultural and forestry property situated in all EU and EEA Member States.

The Commission has also sent a reasoned opinion to twenty Member States, including the UK, for failure to communicate to the Commission full transposition of the Energy Services Directive into national legislation. The Directive aims at strengthening and improving energy end-use efficiency by providing a framework for incentives and energy services. Member States had until 17 May 2008 to transpose the Directive.

Also, the 1996 Air Quality Framework Directive has set limit values for various pollutants in ambient air, including for Particulate Matter (PM10) which should have been met since 2005. The PM10 is made up of very small particles of soot and dust in the air. The new Council Directive on ambient air quality which entered into force last June provides for the possibility of limited time extensions for compliance, for Particulate Matter which can run until 10 June 2011. Member States are, therefore, allowed to request limited extra time to meet the PM10 standard but under certain conditions. Hence, time extensions may only be granted for zones that satisfy the conditions laid down in the directive. The Member States when submitting the time extension notification to the Commission must demonstrated that all appropriate measures have been taken at national, regional and local level to meet the required limit values in 2005 and that these could not be achieved because of external factors such as site-specific dispersion characteristics or adverse climatic conditions. Member States are also required to show, through the establishment of an air quality plan for each zone, how compliance with the limit values will be achieved by June 2011 and put forward appropriate measures so that the exceedences period can be kept as short as possible. The Commission will specifically take into account the efforts undertaken by Member States to comply with the 2005 initial deadline.

If there are no objections, within nine months of receipt of an official and complete notification, the Commission will issue a decision confirming the details of the zones of the Member State where extra time to meet the limit value has been agreed, recognising that the exemption for PM10 the limit value will end in June 2011. If the Commission raises any objections a Member State may be required to adjust or provide a new air quality plan but a shorter extension period could be granted. Nevertheless, during the extension period Member States must ensure that the limit value is not exceeded by more than the maximum margin of tolerance specified in the Directive. Moreover, Member States must fully comply with the limit values outside the zones or agglomerations covered by the exemption decision.

Last July, the European Commission has written to 23 Member States which reported exceedances of the limit value for PM10 in 2006, requesting information, by September 2008, on what action they have been taking to achieve compliance. The Commission has stressed that Member States were expected to notify requests for time extensions by October 2008. On 29 January, the Commission started infringement proceedings, sending first warning letters to 10 Member States, including the UK, that have not yet achieved compliance with the PM10 limit values and have failed to submit notifications requesting extra time to meet the standards in all air quality zones where the PM10 limit values are being exceeded.

DEFRA has recently launched a consultation on the UK application to the European Commission for an extension to meet air quality targets for PM10 which will close on 10 March. The UK notification will cover 8 zones/agglomerations: Greater London Urban Area, West Midlands Urban Area, West Yorkshire Urban Area, Glasgow Urban Area, Brighton/Worthing/Littlehampton, Swansea Urban Area, Eastern England zone and Yorkshire and Humberside zone. The Government is convinced that the limit values in those zones will be met by 2011.

The UK has to submit its notification otherwise the Commission will continue with the infringement proceedings on the basis of exceedences reported in 2006. Even if the Commission grants a time extension, the UK still has to fully respect the EU standards on air quality where time extensions are not applicable.

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The UK has two months to reply to the Commission "Letter of Formal Notice" and then the Commission may decide to address a "Reasoned Opinion." If the UK fails to comply with the Reasoned Opinion, the Commission may decide to bring the case before the Court of Justice. Hence, if the UK continues to fail to comply with EU standards on air quality it will be taken to the ECJ which may impose financial penalties.

EU to take further controls over Member State oil stocks

On 19 February, the EU energy ministers held a policy debate on a proposal for a Council directive on oil stocks. Member States are still far from each other on the revision of the oil stocks mechanism although the 2007 spring European Council has supported this initiative.

The EU legislation goes back to 1968 when it had imposed on Member States the obligation to maintain minimum stocks of oil. It should be recalled that in 2002, the European Commission proposed a directive to increase the volume of stocks to be held in each Member State from 90 to 120 days and to enable the EU to decide how these stocks are used. The European Parliament and the Council did not support the proposal which was therefore withdrawn. The UK opposed the proposal as existing International Energy Agency (IEA) and Community arrangements for holding stocks provided sufficient cover for supply disruptions.

Last November, the European Commission has proposed, within the framework of its second Strategic Energy Review, a revision in the EU's strategic oil stocks legislation.

The Commission has pointed out that not all EU Member States are members of the IEA, which has a mandate to tackle global disruptions. According to the Commission "(…) full EU participation in an IEA action can be guaranteed only through an EU mechanism involving Member States that are not members of the IEA." The Commission stressed that the aim of keeping a high level of security of oil supply within the EU can only be achieved in a "coordinated way."

The proposed directive is aimed at improving the functioning of the current EU oil stocks mechanisms in order to ensure availability of oil in the event of a crisis. It also aims to align intra-EU rules with IEA-led action on the release of emergency oil stocks.

The Minister of State at the Department of Energy and Climate Change, Mike O'Brien, has explained to the European Scrutiny Committee that the Government backs the Commission's view that coordination at Community level is necessary to keep a high level of security of oil supply through transparent mechanisms based upon solidarity between Member States. However, the Government believes that the subsidiarity principle should apply as regards to how Member States choose to carry out their oil stocking obligations.

The Commission has considered different options and it would have preferred to impose the constitution of dedicated EU emergency stocks but taking into account the outcome of the stakeholder consultations it has recognised that, presently, that would not be acceptable. The Commission has left, at the moment, the constitution of emergency stocks at the discretion of Member States. However, it has proposed the establishment of a centralised Community system with mandatory public ownership of emergency stocks.

Under the draft proposal Member States may set up a non-profit making central stockholding entity however this would be an obligation if Member States place stockholding obligations on economic operators. Such entity would have the task of acquiring, maintaining and selling oil stocks within the Member State in question.

Several Member States raised concerns regarding the creation of central stockholding entities. According to Mike O'Brien "the UK would be concerned at the potential impact of any compulsion for a central stockholding entity." The Minister has said "if legislation is adopted which prescribes a compulsorily owned system of Government-owned oil stocks, there would be significant implications for the public purse."

Member States would be required to ensure that emergency stocks and dedicated stocks, held within their national territory, are accessible and can be verified at all time.

Member States may delegate between themselves the execution of some of their stockholding obligations. If a Member State chooses to impose a stockholding obligation on companies, the companies would have the right to delegate their obligation to a central stockholding entity.

The draft proposal introduces increased monitoring requirements. Member States would be required to keep detailed registers of all emergency and dedicated stocks which must contain the information needed to establish their location, the quantities involved, the owner of the stocks and their exact nature. Moreover, Member States would be required to send to the Commission a copy of the stock registers.

The Commission has proposed to amend the rules for the preparation and submission of statistical summaries in order to enhance security of supply. It has proposed to extend the preparation and submission of statistical

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summaries to stocks other than emergency stocks and dedicated stocks, with those summaries to be submitted on a weekly basis. The Commission has proposed the EU to publish weekly, on an aggregated basis, the level of commercial oil stocks held by EU oil companies. Under the draft proposal Member States are therefore obliged to provide information to the Commission each month on the levels of emergency and dedicated stocks, and each week on the levels of commercial stocks held on their territory. Companies would be therefore forced to report oil stocks each week, as opposed to the current system of monthly national reports. The UK as well as several other EU Member States raised concerns regarding the obligation of weekly reporting on the aggregated level of emergency and commercial stocks held by oil companies and the abolition of bilateral stockholding agreements between Member States or with commercial companies. However, Andris Piebalgs, energy commissioner, has defended the commission proposal saying "A weekly report will not add additional bureaucracy (…)" therefore "The commission will fight for it."

The Commission has pointed out that there might be discrepancies in the summaries submitted to the Commission therefore the Commission's employees or authorised agents would be able to verify the existence of the stocks and the documents used by the Member State's authorities. Member States would have to grant the right to the Commission's employees or authorized agents to consult all documents and registers relating to emergency and dedicated stocks and to ensure that they have permanent right of access to all sites on which they are held.

The Commission has proposed to set up a consultative body. The Coordination Group will analyse the situation within the Community with regard to security of supply for oil products and facilitate the coordination and implementation of measures in that area.

Member States would be required to take any measures to enable their competent authorities to release some or all of their emergency stocks and dedicated stocks in case of a major supply disruption. Moreover, they would be required to impose restrictions on consumption in line with the estimated shortages. In case of an effective international decision to release stocks, Member States may use their emergency or dedicated stocks to fulfil their international obligations but they must notify the Commission immediately. The Commission may also require Member States to release some or all of these stocks, after consulting the Coordination Group.

The Commission has proposed to review the Directive's implementation soon after its entry into force with the view of considering whether Member States shall be required to hold a compulsory minimum level of dedicated stocks. This review clause is also an issue to the UK government.

The Czech Republic wants to adopt the directive under its Presidency in first reading. The Council will decide on this proposal by QMV through the consultation procedure.

European Court ruling on paid sick leave will impose further burdens on businesses

On 20 January, the European Court of Justice gave its judgment in joined cases concerning sick leave. The referring Courts of the Landesarbeitsgericht Düsseldorf and the House of Lords asked the ECJ to provide an interpretation of the right to paid annual leave enshrined by Article 7 of Directive 2003/88/EC concerning certain aspects of the organisation of working time.

In 2006, the House of Lords referred to the Court for a preliminary ruling two questions on the interpretation of Article 7 of the Working Time Directive. Such questions have been raised in a case brought by former and existing employees of the HM Revenue and Customs. The House of Lords was called on to rule whether the appellants have rights against the defendant to paid annual leave or an allowance in lieu.

The case concerns a worker who was absent from work for one year on indefinite sick leave and had then been denied annual leave that she claimed should have accrued to her during the period she spent on sick leave. The case also concerns workers who claimed that, having been dismissed and having been on sick leave for a considerable part of the year prior to dismissal, they were entitled to compensation for paid annual leave that should have accrued to them.

It should be recalled that the Court of Appeal held that a worker is not entitled to take annual leave during a period in which he is absent on sickness leave and is therefore not under an obligation to work. Moreover, the Court of Appeal held that if a worker has not taken annual leave because he was absent because of illness, then he was not entitled to a compensation payment.

According to the German Government, Article 7(1) of the working time directive just stipulates that a worker has the right to a minimum period of paid annual leave of four weeks. Hence, the directive leaves to the Member States the detailed rules relating to the grant of leave as well as the interpretation of national law to a judicial decision. The UK Government has stressed that Article 7's purpose is to

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protect "the safety and health of those who are actually working by providing for a rest from work." Hence, those who are on sick leave are not working – consequently they have no need for 'actual rest' from work.

The ECJ has stressed that the right of every worker to paid annual leave is an important principle of Community social law from which Member States cannot derogate. The Court has pointed out that it is for the Member States to lay down, in their national legislation, the circumstances for the exercise and implementation of the right to paid annual leave but without making the existence of such a right subject to preconditions.

According to the ECJ, Article 7 does not, as a rule, preclude national legislation which provides that a worker on sick leave has no right to take paid annual leave during that sick leave however such prohibition must be subject to the stipulation that the worker in question has the opportunity to exercise his right to leave during another period. Hence, national legislations may provide for the loss of the right to paid annual leave at the end of a leave year or of a carry-over period but only if the worker who has lost his entitlement to paid annual leave has actually had the opportunity to exercise this right. The Court ruled that Article 7(1) of Directive 2003/88 precludes national legislation or practices which exclude the existence of the right to paid annual leave at the end of the leave year and/or of a carry-over period laid down by national law even where the worker has been on sick leave for the whole or part of the leave year and where his incapability to work has continued until the end of his employment relationship, which was the motive why he could not exercise his right to paid annual leave." Hence, employees from all EU Member States on log term sick leave have the right to be paid holidays regardless the time that have been signed off work.

The German Government has stressed that it is up to the Member States to decide whether to provide for an allowance in lieu of leave at the end of the employment relationship. According to the UK Government if a worker has no right to annual leave, he also has no right to pay in lieu of such leave. However, the Court has recalled that every worker is entitled to paid annual leave of at least four weeks and that such right is not extinguished at the end of the leave year and/or of a carry over period laid down by national law if the worker who was on sick leave had no opportunity to exercise his right to leave during another period. The ECJ has stressed that if it is no longer possible to take paid annual leave on termination of the employment relationship therefore Article 7 (2) provides that the worker is entitled to an allowance in lieu.

The Court has ruled that the employer, on termination of the employment relationship, has to pay allowance in lieu of paid annual leave to a worker who has been on sick leave for the whole or part of the leave year and/or of a carry-over period, which was the reason why he has not exercise his right to paid annual leave. According to the Court such allowance "(…) must be calculated so that the worker is put in a position comparable to that he would have been in had he exercised that right during his employment relationship." The Court has stressed that it is decisive for the calculation of such allowance the worker's normal remuneration, "which is that which must be maintained during the rest period corresponding to the paid annual leave."

The ECJ has reinterpreted UK employment law. As Tim Marshall, head of employment at DLA Piper, has said "(…) UK and European employers will need to carry out a comprehensive review of their sickness, maternity and holiday policies to ensure that they meet the statutory minimum requirements." According to David Frost, Director-General at the British Chambers of Commerce (BCC), "Companies will either be left with the burdensome task of reallocating resource while the accrued holiday is being taken, or they will face a large one-off expense which will undoubtedly damage their cash-flow."

The UK businesses already have to comply with a list that never ends of EU directives and regulations on health and safety at work. One cannot forget that the Temporary Agency Workers Directive, recently adopted, will impose further administrative burdens and costs on companies that employ temporary workers. Moreover, if the removal of the UK's opt out of the Working Time Directive goes ahead that will cost billions to Businesses. And now, this ruling which will impose further burdens on businesses.

This is another clear example that decisions on British worker's rights are not made by the UK parliament or by UK's courts. It should be recalled that Bill Cash has proposed an amendment to the Legislative and Regulatory Reform Bill putting forward a formula to override European legislation. In this way, "British judges" would be required "to follow United Kingdom law made in the Westminster Parliament and not law derived exclusively from the European convention or, indeed, European law generally."

The cost of the European project is £495 billion or £1,968 for every man, woman and child in Europe – Matthew Elliott, The Taxpayers' Alliance