The Cost of the European Constitution?
Sara Rainwater

Bill Cash, MP • Struan Stevenson, MEP • Barry Legg
Simon Usherwood • Keith Marsden • John Massey
Dirk van Heck • Matthew Attwood
Lauren Harris • Samantha Elrick
Dr Lee Rotherham
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Contents
For reference, numbers on pages are as in the printed copy
Articles below are hyperlinked – use the hand icon, point and click

UP FRONT
Bill Cash, MP: Non! 2 3
Struan Stevenson, MEP: Send Fishermen, Not Fishing Boats, to Tsunami Zone 3 4
Barry Legg: ERM Revisited – A triumph for politics over economics 4 5
Sara Rainwater: The Cost of the European Constitution? 5 6

IN DEPTH
Simon Usherwood: The Development of Anti-EU Groups in the UK Since the 1980s 7 8
Keith Marsden: Big Governments + WTO Subsidy Rules = Trade Distortions + Inefficiency 10 11
John Massey: It's Official – Voting ‘No’ is Stupid 11 12
Sara Rainwater: Referendum Review 12 13
Dirk van Heck: YouGov Poll 14 14
Matthew Attwood: The Attwood Report: Criminal Justice 15 16

AND FINALLY...
Lauren Harris: Facts 18 19
Dirk van Heck: reviews The Bottom Line published by The Bruges Group 20 21
Dr Lee Rotherham: reviews The Missing Heart of Europe by Thomas Kremer 21 22
Samantha Elrick: Tallinn City Guide 22 23
Dr Lee Rotherham: Chunnel Vision – The End of the Affair 24 25

Editor: Sara Rainwater

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7 Southwick Mews, London W2 1JG
Tel: +44 (0) 20 7706 7240 Fax: 020 7168 8655
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The last French Referendum – on Maastricht in 1992 – was “won” by 1 per cent – or was it? Frankly, in common with many others, I never believed the result. I sat in the Sky News studio when it was announced and reflected on the fact that a considerable number of ‘Yes’ votes had come from the distinctly electorally “unreliable” French overseas territories. But, I reflected, at least there had been a Referendum which shook them rigid and I had had the privilege of fighting for democracy in Europe alongside my redoubtable friend Phillipe de Villiers, still a long-serving member of the Advisory Board of the European Foundation, and his colleagues on French platforms in Versailles and elsewhere. The British people were betrayed by being refused a referendum, despite our Maastricht Referendum Campaign, which collected well over 500,000 signatures in our Petition to Parliament. Maastricht created European Government and, as I predicted, has proceeded in fairly short order to the European Constitution.

Phillip is still there (and so are we!) but this time the chances of a ‘No’ vote in France are even better. I heard it said on the radio recently that this is because people in France do not like Jacques Chirac and that the Constitution is too Anglo–Saxon. What rubbish. They don’t like Chirac because under the existing Treaties, and particularly their economic provisions including the euro (which the Constitution will only make worse), the French economy (despite its recent improvement in comparison with Germany) continues to grow sluggishly, with over 10 per cent unemployment.

As for the Constitution being Anglo–Saxon, why is there such a massive rejection of it over here? Simply because it isn’t – rather it was drafted under the chairmanship of Valery Giscard d’Estaing, a French President of the 1970s. The ‘social market economy’ is built into the Constitution whilst reform of the Common Agricultural Policy has been stymied, the Lisbon process has failed and the Services Directive has now been watered down almost to extinction by Chirac himself. Supposedly a figure of the centre-right, Chirac has fought tooth and nail against modest proposed EU reforms in the direction of market liberalisation, castigating the Commission President, Jose Manuel Barroso, with the absurd statement that “ultra-liberalism is the new communism”. It is unlikely to be the case that French voters are increasingly against the Constitution because they don’t like Chirac and they don’t like the Anglo–Saxonisation of Europe, since Chirac is doing everything he can to hold up reform. What is more likely is that the French are fed up with a political establishment, at national and European level (and the two are very much intertwined) that behaves with arrogance and condescension and does not address their concerns. The French phrase for this irksome state of affairs is “the dictatorship of the technocrats”.

The response of the technocratic dictatorship so far has been predictable – propaganda. President Chirac has ordered the French Prime Minister, Jean-Pierre Raffarin, to launch an “explanatory campaign” to reassure the French public that the Constitution is in their interests. Meanwhile, the French media has carried reports claiming that Chirac put pressure on a national television station, TF2, to stop Mr Barroso appearing on a political programme called “100 Minutes to Convince”. The developing feud between Chirac and Barroso reflects the technocrat’s characteristic failure to accept criticism, let alone responsibility for failure. It is an attempt by both men to shift the blame for a popular movement that is gathering such momentum that it may be impossible for them to stop. What’s more, the unedifying spectacle of Chirac and Barroso slugging it out to apportion blame will not assist them in securing a ‘Yes’ vote.

It is devoutly to be wished that the French do reject the Constitution in the Referendum on 29 May. Whilst this would obviate the need for a referendum in the UK, so that the British people would once again be denied their say, such would be the significance of a French ‘non’ that it would kill the Constitution rather than throw into question the nature and extent of the UK’s relationship with the European Union. Whilst the latter would be a very positive development for the UK, the former would force a re-evaluation of the European project – its direction and the extent of integration. The popular, practical and dispassionate reflection that would eventually take place following the defeat of the technocratic dictatorship at the hands of the French people would be likely to give rise to a new European model that better reflected the social and political realities on the ground: something more like the model set out in my pamphlet of 2000, Associated, not Absorbed than what is set out in this execrable Constitution for Europe.

Bill Cash MP is Conservative MP for Stone and Chairman of the European Foundation.
Send Fishermen, Not Fishing Boats, to Tsunami Zone

by Struan Stevenson, MEP

The debate over an emergency proposal from the European Commission to transfer fishing vessels to countries hit by the Tsunami was held in late February in the European Parliament in Strasbourg. The final vote by MEPs, agreeing, albeit reluctantly, to the Commission plan, can be seen as nothing more than a symbolic gesture. The European Commission will now send up to 200 small, redundant boats to the affected areas, despite my strong protests that it is a waste of both time and money. Sending 200 20 year-old boats, that would otherwise have gone to the scrapyard, to areas that have lost a total of 22,000 small vessels in the Tsunami is not only hopelessly inadequate, but almost insulting to the beleaguered fishing communities who are trying to rebuild their lives. In any case, these vessels may be entirely unsuitable for launching through heavy surf from beaches; their gear and engines may not withstand the high temperatures of the Indian Ocean. Indeed, they may end up rotting on the beaches to which they are delivered.

According to the Commission, Member States themselves would be expected to finance this daft initiative at a cost of €9 million. In addition it would cost €400,000 to transport the boats. Therefore, by the time the boats arrive in Sri Lanka, Indonesia and Thailand – the worst affected areas – each boat will have cost EU taxpayers around €47,000. Given that experts who have visited these devastated fisheries report that new fibreglass vessels, of exactly the kind these communities need, can be built for as little as €2,000 each, the lunacy of such gesture politics can be clearly seen. Even the FAO (The UN Food & Agriculture Organisation) has written to MEPs saying that EU vessels should not be sent to either Indonesia or Sri Lanka, the two worst affected areas. Apparently only Thailand has expressed an interest in a few European vessels.

Rather than throwing away time and money on sending inappropriate European fishing boats, we should be concentrating our resources on initiatives like the one proposed by the Maritime Rescue Institute (MRI) in Stonehaven, Scotland. Using their vast international connections, the MRI – which is a registered Scottish charity – sent two directors to Sri Lanka in the immediate wake of the Tsunami. Their comprehensive proposal, which has been submitted to the European Commission, involves sending a team of up to 30 skilled fishermen, blacksmiths, carpenters, boat-builders and engineers from Scotland to the affected zones to help them rebuild their fishing communities. The MRI plan involves taking special moulds to Sri Lanka in which fibreglass vessels can be rapidly built to replace the 12,500 boats lost in that country alone.

It is frustrating to hear reports filtering back from the Tsunami survivors that, despite the massive worldwide appeal, little or no aid has yet reached those who need it most. It seems so clear what would benefit the Tsunami survivors most. The European Commission should forget about sending redundant fishing boats to the Indian Ocean and send skilled Europeans instead.

Struan Stevenson is a Conservative MEP for Scotland and is Tory Fisheries Spokesman in the European Parliament. He is the immediate past-President of the European Parliament’s Fisheries Committee.

…news in brief

Euro sceptics are optimistic

Like one swallow, the recent sight of a small French van in the streets of central London sporting a "Non à l’euro-constitution!” sticker does not itself herald a Euro sceptic summer. But French Republicans of the European Convention have a spring in their step. Many think there is a distinct chance that France will vote down the EU Constitution on 29 May. It would be a fatal blow: a ‘No’ vote by any other country, including Britain, could perhaps be sidestepped, but not one by France. Jacques Myard, the Gaullist Deputy, is one man who thinks that the ‘No’ camp has a very good chance. He points out that there is a genuine malaise in France, and he is encouraged by the clear position taken against the Treaty by the Socialists Laurent Fabius and Henri Emmanuelli, respectively former Prime Minister and President of the National Assembly.

Predictably, rows have broken out between the ‘Yes’ and ‘No’ camps within the Socialist Party. In a television interview, Henri Emmanuelli said that the majority was not always right: he pointed out that a majority of Socialist Deputies had voted for the war in Algeria, and for transferring full powers to Marshal Pétain in 1940. This gave rise to squeals of protest from the ‘Yes’ camp, which accused Emmanuelli of likening them to collaborators. [Agence France Presse, 14 March 2005] Les souverainistes have already held their first big meeting. Nicolas Dupont-Aignan, president of the campaign group, Debout la République ("Let the Republic Stand Up") told a meeting on 9 March that, "We say ‘No’ to France becoming a vassal in an empire of merchants; ‘No’ to a France who resigns today in order to vanish tomorrow…”

Many of the right-wing souverainistes are having fun at Jacques Chirac’s expense. When Mayor of Paris, Chirac issued a famously rousing and nationalist anti-EU statement from his hospital bed (he had been injured in an accident) and l’appel de Cochin is still fondly remembered. There has been little sign of that Chirac for years now. He said that it would be “bloody stupid” (une connerie) if France voted down the Constitution, which has led various people to say that Chirac’s own position would be untenable if the ‘No’ camp wins on 29 May. "How could Chirac be the president of a majority of bloody stupid (le président d’une majorité de cons)!” asks Gilles Bourdouleix, a dissident member of the Chiracian UMP Party. [Christian Chombeau, Le Monde, 11 March 2005]

The Socialist pro-Europeans have also held a meeting – in the Theatre of the European in Paris. Their 300 activists were fewer in number than those who attended the ‘No’ rally. The speakers all another to produce an exciting adjective to describe their own ‘oui’: “fervent”, “deafening”, “responsible” and so on. One speaker, of North African origin, said that he was “comfortable in my trainers” (à l’aise dans mes baskets). This received a big round of applause, presumably because the old political hacks thought it was hip. The Socialists are especially vulnerable because their supporters will wonder why they are being asked to vote for Chirac for the second time in a couple of years. The Socialists voted for the President against Jean-Marie Le Pen in the second round of the presidential elections in 2002.

Opinion polls show that the ‘No’ camp is still only on 40 per cent, in contrast to 60 per cent for the ‘Yes’, but also that it has risen dramatically (by 5 per cent) as the campaign gets under way.

Jump to Contents
ERM Revisited – A triumph for politics over economics

by Barry Legg

When the Freedom of Information Act was invoked by the Financial Times to obtain disclosure of Treasury documents concerning the cost of ERM membership, there were accusations that this was a Government inspired ruse to remind voters of the economic failings of the last Conservative Government. If it was, Alastair Campbell must have been delighted by the outcome. Up popped Mr Major to say that membership of the ERM had been good for us. A simple apology for joining the ERM and staying in it for political rather than economic reasons would have been an honest response and defused the matter.

The documents that were disclosed by the Treasury are not that dramatic in themselves. All of them were produced after Black Wednesday. They contain estimates of the cost of the futile intervention that took place but not the cost of lost Gross Domestic Product, which resulted from a prolonged and unnecessarily deep recession. Nor do they refer to the fiscal measures, which needed to be taken to rectify the consequences of running an unsustainable deficit during ERM membership. The events of 16 September 1992 and the subsequent substantial tax increases that were imposed sank the reputation of the Conservative Government for sound economic management. The Treasury documents do, however, reveal what an economic winter the politicians were prepared to inflict upon us in order to keep sterling within the Exchange Rate Mechanism. They note that Treasury “projections implied that output might get back onto trend towards the end of the decade, and outside forecasts typically showed an even more pessimistic picture”. Furthermore, the civil servants accept that the Walters/Minford/Congdon prognostication concerning the ERM had been right all along.

More important than reviewing the post 16 September 1992 (the so-called Black Wednesday) Treasury documents, it might be appropriate to review the events leading up to the decision to join the ERM on 5 October 1990 – a date which might be called Black Friday. Looking at those events would of course not be helpful to the Labour Party as they would show that entry to the ERM was undertaken overwhelmingly for political reasons, with which the Labour Opposition fully agreed. Joining the ERM in October 1990 cannot be justified on economic grounds. The Conservative Government had faced a problem of excessive inflation in the late 1980s resulting from the so-called “Lawson boom”; the inflation had been caused by Chancellor Lawson’s policy of shadowing the Deutschmark and preventing sterling from rising against the mark by pursuing a very lax domestic monetary policy. To imagine that formally fixing the pound to the Deutschmark could be some sort of economic panacea beggars belief. What is more, by October 1990 East and West Germany had been reunited and the East German currency (the Ostmark) had been converted into Deutschmarks at a one for one parity. This development had significantly inflationary consequences for Germany and led to the resignation of Karl Otto Pohl, the President of the Bundesbank. To offset the inflationary impact of these events the Bundesbank was now set upon a course of higher interest rates to suppress inflation, which meant that German interest rates would be rising at a time when UK rates needed to fall. In 1989, the Treasury Select Committee warned of these dangers before the United Kingdom joined the ERM. The rationale for joining the ERM in 1990 was overwhelming political. Before the Madrid Summit of June 1989 Margaret Thatcher was confronted by Geoffrey Howe and Nigel Lawson, her Foreign Secretary and Chancellor of the Exchequer respectively. They made it clear to her that in their opinion it was necessary to give a commitment to joining the ERM in order to enhance the UK’s influence amongst the Heads of Government of other EU States. When John Major replaced Nigel Lawson as Chancellor of the Exchequer, the political rationale remained at the forefront and ERM membership became very much a test of the Conservative Government’s ‘reasonableness’ both here and amongst EU Governments. Margaret Thatcher has maintained that if she had remained Prime Minister the Government would not have engaged in the heavy intervention required to maintain sterling’s parity against the Deutschmark and would have sought a realignment if necessary. However, by 1990 there had not been a realignment of any ERM currency for some three years and the effect of the Delors Report of 1989 meant that the Europeans regarded the ERM as part of the move towards locking currencies, leading to a single currency. The Maastricht Treaty of 1992, which determined the objective of economic and monetary union, meant that pressure never to revalue became the overwhelming priority.

The ERM debacle and its effects meant that the Conservative Party lost its reputation for economic competence and cast it into a political wilderness from which it has yet to emerge. Membership of the ERM was probably the biggest political blunder of any post-war Conservative administration and in political terms the consequences have been dire. Ironically, these decisions were made for political rather than economic reasons. That is all we really need to understand.

However, these matters are as relevant today as they were some fifteen years ago. It is not surprising that Mr Major has not drawn the appropriate lessons from this experience, but it is surprising that his successor, Mr Blair, is prepared to make the same mistake. The rationale for abolishing the pound and joining the euro is political and not economic. In contrast, Mr Brown does seem to have learnt the lessons of our ERM membership. The account in Brown’s Britain by Robert Peston details Mr Blair’s attempts to persuade his Chancellor to effectively fix the economic tests for euro membership in order to achieve a political objective. Mr Brown realised that what might seem like good politics could be bad economics and rejected the Prime Minister’s proposals.

Until our leaders honestly accept and admit that political objectives are driving the development of the European Union, even greater political blunders than our joining the ERM are liable to occur. Even a Prime Minister as successful and dominant as Margaret Thatcher was unable to successfully change the rationale of the European Union. Great challenges and great successes await any Party or Leader that is prepared to face these profound issues.

1) ‘The Exchange Rate’ 17 September 1992, p 2, para 6. 2) For a full explanation see Monetarism lost and why it should be regained by Professor Tim Congdon, published by the Centre for Policy Studies, May 1989. 3) Seventh Report from the Committee, HC (1989–90) 431 paras 27-31. 4) The Downing Street Years, Margaret Thatcher, pp 709-713. 5) ibid, p 723.

Barry Legg is a former Chairman of the House of Commons Treasury Select Committee.
The Cost of the European Constitution?

by Sara Rainwater

Although the Government still swears that the Constitution for Europe is just a “tidying up” exercise, even Tony Blair cannot deny the fact that politicians throughout Europe are beginning to admit the inherent dangers of the Treaty. Germany’s Europe Minister, Hans Martin Bury, recently hailed it as a “milestone”; in fact he called it “the birth certificate of the United States of Europe”. Spain’s Foreign Minister, Miguel Angel Moratinos, recently admitted that the Constitution would be the death of national sovereignty when he said, “We are witnessing the last remnants of national politics.” And then there is Roger Liddle, the man who worked as Blair’s Special Advisor on Europe for seven years before moving to Brussels to work for Peter Mandelson. Although Liddle thinks a ‘No’ vote in a referendum could be disastrous for Britain, he has called upon Blair to admit that the Constitution would hand “more and more” powers to Brussels. Speaking on the Today Programme, Liddle said, “We have to be much more honest and open with people that Europe has always been a political project.”

It is doubtful that these men see the contents of the Constitution as ‘dangers’, but at least some politicians out there are beginning to speak the truth, as opposed to sugarcoating the Treaty like Blair and his cronies.

Most opinion polls on this matter reveal strikingly similar results – a majority of the British electorate plans to vote ‘No’ in a referendum (our own ICM and YouGov surveys are but two examples from a long list). But such polls, unfortunately, lead to a question with a disturbing answer: does the British electorate actually know what they are voting on? The shocking truth in this country, as well as in most of the other Member States, is that the majority of the general public does not understand the European Constitution.

The recent NOP poll commissioned by the Institute of Directors highlights the serious nature of this problem. The IoD polled leading British businessmen, a demographic of the electorate that one would think to be well informed on the Constitution. However the results showed otherwise; only 25 per cent of those polled felt comfortable saying they were very or moderately well informed about the Constitution. Another 24 per cent admitted to knowing nothing about it. (Further analysis if the IoD poll can be found in Dirk van Heck’s article in the European Journal, February 2005). If this sector of the population feels relatively uneducated on the details of the Constitution, where does that leave the rest of us?

A survey by the EU’s own polling agency, Eurobarometer, revealed that a third of Europeans had never heard of the Constitution. Results in individual Member States varied greatly; 65 per cent of Cypriots had not heard of the Constitution compared with only 22 per cent in the Netherlands. A mere 11 per cent of the respondents (from the entire EU) felt they were broadly informed of the contents of the document. In addition to this poll and despite 67 per cent of the Estonian electorate having voted in favour of joining the EU in the 2003 referendum, a recent survey (of Estonia only) conducted by Emor found that only 4 per cent of respondents considered themselves ‘informed’ on the Constitution; 36 per cent had never heard of it. Clearly, the level of knowledge of the Constitution and its contents is low.

But how is the EU dealing with this pandemic outbreak of ignorance on the Constitution? One would hope that...
Brussels, as well as national governments, would be handing out free copies of the Constitution on the streets or running huge education campaigns. The problem with the latter solution is that such campaigns would be, by-and-large, pro-Constitution and thus probably better left to non-governmental organisations, which could provide both sides of the argument.

As for handing out the Constitution, free copies are available from the European Union's website, http://europa.eu.int/constitution. But this only helps if you have internet access. According to the National Statistics Website, home of official UK statistics, in the third quarter of 2004, only 52 per cent of households in the UK could access the internet from home; 34 per cent of adults had never used the internet (www.statistics.gov.uk). Thus, a large proportion of the British public do not have access to the free copy of the Constitution available from the EU.

In the UK, hard copies of The Treaty Establishing a Constitution for Europe have been available from Her Majesty's Stationery Office since December 2004, but for a price. £47 to be exact. Alternatively, if you phone Europe Direct (the freephone number of the EU), advisors will inform you that hard copies are available through individual national outlets for €30.

Further investigation into the actual cost of a hard copy reveals that, indeed, copies are available in Germany, for instance, for €30 from local sales agents. The EU has also recently launched an online bookstore, whereby you can order a copy of the Constitution for €25. Again, this process requires internet access, but copies can be sent to your home. (It is also interesting to note what seems to be an online ‘discount price’.) You can even get a copy of the EU Constitution in America for $45. Yet the British Government is selling copies for £47. If you do the maths, €30 roughly equals £20. So why is the Government of this country selling it at the exorbitant rate of almost €68?

Maybe the Government thought it could make a profit by selling the EU Constitution for more than other countries. Maybe the Government put a higher price tag on it to discourage people from reading it (and finding out the truth), thus increasing their changes of avoiding a ‘No’ vote in the referendum. Maybe the paper it is printed on in the UK costs just much more than in other countries. The truth as to why the EU Constitution costs £47 here may never be known. But what we do know is this: the British Government is making an already remote document even more inaccessible to the electorate.

If you want to read the Constitution, you may wish to order a copy from within the eurozone (or maybe on your next trip to America, pick up a copy there). It would definitely save you a few pounds. But whatever you do, you should get a copy, sit down and become an informed participant in the political process. In doing so, you will soon discover that Herr Bury, Señor Moratinos and Mr Liddle were speaking the truth. The Constitution does spell the death of national sovereignty in Europe.

Sara Rainwater is Editor of the European Journal.

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The Development of Anti-EU Groups in the UK Since the 1980s: An Overview

by Simon Usherwood

The anti-EU movement in the UK is a highly diversified, largely organised set of groups that can, to the casual observer, sometimes appear intimidating in its breadth and sheer size; the UK has more anti-EU groups than the rest of Europe put together. This short overview aims to help rectify that. Comprehensive studies of the development of the anti-EU movement are hard to come by for any country, even the UK. Those works that do exist tend to concentrate on political parties and the development of their European policies, or they simply list the groups operating at a given point in time. The aim here is to provide an overview of the development of all British anti-EU groups since the late 1980s, when the current phase of opposition to the EU began. Table 1 and Figure 1 provide an overview of the relevant information. (Note that Figure 1 is not a precise quantification and the positions of individual groups do not imply a specific ideological position.)

The mid-1980s represented a period in the European Community’s history when the discontents of the 1970s had been largely forgotten and there was a broad elite and public consensus on the positive nature of further integration. This was the time of the 1992 project for the single market, a symbol of a system that was out of touch not only with popular opinion but also with significant elements of national elites. At the European level, the Treaty on European Union rapidly became a symbol of a system that was out of touch not only with popular opinion but also with significant elements of national elites. At the national level, the 1992 general election left the Conservative Party at the mercy of hard-line Eurosceptics. The general election came at the time of Maastricht ratification, and as that process became more drawn out, notably after the Danish ‘No’, the more the sceptics felt that their hand was strengthened. The parliamentary fight to ensure the passage of the Treaty was a bitterly fought contest, which deepened the divide between the two sides. In the aftermath of the ratification, new groups were set up to channel opposition into the political system (of particular importance were UKIP, set up by Alan Sked in 1992 as a successor to his Anti-Federalist League, and the European Foundation, created by Bill Cash MP the following year). While both of these groups drew in primarily Conservative Party members and voters, neither fell into the same category as the Fresh Start Group, which was a faction of Conservative MPs opposed to ratification, or Conservative Way Forward, another faction dedicated to the promotion of Thatcher’s ideas. On the left, the Campaign Against Euro-Federalism was a relatively low-key body in both its membership and public profile.

One element in understanding the growth of opposition was the development in the early 1990s of transnational infrastructures, which enabled anti-European ideas and strategies to be circulated much more efficiently than before. In 1992, The European Anti-Maastricht Alliance

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**Table 1: Foundation Dates of British Anti-EU Groups, Divided by Political Alignment**

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<th>Period</th>
<th>Left</th>
<th>Neutral/Indeterminate</th>
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<td>Pre-1989</td>
<td>Communist Party of Britain</td>
<td>Green Party</td>
<td>Anti-Common Market League</td>
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<td>Labour Euro-Safeguards Campaign</td>
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<td>Conservative Party</td>
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<td>National Democrats • BNP • National Front</td>
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<td>The Freedom Association</td>
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<td>1989-1996</td>
<td>Campaign Against Euro-Federalism</td>
<td>Anti-Federalist League</td>
<td>Conservatives Against a Federal Europe</td>
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<td>British Weights &amp; Measures Association</td>
<td>Conservative Way Forward</td>
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<td>Bruges Group</td>
<td>European Research Group</td>
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<td>Campaign for an Independent Britain</td>
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<td>European Foundation • Referendum Party</td>
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<td>Save Britain’s Fish • UK Independence Party</td>
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<td>Youth Against the European Union</td>
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<td>Since 1997</td>
<td>Trade Unions Against the Single Currency</td>
<td>British Democracy Campaign</td>
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<td>Business for Sterling • Labour Against the Euro</td>
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<td>Congress for Democracy • Democracy Movement</td>
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<td>Democratic Party • Global Britain • New Alliance</td>
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<td>New Europe • No • Veritas • Vote No</td>
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<td>Youth for a Free Europe</td>
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(TEAM) was created at a protest meeting alongside the Edinburgh European Council of December 1992. By 1999, it numbered some 25 member organisations, with another seven observers, from a total of 11 countries inside and outside the EU. Similarly, a network of left-wing ‘Committees for the Abrogation of the Maastricht Treaty’ was created at a London meeting in 1997, covering 18 countries, although this does not seem to have been as successful as TEAM.

Back on the domestic front, the anti-EU movement was driven in large part by the small Government majority. Within the Conservative Party the strength of the Eurosceptical element was growing, helped along by the formation of right-leaning groupings such as the European Research Group and the reactivation of Conservatives Against a Federal Europe (CAFE). There was also movement on the Left, with the creation in 1996 of the Labour-based People’s Europe Campaign, which enjoyed a brief period of notoriety before its effective dissolution in the run-up to the 1997 general election. At the same time, an incipient youth movement was developing and the impact of EU regulations was becoming more visible to the general public, as typified by the British Weights and Measures Association (BWMA). This grass-roots group aimed to preserve the use of imperial measures in the UK against the perceived encroachment of the metric system. This seemingly esoteric issue was to become something of a cause célèbre in 2000-01, when a market trader was prosecuted for selling a pound of bananas.

The 1997 Amsterdam Treaty did not seem to provoke the same reaction, at least in terms of group formation. However, since most anti-Europeans across the Union saw Amsterdam as the completion of what Maastricht had started, this was quite natural. Of more concern was the progress towards the single currency. This was true in the UK, even though it had been clear from the beginning that it would not start Stage 3 with the other Member States, due to its opt-out. Nonetheless, the issue was sufficiently politically volatile for James Goldsmith to fund the UK’s largest ever single-issue protest party, the Referendum Party, in the 1997 general election. While the Referendum Party had no appreciable effect on the election outcome, it did result in both the Conservatives and Labour committing themselves to a referendum on entry into Stage 3.

The 1997 general election also highlighted the divisions within the anti-EU groups. UKIP had already endeavoured to move back towards other groups before the election, parting company with Sked on the way, and in 1997 it co-founded New Alliance in an effort to create an umbrella organisation under which others could rally. The vast majority of the Referendum Party, broken by the death of Goldsmith in 1997, ended up joining with millionaire Paul Sykes (who had bank-rolled anti-euro Conservative MPs in 1997) to form the Democracy Movement. At the same time, a few members persisted with seeking election under the banner of the Democratic Party, run by a former Referendum Party manager. Despite this fragmentation, there was still felt to be enough space for the creation of Global Britain, under the direction of a
cross-party selection of anti-EU members of the House of Lords. By the late 1990s, there was a shift in the focus of opposition, as a referendum on the euro became a certainty and groups began to focus on arranging their campaign. The first of these was Trade Unions Against the Single Currency, set up in 1997 to shift opinion in the unions and the Labour Party. In 1998, after an appeal by the former Labour transport minister Lord Marsh, Business for Sterling was created as a forum for businessmen to act to protect the pound. The group was careful to distinguish itself from anti-EU groups, since it proclaimed itself to be against merely the euro, rather than the EU as a whole, although there is still some contact with UKIP and others. The key political counterpart to Business for Sterling has become the New Europe group of Lord Owen, founded in late 1998. Again, this was an anti-euro group rather than an anti-EU one, although once more the line between the two was somewhat blurred, given the content of some of their output. Together the two groups were to form No in late 1999 as a potential body for fighting a referendum, a role that the cross-party Congress for Democracy was happy to leave open.

The 1999 European elections saw the Conservative Party take a relatively negative approach towards the EU, although not one of outright opposition, benefiting from both the low turnout and the new PR system to increase greatly their representation in the European Parliament. At the same time, the UKIP made its electoral breakthrough, winning three seats and some 7 per cent of the vote, leading to something of a revival in its fortunes. However, this revival was to be short-lived, as the Party soon ejected both its executive council and its leader, Michael Holmes, in a fashion similar to their experience five years later, when they won over 16 per cent of the vote and 12 seats, before suffering the departure of Robert Kilroy-Silk to form Veritas.

Since the turn of the century, the British anti-EU movement has experienced something of a stabilisation of organisational forms, the only additions being Paul Sykes' British Democracy Campaign in 2001 – set up to campaign against the euro – and the MP-based grouping, Labour Against the Euro, in 2002. To a large extent, this has reflected a hunkering-down until such time as the Labour Government can bring itself to make a decision about membership of the euro.

A final point of note has been the relative lack of group formation associated with the Convention on the Future of the European Union. Despite the potential for significant structural change to the EU's system of governance (which has previously been a good marker of opposition interest, e.g. as at Maastricht), the only group to have developed in the UK has been a nascent Vote No campaign, despite the media interest from mid-2003 and Tony Blair's about turn on a referendum, which will probably be held in early 2006.9

So what can we take away from all of this? Perhaps the main point to note has been the success of the anti-EU movement in maintaining its momentum over a significant period of time. Partly this is due to the semi-constant developments at the European level, but it must also be recognised that a group of individuals have been instrumental in building up campaigning groups and the resources to continue. This is particularly impressive when we consider that European integration is not, and has never been, a topic of great concern to the British public; public opinion surveys consistently rank it lower than the economy, welfare and health.

Secondly, we can notice that the politically neutral centre has been remarkably successful in securing resources, membership and profile, in comparison with both left- and right-wing groups. In part this is due to the difficulty of securing direct anti-EU representation within formal political institutions, but a more historical dimension needs to be noted. In the early 1990s, when opposition to the EU was reawakening, individuals were highly atomised throughout the political system, and so it made sense for them to coalesce within a politically neutral framework. Thus the early groups, notably the Bruges Group, might well have had a preponderance of Conservative members, but still needed to eschew party politics. Consequently, this helped to set the starting point for the fragmentation and diversification of the movement outside of traditional party political lines, something that is echoed in the persistence of anti-EU elements in all parties.

The final point to be made concerns the reactionary nature of opposition to the EU. It is a phenomenon driven by what the Union and its constituent Member States do; certainly, there is scant evidence of such opposition driving or redirecting the Union's development. For example, look at the way in which No closed down in late March 2004, not because of any direct success, but rather because of the Labour Government's procrastination on a referendum on the euro. This then might be taken as a mark of the anti-EU movement's failure to engage political institutions to the same extent that it has public opinion.

1 Based on a paper delivered to Political Studies Association 34th Annual Conference, University of Lincoln, 6-8 April 2004. The views expressed are solely those of the author.


3 CBI's current Chair, Lord Stoddart of Swindon, described this period in the group's history as "keeping the torch alight". The Conservative European Reform Group had been formed in 1980, but with only a passive agenda of criticising the costs of membership. Labour (Labour Euro Safeguards Campaign) and Conservative (Conservatives Against a Federal Europe) groups also maintained a minimal existence during this period.


5 British and Scandinavian groups were at the forefront of TEAM's creation, and it was paralleled by the simultaneously establishment of the Anti-Maastricht Alliance in the UK. TEAM modified its constitution (and name, to The European Alliance of EU-critical Movements) in 1997 and experienced most of its growth thereafter.

6 See the BWMA's website at http://www.footrule.org for more information on the Steve Thoburn trial.


8 See http://www.vote-no.com for more details.

Simon Usherwood is a Lecturer in the Department of Political, International & Policy Studies at the University of Surrey.
Big Governments + WTO Subsidy Rules = Trade Distortions + Inefficiency

by Keith Marsden

The US and European Union have stepped back from the brink of a potentially hugely damaging trade war by agreeing to start negotiations on eliminating subsidies to aircraft makers. But the discussions, however, are likely to provide only a temporary respite if the wider trade distortions and inefficiencies caused by subsidies are not tackled.

Both sides say they will use the broad World Trade Organization (WTO) definition of subsidy. This is set out in the Agreement on Subsidies and Countervailing Measures (ASCM) signed by WTO members in 1994. A subsidy is deemed to exist if there is a financial contribution by a government or public body involving (i) a direct transfer of funds in the form of grants, loans, guarantees and equity infusions, (ii) provision of goods or services, other than general infrastructure, (iii) revenue that is otherwise due is foregone or not collected (e.g. tax credits), (iv) any form of income or price support, and (v) a benefit is thereby conferred to the recipients.

This definition is theoretically sound, but the ASCM has led to a spiral of disputes between WTO member states. This is largely because the text lacks transparency and can be interpreted differently by trade lawyers, industrialists and politicians.

However, a bigger issue has been given scant attention. This is the bias in favour of big governments resulting from the ASCM’s arbitrary distinction between subsidies that are prohibited or actionable, and those that are not. There are two major anomalies.

First, WTO disciplines are applicable only to specific subsidies where the granting authority explicitly limits access to subsidies to certain enterprises or industries. General subsidies, which are available to enterprises or their employees across the board, are not subject to WTO sanctions.

Thus big governments – those that spend 45 to 75 per cent of their countries’ national incomes – can spread their largesse around with impunity. According to the OECD, this category includes Sweden (73 per cent in 1993 and 58 per cent in 2003), France (54 per cent in 2003), and Germany (49 per cent in 2003). Total government expenditure in the Euro area has ranged from 49 per cent to 53 per cent of GDP over the last decade. The UK’s spending ratio was below the Euro area average, with government outlays totaling 44 per cent of GDP in 2003, up from 37 per cent in 2000. However, the real level of subsidisation in the EU would be higher still if the amount of revenue foregone (through tax credits for investment, for example) were taken into account.

General subsidies distort the allocation of resources between, not just within, national economies. They give an unfair advantage in world markets to enterprises from countries whose governments choose to, and can afford to, spend heavily on free or subsidised services and provide generous financial transfers and tax credits to their industries.

On the other hand, lean governments (whose outlays represent 20 to 37 per cent of national income) can be hauled before WTO tribunals if they allocate specific subsidies to selected beneficiaries, even if the level of specific subsidy per recipient is lower than the general subsidies provided by big governments. Chile (25 per cent), Thailand (25 per cent), Korea (27 per cent), South Africa (34 per cent), Ireland (34 per cent) and the US (36 per cent) were in the lean government category in 2003.

There is also an important group of countries with ultra-slim governments, such as India, Mexico and Ghana. Their central governments spent 17 per cent, 16 per cent and 13 per cent of their GDP respectively in 2001 and could indulge in relatively little overt subsidisation, whether general or specific. However, some provide hidden subsidies to their exporters by fixing the exchange rates for their currencies at artificially low levels.

The second anomaly is that the ASCM prohibits the exemption or remission of direct taxes (on income and profits) and social welfare charges from the price of exported goods and services, even though foreign consumers gain no direct benefit from the subsidies and social services funded by these taxes. Yet deduction of indirect taxes (such as value-added, sales, turnover, and stamp taxes) and import charges is permitted.

Thus enterprises in countries with higher indirect tax rates can undercut the prices of their lower-rate competitors in foreign and domestic markets. This is because firms and their employees in the first group receive a lot of services, including training, research, health and pension programs, provided free or below cost by the government, and partly off its indirect tax revenues. Their competitors in the second group often fund these programmes privately and must recover these costs in the market prices charged for their products and services.

Government spending on general labour subsidies amounted to 4.6 per cent of GDP in Denmark, 3.3 per cent in Germany and 2.9 per cent in France in 2002, compared with 0.8 per cent in the UK, 0.7 per cent in the US, 0.4 per cent in Korea and 0.06 per cent in Mexico in 2002. Employers and workers spent 7.3 per cent of GDP on private health care in the U.S. and 4.0 per cent in India, but just 1.4 per cent in the UK. Italy devoted 17.6 per cent of national income to public pensions in 2003, but Korea only 1.3 per cent.

Substantial price differentials result from the exclusion of indirect taxes from WTO rules prohibiting export subsidies. Revenue from indirect taxes on goods and services reached 12.3 per cent of GDP in the EU in 2002, compared with 4.5 per cent in the U.S. The EU’s VAT rates go up to 25 per cent, and average around 20 per cent. Its tariffs on imported inputs that go into manufactured exports range from 2 per cent for metals to 5.9 per cent for agricultural raw materials and 8 per cent for textiles.

Thus, after WTO-approved tax rebates, EU firms can export their products at prices 18 to 27 per cent below domestic (after tax) levels without being accused of dumping. The total value of these discounts is far in excess of the $4 billion a year deductions from corporate tax liabilities provided to US exporters under the Foreign Sales Corporation Act, deductions that were judged illegal by the WTO.

Countries with high VAT/sales tax rates can also undercut foreign competitors in their domestic markets. This is because these taxes are levied on domestic and foreign goods at the same rate, but only domestic producers receive the subsidies funded by these taxes. Import duties are applied to foreign products only. So the EU
effectively applies a protective tariff on imports of 25 per cent or more.

There is no VAT in the US. Sales taxes are applied by state governments, and are in the 5 to 7 per cent range. Import duties on materials are similar to the EU’s. So its price discounts on exports are generally below 8 per cent. These discount/price differentials go a long way toward explaining the EU’s $77 billion trade surplus with the US in 2003.

Subsidised firms gain more market share than they deserve, but their economies lose out in overall performance. Subsidies cause a wasteful use of resources by state monopolies. Because government handouts appear to be free, the recipients have little incentive to use them efficiently. Moreover, WTO subsidy rules deter EU countries from introducing ‘Lisbon Agenda’ reforms aimed at freeing up markets. They discourage firms, families and individuals from assuming greater responsibility for their economic progress and social security.

Unfortunately, the high costs of these distortions, waste and inefficiency are not fully recognized by many policy makers. But it can be seen in the poor results of heavily subsidised economies in recent years. GDP growth in the Euro area has averaged just 2.0 per cent annually over the last decade, while the unemployment rate has topped 9 per cent. In contrast, low-tax Asian economies have grown more than three times as fast, and kept unemployment around 4 per cent. And the only eurozone Government that has sustained a serious slimming regime – Ireland’s, which brought its spending down to 34 per cent of GDP in 2003 from 45 per cent in 1993 – has enjoyed 7.4 per cent annual GDP growth since 1996, while reducing the unemployment rate to 4.4 per cent from 11.9 per cent.

If the true costs of subsidies are admitted, WTO members should agree to revise the ASCM rules. The aim should be to create a more level playing field for competition between countries with different philosophies about the roles of the state and the private sector.

But if negotiations fail, the UK, the US and other like-minded countries should not just sit back and take the punishment. They should revamp their own tax structures to take fuller advantage of existing WTO rules. Personal income, corporate taxes and social security charges could be lowered or eliminated, and more revenue collected from VAT and property taxes. Equity concerns could be met by providing cash transfers or tax credits to households and individuals, graduated by income or consumption levels.

Lean, low-tax economies would then be able to outscore their bloated competitors without the WTO referee repeatedly whistling fouls or offsides.

Keith Marsden is an honorary fellow of the Centre for Policy Studies, a member of the advisory council of The Taxpayers’ Alliance in the UK, and a member of the European Foundation’s Advisory Board.

### It’s Official – Voting ‘No’ is Stupid

by John Massey

The European Union is trying to buy your vote. With your money. Eight million euros of it, to be precise. The dismal turnout of 42.3 per cent in the Spanish referendum has galvanised the European Parliament into pouring taxpayers’ money into what is laughably described as “an information campaign”.

Every time a public vote comes around, MEPs wake up to the democratic deficit which so painfully betrays public indifference and hostility to the European project. (Once, of course, they have survived the potential cull, their minds return to weightier matters such as expense allowances.)

The Parliament’s anxiety is particularly acute in respect of the debate on the Constitution because even if, as in Spain, a referendum approves the Constitution, abysmally low turnout will be an enduring signifier of popular dissatisfaction with their self-asserted ‘mandate’. Narrow approval in any referendum will be substantially undermined if, as is likely, turnout in Member States is paltry.

The Community’s answer? Conscious that popular participation in the Spanish referendum might just be less than an enthusiastic 100 per cent the Community swooped on thirsty Madrileños with cans of soft drinks and pro-Constitution promotional literature. Surprisingly, this tactic had little success, so the Community has turned to ‘education’. But this is education as defined by the European Parliament. Old-fashioned, anti-communaute pedagogical concepts such as presenting facts to the electorate in order that it may make an informed decision on the matter are discarded. No! Education as defined by MEPs should be based on “explaining to the public how the Constitution will benefit them in their everyday lives.”

As two MEPs (Den Dover and Nigel Farage) have commendably observed, this massively orchestrated pro-Constitution push is both expensive and arguably illegal. It will reflect the European Parliament’s view of the Constitution and that view cannot be anything but wholly biased and self-serving.

To its credit, the United Kingdom Government has stated that it will be reluctant to accept EU money in this regard. We know from experience, however, that in matters concerning the European Union such protestations are frequently followed by the very measure that has been so explicitly denied. In any event, it is utterly futile for a national government to seek to prevent such propaganda if it can be disseminated on a supranational basis.

This campaign proceeds on two invidious, circular assumptions. If you oppose the Constitution, you are uneducated. If you are ignorant or indifferent, you need to be apprised of the benefits of integration. Opponents of untrammelled integration are frequently lambasted as myth-peddlers; but for the inherently biased and grotesquely overfunded European Parliament to portray itself as the voice of detached impartiality is obscene. No party has an automatic monopoly on truth, but when buying something do you believe someone who has forked out a fortune for shoddy goods? Or the oily salesman on a hefty commission whose promises disappear in a puff of smoke the second you hand over the cash?

John Massey is a researcher at the European Foundation.
Austria
The Austrian Parliament is set to vote on the Constitution in May. A recently enacted law has set the month, but not the specific date, of the vote. This comes after the Austrian Parliament voted unanimously against a possible referendum on the EU Constitution. Wolfgang Schuessel, Austria’s Conservative Chancellor, has repeatedly stated that he regrets the Constitution will not be put to a pan-European referendum. However, he has consistently ruled out a national referendum in his own country. It is expected that the two-thirds parliamentary majority needed to ratify the Treaty will not be easily achieved.

Cyprus
While a referendum will not be held in Cyprus, the Government did launch an education campaign on the Constitution in February. Cypriot Foreign Minister, George Iacovou, believes it is important for the public to know what the text entails, as “it will be theirs”. The information campaign will include a series of lectures in Nicosia and other towns, as well as the distribution of booklets, leaflets, novelty items (such as mouse pads and pens) and other Constitution related paraphernalia. The Government has also made plans to translate some of their publications into Turkish and to engage Turkish Cypriots to participate in events.

Czech Republic
Ongoing debate as to when a referendum should be held is plaguing the Czech Government and Opposition. On 9 March, the centre-left Government adopted a Bill that would make referendums a common decision-making instrument in the Republic. However, centre-right Civil Democrats proposed a similar, albeit more limited, Bill, which would only allow a vote on the Constitution. According to the Government Bill, the President will be allowed to call a referendum if he is petitioned by 101 of the country’s 200 deputies, 41 of the 81 senators, or by at least 500,000 citizens. Eurosceptic President Václav Klaus fully supports a referendum, rather than parliamentary ratification. Prime Minister Stanislav Gross also supports a referendum, but is confident the Czech electorate will vote in favour of the Treaty, although many experts are not so optimistic. Regardless of the timing of a plebiscite, the around €5.5 million has already been earmarked for an information campaign on the Constitution. The Czech Republic is the only Member State that has not finalised a decision on the method of ratification.

Denmark
Denmark will hold a binding referendum on the Constitution on 27 September of this year. The centre-right Government, led by Prime Minister Rasmussen, finally reached agreement on the date with the main opposition parties – the Social Democrats, Radicals, and the People’s Socialist Party – all of whom had been battling internally over the Treaty. Denmark has held six previous referendums on the EU. The electorate voted ‘No’ twice before, over Maastricht and the euro. This has led the Prime Minister to issue warning that a ‘No’ vote on the Constitution may endanger the nation’s future within the Union. The Danish Government has ensured the protection of the four Danish opt-outs (joint defence, single currency, judiciary co-operation and European citizenship) with the hope of curbing anti-Constitution sentiment.

France
On 28 February, an overwhelming majority in both houses of the French Parliament voted in favour of amending the national Constitution to allow for a referendum on the European Constitution. The motion passed by 730 votes to 66, with 96 abstentions (this high number was the result of abstentions by anti-Constitution socialists). After the Parliament gave the go-ahead, President Chirac set the date of the referendum, which will be held on 29 May. This is just weeks after the German Parliamentary vote is to be held. Opinion polls over recent weeks have been indicating that the ‘No’ camp has been inching its way closer to the ‘Yes’ camp. Now alarm bells are ringing throughout France, as two separate polls have indicated the ‘No’ vote has taken the lead. The first poll, conducted by the CSA Institute, found that 51 per cent of the respondents plan to vote ‘No’ in the referendum; the ‘Yes’ vote has fallen to 49 per cent, with a high 53 per cent likely to abstain from voting altogether. A second poll conducted by Ipsos for Le Figaro showed that 52 per cent of those polled plan to vote ‘No’ compared to 48 per cent who plan to vote ‘Yes’. A French ‘No’ vote could stop the Constitution dead in its tracks.

Germany
Officials in Germany have by no means hidden the fact that they want to coordinate their vote on the Constitution with the French referendum in order to build momentum for a positive outcome there. The Bundestag will vote on the Treaty on 12 May, just weeks ahead of the French referendum. The parliamentary ratification process began in the upper house in late February; the Bundesrat is expected to give their final stamp of approval within weeks if the document passes through the lower house. A two-thirds majority in both houses is required for ratification. A referendum is constitutionally impossible in Germany, and the Government opted against amending the federal Constitution in order to make a plebiscite possible.

Greece
Although there is no tradition for referendums in Greece, the Socialist Party, PASOK, continues to push the Government to hold a public vote on the Constitution. PASOK supports the Constitution, however they feel a referendum would “satisfy the demand of citizens to be fully informed and to decide the future of Greece in the EU.”

Ireland
The date of the Irish referendum has yet to be announced, although it is expected to be held in late 2005 or early 2006. The Irish debate over the Constitution has tended to focus on the impact of the Treaty on Ireland’s neutrality and on social issues. The vote will be legally binding.

Latvia
The Constitution will be ratified by a parliamentary vote. Currently Latvia is holding out for a separate declaration to the Treaty,
which would ensure the Latvian spelling of euro, however the Government has insisted this will not impede ratification.

**MALTA**

There will not be a plebiscite in Malta; a vote on the European Constitution will be taken by mid-July following a debate in Parliament. Recently, two Nationalist MEPs urged the Government to engage the public in the debate over the Constitution, instead of merely leaving it to be deliberated in the Parliament.

**POLAND**

Doubts have been cast as to the timing of the referendum in Poland after Prime Minister Marek Belka threatened to resign and defect to a newly established party. The Democratic Left Alliance (SLD) has demanded that the Prime Minister stay in office until the autumn, warning that, if Belka does decide to leave office, he will be held personally responsible if the EU Constitution fails the public vote. If Belka chooses to stand down, it is likely that the referendum will have to be postponed until after the general election, which would take place in the summer. The SLD has consistently called for both votes to take place simultaneously later in the year. Belka is planning to make a decision on 5 May.

**PORTUGAL**

Newly elected Prime Minister, Jose Socrates, has announced that he will seek to hold a referendum on the Constitution in December 2005 to coincide with local elections. Currently, the Portuguese Constitution forbids the holding of a referendum between the time a general election is called and the time it is held. The Prime Minister supports amending the national Constitution to allow for the two votes to be held simultaneously. He feels that this approach would save public money and boost voter turnout.

**SLOVAKIA**

Slovak President Ivan Gasparovic believes that no referendum is needed on the Constitution and feels that not ratifying the document could endanger the existence of the EU. The Slovak Parliament will ratify the text in May despite reservations raised by the Christian Democratic Movement (KDH).

**THE NETHERLANDS**

The Dutch electorate will be asked their opinion on the Constitution on 1 June 2005. The question to be put to the public is as follows, "Are you for or against the Netherlands agreeing to the treaty to establish a Constitution for Europe?" Since the referendum is non-binding, the Dutch Government will be able to ratify the document regardless of the outcome of the referendum. However, many politicians have agreed to uphold the will of the people if there is high voter turnout. The Netherlands is the only founding Member State in which recent public opinion polls imply that a 'No' vote may be possible. The referendum will be the first in the nation's history.

**UNITED KINGDOM**

The British Parliament voted strongly in favour of the European Union Bill, which paves the way for a referendum on the Constitution. The Bill was passed in the Commons by 345 votes to 130 during the Second Reading. The five-clause Bill gives Parliamentary approval to the Constitutional Treaty, but clearly denotes the binding nature of a referendum. Parliament may only ratify the text if it wins the approval of the public.

### Already Ratified

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<tr>
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<th>Mode of ratification</th>
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<tbody>
<tr>
<td>Lithuania</td>
<td>11 November 2004</td>
<td>parliament</td>
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<td>Hungary</td>
<td>20 December 2004</td>
<td>parliament</td>
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<td>Slovenia</td>
<td>1 February 2005</td>
<td>parliament</td>
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<tr>
<td>Spain</td>
<td>20 February 2005</td>
<td>referendum, with final approval by Parliament</td>
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### Ratification through Referendum

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<th>Expected Date</th>
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<tr>
<td>Czech Republic</td>
<td>Late 2005 or June 2006</td>
<td>Latter date would coincide with parliamentary elections</td>
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<td>Denmark</td>
<td>27 September 2006</td>
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<td>France</td>
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<td>Ireland</td>
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<td>Luxembourg</td>
<td>10 July 2005</td>
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<td>Poland</td>
<td>Late 2005</td>
<td>Possibly to coincide with presidential elections</td>
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<td>Portugal</td>
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<td>The Netherlands</td>
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<td>United Kingdom</td>
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<td>Belgium</td>
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<td>Cyprus</td>
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<td>Estonia</td>
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<td>Finland</td>
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<td>Germany</td>
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<td>Greece</td>
<td>Early 2005</td>
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<td>Italy</td>
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<td>Awaiting ratification by Senate</td>
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<td>Latvia</td>
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<td>Malta</td>
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Sara Rainwater is Editor of the European Journal.
A Populus poll for The Times, conducted from 4 - 6 February 2005, gave rise to speculation that the tide of public opinion was turning in favour of the European Constitution (see Referendum Review in The European Journal, February 2005). The poll posed the following question:

"Next year a referendum is to be held on the proposed EU constitution. The question on the ballot paper will be 'Should the UK approve the treaty establishing a constitution for the European Union'? How would you vote if this referendum were taking place now - or would you probably not vote at all?"

The headline result was that 36 per cent of those polled would vote 'Yes', whilst 29 per cent would vote 'No'. This was the first poll to give a positive result for the Government and this may well have reflected the way in which the poll question reproduced the question that would be on the ballot paper in the referendum, under the European Union Bill in its current form.

Between 22 and 24 February, YouGov conducted a poll for the European Foundation, in which the question on the ballot paper was contextualised as follows:

"Under the European Constitutional Treaty, the European Constitution and European laws, through the European Court of Justice, override the UK Constitution including your Parliament and laws made at Westminster. The question in the Referendum will be 'Should the UK approve the Treaty establishing a Constitution for the European Union'. If the referendum were held tomorrow, would you vote 'Yes' or 'No' in response to that question or would you not bother to vote?"

The headline result in this case was that 22 per cent of those polled would vote 'Yes' and 53 per cent would vote 'No'. The strength of this result is likely to reflect the question's highlighting of the primacy issue – the most fundamental aspect of the Constitution and as such the matter that should be uppermost in voters' minds when they cast their votes. The Government has adopted a policy of dismissing concerns over primacy, saying that the Constitution will make no difference to the current legal and constitutional situation – a highly disingenuous line to take.

Attention can nevertheless be brought to the primacy issue, either by appropriate amendments being made to the European Union Bill before it is enacted or by a successful campaign of public information. It is essential that at least one of these two things happens. Whilst the Government is doing its best to dissemble on and hush up the primacy issue, it would be dangerous to assume that The Times's poll was a freak result.

YouGov is a member of the British Polling Council.

Dirk van Heck is Head of Research at the European Foundation.
The Attwood Report: Criminal Justice

The European Union’s ongoing transformation into an ever-more integrated entity takes place across policy areas. Throughout its history it has issued thousands of items of legislation covering trade, social issues, employment and other key regions of public policy. Since 1992’s Maastricht Treaty, this has included a commitment to ‘Co-operation in the Fields of Justice and Home Affairs’ [Title VII], a provision obliging Member States to ensure “judicial co-operation in criminal matters” [K.1.7]. In the thirteen years since Maastricht was signed, subsequent legislation has built on this vague commitment and made greater harmonisation of criminal justice procedure across Member States a central objective (the only hiatus being in 1999 when the House of Lords rejected Corpus Juris, an endeavour to introduce continental systems that, as we shall see, has since been re-attempted with more discretion). In this article, Matthew Attwood traces that process and demonstrates how the proposed EU Constitution and other policy commitments would inevitably lead to the codification of a European criminal justice system and the debasement of many British legal institutions.

The judicial co-operation in criminal matters envisaged by Maastricht, although presaging more wide-ranging commitments introduced since, kept the onus of criminal procedure on nation states. Co-operation was not to “affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order.” [K.2.2] Article K.3 laid down that Member States should “inform and consult” one another on issues covered by K.1, and the Council could draw up conventions in those areas and give the European Court of Justice (ECJ) “jurisdiction to interpret their provisions and rule on any disputes regarding their application.” But the Council could only recommend that Member States adopt those conventions “in accordance with their respective constitutional requirements.”

The essentially voluntary nature of Title VI was changed by revisions in 1997’s Amsterdam Treaty. “Co-operation in the Fields of Justice and Home Affairs” became “Police and Judicial Co-operation in Criminal Matters,” a significant shift of emphasis from a general policy area to specific procedure, and an explicit concentration on criminal justice (which was one of nine components of K.1). Article 29 (ex K.1) undertook to “provide citizens with a high level of safety within an area of freedom, security and justice.” Member States were to deliver this utopia not only through police and judicial co-operation but also by “combating racism and xenophobia,” this latter obligation a hint that the Union would innovate to fill any gaps in domestic statute books. Indeed, Article 29 allowed for the “approximation, where necessary, of rules on criminal matters in the Member States.”

Article 30 (ex K.2) established “common action in the field of police co-operation.” Section 2 identified the European Police Office (Europol) with this, requiring it to be given a prime investigative role within five years of the Treaty being signed. Taken together, the Article’s terms are a basis for the development of controversial instruments such as the European Arrest Warrant and European Evidence Warrant.

Article 31 (ex K.3) laid down terms for judicial co-operation in criminal matters. These included (a) enabling co-operation between relevant authorities in Member States, (b) facilitating extradition, (c) ensuring the compatibility of rules within Member States for the purposes of co-operation, and (d) preventing conflicts of jurisdiction between Member States. Clause (e) allowed for the progressive adoption of “measures establishing minimum rules relating to the constituent elements of criminal acts.” Couched in the vague language beloved of EU Treaty draftsmen – cynics might argue that this provides maximum interpretative leeway – Article 31’s emphasis on co-operation between domestic authorities appeared to preserve the integrity of internal processes.

The major innovation contained in the Amsterdam Treaty’s provisions for criminal justice was a shift from the action of Member States to guidance from EU authorities. Article 35 gave the Council powers to adopt positions, decisions and conventions in pursuit of improved collaboration. The insistence that Member States adopt these “in accordance with their respective constitutional requirements” remained, but they were obliged to act on framework decisions (statements of intent for new policies). These, it should be noted, were only binding “as to the results to be achieved” – “form and methods” could be decided on a domestic level. All such decisions were to be subject to the ECJ’s jurisdiction, although neither the Court nor the Council could rule on or legislate for Member States’ internal processes. Crucially, the principle of unanimity applied to all measures pertaining to the action of Member States, which could not therefore be outvoted on specific policies.

This important limitation was retained in the Nice Treaty, which introduced Eurojust to complement the activities of Europol. This body was given a role in encouraging judicial co-operation. Article 31 (2) committed the Council to (a) “enabling Eurojust to facilitate co-ordination between national prosecuting authorities,” (b) “promoting support by Eurojust for criminal investigations in cross-border crime” and (c) “facilitating co-operation between Eurojust and the European Judicial network.” Continued protection of the unanimity principle and emphasis on co-operation between discrete national authorities minimised Eurojust’s influence, but as we shall see, the provisions in Nice provided a platform for more
consequential innovation during the drafting of the Constitution.

The preservation of national independence in terms of internal judicial procedure must be our paramount concern, but we cannot ignore the practical effects of a commitment to collaboration in criminal justice. Two instruments of investigative conduct have resulted from Treaties enshrining that principle: the European Arrest Warrant (EAW) and the European Evidence Warrant (EEW). Both have proved controversial; both make individuals liable to investigation at the behest of European as well as domestic authorities.

The EAW came into force in the UK and eight other Member States on 1 January 2004. When a suspect is arrested under an EAW, an initial hearing in front of a judge must be held within 48 hours, although this is only to establish that the right person has been secured and that correct administrative procedure has been followed. The suspect has the chance to consent to his extradition at this hearing; if he does not, a further hearing must usually take place within 21 days. This assembly does not evaluate the merits of the EAW, but is instead held to ensure that no “legal bars to surrender” prevent extradition. No discussion of charges or evidence takes place – a significant departure from the purpose of extradition hearings.

The first of these “legal bars” is the absence of dual criminality – the long-established precedent that a person cannot be extradited for an offence that does not constitute a crime in the UK. The framework decision on the EAW, however, lists 32 offences where this provision is waived. Among these are racism, xenophobia and swindling, none of which is proscribed in Britain. Richard Bradley, Head of the Home Office’s Judicial Co-operation Unit, told the House of Commons European Scrutiny Committee in April 2004 that “crimes” in these areas committed in UK jurisdiction would not be subject to extraneous EAWs, but their inclusion in the framework decision is an indication of how “co-operation” in criminal matters necessitates standardisation. At the same meeting, Home Office Minister Caroline Flint referred to the European Council’s call at Tampere in 1999 “for the principle of mutual recognition [of Member States’ legal systems] to apply to pre-trial orders.” As we shall see, for the term “mutual recognition” to have anything other than rhetorical meaning, heterogeneity must be eliminated.

The EEW, which is still being negotiated, is intended to expedite co-operation in obtaining evidence. When a Member State has issued an EEW, it would be recognised and enforced by authorities in another Member State. Based on the mutual recognition principle, the EEW would allow police to enter suspects’ homes with no domestic evaluation of the evidence against them. When quizzed on the EEW in April last year, Ms Flint confirmed that, “we can see a situation in which we would permit the gathering of evidence even if an offence was not one under national law” as long as the UK could enjoy a quid pro quo in this regard. Although the European Scrutiny Committee found this deeply concerning, Ms Flint’s view was that “it is the process . . . that is most important.”

Chapter 4 of the Treaty Establishing a Constitution for Europe promises an “Area of Freedom, Security and Justice.” Section 4 of the chapter deals with judicial co-operation in criminal matters. The Constitution would repeal existing Treaties, and remove the “Three Pillar” system that maintains foreign policy and criminal justice as matters for intergovernmental co-operation.

Article III-270 [ex Article 31 (1) TEU] bases future collaborative action “on the principle of mutual recognition of judgements and judicial decisions.” All judgements emanating from all Member States are equally valid under the Article’s terms. Co-operation includes “approximation of the laws and the regulations of the Member States” in criminal matters with “a cross-border dimension.” For this purpose, “European framework laws may establish minimum rules.” Paragraph 2 of the Article specifically links this to (a) mutual admissibility of evidence, (b) the rights of suspects, (c) the rights of victims, and (d) “any other specific aspects of criminal procedure which the Council has identified in advance by a European decision.” In this latter area, the Council must act unanimously after obtaining the consent of the European Parliament, but in general, Qualified Majority Voting applies. Although the minimum rules must “take into account the differences between the legal traditions and systems of the Member States,” the British tradition of common law would be vulnerable in the face of harmonisation as the adversarial nature of UK justice differs from the inquisitorial system favoured in Europe. Framework laws (the Constitution’s replacement for Directives) are envisaged as being binding in terms of results, with practical responsibility for their achievement devolved to Member States.

Article III-271 of the Constitution reiterates the emphasis on crimes with a cross-border dimension but adds that “minimum rules concerning the definition of offences and sanctions” can be promulgated as framework laws on the unscientific grounds of “a special need to combat [specific crimes] on a common basis.” Paragraph 2 of the Article identifies “the effective implementation of a Union policy” as sufficient justification for legislation.

Member States would, through the Council, be able to query a framework law introduced under Articles III-270 and 271 if “fundamental aspects” of their criminal justice systems were at risk, but this would only result in suspension of the law and referral to the European Council. After four months, the law would either be reintroduced to the Council or re-drafted. If the European Council took no action or if the law was still not adopted 12 months after re-drafting, one-third or more of Member States could proceed with “enhanced co-operation” and introduce the legislation. Article I-44, however, depicts this as a “last resort.” The Constitution does not envisage it as a system enabling Member States to effectively vet new legislation: it is not a national veto.

Article III-273 [ex Article 31 (2) TEU] expands Eurojust’s role. To further its support for “co-ordination and co-operation” between national authorities in relation to serious crime affecting two or more countries or necessitating prosecution on common bases, “European laws shall determine Eurojust’s structure, operation, field of action and tasks.” European laws are defined in the Constitution as being directly applicable in Member States. The Article thus gives Eurojust the power to (a) initiate investigations and propose prosecutions by national authorities, (b) co-ordinate such actions and (c) strengthen judicial co-operation generally. National Parliaments (as well as the European Parliament) are permitted to “evaluate” Eurojust’s activities, although those arrangements will be determined by European laws.

Article III-274 provides for the establishment of a European Public Prosecutor’s Office by a unanimous act of the Council. The Prosecutor’s activities
would be limited to the investigation of “crimes affecting the financial interests of the Union”, but paragraph 4 allows the European Council (acting unanimously) to extend this remit to include “serious crime having a cross-border dimension.” The British Government’s objection to the Article was overruled and if the Constitution is ratified, and a unanimous act on Article III-274 follows, an extraneous authority will for the first time be able to initiate prosecutions in UK courts.

The Constitution also expands the ECJ’s role in the area of judicial co-operation. This includes the activities of Europol and Eurojust, but not the right to review Member States’ internal security arrangements or the actions of domestic law-enforcement agencies [Article III-377; ex Article 35 (5) TEU]. The Court would review European laws, framework laws and any other promulgation with a legal effect [Article III-365; ex Article 230 TEC], and would provide final judgement when a Member State has failed to implement an obligation under the Constitution [Articles III-360-2; ex Articles 226-8 TEC].

Although the emphasis on cross-border criminality is retained by the Constitution, many of its innovations assume for the Union some of the nation state’s primary responsibilities. The application of the community model of legislative procedure lessens accountability and takes decision-making on criminal justice further from the peoples of Europe. Majority voting, the ECJ’s expanded role, the appointment of a European Prosecutor and the principle of mutual recognition represent an integrationist programme making the furtherance of EU potency a higher priority than judicial efficiency and answerability. A strong case can be made for increased intergovernmental co-operation, but this should be managed as part of the existing Third Pillar; we already benefit from extradition agreements and the principle of mutual legal assistance. We have seen how vague language and clauses providing for the future extension of EU power make the text agreed in Rome last year a strange kind of constitutional document: where is the delineation of competency we were promised that this “tidying-up exercise” would produce? If the importunacy recounted above is not sufficient indication that a European legal code is being constructed, the Flexibility Clause [Article I-18; ex Article 308 TEC] will demonstrate that the Constitution would not be the end of EU power-grabbing, in any policy area: “If action by the Union should prove necessary, within the framework of the policies defined in Part III, to attain one of the objectives set out in the Constitution, and the Constitution has not provided the necessary powers, the Council of Ministers, acting unanimously on a proposal from the European Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures.”

Some Commissioners evidently believe that the Constitutional Treaty fails to take the EU far enough on the path to statehood. Even before the most significant European agreement since the Treaty of Rome has been ratified, a framework decision extending “judicial co-operation” is emanating from Brussels. The decision’s terms are reasonable: they cover matters including legal advice, translation, communication with consular authorities and a “Letter of Rights.” The problem identified by MPs scrutinising the document is that these prescriptions would apply to all criminal proceedings taking place in the EU.

The decision takes as its legal basis Article 31 (1)(c) TEU, which deals with ensuring “compatibility in rules applicable in the Member States, as may be necessary to … improve [judicial] co-operation.” As MPs have noted, this does not provide a foundation for EU legislation to apply rules to internal judicial processes. Indeed, Article III-270 of the Constitution is more explicit, confining judicial co-operation to “criminal matters having a cross-border dimension.”

It has been stated in defence of the framework decision that some common procedural safeguards are necessary to foster trust and confidence between Member States’ judicial systems – the mutual recognition principle. However laudable this goal may be, it is extremely broad and inconsistent with the language in Article 31. Member States may apply principles relating to cross-border co-operation to their own internal processes, but nothing contained in current legislation (or the Constitution) gives EU institutions the power to direct this. If the framework decision is implemented and safeguards are imposed on some domestic procedures, MPs fear that it would prove impossible to differentiate between areas where this is necessary and where it is not. The result would be standardisation across the Union: a criminal justice system for the EU.

The framework decision on criminal procedure is a statement of intent. Such is their impatience for the EU to take on the attributes of statehood that some of the Union’s proponents have over-reached the terms of its planned Constitution – itself (if ratified) one of the most momentous developments in Europe’s post-war history. The Third Pillar is the focus of so much resentment for integrationists that the limitations of the document removing it won’t stop them manipulating unclear vocabulary in existing legislation to up the harmonisation ante.

The idea of judicial co-operation between friendly neighbours is uncontroversial, but if taken beyond the level of voluntary intergovernmental collaboration it ceases to be a practical solution to modern criminality and becomes instead an assertion of political purpose. This article’s survey of legislation on the issue demonstrates how each Treaty has built on foundations provided by its predecessor. Now, a concept championed by the British Government – mutual recognition – could provide the justification for the final removal of British judicial independence. The UK (and Malta and Ireland, which also have common law traditions) has the most to lose from judicial standardisation. The constitutional caltair prevented by the loss of our justice system’s autonomy would be bitter enough, but if harmonisation reaches its logical conclusion, Continental models will most certainly be adopted.

If domestic control of the British criminal justice system is to be retained, it is essential that the Third Pillar is preserved and the Constitution rejected. But the framework decision discussed above demonstrates that, despite Amsterdam’s explicit confinement to issues of co-operation between Member States, its vague language can still be used to produce draft legislation attacking the independence of Europe’s legal systems. It could, of course, be said that vagueness is a leitmotif of EU legislation, but there is no need for that to remain the case during negotiations following a rejection of the Constitution. Whatever the Government says, we don’t need a Constitution to say “thus far and no further” to “co-operation” in criminal justice or any other area.

Matthew Attwood is a freelance writer and can be contacted through the European Foundation or by emailing him at matthew_attwood@hotmail.com.
1 Divorces and the EU
The Commission launched a Green Paper on the applicable law and jurisdiction of divorces on 14 March, with the hope of encouraging debate on the issue of divorce amongst “international” couples. The Commission feels that the current situation regarding couples of differing nationalities “may lead to practical difficulties” and states that, “The Green Paper describes these difficulties and proposes possible solutions”. In the words of the Commission press release, “The initiative is part of the European Union's on-going work to create a common judicial area in the field of family law with the aim to facilitate the daily life of the European Union's on-going work to create a common judicial area in the field of family law with the aim to facilitate the daily life of the citizens.”


2 Downloading Hypocrisy
Currently there is a lawsuit against Apple Computers over the extra cost charged to Britons who download music. Out of all the EU states, the UK leads in downloading from the Apple website, with figures as high as 5.7 million downloads in 2004 alone. Statistics presented by the Evening Standard Lite show that Britons are paying as much as 79p per download compared to that of the French or Germans, who are only paying 68p. If the company is found to be liable for overcharging, they may be forced to pay out millions of pounds in fines. iTunes now holds 70 per cent of the downloading business in the UK and could be greatly hindered by such a large lawsuit.

[Evening Standard Lite 25 February 2005]

3 Let’s Respect the Vets
Tony Blair hoped to celebrate the highly patriotic holiday of VE Day by launching his campaign for the ratification of the European Constitution. Conservative MPs and veterans alike came out in force against the proposition. Some of the statements made against this proposal were, “I fear ministers will be willing to fight on the beaches, fight on the landing grounds and fight in the streets – all to surrender Britain’s sovereignty,” and “VE Day should be about remembering those boys who gave their lives – not making us puppets to further any political party’s cause.” The opposition waged against the plan caused the Government to scrap the idea, and now Blair himself has said that it was all just a misunderstanding.

[The Sun 24 February 2005]

4 How Much Are We Watching You?
The EU hopes to have black boxes installed in every new vehicle by the year 2009. The boxes, much like the ones used in airplanes, are hoped to reduce accidents and high-speed chases. These boxes track travellers by using a series of satellites that can record a driver's speed, location and whether a seatbelt is being worn using global positioning. However, British motoring groups are afraid the boxes may be used to track people’s movements. Director of the RAC, Edmund King, thinks a voluntary system, which could be used in car insurance reduction schemes, would be fine, but “there is a big difference between that and a compulsory system imposed by the EU... There would be opposition if it was Big Brother in the car monitoring our every move.”

[The Sunday Times 27 February 2005]

5 Parlate italiano?
MEP Cristiana Muscardini, co-president of the UEN group, called for a boycott of European Parliament meetings that are not translated into Italian. Muscardini told journalists, “[The] Italian language is increasingly being pushed aside. The languages of the founding EU countries should be respected.” Thus she and her Italian colleagues will go on a ‘white strike’ to highlight their concerns. Muscardini said that her members will not participate in committee meetings not translated into Italian, nor will they take part when documents are not translated into their native language.

[eupolitix.com 15 March 2005]

6 The Cost of Not Smoking
Approximately 650,000 EU citizens are expected to die of smoking-related illnesses annually, thus costing an estimated €100 billion to Member States of the EU according to the website, Euobserver.com. The EU allocates €72 million for anti-smoking awareness, but still gives tobacco producers more than €1 billion in subsidies. The EU finances this costly campaign by taking 3 per cent of grants for tobacco farmers. Health Commissioner Markos Kyprianouthe notes that this is a clear contradiction in EU policy.

[Euobserver.com 1 March 2005]

7 Promoting Motherhood or Thyself
The pregnant German MEP Silvana Koch-Mehrin recently posed partially nude for Stern magazine. She stated that this act of exhibition is to promote working women to be proud of starting families in a country where the birth rate is ever-decreasing. However, more critical observers of the act say that it is self-promotion, as well as party promotion. Comedians in Germany have even been quoted as calling her party of the ‘fertility developers’.

[The Times 8 March 2005]

8 The EU Constitution in Welsh?
The EU Constitution may be translated into the Welsh language if the measure is approved by all 25 Member States of the EU. This translation is meant to spark recognition in the EU of small nation members that are parts of larger states. The translation is meant to help all citizens of the UK to have a better understanding of the new Constitution. All costs for the translation will be charged to the Foreign Office.

[icWales, http://icwales.icnetwork.co.uk 8 March 2005]

Lauren Harris is a research assistant at the European Foundation.
You are cordially invited to attend a ground-breaking event in the campaign to block the EU Constitution

EUROPEANS FOR DIVERSITY - NO TO THE EU CONSTITUTION

INTERNATIONAL RALLY
SATURDAY, 9TH APRIL 2005
10:00 - 17:00

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Keynote speaker: Marta Andreasen

International Speakers
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Anthony Coughlan, Ireland
Thomas Rupp, Germany
Ulla Klotzer, Finland
Roger Cole, Ireland
Jean-Paul Bled, France
Henrik Dahlsson, Sweden
and more

UK Speakers
John Cryer, MP, Labour
Bill Cash, MP, Conservative
Cllr Mark Hill, Green
Steve Radford, Liberal
John Mills, Labour Euro Safeguards Campaign
Brian Denny, CAEF & RMT Union
Neil Herron, Metric Martyrs & North East No Campaign
Doug Nicholls, Trade Unionists against the EU Constitution

Co-hosted by the Democracy Movement, the Campaign Against Euro Federalism (CAEF) and TEAM, this international rally will see the coming together of hundreds of political activists from across the party-political divide to launch a new campaign called Europeans for Diversity - No the EU Constitution, which will call for a Europe of democratic nation states that trade, enjoy cultural exchange and inter-governmental co-operation. The aim will be to reach millions of voters in Britain and other EU countries through literature and public meetings.

For more information, please contact:
Democracy Movement
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www.democracymovement.org.uk

Space is limited, so please reserve your place by e-mailing:
mail@democracymovement.org.uk
BOOK REVIEWS

The Bottom Line, an analysis of the terms of a renegotiated British membership of the European Union

Published by The Bruges Group online at
http://www.brugesgroup.com/mediacentre/comment.live?article=3968

Reviewed by Dirk van Heck

The pamphlet proposes building a new relationship with the EU, with five guiding principles in mind: the recognition of individual freedom; the encouragement of prosperity; the respect of the rule of national Parliaments; the creation of a flexible European Association; and the establishment of a relationship with the EU that allows Britain to be open to the wider world. There then follows a list of competences that should be on the table in any renegotiation: the Common Agricultural Policy; Common Fisheries Policy; Social Chapter; International Development; Defence and International Affairs; Regional Policy and Aid; Third Party Agreements; Taxation; Education, Culture, and Research and Development; Health and Consumer Protection; Justice and Home Affairs; Strict Application of the Treaties (that is, the use of the ‘rubber articles’ to get through policies that are not mentioned in the Treaties); and Restoration of the Veto. The pamphlet’s authors would ideally like to see full repatriation of powers in all these areas.

There is a further section on reworking European institutions. The authors would like the EU’s ‘institutional architecture’ redesigned so as to: protect whistleblowers; institute proper accounting procedures in the EU; end the press junkets and integrationist propaganda; sweep away the Economic and Social Committee and the Committee of the Regions; reform the Court of Auditors and the European Investment Bank; and revert to the pre-1979 European Parliamentary system whereby Member State MPs would sit in the European forum. In the UK, they would like to see: the acquis communautaire reviewed; an end to gold plating and for sunset clauses to be applied to EU legislation as a matter of course; the establishment of a commission to evaluate the costs of Britain’s EU membership; greater transparency in the way EU processes impinge on the workings of Parliament; giving teeth to the process of Parliamentary scrutiny; and claiming back more of the UK’s net contribution to the EU budget.

Although more restrained than Channel Vision, in these pages, this pamphlet is nevertheless substantially written in Lee Rotherham’s characteristic, highbrow, idiosyncratic style, complete with flourishes such as, “EU Regional policy is … a dead duck, whose festering miisma linger unhosomely over the body politic.” In the context, this is a welcome distraction from the inevitably rather technical subject matter. The issues are, however, dealt with in sufficient but not excessive detail and the positions taken are succinctly justified by the arguments set out. Indeed this is as good a Eurosceptic manifesto as is likely to be produced before the general election.

In his foreword, Lord Tebbit appears concerned with the legal implications of the renegotiation proposed in the pamphlet: whether they would necessitate a new Treaty, two parallel Treaties, or British withdrawal from the EU. The pamphlet itself suggests that Article 1-57 of the Constitution recognises that special arrangements can be made for states operating outside full EU membership; “This article could be the hinge of the UK’s future status, and deserves more recognition and study.” My own view is that, once a political negotiation has been concluded, suitable legal forms will be found to accommodate it (see for example the proposals for a form of associate status for Turkey). The withdrawal/renegotiation debate is an unfortunate (and tactically disastrous) distraction from the substantive issues that matter to people in their daily lives – issues which, to its credit, this pamphlet sets out to address.

Dirk van Heck is Head of Research at the European Foundation.
The Missing Heart of Europe: Does Britain Hold the Key to the Future of the Continent?


Reviewed by Dr Lee Rotherham

This little book is a peculiar gem. It boasts one of the best forewords of any tome I have ever encountered, and the biography of the author reads like an action comic and that’s enough to draw you in by itself.

The overarching thrust of the author is this – Europe is made up of two historical types of societies: the concentric and the eccentric. The concentric is more authoritarian, standardised and structured; whereas the eccentric is more individualistic, loose and libertarian. To provide one’s own paraphrase, one bunch likes leather and the other likes jokes about leather.

What is most striking is the way the book assembles from a Milky Way of sources a myriad of cogent arguments I had almost completely forgotten, then reassembles them in a manner that Bob down the pub could understand. This can be quite disconcerting for the seasoned sceptic of long standing, as he spots a theme from some solitary long-forgotten newspaper article emerge from the shadows. Either the author has ingeniously assimilated all these points over time in a library of Alexandrian proportions, or he is an extremely adroit commentator in his own right. Judging by my own paper stockpile nightmare on the EU that extends to geological depths, I am inclined to commend the author on either account. He is, in any event, extremely well read and well informed, to the point of alluding to other commentators’ allusions. Perhaps a bibliography at the end would have been fair?

I note a possible reference to Isaac Asimov’s Foundation series (recommended reading for all students of the EU). The intro quotes to the chapters are certainly varied, relevant, and exquisite.

Kremer’s tone is light but punchy: “Brits are seen as cool and casual, a characteristic useful in wartime but devastating when it comes to having a simple cooker installed.” Slips are extremely rare, for instance when the author overlooks Hanover as a complicating eighteenth century continental entanglement for British foreign policy, though admittedly one more of an issue for the monarch. I am not sure either where the notion of seven permanent seats on the UN comes from. But these are made up for by flashes of insight, such as the observation that France has received from Germany via the EEC more than it managed to extract out of war reparations.

What the book does overall is to spell out quite how it is that Europe does not have a single identity, and that it is made up of conflicting philosophies on how to live, work, and play. These differences are utterly irreconcilable, and any attempt to force them together will split the sausage at the seams, if you’ll excuse my Bavarian metaphor. The comparison of Gordon Brown’s five tests with a lover’s checklist is really quite inspired, though worrying in its implications on all manner of levels. I am, in any event, genuinely delighted to read any work that suggests it is our national mission to do over the French before their system does us first. Perhaps the section on the Giscard Constitution is a little too detail heavy given the rest of the fare, and not enough focused on the final text, but the salient points are there. My one real gripe is that the subtitle is never really applied. We find out why a swathe of Europe is different from the rest, an assertion often made but rarely proven. But does Britain hold the key to the future of the Continent? That, reader, is for you to decide.

Dr Lee Rotherham is a political consultant and Conservative PPC for Rotherham.

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The precise origin of Tallinn is hard to ascertain. There is evidence of the Ests tribes inhabiting the area from as early as the 1st century AD. The first traceable record of Tallinn’s occupation, however, can only be conclusively gleaned from the castle and fortress that was built there in 1219. The foreign occupier, King Waldemar II of Denmark, ordered the defences to be built when he invaded the northern part of Estonia. The advantageous position of the settlement as an access point to the rest of Europe meant that the area was heavily fortified and colonised. Tallinn has three defined areas of history and architecture that correspond to its three stages of development. The Tallinn–Reval castle site is the oldest part of modern day Tallinn; the concentration of royal Danish power in this area allowed early Tallinn to mature. From the castle site sprang a settlement in the surrounding land that established itself between the fourteenth and the sixteenth century, amalgamating with the original site to form early modern Tallinn. The town continued to expand and modernise through the centuries, giving Tallinn its present day form.

St Olav’s church was constructed during the Danish rule and was a tremendous architectural achievement, as with the completion of its steeple it became the tallest building in Europe. The church allowed the further development and settlement of Tallinn and the surrounding area and a community sprang up around its structure. The prosperity of Tallinn was not replicated elsewhere in Estonia under the rule of the Danish dynasty; they did not have the economic resources to maintain their lordship of the whole expanse of the land. Slowly, the Danes realised that they could no longer rule the land effectively and conceded to foreign interest in the Baltic area.

The prosperity of Tallinn was not replicated elsewhere in Estonia under the rule of the Danish dynasty; they did not have the economic resources to maintain their lordship of the whole expanse of the land. Slowly, the Danes realised that they could no longer rule the land effectively and conceded to foreign interest in the Baltic state in the sixteenth century.

Trading on the prosperity of the port of Tallinn, Estonia’s sovereignty was sold to the Teutonic Knights who had already made inroads into the country occupying Livonia in the south. Rule by the Teutonic Knights and Estonian membership of the Hanseatic League allowed Tallinn to flourish through the latter medieval period; much of the architecture that can be seen in the Old Town stems from around this period. The dissolution of the Hanseatic League and the subsequent cessation of the rule of the Teutonic Knights in 1561 after the Livonian War left Estonia vulnerable to foreign challenges for control. Estonia sought protection from Sweden and together they forged a symbiotic relationship; Sweden regained land in the region after the war and Estonia was protected. Sweden’s role was, however, to become more encompassing than had originally been agreed; challenges from Poland in the south of the country threatened her position as protectorate. By 1645 the Swedes had extended their control over the whole expanse of the country to counteract the threat. Estonia had merely exchanged one foreign ruler for another. The end of the Polish threat did not mark an end to the general threat of invasion, as Sweden’s stronghold in the Baltic area was to be challenged by Russia in 1700 during the Northern War. Tallinn was directly affected by the conflict, paying host to Russian troops who invaded and seized the town. Russian occupation of the capital was soon to be echoed throughout Estonian towns as Russia had assumed control of the whole country by 1721.

The initial eighteenth century rule by the Russians was to last for the next two hundred years. During this time Tallinn was regenerated after a decline in its fortunes under the Danes and the Swedes. The Tsars injected money into the town, developing its industries to contribute to the Russian Empire. The collapse of the Tsarist regime at the end of the First World War enabled Estonia to break free from foreign rule and establish its independence. The move by officials in 1918 was only to be formerly recognised by Russia in 1920 when it publicly surrendered any claim to Estonia. The republic was officially ratified and consolidated by the other European powers with the inclusion of Estonia in League of Nations. The country’s independence, however, was short lived. Estonia was reintegrated into the USSR during the first part of the Second World War but was then occupied by German troops as they pushed through Estonia into the USSR. The eventual retreat of Germany from the USSR meant that once again the Soviets seized the opportunity to take control of the Baltic state.

Soviet rule changed the dynamic of Tallinn; districts were renamed and its inhabitants deeply resented the encroachment of the Russian language and culture on them. Soviet socialism descended like a dark cloud over the formerly prosperous Estonia, challenging the legitimacy that the republic before it had forged. Soviet rule lasted until the final dissolution of communism in the USSR in 1991. Estonia had already made steps towards autonomy in the 1980s and moved quickly to establish itself on the world stage as the USSR’s power dissipated. The first democratic elections were held in Estonia in 1992. Estonia’s swift move towards democracy enabled its quick integration into the UN and later NATO, allowing Estonia to publicly shed the shackles and stigma of socialist Soviet rule. The country quickly emerged from the shadow of the Eastern bloc in 1995 by beginning to operate its economy in accordance with EU requirements. This move was formally recognised in the spring of 2004 by its inclusion in the EU as one of the new accession states. Estonia has perhaps, however, once again signed herself up for another a form of foreign rule.

Jump to Contents
The church dates from around the thirteenth century and was the tallest building in 1500 when the steeple was finally completed. The church was called St Olav’s after the Norwegian King, Olav II Haraldsson. The residents of Tallinn would argue that the church’s name does not elude to the Norwegian King, but to the legend of Olev, the church’s builder who fell and died during the church’s construction. Onlookers observed a snake and frog crawling out of Olev’s mouth as he lay dead and so the legend began that the unearthly force that supposedly possessed its builder. Whatever the true reason for the name of the church, it remains a magnificent medieval piece of architecture.

The Kadrior Palace
- The Foreign Art Museum
37 Weizenbergi Street, 10127, Tallinn
Phone +372 606 6400
The palace was built in 1718 by the Russian Tsar Peter I who was said to have laid the first stone. It was originally named Catherinenthal after Catherine I, the empress, and was originally used as a summer residence for the Tsars. Despite the Russian influences and Italian style architecture, the building’s interior echoes the romantic Estonian style. The museum boasts over nine hundred European paintings from the sixteenth century through to the twentieth century from artists such as Hans van Essen, Francesco Trevisan and Demitri Levitsky. The exhibition is not limited to paintings but also includes a collection of furniture, sculptures and porcelain.

Dominican Monastery
Vene 16, Tallinn
Phone +372 6444 4606
The monastery was founded by the Dominican order of monks in 1246. Tallinn was chosen because of its geographical positioning in Europe as a trade port that could be utilised for both food for the monks and to export their message to other parts of Europe. The monastery was built in a superbly gothic style representative of the medieval period from which it originated. The building has been affected by the passing of time; it was subject to attacks during the Reformation and was later damaged by fire. It has been restored and is now open to the public not only as a museum but also as a concert and exhibition hall.

Estonia Puppet Theatre
Estonia Avenue 4, 10148 Tallinn
Phone +372 683 1260
The theatre was founded in 1952 and specialises in child and teenage entertainment. The theatre houses three indoor and one open-air stage. The repertoire consists of traditional fairytales and stories by Estonian authors all performed by beautifully crafted puppets.

Moskva Bar
Vabaduse Väljak 10, Tallinn
Phone +372 640 4962
The bar used to be a Russian café and kept the original Russian name of Moskva despite the resentment of Russian and Soviet rule. The bar itself is completely modern and cocktails are its speciality. The top sellers include Mr JJ, Jameson Macree and Esquire, which are a ‘must try’ if you visit Moskva.

Samantha Elrick is a research assistant at the European Foundation and has recently completed a Masters in History at the University of Southampton.
The End of the Affair

by Dr Lee Rotherham

On my desk in the House of Commons I have two lumps of rubble. Some might think that a little unusual. But then, in the European Parliament I had Sticky the Stick. Sticky was a carved piece of wood from a National Trust shop, with a smiley face and a rogue smile. He was more animate than your average MEP, a lot smarter and made more sense.

But the lumps of rubble are a bit more special. One comes from a shop by Checkpoint Charlie and is on an engraved Perspex mount. It’s a piece of the Berlin Wall. The second I picked up from the road thousands of miles away. It’s a nondescript piece of detritus from Saddam’s Palace in Basrah.

It’s amazing how something as mundane as chips of concrete, even if they carry a bit of spray paint on them, can be so evocative. But they are a powerful visual reminder of what it is we are fighting for when we talk about freedom. They are also a striking symbol of fallen absolutism.

Some people will look gloomily at the paper that Skeptika and the Bruges Group have lately been cooperating on, which is reviewed elsewhere in these pages. Some will say, quite accurately, that we have been here before. As someone who was heavily involved behind the scenes during the European Convention, I had my fair share of playing around with drafts, proposals and amendments, of reflecting upon the EU golem and how to contain, restrain, reform or snap it. The vision thing certainly wasn’t lacking in the sceptic camp. There is a wealth of material that flowed from the pens and mouths of visionaries, who saw another route for the countries of Europe. They have already been collated. They deserve proper publishing.

But this recent text by its function must take a different route. The Bottom Line is based on a narrower premise.

The Conservative Party has today a partially defined policy on where it wants to go with the EU. It has indicated that it is not its policy to withdraw from the EU. It has also indicated that it intends to renegotiate certain elements of the Treaties that are not working. The Bottom Line is designed to fit within these parameters.

Some would like the Party to have adopted much broader limits. Others would have liked them set as far as the horizon. I have much sympathy with that. But politics is the art of the possible. So our paper looks at what the policy could be, given the self-imposed restraints.

In fact, once you look into it, the options are broader than you might think. There is going to be a massive system shock once the EU Constitution falters. We don’t yet know how many referendums will fail. We don’t know which countries will prove the thorn in the Commission’s sock. But we can anticipate that the Governments of those countries that do say ‘No’ will have substantial bargaining power only limited by their competence and determination.

Dan Hannan has convincingly argued in his pamphlet, Voting on the European Constitution: What Should This Country Know About the Consequences, that the Constitution is foredestined to be implemented regardless (barring some massive upset in a founding state). But it is also clear that it is easier for EU governments who wanted to press ahead to deal favourably and speedily with any obstructing state, rather than let the issue drag on and give a wider audience second thoughts. There will be genuine opportunities for ‘problem’ countries, if their governments have the guts to seize them.

Which is where this paper comes in. It is a study of where the Conservative Party can tomorrow expand upon its already-declared EU policy, to achieve stated policy objectives – reform short of withdrawal.

Governments in the EU today face several, concurrent, problems. Firstly, dopey previous governments before them have given away large chunks of their powers. So when legislation comes through the system that is either daft or downright malicious, the veto is gone.

Secondly, far too many areas are in the Commission’s bag. Its reach stretches miles beyond the core areas that the EEC originally covered. Parliament is muted.

Thirdly, ever since the 1960s the system has developed a taste for power. Like some mediaeval robber baron, it encroaches and raids and snatches whatever it sees. All the institutions are complicit, from the Commission through the European Parliament via the Committees to the Court of Justice, a misnomer if ever there was one.

Fourthly, the system is repressive of dissent and has systems in place to maintain nominal public endorsement (by Europhile ‘front’ organisations). It uses propaganda to try to gain acquiescence, if not actual popular acceptance.

Fifthly, there is an acceptance of endemic fraud, partiality, favouritism and internal collusion.

Sixthly, these problems are worsening over time.

What’s the solution? Withdrawal is the simplest, nuclear option, but that’s not on the Conservative table. It carries its own (metaphorical) radioactive fallout that the Party hierarchy currently doesn’t calculate is acceptable. But if the British deal is going to be renegotiated, then why not do it properly and address the real issues?

That means broadening the list of items that have to be brought back to national control. It means re-establishing the veto. It means ending the ratchet of ever-closer union. It means an earthquake across the institutions. It means putting national Parliaments back at the top of the EU food chain.

While we are at it, we can hit the issue with the honesty stick. Let’s have a Commission on the Costs and Benefits of Membership, covering the economic, social and democratic, and, since we all have nothing to hide, let’s make it a fair one. And let’s acknowledge, for the first time in frontline politics, that withdrawal from the EU is a legitimate aspiration if it all doesn’t work out, talks fail, and the sums show a deficit.

That may not be what withdrawalists would want to read. It certainly won’t be what the wish-it-would-go-awayists would want to see. But neither is the intended audience.

We have a proposal that is acceptable within today’s defined limits of Conservative policy, which can fit into a manifesto tomorrow. If implemented, it would revolutionise our relationship with the EU. If it failed, it would clarify exactly where we stood.

There is no status quo option. Defending the status quo option is as meaningless and absurd as expecting traffic to halt by placing a paper cup on the road.

That road leads to a chunk of Berlaymont concrete sitting on my desk.

Dr Lee Rotherham is a political consultant and Conservative PPC for Rotherham.
The European Foundation

Mission Statement: The aims and objectives listed below are summed up in The Foundation's overall policy of ‘yes to European trade, no to European government’. We believe that greater democracy can only be achieved among the various peoples of Europe by the fundamental renegotiation of the treaties of Maastricht, Amsterdam and Nice. The Foundation does not advocate withdrawal from the European Union, rather its thoroughgoing reform.

Objectives

- To further prosperity and democracy in Europe;
- To renegotiate the treaties of Maastricht, Amsterdam and Nice and prevent the ratification of the European Constitution;
- To reform and scale down the acquis communautaire;
- To ensure that future member states get a fair deal from EC/EU membership;
- To halt the continuing arrogation of power by the EC/EU;
- To prevent the UK from adopting the euro;
- To contribute as actively as possible to an informed public debate about the future of Europe;
- To liaise with like-minded organisations all over the world;
- To liaise with organisations affected by EC/EU action and policy.

Activities

- Addresses itself to the general public and to politicians, journalists, academics, students, economists, lawyers, businessmen, trade associations and the City;
- Organises meetings and conferences in the UK and in mainland Europe;
- Publishes newsletters, periodicals and other material and participates in radio and television broadcasts;
- Produces policy papers, pamphlets and briefs;
- Monitors EU developments and the evolution of public opinion and its impact on the political process in the EU.

The Foundation’s History: The Great College Street Group was formed in October 1992 in order to oppose the Maastricht Treaty. The Group, consisting of politicians, academics, businessmen, lawyers, and economists, provided comprehensive briefs in the campaign to win the arguments both in Parliament and in the country. The European Foundation was created by Bill Cash after the Maastricht debates. It exists to conduct a vigorous campaign in the UK and across Europe to reform the EC/EU into a community of free-trading, sovereign states. The Foundation continues to establish links with like-minded organisations across Europe and the world.

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