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The Transatlantic Market A Reality In The Making

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Back in March, the Commission ordered Microsoft to share technological data with its competitors, to offer a version of Windows without Windows Media Player (which was bundled with it) and to pay a € 497 million fine. Page 4

Tax Harmonisation: Real Or Imaginary?

Businesses across Europe are hoping that the new Commission's commitment to the so-called Lisbon agenda of making the EU the most competitive economy will include a lighter tax burden. But the signs are not good as powerful member states with high tax economies try to level taxes upwards. Page 8-9

Corruption Of Public Officials In International Business Transactions

Bribery of government officials remains a routine part of doing business in many countries. Studies by the World Bank, which identified corruption as "the single greatest obstacle to economic and social development", estimate that bribery induced diversion of public funds can reduce a country's rate of growth by up to one per cent per year. Page 13

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Council Ignoring Parliament On Food Claims Regulation

BY ANN CAHILL IRISH EXAMINER

A furious row is brewing between the Council, the European Parliament and the food industry over how the nutrition claims regulation is being handled.

The proposal to ban all health claims for food unless they have been scientifically proven is being fiercely resisted by the food industry.

It has been held up by rows in the Parliament where the Environment, Public Health and Consumer Policy Committee could not agree on some 500 amendments earlier this year.

They had to abandon work on it because of the dispute and the June elections. Now the new committee will begin work on it from scratch.

As a result the first reading and vote in Parliament will not be until March at the earliest, two years after the proposal was made.

The Council however has decided to proceed with its work on the draft from the Commission rather than waiting for the Parliament's first reading.

It is already on the agenda for the December meeting of Health and Consumer Affairs ministers. However a Council spokesperson said they

are unlikely to adopt a common position on it unless the Parliament has presented its report to them by then.

But MEPs are furious and claim they are being side-lined by the Council.

Stake holders are equally upset with the Council's approach and say they their concerns are being totally ignored by the Council and the Commission.

They say the Parliament's committee has been taking their arguments on board, especially in relation to the burden the proposed regulation would place on smaller enterprises.

Already the government of at least one member state, Britain, has begun its consultation of stake holders, but they have been presented only with the Council's document.

The nutrition claims resolution, which will ban non-scientific proven claims for food, must be agreed jointly by the Parliament and the Council before it can become law.

The method laid down for processing such co-decision matters is that the Parliament first considers the measure in committee and brings their report and amendments to a full session of MEPs for voting.

However in a break with



An undemocratic scorecard

this procedure the expert groups of Council have begun work on the Commission's draft - without waiting to take on board the Parliament's views.

A spokesperson for the Council say they are entitled to do this. "We cannot wait for the Parliament to finish first. Normally work on resolutions is finished inside 18 months and it is one year and three months since we started on this already", he said.

As a result the UK Food Standard Agency presented UK stakeholders with

the Council's document at a recent meeting as the basic paper for negotiations, completely ignoring the Parliament's role.

General Secretary of UEAPME, Hans-Werner Müller, said, "Parliament is taking our arguments into account but the Parliament's report will not be considered as a serious partner in the final discussion because of the way in which the Council is going ahead with its own document."

"What they are doing procedurally may be al-

lowed, but it is not polite".

The approach being taken by the Council is to ban all claims for food but give a list of exemptions. The Parliament is approaching the issue from the other end - allowing all claims but with conditions.

The European People's Party, the largest group in the Parliament, and especially many German MEPs have been pushing hard for the changes industry says are vital to the

cont p2

A CLASS OF ITS OWN.



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From our notebook



Photo: Courtesy of www.roberting.com

What they are really saying

— and we have been unable to get on-the-record

“Twinkle twinkle little Boeing
How I wonder where your going
Up above the clouds so high
Like an Airbus in the sky”

As penned by a political figure well known in Brussels

“We are Vice Presidents of the European Parliament but we have no power or say”

A Vice President of the European Parliament

“The Conservative party is stretching the limits of my euro scepticism”

A Conservative MEP

“There is absolutely nothing going on in the parliament other than a few own initiative reports and there will be nothing until at least January”

A European Parliament official

“If you look at auditors reports it is clear that anyone committing fraud under 5000 euro will get away with it”

A European Parliament official

“The programme, such as it is, is being held up by translation delays. The timetable is 15 days so we are being told to submit questions for informal approval — that amounts to censorship”

A European Parliament official

“Poland is against Turkish membership fundamentally and so are the rest of the enlargement countries. If Turkey is to be allowed in then Ukraine must also be in”.

An MEP from central Europe

“Parliament is already being marginalized. I have serious doubts about its role in the future.”

An MEP

“In the Republic they like the English but don't like Britain. In Northern Ireland they like Britain but don't like the English.”

An Irish MEP

Council Ignoring Parliament On Food Claims Regulation

Continued from page 1

Commission's proposal.

The Commission's attitude is that if the US food industry has no problem coping with similar legislation where only a dozen or so claims are allowed, the food industry both within and from outside the EU should have no problems either.

The Legal Director of the Alliance For Natural Health, David Hinde attended the meeting called by the UK Food Standard Agency to discuss the proposal. He said there were a number of very significant differences in the Council's working document from the Commission's original proposal and therefore there would possibly be a great degree of a “lack of synchronisation” between the Council working document and the EP's First Reading amendments to the original Proposal.

He was told that was something that could not be avoided as the “Parliament was lagging behind the Council Working Groups in its consideration of the Proposal” and “the Presidency” wished to progress matters.

The Council was now considering and providing amendments to the proposal for consideration by member states and their citizens.

As a result the stakeholders are unlikely to have an opportunity to consider the amendments put forward by the Parliament, Mr Hinde pointed out.

“Indeed most of the discussion at the Meeting was

aimed at clarifying the scope of the Council's amendments to the Proposal, which the FSA represented as being pretty final and very unlikely to be capable of further amendment because this was the majority view of the Council”, Mr Hinde said after the meeting.

The FSA's action appeared

mon ground when there is an intractable disagreement between the two bodies on a directive.

Mr Hinds said he questioned how they could be seriously considering in public Stakeholder Meetings this Council working document when they did not yet have an EP First Reading, a Com-

mission Opinion and a Council Common Position.

“What the Council should do is await the Commission's Opinion on the EP amendments before circulating its amendments.”

mission Opinion and a Council Common Position. “To this question the FSA appeared to have little answer except to say that should the EP eventually come out with fundamentally different and irreconcilable amendments to the Proposal to those as set out in this Council working document, (which they thought might well happen) then the matter would have to go to Conciliation”, said Mr Hinde.

The attitude appeared to be that the Council and Parliament could go to Conciliation over their differing versions of the Directive — the method of finding com-

mission Opinion and a Council Common Position.

“To this question the FSA appeared to have little answer except to say that should the EP eventually come out with fundamentally different and irreconcilable amendments to the Proposal to those as set out in this Council working document, (which they thought might well happen) then the matter would have to go to Conciliation”, said Mr Hinde.

The UK Food Safety Agency has accused the Parliament's Food Committee of delaying and not getting on with the job. The accusation

has been refuted by committee members.

They insist the problem lies not with their procedures but with the Commission's Directive itself. One of their members, Renate Sommer of the EPP said it required so many amendments, “because the proposal of the Commission was written in such a blowzy way”.

She said the Committee's delay “indicates the high level of responsibility of the Parliament which is not willing to adopt a report on such a momentous Regulation without proper consideration”.

The Directive was produced by Food Safety and Consumer Protection Commissioner David Byrne following problems with a previous bill and the Commissioner Designate Markos Kyprianou during his Parliament hearing said he had no intention of making any changes to it.

The Directive as proposed by the Commission covers nutrition claims (eg “rich in vitamin C” or “low in fat”) and health claims.

It sets rules for making such claims only those health claims that are scientifically based and meaningful to the consumer will be allowed. It will allow health claims (including “reduction of disease risk” claims) that were previously prohibited if they can be scientifically substantiated and authorised at EU level.

Ann Cahill is Europe Correspondent for the Irish Examiner.

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The Transatlantic Market

A Reality In The Making

BY CHRIS WHITE

President Jose Manuel Barroso and his new Commission are already committed to a fast track strengthening of economic relations with the United States and the Commission has sent out requests for stakeholders' comments in the past two weeks.

The administrations on both sides of the Atlantic are already implementing measures to create a new trade deal set out in a ten point plan approved by key figures in the US Congress and the European Parliament.

Huge cross investment between the U.S. and Europe is driving the economic partnership which, it is predicted, will change Britain's attitude to European Defence and Security.

While the European Commission has been asking for comments on the framework for a Transatlantic market notices have appeared in the U.S. Federal Register.

Commitments

"Both sides are already implementing their commitment to consult stakeholders and the Commission put out requests for comment in the last week or two. The next EU US summit will see both administrations focussing on the existing framework and on removing obstacles to trade and investment," says James Elles, founder of the Brussels based Transatlantic Policy Network whose strategy report is the basis for the Commission's ten point agenda.

Not, says Elles, to be confused with a Transatlantic free trade area, free trade agreement or the so-called Transatlantic market place that provoked French opposition under the then trade Commissioner Sir Leon Brittan, the process is already underpinned by EU and US industry giants.

Commission sources confirm that advancing the process will be a high priority

for incoming President Jose Maria Barroso.

The process started under the Irish Presidency's US/EU summit in Dublin in June has been advancing rapidly ever since.

According to Elles, who now runs the European Parliament's centre-right European Ideas Network, Transatlantic trade has more than doubled in the past decade with investment having quadrupled.

Linked economies

"The economies of Europe and America are being increasingly linked together. This is especially true in the area of financial services and the digital economy. The process is already underway. What we are seeing now is the development of specific agreements on commitments.

"The figures for cross investment are already huge. The Transatlantic market already exists in many ways and is developing along the lines of the European Single Market. The two sides are dealing with subjects that are not being dealt with in the

World Trade Organisation.

"Although the Americans have a broader vision and the Commission has, in the past been harder to convince, it is now clear to everyone that without the U.S. and the EU working together there will never be a successful conclusion to the Doha Round," Elles explains.

As British Commissioner Peter Mandelson prepares for office officials at the Commission point out that big companies are already co-operating especially in the areas of energy and climate change.

One official said that once the new Commission picks up on the programme internal estimates suggest that there will be a 10 to 15 percent improvement in the public perception of the EU. "It will greatly help the campaign for the draft constitution", said one.

Elles agrees saying: "The Commission recognises that the priority is the economic reform of the EU economy and the subjects currently being covered by the negotiations on the transatlantic market are part of that



President Barroso extending hands across the sea

economic reform. Both sides want to see a vibrant, healthy and stable Transatlantic partnership.

"Britain, Ireland and Spain in particular have a strong Atlantic calling and in Germany too there is the same national feeling for the Atlantic partnership."

Key to the Commission's

accelerated action plan are economic issues of financial services and capital markets, civil aviation – notwithstanding the current WTO clash between Boeing and Airbus – the digital economy, competition policy and regulatory cooperation.

On the defence and security the strategy foresees more

open defence markets and closer cooperation between respective industries and a broader EU/US security dialogue.

It is now evident that both sides are driving for agreement on "the major elements of a Transatlantic Partnership Agreement by the end of next year, 2005.

Europe Needs An Office Of Democracy

BY EDWARD MCMILLAN-SCOTT MEP

The European Parliament should place itself at the heart of democratic development, faced with the challenges of referenda on the EU Constitution, our undemocratic and unstable New Neighbourhood, and in addressing the lowest-ever turnout in European elections this year. The Parliament should gather its political, human and financial resources in an Office of Democracy.

The EU, post-enlargement, has an arc of instability on its new frontier; the fragile and now failing democracies to the East, and the complete absence of democracy to the South and in the wider Arab world.

However, what has been absent from the Commission's planning for this region is the transcending idea of democracy, the parliamentary process, competing political parties and special interests - which gave the EU its own *raison d'être*.

Some say that before promoting democracy abroad we should address the growing democratic disconnect within the EU. The turnout in European elections, which

has decreased constantly since the first elections in 1979, had its sharpest fall over the last ten years to 45% in 2004. The gap between turnout in European and national elections overall is now some 22%. By comparison, the gap between turnout in a US presidential election year - equal to a national election - and mid-term congressional elections (which like Euro-elections do not form a government) is only 10%.

Although the European Parliament has decisive powers over some 50% of legislation throughout the EU, only 18% of Europeans polled by Eurobarometer in 2003 considered that the European Parliament had an important impact, and 22% believed that it had no effect at all.

Now, with referenda on the EU Constitution in at least eleven countries we should note that only 44% of EU citizens, a historically low figure, have a very or fairly positive image of the European Union. Our task should be to ensure - jointly with national MPs - that it is the draft Constitution, not the EU itself or domestic politics, that people will vote on.

When I founded the European Democracy Initiative (EIDHR) in 1992 it was aimed at promoting change in the ex-Soviet bloc. The democracy programme is no longer a foreign policy instrument but is run by the unelected Commission and officials from national development ministries. Today there is a consensus among foreign policy experts that the Initiative has become bureaucratic and safe and without serious focus. To make our New Neighbourhood more democratic, and more secure, it needs a review - and MEPs on its advisory board.

The Office of Democracy would coordinate relations with national parliaments, including those outside the EU; monitor use of EU pro-democracy and human rights funding; decide which elections to monitor; and research the causes of the decline of democracy within the EU. The democratic ideal inspired many in the past: now that Europe is 'normal' again, we cannot be complacent.

Edward McMillan-Scott MEP (Conservative UK/ EPP-ED Group) is Vice President of the European Parliament, responsible for relations with national parliaments



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On The Abuse Of A Dominant Position

BY CÉCILE PHILIPPE

Back in March, the Commission ordered Microsoft to share technological data with its competitors, to offer a version of Windows without Windows Media Player (which was bundled with it) and to pay a € 497 million fine.

According to the European Commission, the software-house abused its dominant position. Microsoft postponed paying the fine by immediately filing an appeal to the European Court of first instance. After two days of hearings and legal argument in the past week it is still not known when the Court will rule.

One does not want to come back to the arguments that were used by both parties in order to defend their cases but rather to discuss the notion of dominant position that is at issue.

Competition can be defined as "the effort of two or more parties acting independently to secure the business of a third party by offering the most favourable terms."

For more than 100 years, economists have been building economic models describing a situation where consumers benefit the most at the lowest possible economic cost.

Product differentiation

One important aspect of these models is that perfect competition is said to exist if the commodity produced and sold by the various suppliers is homogeneous in the mind of the consumers. If it is not, that is, if products are differentiated, as is Windows Media Player, individual sellers such as Microsoft are able to calculate that they will not lose all of their customers with a price slightly higher than a competitor's.

Because the economic model starts with the given assumption of a homogeneous product, it is forced by its own logic to treat product differentiation as inefficient.

But once it is acknowledged that differentiated products have subjective value and that buyers are willing to pay or simply to make a choice, perfect competition can no longer be considered as universally optimal.

This is only one of the possible outcomes. The commission wants to force Microsoft to offer an unbundled Win-



Not much of a choice!

dows Media Player so that products remain homogeneous on the market. But, why should this be considered as proof that it will be more efficient from the consumer point of view?

As it was said at the court, this is "an adaptation of Windows that [Microsoft] would never consider creating otherwise." In order to get the consumers to buy its product, Microsoft decided to differentiate windows by bundling it with media player.

This commercial choice shows that the firm simply does not believe that there would be a demand for an unbundled version of media player.

This may be right or wrong; the consumer will decide. He or she will pay if he or she considers it worthwhile or will consider other substitutes.

Perfect competition model

The perfect competition model is not able to describe the reality of competition because it is a static model while competition is a dynamic discovery process.

A lot of significant aspects of the competitive process are simply assumed away in the perfect competition model.

For instance, it cannot give an answer to the question of how businessmen come to know what the consumer demand is. It cannot because in these models, information is supposed to be known by the participants.

Of course, the problem of determining which products to produce with which

degree of differentiation becomes impossible to calculate as products are supposed not to exist.

Competition theory should not be a static but a market

process theory if one wants to understand how it is possible that two or more parties secure the business of a third one. This is the only way to avoid inappropriate policy

conclusions.

A market process theory has room for change, discovery, learning, and error. It recognises that business competi-

tion is a dynamic process.

If one cannot compare it to the theory of perfect competition for the mere reason that it is not realistic, then it is difficult to see how one could conclude that resources are misallocated and how it could be of any harm to the consumer.

The real perversity inherent in the traditional competitive perspective is that it can treat as resource-misallocating the very business practices that are, in fact, essential to any competitive process.

One sided perspective

The conclusions of the Commission were not based on any other perspective and one can only hope that the European Court of first instance will dislodge that traditional perspective and decide in favour of the market.

Cécile Philippe is Directeur, Institut Economique Molinari



WHERE FREE MARKETS MEET TECHNOLOGY

Tech Central Station Announces Award for Best Commentary on European Health Care Reform

€ 2,500 to WINNER

BRUSSELS – Tech Central Station Europe is announcing a prize for the best commentary piece by a European on the theme, "Putting patients first: Visions for European Health Care".

"Europeans endure long waits for medicines, treatment and surgeries – and pay high taxes for this substandard level of care," says TCS Europe editor, Craig Winneker. "Patients lack choice and access to the best medicines. European patients deserve 21st century care and this contest seeks to engage Europe's best minds on how to improve their country's health care system."

The contest is open to all Europeans and while submissions must be in English, special consideration will be given to original thinking. The contest will also consider previously published pieces on this exact theme. Such submissions must have been published within the previous 3 months and a translation should accompany the piece if it was not originally in English.

The deadline for submission is November 15. Results of the contest will be announced in December.

The top 5 commentaries will be published by www.techcentralstation.com Authors will be compensated if their piece is selected for publication. The best commentary will command a cash award of € 2,500. Pieces must not exceed 1,000 words in length and will be judged by a panel consisting of TCS editors, Nick Schulz and Craig Winneker, and TCS host, James K. Glassman.

Please submit to pieces to Henrik Rasmussen at hiasmussen@techcentralstation.com and include a short personal biography as well as all relevant contact information.

www.techcentralstation.com

EU Moving In On National Health Services?

Internal Market For Services: Balancing Market Objectives And Public Health Needs

BY REBECCA TAYLOR

Announcing the Commission proposal for a directive on services in the internal market¹ in January 2004 Commissioner Bolkestein said "This is the biggest boost to the internal market since its launch in 1993".

The logic is simple enough: the EU has successfully created a single market for goods and must now do the same for services.

The European economy is increasingly service based, but most service providers, particularly SMEs, are currently discouraged from providing services across borders because of administrative and legal barriers at national level.²

Removing red tape

The services proposal according to Mr Bolkestein, will require Member States to remove unjustified "red tape" to encourage cross-border service provision, and increase competition and consumer choice.

"It appears that there are not only risks in the application of the proposal to the health sector, but it will arguably reduce the power of Member States to organise healthcare."

The objective of promoting competitiveness in the service sector is in line with the Lisbon strategy, which seeks to make Europe "the world's most competitive and dynamic knowledge based economy by 2010", and is heartily supported by new Commission President Barroso.

The proposal will cover all services except financial, transport and electronic communications (covered by existing community legislation) and will thus include social services such as healthcare and social care that form an integral part of the European social welfare model.

Can healthcare be fully open to competition and still be accessible to all? The US example, where 43.6 million people (15.2% of the population) lack health cover-

age² indicates that this is unlikely.

Reduced power

It appears that there are not only risks in the application of the proposal to the health sector, but it will arguably reduce the power of Member States to organise healthcare.

According to article 152 of the EU treaty the organisation and delivery of healthcare is a Member State responsibility, or maybe not any longer if one looks closely at the services proposal.

Member States will be required to screen their present and future legislation to ensure any requirements for service providers comply with the principles listed in the proposal.

In the healthcare sector this could mean Member States no longer deciding on for example, the territorial distribution of healthcare services such as GP's surgeries, dental practices and community pharmacies, requirements designed to

make health services accessible to all citizens. Another provision that has raised controversy in the health context is the country of origin rule.

Given that health services naturally require a high level of regulation, the obligation for the country of origin to supervise healthcare services provided in another Member State seems impractical to say the least. And what of article 152's requirement for a high level of human health protection to be guaranteed in all community policy?

This clearly demonstrates the major concern of the health community: the horizontal nature of the proposal means it cannot take sufficient account of public health concerns.

Interestingly enough, the Commission is currently working on two communi-

cations specifically examining health and social care, the first on Services of General Interest in health and social services, and the second looking at modernising social protection for the development of high quality

accessible health care and long term care.

This begs the question as to why healthcare services have not been excluded from the scope of the services proposal or dealt with under specific provisions, given

that the Commission clearly recognises their special nature.

Rebecca Taylor is Information Officer for the Pharmaceutical Group of the European Union (PGEU), the European association representing Community Pharmacists

in 29 European countries. (www.pgeu.org)

FOOTNOTES:

¹ Commission proposal for a directive of the European Parliament and of the Council on services in the internal market (COM (2004)2 final)

² Source: U.S. Census Bureau (2003)

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Microsoft

Ducking The Truth About EU GM Policy

BY LAWRENCE A. KOGAN

It is a common rule of thumb that, if something walks, quacks and even swims like a duck, it probably is a duck, notwithstanding appearances to the contrary.

So, the only thing surprising about a recent World Bank report on the politics of Genetically Modified food (GMO) is that the otherwise-reserved scholars minced no words in calling the European Commission's (EC) near obsession with avoiding GMOs blatant trade protectionism.

The EC has long attempted to justify its strict health and environmental regulations premised on the precautionary principle as necessary to protect the public from uncertain risk. The World Bank report, *Trade, Standards and the Political Economy of Genetically Modified Food*, debunks this myth and offers empirical evidence regarding the Commission's true motivation.

The real motivation

The Bank instead sees the Commission's enactment of stringent GM regulations as apparently motivated by European industry's comparative disadvantage in the use of genetically modified crop technology – not any risk associated with GM crops.

In drawing this conclusion, the Bank's study points to the significant role played by EU industry in lobbying for the imposition of such protectionist barriers, one that is, perhaps, even greater than previously realized.

It is refreshing to see the authors move beyond the conventional wisdom that the EU is reluctant to allow GM crops and foods because Europeans are more concerned with protecting the natural environment and are less trusting of their food safety regulators than are Americans.

Perceptions aside, the Commission's strong anti-GM stance, as a matter of logic, had to be based on more than just "cultural preferences", notwithstanding EU Trade Commissioner Pascal Lamy's seemingly persuasive argument to the contrary.

The deeper question is: Why would European producers lobby for overly strict rules that they too must face?

What do they gain?

The simple answer is based in classical trade economics. As the authors note, "when faced with a more efficient competitor, the optimal response of farmers in countries with a comparative disadvantage in GM adoption is to lobby for (or at least not resist) more-stringent GM standards."

Financial interests

Economic interests rather than cultural preferences, therefore, provided the relatively smaller European farmers and underdeveloped biotech firms with a "strategic incentive to [work with the Commission to] raise [GM] standards" throughout Europe and its network of trading partners.

U.S., Canadian and Argentine GM exporters account for three-fifths of the world's soybean exports and four-fifths of global maize exports.

Faced with increased competition in GM products, domestic EU producers lobbied their governments and the Commission to adopt strict GM controls.

Without sufficient GM market access barriers, the lower prices being realized by foreign GM producers would quickly drag down both European GM and non-GM food prices.

Of course, GM imports also generated widespread op-



Looks like a duck but is it a decoy?

state governments and the Commission to respond in a politically popular manner that also sought to eliminate EU industry's comparative economic disadvantage. That disadvantage could be eliminated only by creating

and political point of view. However, it is also arguably illegal from the perspective of international trade laws enforced by the World Trade Organization.

Perhaps worse still, EU biotech policy has had serious global repercussions, profoundly influencing the decisions of other food-exporting nations to avoid or severely restrict the use of GM technology.

Countries such as China, whose agricultural trade with Europe is steady and growing, has been unwilling to approve GM food production for fear of losing EU market access. But with nearly one-fifth of the world's population, China is in desperate need of the kinds of yield increases GM crops offer.

EU policies have also encouraged many, even poorer developing countries such as Zambia and Zimbabwe to shun GM food aid for fear that even their non-GM food exports would be tarnished with a "GM taint" and be denied access to EU markets.

Some experts blame the now-ended GM moratorium for these decisions, but poor countries are scarcely

in a better position now that the moratorium has been replaced with potentially crippling GM labeling and traceability rules.

Hindering research

Furthermore, as EU support for NGO anti-biotech campaigns has even stymied basic research and development programs in such countries as the Philippines. There, EU-funded activists have helped to reduce the financial incentives for research into GM products by raising needless hurdles to research.

Activist campaigns have even made consumers reluctant to accept such publicly-funded GM products as nutritionally enhanced 'golden' rice.

Tragically, while European industry has gained economically from these policies, developing countries have continued to suffer the human losses of hunger and disease.

Disguised trade barriers

All in all, the World Bank's findings are doubly disturbing because they reflect the

observation by many other scholars of a growing trend in the use of EU regulatory policy for no better reason than to disguise trade barriers.

My own research for the U.S.-based National Foreign Trade Council reveals how the European Commission has worked hand-in-hand with anti-technology NGO campaigns to benefit European agriculture and biotechnology producers.

Considering the significant economic interests at stake in international trade, one cannot help but suspect that similar motivations underlie other precautionary principle-based regulations, such as the EU's proposed REACH regulation for chemicals or its WEEE and RoHS directives on hazardous wastes.

Those too are rules that walk, quack and swim like protectionist ducks. And, until the resulting trade disputes arise, it's no surprise that some European interests find them just ducky.

"Considering the significant economic interests at stake in international trade, one cannot help but suspect that similar motivations underlie other pre-cautionary principle-based regulations, such as the EU's proposed REACH regulation for chemicals or its WEEE and RoHS directives on hazardous wastes."

position among outspoken and politically influential European consumer and environmental groups.

This prompted civil society and industry concerns to converge, moving member

artificial "product differentiation," first with the GM moratorium and then through strict EU-wide traceability and labeling regulations.

All of this, of course, was rational from an economic

Lawrence A. Kogan is an international environment and trade attorney who has advised the National Foreign Trade Council on WTO trade and environmental issues.

Kyoto: A High Price To Pay

BY CARLO STAGNARO

Russian President Vladimir Putin declared his country is ready to adopt the Kyoto Protocol, an international treaty designed to reduce greenhouse gas emissions on the basis that they are contributing to warm the planet's climate. The State Duma is expected to ratify the Protocol in the next few weeks.

Although Kyoto implies huge costs for most developed economies, Russia may be a short run winner from the ratification. The country is now below the threshold Kyoto imposes. In fact, not only the baseline year for Kyoto (1990) falls almost at the same time as the collapse of the former Soviet Union – after which a number of polluting industries were closed. Moscow has also been able to have its large forests regarded as carbon “sinks”, so that comparatively it may emit more than other nations.

Emission credits

Consequently, Russia may gain a lot of money by selling emission credits to Western European countries. In the longer run, if the steady economic growth will continue, Russia will emit more than how much Kyoto allows; so the Protocol may turn into a potential limit to development. In that case, Putin is likely to just un-ratify it – after all, who is going to wage war against Russia because it emits some extra CO₂?

Russia would gain from Kyoto also on political grounds. The Kremlin has been pushing for months for entering the club of the World Trade Organization. To do that, Putin needs European Union's green light. EU has been very clear about this: “If Russia wants our support, Russia must give something back”, namely: ratify the Kyoto Protocol. This blackmail eventually resulted in latest Putin's declaration. An axis between Moscow and Brussels also responds to other needs that both of them have. Russia would like to silence the criticism regarding the way it's handling terrorism: EU is likely to close an eye, or even both, on that if Russia is “environmental friendly” (then, say hello to human rights!).

At the same time, Europe may feel better after having found an ally in its duel with the United States. With Russia, the climate treaty would enter in force, even if US and other critics (including Aus-

tralia and Japan, not to mention Third World countries – which are not required to cut their emissions) don't ratify.

Europe is therefore strengthened in the geopolitical arena. Persuading Putin to ratify Kyoto, it showed that it may, and wants, follow its environmental and regulatory agenda, with or without the US. Not always, however, being a winner on the political ground implies a gain on the economical ground. In fact, at least as far as climate policy is concerned, it may be true the opposite. The EU is not Russia; we don't have a “kzar” who's the power to make a decision today and reverse it tomorrow. In other words, should the compliance with the Protocol become too much costly, Europe would not be able to get rid of it.

The costs of Kyoto to Europe are still not clear. They might range from –1.8 percent GDP in the UK to –4.8 percent GDP in Spain yearly by 2025. That means that European people would be much poorer 20 years from now because of the emission cuts. That also means that hundred thousands jobs would be lost yearly in Europe as a consequence of EU's stubbornness in pursuing a policy whose only “merit”, if you want to call it that way, is to give the Old Continent an high profile in international politics.

High cost vs. low gain

Despite the uncertainty over how much Kyoto would cost (which mostly depends on how the European Emission Trading Scheme will be implemented), one thing is sure: Kyoto will cost, and the environment will not benefit from it. Dr. Hans Labohm explained that “The net cooling effect will be infinitesimal”. “According to the proponents of Kyoto”, Labohm added, “the cooling effect of the full Kyoto, comprising all developed countries as initially planned, was not more than 0.02 degree Celsius in 2050. A European mini-Kyoto will produce a net cooling that is proportionally less. So if one really wants to substantially reduce purported man-made global warming this step is only the very first one – many more steps (the proponents estimate 10 - 30 additional Kyotos) will be required”.

Adopting extra-Kyotos is another way to say what everyone knows: if you want to reduce human-made climate

change, you should cut emissions by at least 60-80 percent, not just by 5.2 percent – as Kyoto would do if implemented in all the developed world. And we do not even know whether or not the climate is warming, leave aside what the human contribution is.

The economic cost of Kyoto is very high, and its environmental benefits are dubious to say the least. At the same time, it's clear that Europe-

an political élites are playing a dangerous game. They are acting as those generals who don't hesitate to sacrifice their own troops in order to gain a battle. So, European economic growth is the troop which is to be sacrificed, and the battle is that for being an alternative to the US (ironically, EU efforts seem directed at gaining the same position the former Soviet Union used to enjoy). What they don't realize is that this

is a way to gain a battle, not the war, since wars are won in the longer run.

Luckily there's no military war between Europe and America. Yet, a cultural war is underlying the tensions between the two: Europe is pursuing a kind of “Third Way” which may begin in the middle of capitalism and socialism; but it is headed towards socialism. In fact, what Kyoto introduces from an economical point of view is central

planning of CO₂ emissions, i.e. energy socialization.

With Russia's decision, time for speaking is over: European tax payers and consumers will have to put their money where European politicians's mouth is. Definitely a bad place to put your money.

Carlo Stagnaro is Free Market Environmentalism Director of the Istituto Bruno Leoni (Turin), and a Fellow of International Council for Capital Formation (Brussels).

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Tax Harmonisation: Real

Businesses across Europe are hoping that the new Commission's commitment to include a lighter tax burden. But the signs are not good as powerful member states without becoming embroiled in U.S. politics we asked for views from America who stimulating debate in the EU and do not imply support for the U.S. Republican Party

Whither Tax Competition

FROM THE CENTER FOR FREEDOM AND PROSPERITY

Beginning earlier this year, representatives of high-tax governments and low-tax jurisdictions met in London as part of the Organization for Economic Cooperation and Development's (OECD) "level playing field" sub-group.

This continues the Ottawa conference, and is part of the OECD's ongoing (and almost entirely futile) effort to convince low-tax jurisdictions that they should agree to serve as fiscal colonies for high-tax nations.

The fundamental issue is whether low-tax jurisdictions should agree to emasculate their privacy laws and surrender their fiscal sovereignty so that high-tax nations can more easily enforce their bad tax laws – including taxation of income earned outside their borders.

Misguided rules

Using the threat of protectionism, the OECD convinced many so-called tax havens to sign "commitment letters" indicating that they would take the aforementioned steps, but the low-tax jurisdictions simultaneously stated that the letters were not binding unless all OECD nations agreed to abide by the same misguided rules.

This "level playing field" requirement created a stalemate since a number of nations – including OECD members, like the United States, the United Kingdom, Luxembourg, and Switzerland – are "tax havens" according to the OECD's own definition.

The OECD hoped this problem would be solved by the adoption of the European Union Savings Tax Directive. At one point, this tax harmonization scheme would have required all EU nations – along with six non-EU nations including Switzerland and the United States – to

automatically collect and share information about non-resident investors.

That proposal would have put tremendous pressure on low-tax jurisdictions to comply with OECD demands (even though the level-playing-field requirement still would not be satisfied because certain tax havens in Asia and elsewhere would have been exempt).

Moot issue

The EU directive became a moot issue, though, when Brussels was forced to eviscerate the proposal (see CF&P Foundation Prosperitas, Vol. III, Issue IV, link below)

Several OECD nations have been excused from any requirement to share information, meaning that the so-called level playing field does not exist and low-tax jurisdictions are not obliged to act as deputy tax collectors for high-tax nations.

So what, then, is the purpose of the London sub-group meetings? There is no good answer to this question, but the best guess is that the OECD does not want to officially admit that its project has failed. It is also likely that the Paris-based bureaucrats hope that endless nagging might convince low-tax jurisdictions to acquiesce.

But this hardly seems a likely result, particularly since leaders of low-tax jurisdictions – contrary to conventional wisdom among OECD officials – are not easily hoodwinked unsophisticates.

All supporters of tax competition should remember these key points:

1. Stalemate is victory – The liberalizing impact of tax competition grows stronger with each passing day. More and more nations are lowering tax rates and reforming their tax codes. As this continues, the pressure to at-

tack low-tax jurisdictions will abate.

Eventually, the number of nations interested in tax harmonization will shrink and the process will collapse. Attending meetings with OECD officials and bureaucrats from high-tax nations, is a nuisance if a relatively low-cost way of placating opponents of tax competition – assuming, of course, that low-tax jurisdictions do not make any foolish concessions. But since the level playing field clearly does not exist, this is not a realistic threat.

2. The European Union savings tax directive is the biggest danger to tax competition, if remote for the above reason. In July of this year, EU nations acknowledged that the proposed savings tax cartel will not be implemented in January as planned.

While emasculated, this scheme is still a step in the wrong direction – particularly since Brussels immediately will agitate to expand its reach once it goes into effect. Moreover, this directive will be very vulnerable to a legal challenge if implemented.

Violates capital treaty

A recent article in Butterworths Journal of International Banking and Financial Law explained that the directive violates the treaty guaranteeing the free movement of capital (Marc Dassesse, "Does the EU Directive on 'taxation of savings' violate the freedom of movement of capital," Butterworths Journal of International Banking and Financial Law JIBFL (2004) Vol.19 No.1 Pages 12-17).

3. The bureaucrats in Paris have prepared "Draft Terms of Reference" and this document represents a potential pitfall for low-tax jurisdictions.

(Text available at : [www.freedomandprosperity.org/memos/m02-02-04/oecd-](http://www.freedomandprosperity.org/memos/m02-02-04/oecd-draftterms.pdf)



"The Tax Collector" by Marinus van Oymerswaele, 1542

[draftterms.pdf](#)

While this document carries no official weight, it is a clever attempt by the OECD to drive the conversation in the wrong direction.

The very first term, "Defining the global level playing field concept," is not unreasonable, but should be augmented by additional terms such as considering:

a) the type of level playing field that will enhance global economic growth;

b) the process that will enable lower-income jurisdictions to close the gap with upper-income nations; and

c) the process that creates incentives for developing nations to adopt market-oriented policies. These added terms would help focus the debate on economic growth – something the OECD conveniently forgets to discuss even though it is part of their mission.

But the main problem

with the "Draft Terms of Reference" is found in Term 8 ("Identifying the role of uniform consequences for failure to implement transparency and effective exchange of information") and Term 9 ("Considering ways to publicly recognise fulfillment of the transparency and effective exchange of information standards").

Information exchange

Both of those Terms presuppose that information exchange is necessary and desirable. This is a disingenuous attempt to compromise the integrity of the entire meeting.

At the very least, both of these Terms should be preceded by the clause, "To the extent necessary,..."

This clause does not bias the discussion in any direction and the inclusion of this clause at the beginning of Terms 8 and 9 would indi-

cate that the OECD believes that the discussion about level playing fields should take place on a level playing field.

Less than four years ago, it appeared tax competition, fiscal sovereignty, and financial privacy were headed for extinction.

But advocates of tax harmonization have been stymied, and there is every reason to believe that these opponents of economic liberalization will remain frustrated so long as low-tax jurisdictions forcefully defend themselves.

The Center for Freedom and Prosperity is a non-profit organization created to lobby lawmakers in favor of market liberalization. The top project of CF&P is the Coalition for Tax Competition, which is fighting to preserve jurisdictional tax competition, sovereignty, and financial privacy. (See www.freedomandprosperity.org or www.freedomandprosperity.org/Glance/glance.shtml and www.freedomandprosperity.org/Papers/lp/lp.shtml)

Or Imaginary?

The so-called Lisbon agenda of making the EU the most competitive economy will with high tax economies try to level taxes upwards. But there are other ways and here the debate on taxation is both live and lively. The articles below are aimed at you or any other political party.

The Key To Success: American Republican Party Protects Its Brand

BY GROVER NORQUIST

Higher tax burdens and growing the size of government is not good economics. For example, since President Bush entered office, he has cut taxes four times in as many years. Conversely, many EU countries have raised taxes during this same time.

The resulting economic gains from the Bush tax cuts are striking. From June 2002 through June 2003, the U.S. economy expanded 12 times faster than the combined growth of the EU countries. And this was a time of slower growth in America and prior to the President signing his most significant tax cut which boosted US economic growth to its fastest rate in 20 years.

European free-market proponents already know this, and they look to the success of conservatives in the United States with envy. How is it that centre-right policies in the U.S. have met with such success?

Firm pledge

According to a poll noted in the Daily Telegraph on October 4th, a "firm pledge" to oppose taxes would help the British Tories increase their support among swing voters. They should pay attention. Though their intra-party discipline is often stronger than their American counterparts, European centre-right parties have often had a problem convincing voters that under their governments they will actually deliver voters a lower tax bill.

European centre-right parties mystified by the success of the conservative movement in America should take note of the successful effort of the Republican party to create a "brand" that, more than anything else, means lower taxes.

Last year Alabama voters decided by 68 percent to 32

percent against a state constitutional amendment that would have raised state taxes by \$1.2 billion every year. In so doing, they highlighted two trends in the Republican party that have since been echoed in special elections in more liberal states on the Pacific coast.

The first trend is the transformation of the Republican party into the anti-tax party. European observers might not be aware that today's centre-right party was formerly the party of high tariffs--then the largest source of national tax revenue--in the period following the American Civil War. It was the Southern Democrats who were the low-tariff, low-tax party.

As late as 1964, Arizona Senator and conservative hero Barry Goldwater voted against President Kennedy's 25 percent across-the-board reduction in income tax rates. This began to change when the Republicans adopted the Kemp-Roth 33 percent marginal tax rate reduction in the 1978 Congressional campaigns, and with Ronald Reagan's 1980 Presidential campaign. Reagan, too, allowed a series of small tax hikes, even as he dropped the top marginal rate from 70 percent to 28 percent.

But the Republicans really became the no-tax-hike party after President George Bush ran on a written pledge to oppose tax increases, broke his pledge, and was defeated in 1992. Since then, the party has formally adhered to the anti-tax-hike pledge as policy, and no Republican member of the U.S. House of Representatives or Senate has voted to raise taxes.

But at the state level, Republican governors have fallen into two camps: those who might one day run for national office and refuse to raise taxes, and governors with no future ambitions who don't mind a tax hike or two.

The no-tax-hike governors include Rick Perry of

Texas, Jeb Bush of Florida, Tim Pawlenty of Minnesota, Craig Benson of New Hampshire, and Mitt Romney of Massachusetts.

Alabama's Republican governor Bob Riley was not part of that group, and he decided to test the theory that voters would support tax hikes:

- 1) in times of economic downturn,
- 2) to pay for education spending,
- 3) to make the tax system more progressive, and
- 4) at the request of a Republican governor in a "Nixon goes to China" move. Riley added another twist: He claimed that Jesus of Nazareth would want this tax hike.

But no one's life is a complete waste; even the mistaken can serve as cautionary tales. Governor Riley's rejection by the voters of Alabama is likely to discourage tax increases by Republican governors from Maine to California for years to come.

The second trend accelerated by the taxpayer victory in Alabama is the development of the Republican Party as the brand name for a set of distinct political principles. In Alabama, the Republican governor expected his state party to endorse his tax measure. Instead, state Republican Party chairman Marty Conners and the GOP steering committee voted 19-2 to oppose the increase.

The Oregon Republican Party repeated this example of principled independence weeks later when it announced that it would lead the fight to overturn by referendum an \$800 million tax hike that passed that state's legislature with the support of 11 Republican House members and five Republican state senators.

The party, which in the past viewed itself primarily as a support group for candidates and elected officials, thus declared its loyalty to principle over individual politicians.

Shortly thereafter, Californians threw out their incumbent governor and installed a Republican, Arnold Schwarzenegger. Californians were convinced that a future Governor Schwarzenegger would not continue raising taxes and driving businesses out of their state, and they were convinced in part by the integrity of the Republican brand.

Political analyst Michael Barone has observed that ticket splitting has declined significantly in the past several American elections. This is understandable, for the two national parties have

come to stand for much more clearly delineated, and starkly different, political agendas. Rather than being just campaign organizations, the parties have become vessels of clear ideas.

Republican leaders who repudiate tax-increasing candidates and politicians are thus rationally defending their party's trademark. The Republican Party of Alabama protected its reputation as a consistent political force when it opposed and defeated the tax hike of its "own" governor. And the message went out to all fellow Republicans: You who would muddy the party's po-

sition against tax increases for your own parochial purposes can expect resistance from the rest of us. We have a low-tax brand to protect for use in lots of other places and lots of other times.

European centre-right parties can reap electoral gains if they hitch themselves unabashedly to lower taxes.

The European electorate has rightly become skeptical that anybody at all will really bring their tax bill down. It will take a consistent effort with teeth to convince them otherwise.

Grover Norquist is founder and president of Americans for Tax Reform, (Harvard MBA)

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Jim's Diary: An Insiders View

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Doom, Destruction And The Prince Of Darkness

Twice in the space of five minutes, I heard a prediction that the European Union is on its last legs and is destined to self-destruct.

The first prophet of doom was a German lobbyist, the second a Portuguese journalist. Speaking on the day the European Commission announced its much-anticipated recommendation to open membership negotiations with Turkey, both preferred to remain anonymous.

Not politically correct

"It's not politically correct to admit you're worried about Turkey joining," the journalist declared. Certainly, it's a subject that arouses strong passions. British Tory **Timothy Kirkhope**, for instance, is very strongly opposed.

"Within our delegation, myself and **Charles Tannock** will never vote in favour," he told me. What? Even if negotiations take ten to fifteen years, as predicted by **Cem Özdemir**, the German MEP of Turkish origin? "Yes," Mr Kirkhope replied, "because it will cast a shadow over the way in which the European Union operates for all that time. There will be strain." Mr Özdemir has little sympathy with centre right doubts about Turkey.

"I don't buy that"

"When my friends and I were fighting for human rights in Turkey," he said, "it was the Christian Democrats and Conservatives who told us 'Turkey's an ally, Turkey's part of NATO, we need Turkey in the fight against Communism'. Now that Turkey's changed, that Turkey wants to become a European country, the same parties have suddenly discovered human rights and the position of Christian minorities in Turkey. Sorry, but I don't buy that."

Double standards

He supports human rights, of course, but accuses the doubters of having double standards.

Not that all centre right members are expressing concern.

Former Portuguese Foreign Minister **João de Deus Pinheiro**, for instance, thinks it sends an important message to the world at large and he's convinced Turkey can make the changes necessary. "Contrary to what

many people think," he told me, "Turks are very kind people, they're very determined, and they have the aspiration to be a part of this European empire because they share the same cultural heritage."

The recommendation has been welcomed by Dutch MEP **Joost Lagendijk**, head of the Parliament's Turkey delegation, as proof that the gap between a nominally Christian bloc and an Islamic country is not unbridgeable and that a state the size of Turkey can be both Islamic and democratic.

We're all in peril

"It would be a blow both to **Osama Bin Laden** and to **Samuel Huntington**," he said, managing to combine in a single phrase the world's most wanted man and the Harvard professor whose book "Who Are We? The Challenges to America's National Identity" suggests that Spanish-speaking immigrants are undermining the greatness of the United States. **Professor Huntington** is predicting that waves of non-English speaking immigrants could lead the United States to self-destruct, so it's not just the EU that's in peril. That's a relief.

Question mark

A question mark hangs over the future of Slovenian MEP **Alojz Peterle**. He may be invited back to become Foreign Minister, a post he's held twice before. "If the context were favourable," he told me, "I would say yes."

The problem is he's not sure it's favourable enough, given that his party relies on a coalition with two minority parties to hold power. Things have become bogged down in negotiations, so Mr Peterle can only keep his suitcase packed and wait for the call.

Mr. Eligible?

When will someone open a book on who will be the next leader of the UK Conservatives in the European Parliament? **Jonathon Evans** is sticking by the commitment he made before the elections to step down at the end of the year.

He wants to devote more time to the EU-US delegation of which he's a member. Voting for his replacement is likely to take place during the December plenary session in Strasbourg. There's no shortage of possible can-



So the Prince of Darkness is not just a pretty face

didates, but not all are eligible. **Timothy Kirkhope**, for instance, is a Vice-President of the EPP-ED group. **Giles Chichester** chairs the Industry Committee. Both positions would rule them out in theory.

That leaves **Sir Robert Atkins** as one possible contender, although I hear from **Quaestor Jim Nicholson** that there are moves afoot to persuade **Struan Stevenson** to throw his hat into the ring.

It sounds rather as if, once the choice is made, the successful conclusion won't be marked by a puff of white smoke from the chimney, as at the Vatican, but more by a flow of blood under the door.

Stunning performance!

As the grilling of new Commissioners-designate grinds on, there's still some amazement at the stunning performance of Britain's **Peter Mandelson**, who's lined up for the Trade portfolio. "He called me the day after his nomination was announced," UK member **David Martin** told me, "and we had dinner together a couple of days later." Mr Martin, new to the Industry committee, has been on a steep learning curve himself and said that many of Mr Mandelson's questions to him that night were "pretty basic".

His lightning-fast grasp of the subject between then

and the hearing left Mr Martin stunned. "He must have studied very hard," he said,

"to have mastered the facts so quickly."

It certainly impressed oth-

ers; French MEP **Harlem Désir** had warned before hand that he and his colleagues would take a lot of persuading that Mr Mandelson the right man for the job.

Enter "The Prince"

Yet within minutes of the hearing coming to a close, he was describing the man once dubbed by the media "the Prince of Darkness" as "the man who will be our strongest ally inside the Commission".

Even UK Independence Party member **Nigel Farage** admitted to Mr Martin afterwards that Mr Mandelson had been "a class act".

Too confident

"My one fear during the hearing," Mr Martin confessed, "was that Peter was getting too confident. He was so relaxed he was almost horizontal. I was thinking 'don't slip up now'. But he didn't." It seems his appointment and, one assumes, his future verticality – are assured.



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TOM SPENCER AT LARGE

The Author: Tom Spencer is Executive Director of the European Centre for Public Affairs at the University of Surrey. He was International President of GLOBE (Global Legislators for a Balanced Environment) from 1994 to 1999.

The Loneliness Of The Long Distance Tory

The mass political parties of the twentieth century commanded an extraordinary loyalty from their members. This loyalty is difficult to communicate to a generation that has grown up after the decline of such behemoths.

I grew up as a member of the Conservative Party in England. My parents were Conservatives as were 95% of identifiable relatives on both sides of the family. I acquired a Party card at the age of sixteen.

Actually I was fifteen but rather like First World War volunteers, I cheated in order to get in young. With a gentle hand your party conditioned your reading and your social life. In the 1950s the Young Conservatives had more than half a million members.

Bonding and friends

As a political activist at school and university you watched your friends rise inside the Party – its student wing, its youth wing, its candidates list, its parliamentarians and eventually its ministers. You and your friends made your career in it. Your skills were relevant to it.

This shared experience, this bonding of values, this mutual creation of an interlocking self-image formed the shared experience that enabled you to stand on a platform and command all the tiny details of political discourse which defined you as “one of us”.

Party loyalties in the twentieth century were “tribal”. Breaking away from these loyalties causes extraordinary pain. I am fortunate to be blessed by a happy marriage but I have watched friends go through the trauma of separation and divorce.

Leaving one’s Party causes a kind of grieving with the phases of denial, anger and depression following each other. For ten years now I have watched my friends sadly leaving the Conservative Party.

Each year I have wished for my Party all those “re” words. A recovery. Maybe a rebirth? And now with increasing depression a resurrection. The only stage beyond this is reincarnation!

Perhaps one should not struggle too hard against the death of a particular political party. Like all human institutions they rise and

fall. The history of democracy in the last hundred and fifty years shows parties in terminal decline or marginalised irrelevance in all political systems.

Case history

From the country I know best, the classic case study is that of the decline of the Liberal Party in the first decades of the twentieth century.

My grandmother’s family were Liberals until 1911 and the struggle over the powers of the House of Lords. I once asked her, with the innocence of youth, why the family changed from Liberal to Conservative, expecting some great philosophical statement. “Well my dear”, she said, “the Duke changed and the County went with him”. With that went any serious possibility of a Liberal-led government for most of the twentieth century.

I recall the look of complete bewilderment on the face of a Communist Party member in Romania in 1990. I had accompanied a Romanian exile back to the family apartment in Bucharest.

The comrade in question recalled twenty years earlier dangling my colleague by his feet over the stair well. He had been placed in the house to keep tabs on this family of former bankers. He looked despairingly at me and said “I cannot believe that all my service to the Party has ended in this”.

Similar stories can no doubt be told about how the dominance of Democrazia Christiana degraded into the collapse of recent years as yet another political monolith became just a site of political archaeology.

Near death experience

Some political parties have a “near death” experience. The British Labour Party in 1983 must have begun to see flashing lights at the end of a dark tunnel and heard ethereal music.

But despite the split on Europe and the attacks of the Militant Left it found the will to live. D66 in the Netherlands exhibits a life cycle similar to that of the cricket which only infests the east coast of the United States every seventeen years. Other political cycles of life and death are longer.

I will remember the alphabet soup of new parties that followed the Portuguese revolution. But out of the chaos

two parties (the PSD and the CDS) survived and grew.

On closer inspection their roots went right back into traditional regional divisions inside the Portuguese Right from fifty years before.

So what am I to make of the strange near death of my own Party? Depending on how you count it has more than two hundred years of existence, an organisational tradition dating from the 1860s and it dominated government in the United Kingdom throughout the twentieth century.

The existence of the Conservative Party is as central to the definition of Englishness as the Church of England. It is used to the ebb

Given the concentration of power in the British system, all Prime Ministers go mad after ten years. Perhaps all Parties go mad after eighteen years. They begin to believe that they have a divine right to govern and they reward themselves with the blood sport of infighting.

The explanations crowd in and focus on the split over the British role in Europe. Foreign press barons are to blame? There has been some form of betrayal? Any one who makes the European case is “a traitor”.

As party membership declines those left are unrepresentative of the electoral coalition necessary to form a Conservative government.

Every leader since John Major has gone through the same dreary cycle. Elected from the Right, the newly minted leader heads back towards the centre ground until the Party’s euro-sceptic funders call them to heel and financial pressures take them back to a euro-scepticism that must condemn them to electoral defeat.

How extraordinary that the Party of Disraeli and Churchill and Thatcher should find that the press at their conference want to interview provincial businessmen with money rather than potential cabinet ministers with ideas. In the latest twist the Conservative Party is once again paying the Danegeld.

Euro-sceptic parties of the Right threaten to damage Conservatives in marginal seats and, in return for not standing their candidates, are rewarded by an electoral deadly shift to the Right.

The extraordinary fact is that both in the case of the Referendum Party and now the UK Independence Party the weak kneed leadership of the Conservative Party has managed to pay a heavy price in credibility without achieving an electoral deal.

Deadly opponent

Tony Blair understands the Conservative Party and is therefore its most deadly opponent. Robert Kilroy Silk does not understand the Conservative Party and therefore is an irritant not a terminator.

His call at the UKIP conference to “kill the Conservative Party”, will be seen in retrospect as the moment that the UKIP threat went into decline. Parties as old as the Conservative Party cannot be killed, but they can lose the will to live.

Those on the mainland should pay close attention to the struggles of the Conservative Party, however tempting it is to avert their gaze from such unpleasantness.

The fight for life in the Conservative Party will continue to define the position which the United Kingdom takes on the euro, on the Constitutional Treaty and on the future direction and extent of the European Union. If that moment of hubris at the UKIP Conference gives me confidence, I must also remember another defining moment.

Such is the pull of tribal loyalty that I stayed up late

on European Election night until the declaration of the count in the East Midlands constituency, which contains my former euro-constituency of Derbyshire.

Unusually the television cameras stayed long enough to record the thank you speeches of the top four candidates. The cosmos seemed to have ranked them in inverse order of humanity and likeability.

Roger Helmer topped the poll for the Conservative Party and took to the microphone with an hysterical abandonment of the official Party line about staying in the European Union.

The willingness of the Conservative Party to put up with the sheer strangeness of Roger Helmer speaks volumes. Next to the microphone was the real victor of the night, Mr Kilroy Silk, all tanned self importance and personal mission exchanging viciousness with Roger Helmer.

Philip Whitehead of Labour came third with the weary sigh of a decent man who has fought off extremists in the Labour Party, only to see the politics of the East Midlands reduced to this hysteria in blue and purple. The fourth and last speaker was Bill Newton Dunn.

Three times Bill was elected as a Conservative member of the European Parliament. Incapable of sustained hypocrisy on an epic scale he crossed the floor in the last Parliament and here he was being re-elected as a Liberal Democrat.

Conservative politicians wondering how to be trusted once again by the British could do worse than to model themselves on Bill’s composure that night. It breathed decency and courtesy and faith in the democratic system.

A long wait

For those of us who insist, against the odds, in believing in the destiny of the Conservative Party and its essential Englishness, it will be a long and lonely wait until people like Bill once again believe that the Conservative Party is the natural home for their hopes and values.

Tom Spencer is Executive Director of the European Centre for Public Affairs at the University of Surrey. He was International President of GLOBE (Global Legislators for a Balanced Environment) from 1994 to 1999.



Down and out and no home to go to

and flow of success and failure. Its mystical roots lie in the work of Edmund Burke, a country party with a sense of duty and a genius for continuity.

It has merged, flirted and re-formed with other political streams both from the Liberals and from the Right. It has been the party of England, the party of Empire and in the 1970s “the Party of Europe”.

It has had a continuing suspicion of those who seek power combined with a comfortable sense that it was uniquely equipped to exercise power. So how has the majestic Conservative Party that governed for eighteen years and spoke with certainty of “the last Socialist government” and “the need to kill Socialism” declined to its current state?

In the dying days of mass parties, William Hague endowed the Conservative Party, which used to believe in magic circles, with a glossy McKinsey-inspired constitution that entrusts the selection of Party leader to the membership.

This is the same membership who find it difficult to make contact with the centre ground of politics. It is impossible to form a Conservative government without the two million voters who, like me, believe in a strong role for Britain in a United Europe.

The Party cannot bring itself to come to terms with this simple fact. It is therefore an easy victim for the Blair magic which always leaves a juicy European issue for the Conservative Party to fight over. Last year the euro, next year the Constitutional Treaty.

Building Bridges Between Entrepreneurs And Investors

BY LESLIE RANDALL

The European Marketing Research Centre is a good example of globalisation in action.

It is composed of members coming from 98 countries spanning four continents and it aims to share expertise for the benefit of developing countries.

Its latest event, "Zamfara week in Brussels", was a good example of how the Centre operates.

A high profile group from this region of Nigeria, including its Governor Ahmad Sani, were given the opportunity to present their Integrated Development Programme.

Together with those in charge of Finance, Agriculture and Planning, they outlined their policy for implementing their programme, including the special loan programme for farmers and SME long term credit lines with low interest rates.

Aimed at improving the wealth of the population of

this northern region of about 2.75 million they made contact with a number of companies participating in the event organised by EMRC.

Internationally Zamfara and its Governor are best known as the first Nigerian region to introduce Sharia law and to pass a fatwa on the journalist who reported problems over the holding of the Miss World competition in Nigeria last year.

While other parts of this vast country benefits from oil reserves, Zamfara is mainly dependent on agriculture with funds coming from the national government also.

However it needs considerable support to move from largely subsistence ventures to those that will help create jobs and wealth.

Arie Taitler, business development manager of EMRC, explained their philosophy. "WE believe that personal contact and business gatherings, during which information is shared and ideas are exchanged, are the best way to foster ef-

fective business matching, promote the collaboration between business people from developed and developing countries, and build mutual understanding in a multi-cultural environment and within the globalisation of the economy".

In their mission to build bridges between entrepreneurs and investors worldwide the group from Zamfara were introduced to a range of experts, specifically chosen for the relevance of their expertise and business experience.

One such person was Frank De Geest of Vitamex, a Belgian company involved in the feed industry. Their only other involvement in Africa has been in Algeria.

Zamfara has two industrial poultry farms and two feed mills, one of each is owned by the state and one by the Governor. They want to expand and the Governor plans to increase the size of his poultry farm from 60,000 laying hens to 250,000.

Vitamex will analyse

the feed made up of locally grown grain and suggest the kind of quantity of vitamin and mineral supplements that should be added to get the optimum from the fowl.

"They will learn the exact quality of the feed and how to analyse it and ensure they get the optimum return from their poultry", said Mr De Geest.

Agro-economist Christian Van De Sompel from the Sopex Group has been involved in Africa for some time. The conditions in Ghana, where the company already have interests, are similar to that in Nigeria so he believes his experience there will be relevant to Zamfara.

His company deals in medicinal herbs, a major growth area that saw an increase of 7% worldwide last year. Herbs like Shea-butter and gum-Arabic grow wild in the region and can fetch a very high price if properly harvested and marketed.

It also provides an alternative cash crop to a region



Opening Session of the Zamfara Week
Thursday 30 September 2004, Brussels Holiday Inn
Mrs. Idit Miller, VP and Managing Director, EMRC
H.E Ahmad Sani, Governor of Zamfara State, Nigeria

that cannot afford frequently to export the food crops it population depends on for its staple diet.

Mr De Sompel proposes sending the authorities in Zamfara the information

they need to develop a pilot project and will advise them on finding markets. As buyers of medicinal herbs, he is also in a position to educate them about the needs of the market in terms of quality.

Eulobby.Net - A New Portal That Redefines The Role Of EU Lobbyists

There are currently 4 700 accredited lobbyists to the European Parliament and some 2 600 interest groups have a permanent office in the centre of Brussels.

Over 70 000 contacts take place each year between MEPs and representatives of interest groups. This equates to an average of 100 contacts per year per MEP.

EU Lobbyists represent the interests of specific groups, but their professional background is not always transparent.

The EULobby.net website creates an added value by providing office addresses as well as information on the structure of the organisation, number of members and an indication of the policy areas in which the interest groups and/or individuals are represented.

In addition to their current role, it is felt that EU Lobbyists must act as knowledge brokers between the EU institutions and the citizen and communicate the issues discussed, the arguments involved and what is to be decided. By making the lobbyist's professional background visible, the citizen can identify

them and seek their advice.

EULobby.net:

- makes it easy to locate a lobbyist based on client's criteria. It is the first step in a sequential process aimed at identifying lobbyists among professionals across disciplines by virtue of their knowledge and the issues and policy areas they deal with.
- allows subscribers to know who is working on what issues and for whom.
- provides an opportunity for subscribers to monitor on a regular basis which companies, interest groups and organizations are active.
- subscribers may gain new clients without having to share a portion of their earnings
- enhances subscribers' networking for identifying coalition being forged and understanding the tactics and strategies employed by their peers.
- affords subscribers exposure to decision-makers, partners and allies who gain a positive view of their sector of activity and a greater awareness of their issues.

Beside the Registry and the advanced search system by keywords, individuals, organizations, country and policy areas, the EULobby.net website provides in-depth resources in the field of lobbying and public affairs, including links to continuous education and training opportunities, practical tools that lobbyists may use, an 'Ask the Expert' section, a thorough library containing an extensive 50 page bibliography, a link to key legal documents pertaining to lobbying activities, a link to bookstores carrying the latest books about lobbying, an electronic newsletter 'The Lobby Radar' sent out by e-mail to subscribers and even a threaded Discussion Forum where subscribers can interact, exchange ideas and discuss key EU issues.

The site which has been applauded by the European Parliament for its contribution to openness, transparency and accountability is powered and engineered by Novitech-a Slovakian based information technology company, a well-recognised solution provider in Central and Eastern Europe.

Novitech's Chairman and Chief Executive Dr. Attila Toth points out that "our motivation for this voluntary project was a professional challenge: whether our intelligent portal and content management solutions implemented in Central Europe such as the Slovak Tax Administration

Portal or the Hungarian Virtual Business Community Portal are also suitable for a multicultural public affairs portal such as www.eulobby.net."

Based on the first month test operation and on the positive feedback received from portal users, Dr. Attila

Toth is convinced that this project is on the right track. In his view, this initiative exemplifies the contribution an innovative SME from a New Member State (Slovakia) can make to facilitate the monumental process of 'communicating EU Affairs in a focused and efficient way'.

Join this new EU lobby community today and facilitate communication in EU Affairs

www.eulobby.net

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Photo: Peter Teare

The law column that tells you what legislation is actually about

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Corruption Of Public Officials In International Business Transactions

Bribery of government officials remains a routine part of doing business in many countries. Studies by the World Bank, which identified corruption as “the single greatest obstacle to economic and social development”, estimate that bribery induced diversion of public funds can reduce a country’s rate of growth by up to one per cent per year. A growing recognition among national government of social cost of improper payments has led to a series of international initiatives to combat corruption of public officials in international business transactions. One such measure, the United Nations Convention Against Corruption, is due to be signed in Mexico in December.

It is impossible to measure the true level of bribery and corruption in government contracting. According to Dieter Frisch, a former director-general of development at the European Commission, bribery in public procurement awards adds at least 10-20% to total contract costs. The African Union has estimated that bribery costs in the African continent alone are in excess of US\$148 billion. The U.S. State Department says that corruption adds as much as US\$1,600 per year to the cost of living for each family of four in the Northern Hemisphere. Whatever the true level of corruption, the distortions and waste of public funds intended for development and aid are immense.

Corruption is a global problem

No country can properly claim to be free of corruption. In its most recent review of perceptions of the prevalence of corruption in different countries, Transparency International (TI), an international non-governmental organisation devoted to combating corruption, warned that bribery of a government official remain a feature of doing business in both rich and poor countries.

According to the TI index, bribery is perceived to be most pervasive in Bangladesh, Nigeria, Haiti, Paraguay, Myanmar, Tajikistan, Georgia, Cameroon, Azerbaijan, Angola, Kenya, and Indonesia. The countries with very low levels of perceived corruption are Finland, Iceland, Denmark, New Zea-



Photo: Courtesy of Ernesto Bertani / Zurbaran Galeria, Buenos Aires

Greasing the system is systematic in many countries

land, Singapore and Sweden. Countries identified as having worsening levels of corruption include Argentina, Chile, Canada, Israel, Luxembourg, Poland, and the United States.

But for every improper payment or gift that is accepted by a government official, there must be a corresponding bribe payer. TI’s studies seek to measure the propensity of companies from top exporting countries to pay bribes in emerging markets. TI’s most recent Bribe Payers Index found high levels of bribery among companies from Russia, China, Taiwan and South Korea, closely followed by Italy, Hong Kong, Malaysia, Japan, USA and France.

International Action to Combat Bribery

Almost all countries have laws that criminalise the payment of bribes to their own government officials. Until recently, only the United States had an effective law that prohibited the same conduct where it occurred outside its own national borders. In fact, a number of countries (including Germany) permitted the tax deductibility of payments to foreign agents that might be used to pay bribes to pro-

cure overseas contracts.

The genesis of today’s global initiatives to fight corruption of public officials is the Watergate scandal in the United States in the 1970s. Among the investigations that followed, the US Securities and Exchange Commission found that over 400 American companies admitted making questionable or illegal payments in excess of US\$300 million to foreign government officials, politicians, and political parties. The abuses ran the gamut from bribery of high-level foreign officials to secure major defence contracts to so-called small “grease payments” made to ensure that government officials discharged routine ministerial such as issuing export licences or driving permits. The Congressional response to these disclosures was the US Foreign Corrupt Practices Act of 1977 (US FCPA) which made it unlawful for a US companies and individuals to make a corrupt payment to a foreign official for the purpose of obtaining or retaining business.

But the implementation of the US FCPA in 1977 immediately placed American companies at a competitive disadvantage in foreign markets. While non-US companies remained largely free to

make gifts of money and other incentives to induce foreign officials and political parties to grant government contracts and operating licenses, the same activities by American companies and their agents carried the risk of fines, imprisonment and disbarment from US federal programs.

The US Administration chose the Organization for Economic Cooperation and Development (OECD) as the forum through which seek equivalent reforms in the laws of other nations, and pushed bribery and corruption to the forefront of the OECD agenda in 1989. These efforts led to the adoption of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions on February 15, 1999 by all 30 member states of the OECD together with five non-member states (Argentina, Brazil, Bulgaria, Chile and Slovenia).

The successful negotiation and adoption of the OECD Convention marked a significant step forward in the efforts of the US Administration to level the playing field for American businesses competing for major commercial contracts in international markets. The OECD Convention

requires each of its signatories to enact legislation creating offenses similar to the bribery offense under the US FCPA

The OECD Convention

Most countries have laws that make it a crime to bribe domestic public officials. The OECD Convention creates the legal framework through which signatories will criminalize the payment of bribes to foreign public officials in order to obtain or retain business, or for some other improper business advantage.

The OECD Convention commits its signatories to the punishment of bribery of foreign public officials by effective, proportionate and dissuasive criminal penalties, comparable to those applicable to their own public officials. Some countries are able to prosecute corporate entities that engage in bribery acts under the Convention, but not all countries recognise criminal liability of companies. In those countries where there is no criminal liability of companies, countries are obliged to impose dissuasive non-criminal sanctions, including monetary fines.

The Convention focuses on “active bribery”. It penalizes

the person who offers, promises, or gives a bribe but not the recipient. For this reason, the OECD Convention has been characterized as a “supply side” agreement in that it commits its signatories to combat corruption among the exporting companies but not the corrupt officials who take bribes.

“Foreign public officials” is defined broadly under the OECD Convention. It includes any person that holds public office (whether elected or appointed) or any person exercising a public function for a foreign country. “Public function” includes any activity in the public interest delegated by a foreign state (such as public procurement). A foreign public official could be a company officer of a public enterprise, or the head of a government-designated monopoly, or senior officers of any company in which the government exercises a dominant influence through majority ownership or control.

Under the OECD Convention, the bribery offence may be committed irrespective of whether money or some other form of inducement is given or promised, whether the bribe is done directly or through intermediaries, or whether the bribe is for the benefit of the foreign official or a third party. It is also immaterial if what the company receives in exchange is a business contract or some other form of improper advantage, such as an operating licence.

Bribery focus

The focus of the OECD Convention is bribery for the purpose of obtaining or retaining international business. While the OECD Convention does not specifically address facilitating or “grease payments”, the Commentary to the OECD Convention adopted by the Negotiating Conference suggests that the requirement that the bribe be for the purpose of obtaining or retaining business “or other improper advantage” permits small facilitation payments made to induce public officials to perform functions that form part of their routine duties. Such facilitation payments do not create an improper advantage to the extent that they merely encourage a public official to perform his or her existing duties (such as a cus-

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Britain Considers "Enabling Act"

BY IAIN MURRAY

Under a new bill currently likely to pass through Parliament, British Ministers will be able to declare states of emergency in the event of such happenings as terrorist attack, fuel protests or in the event of "serious damage to the environment."

Confiscation of property

The Bill will allow Ministers powers to confiscate permanently property without compensation, prohibit assemblies and even to "disapply or modify" any law or statute, as far back as Magna Carta and beyond. Given its apparent chances for success, a further question remains whether the remarkable measure would then export to Brussels.

The Civil Contingencies Bill has been presented to Parliament as a measure to deal with the threat of terrorism, even though it can be applied in cases much wider than that.

A first draft of the Bill dis-applied the Human Rights Act 1998 that enacted the European Convention on Human Rights into British law, although this was dropped after protests. The

established judicial system is, however, sidelined by the provision allowing for jurisdiction to be given to ad hoc tribunals rather than the courts.

The Bill also creates three new offences: failure to comply with regulations made, failing to obey any order made under the regulations and "obstructing a person in the performance of a function or by virtue of the regulations." Civil libertarians have warned against the Bill's passage.

Hitler's Enabling Act

On July 5, Lord Lucas compared the Bill to Hitler's Enabling Act of 1933 in the House of Lords. Leolin Price QC, in a written legal opinion dated 13 September 2004, described the Bill as "a danger to freedom and...contrary to the principles which, in our country, underlie the relationship between those who are governed and those who govern them. ... The powers which it confers would be appropriate for a country which accepts authoritarian government and is willing to discard what, under the Common Law and our inherited system, is proper protection against the mis-



British Civil Contingencies Bill is compared to Hitler's Enabling Act of 1933

use and abuse of government power."

Draconian powers

Tony Bunyan of State-watch, told The Guardian (Jan. 7), "The powers available to the government and state agencies would be truly draconian. Cities could be sealed off, travel bans in-

roduced, all phones cut off, and websites shut down. Demonstrations could be banned and the news media be made subject to censorship. New offences against the state could be "created" by government decree.

This is Britain's Patriot Act. At a stroke democracy could be replaced by totalitarianism."

The Bill is supported by the opposition Conservative Party as well as the Labour government and is likely to pass through the House of Commons soon.

It remains to be seen whether the House of Lords will delay the legislation and, if so, whether the government will use the Parliament Act 1948 to force it into

law despite any such objections.

Under the new model designed to deal with a public suspicious of mandates emanating from Brussels, employing member-states as the laboratories for Commission legislation, it is also possible the measure could find its way to the EU in the near future.

Corruption Of Public Officials In International Business Transactions

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toms officer issuing an import license, or police officer providing routine police protection). In this respect, the OECD Convention mirrors the US FCPA.

Each of the signatories to the OECD Convention has taken steps to adopt and implement national legislation to give effect to its term. The United States Congress has adopted the International Bribery & Fair Trade Act 1998 to bring the US FCPA and the Securities Exchange Act of 1934 into conformity with the OECD Convention.

While most countries appear to have achieved substantial compliance with their treaty obligations in the form of their national implementing legislation, significant areas of inconsistency remain because of the peculiarities of local jurisprudence in some countries.

In Brazil, for instance, there is no concept of corporate criminal liability. Criminal penalties can only be imposed on individual wrongdoers.

Outside of the United States, enforcement activi-

ty under the OECD Convention has been very limited. Only Sweden and South Korea have brought successful convictions under their national implementing legislation for bribery of a public official. The governments of Canada, France, Italy and Norway have each initiated investigations that our now public, but none of these have progressed to a conviction. It is possible that further countries are pursuing investigations that remain secret.

While the number of prosecutions for corruption of foreign government officials remains limited, there is a growing trend of enforcement activity among both the developed and developing nations.

In France in 2003, at the trial of former executives of the then state-owned oil company, Elf Aquitaine, 37 defendants were accused of accepting bribes to the value of US\$450 million.

The three principal defendants were imprisoned for terms of between five and eight years, and each of the remaining defendants suffered fines.

There appears to be a growing recognition among countries outside the OECD club of the seriousness of the corruption problem and its costs to their national economies. Three companies -- the German engineering firm Lahmeyer International GmbH, Ontario-based Acres International Ltd. and France's Schneider Electric SA -- were recently convicted of bribery offences in Lesotho.

These firms were contractors on dam and water conversion project worth US\$12 billion, partly financed by the World Bank. Acres, which did around US\$21 million worth of the engineering work, was found guilty of paying bribes totalling US\$680,000 to Swiss bank accounts held by its local agent and his wife.

The main beneficiary of the bribes was project chief Masupha Sole, who was jailed for 18 years for accepting the equivalent of US\$1.5 million in bribes from a variety of contractors and consultants.

UN Convention Against Corruption

The growing global

awareness of the economic and social cost of corruption in government is further reflected in a United Nations initiative to expanding the anti-bribery principles of the OECD Convention to a broader group of nations.

The United Nations Convention Against Corruption, which is due to be adopted in Mexico in December 2004, will commit over 100 nations to adopting national laws as may be necessary to make it criminal to give or promise anything of value to a public official to influence that person in the exercise of his or her public duties.

The offence that the UN Convention seeks to create is broader than that created by the OECD Convention in that it will prohibit not only bribery but also trading in influence and the concealment or laundering of the proceeds of corruption.

Signatories to the UN Convention will also agree to cooperate with one another in the identification, investigation and prosecution of offenders.

Signatory states must render mutual legal assistance in gathering and trans-

ferring evidence for use in court and to extradite offenders and as well as implementing measures which will support the tracing, freezing, seizure and confiscation of the proceeds of corruption.

A key feature of the UN Convention is an agreement on asset-recovery. In many developing countries, high-level corruption has plundered the national wealth and redirected public funds designated for badly needed reconstruction and the rehabilitation projects.

In the case of laundering of public funds, any confiscated property must be returned to the state from whom the funds were embezzled. In other cases, the property must be returned to a requesting state providing the proof of ownership.

The UN Convention will come into force once ratified by the national legislature of 30 signatories.

Prospects for a less corrupt world

Any legislative framework is only as effective as its enforcement mech-

anisms. The United States, which has been the sponsor of the recent international initiatives to combat corruption globally, remains the most diligent in the enforcement of its anti-bribery laws.

Despite the fact that all 35 signatories to the OECD Convention have now adopted national implementing legislation only two countries outside the United States -- Sweden and South Korea -- have brought successful prosecutions under the national implementing legislation.

While a legislative framework has been established in the context of the OECD Convention to combat bribery of public officials, the policing and enforcement of those laws remains uneven.

Further progress will have to be made before the risks of paying bribes become equal for US and non-US companies.

The effective implementation of the broader restrictions contemplated by the UN Convention globally will take even longer.



Photo: Courtesy of Hill & Knowlton - Brussels

Has Tourism Recovered Post 9/11?

This week the luminaries of the European Travel and Tourism Industry gather in Budapest for the annual Tourism Forum conference convened by the Directorate General for Enterprise of the European Commission. Tourism remains something of a concubine's child when it comes to the EU institutions claiming policy ownership.

During his term of office the European Parliament, James Provan took a keen political interest in the industry, and co-ordinated a Tourism inter-group at the Parliament to champion EU level initiatives.

His intervention was particularly helpful in the wake of the powerful forces unleashed in the wake of 9/11. But since the June elections the industry has not yet taken action to identify interested parliamentarians to carry on James's good work, and it remains unclear whether there is sufficient momentum for an inter-group to continue.

Three years on from 9/11, there are signs of recovery in travel and tourism.

The sector continues to suffer from terrorist attacks, and the recent despicable attacks against defenceless families and innocent civilians in the Red Sea Resort of Taba are to be abhorred as utterly callous and disgusting.

But in terms of business impact on overall demand and stock prices such acts are no longer having any effect on the prevailing growth in demand and medium to long term economic trends.

Demand restrained or restricted in one area is being met by supply elsewhere; like squashing a balloon the air expands into new pockets.

People are simply factoring terrorism as one of the risks of modern life to be put into the equation of every day decisions; whilst every such outrage causes revulsion, it no longer has the capacity to restrain personal freedom or thwart independence of action. People are more determined than ever not to let these events destroy their lives.

Europe has significant global exposure to the lodging sector through the international chains of InterContinental Hotels, Hilton and Accor.

Whilst hotel stocks have been historically valued by European investors at



Photo: The European Commission Audio Visual Library

Curiosity about our curious neighbours can be civilising

a discount when compared with American investor behaviour towards the sector, recent increases in revenues per available room for mid to upscale properties continue to drive share price growth.

Stronger role for EU

At the Tourism Forum conference in Budapest this week the World Travel and Tourism Council (WTTC) will be presenting the case for the EU and the member states to take a stronger coordinating role in the sector to harness the potential of countries like Hungary, Poland, Slovakia and Lithuania to use tourism as a catalyst to create jobs in all of the supporting feeder industries that supply goods and services to make up the wider tourism offering.

But whilst the Commission claims to be focused on achieving the Lisbon goals on job creation – and we are rapidly approaching the Kok report and the mid-term review – the potential of the travel and tourism sector continues to be underestimated. During his nomination hearing at the European Parliament, Commissioner-Designate Günther Verheugen conceded that tourism and leisure could be a “growth area, alongside education and health”, but did not foresee anything more than a limited role for the Commission in promoting the exchange of best practices.

But this attitude ignores the huge opportunities that can be created by horizontal measures such as facilitating early strategic investment in key transport and infrastructural development – particularly airports and their feeder transport services.

The demand and the confidence to travel has been a long time coming, but it has undoubtedly returned post 9/11 - and with consumers' grim determination not to give in to terrorism - to the historical growth trend of 4% per annum. What is needed particularly help the new member states to get a kick

start and benefit from this, is to give regional transportation a boost.

Creativitive promotion

There is also arguably a role for the EU to think more creatively of ways to help promote intra-EU tourism amongst EU citizens through the sponsorship of festivals, events and support of promotional campaigns for reasons of solidarity and basic citizen education. There are still many prejudices and ignorant misconceptions between the diverse tribes in the member states that

need to be broken down to help our citizens understand what actually are the shared principles and beliefs that go to make up the commonality of belonging to the EU, and just how cultural diversity can in itself be more powerful than cultural uniformity.

The simple truth is – as Prime Minister Erdogan so eloquently put to Jacques Chirac and the citizens of France that we do not know our neighbours well enough. Shouldn't we find out?

What has happened to that old-fashioned driving force of human in-

telligence – curiosity?

Economic benefits

Tourism is also a mechanism that can help boost economic development when wisely incorporated into aid policy.

Hotel businesses are often pioneers when it comes to setting up business in newly developing economies; they can also act as cultural ambassadors for setting standards through their employment practices, environmental stewardship, procurement policies and corporate ethics.

Tourism requires conditions of peace and security in which to operate and prosper – it cannot actually promote peace, but it can make significant contributions to stabilizing post-conflict communities whose economies are undergoing reconstruction.

Build on recovery

As the new Commission prepares to take office, and the European Parliament draws up the priorities and vision for its 6th term, let's not forget to build on the recovery of our travel and tourism sector, and harness its potential to contribute both to the job creation targets of the Lisbon growth and competitiveness agenda and to the wider development agenda of the EU's aid policies. I never cease to be surprised at the civilizing influence sustainable tourism can play.

EU Reporter

The most widely read English language free newspaper in Brussels* - and they're threatening to sue us for saying it.

MEPs please note!

*According to an independent survey



Photo: Courtesy of Michelle Schmitz

Weak German Consumer Spending Hits Retailer

It's a mild October Saturday and plenty of people are strolling along Berlin's Kurfürstendamm, a street full of retail stores. But few of them are spending money. Most of them are just looking through the shop windows.

Germans are reluctant to buy. Job concerns and controversial welfare reforms have prompted many Germans to cut back on spending. Tough times for retailers, especially for those that make most of their sales in the country, like KarstadtQuelle.

Europe's largest department-store chain is hit by consumers' reticence.

Three years of falling revenues have put the retail giant in its most severe financial crisis. Germans seem to be going to the bank instead of going shopping.

To attract consumers, retailers came up with special price offers. This initiated a ruinous price war in Germany, with profit margins at the lower end of what is viable. "The retail sector is killing itself", Economics and Labour Minister Wolfgang Clement said.

Still, analysts point out that this is not the only culprit for Karstadt's poor state. Unlike its competitors, such as C&A

and Kaufhof, it has failed to modernize its stores to adapt changing customer requirements. German Chancellor Gerhard Schroeder sharply criticised Karstadt's former leadership, saying "management failure has been of the worst kind".

To overcome the current crisis, Karstadt plans to raise 1.6 billion euros by selling shares and assets, including almost half of its department stores.

The company's Chief Executive Christoph Achenbach said a reorganisation would include "hard and painful" job cuts.

Lack of Focus

Achenbach took over in June from Wolfgang Urban to restore profits. Under Urban, the company expanded into ventures such as fitness, packaged vacations and coffee shops, resulting in what Achenbach called a "lack of focus". Achenbach now wants to concentrate on the company's core activities.

His plans met with a swift response from the government and Germany's Ver.di services union which warned against "abrupt decisions" to close branches or

layoff workers. Karstadt has a total workforce of about 100,000 and Ver.di fears that as many as 10,000 jobs may be lost and between 20,000 and 40,000 more Karstadt employees may be affected if the restructuring plans are carried out.

The plan endangers thousands of jobs and above all does not point to a solid future, a Ver.di spokeswoman said, threatening the company with strike action.

Given the severe situation of Germany's labour market, the government is also in talks with the struggling retail giant. Clement said the government would use "all the tools available" to assist workers at the floundering retailer. But he added that it was up to the company to restructure itself successfully. The government was not planning to support KarstadtQuelle financially.

The Schroeder government has learned its lesson. It wants to assist, but it doesn't seem to be inclined to save a mismanaged private-sector company.

Still, this hasn't always been the case just to recall "Holzmann", the construction giant that Schroeder wanted to save by



Photo: Courtesy of www.sstamine.net

German retailers are in crisis

providing millions of euros in state guarantees. So far, it seems that Kar-

tadtQuelle may get in particular assistance from local and regional governments

that want to secure jobs and department stores in smaller communities. Labour and Economy Minister Harald Schartau of North-Rhine Westphalia, Germany's largest state and home to the company, is in talks with the management to limit the effects for his regional labour market.

Within the next three to four weeks the company now must reach agreement with the unions over its restructuring plans otherwise it could run into credit problems, according to Achenbach. The number of additional jobs to be cut depends on what concessions can be reached with employees, he said.

Karstadt wants to increase the working week to 42 hours and give workers fewer vacation days. However, the union is opposing such plans.

With unemployment reaching 10.5 percent in September, there is little room for the union to manoeuvre. And as long as export growth doesn't spill-over to domestic demand, a broadly-based economic recovery is unlikely to materialize in Germany and uncertainty on the consumer front will remain.

Thus, it is even more important that Karstadt's restructuring plan will be a

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