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# How to build a modern European Union

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**With Katinka Barysch, Hugo Brady, David Buchan,  
Clara Marina O'Donnell, John Springford, Stephen Tindale  
and Philip Whyte**

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We regard European integration as largely beneficial but recognise that in many respects the Union does not work well. We also think that the EU should take on more responsibilities globally, on issues ranging from climate change to security. The CER aims to promote an open, outward-looking and effective European Union.

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# How to build a modern European Union

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# Introduction

All political communities need to adapt and evolve if they are to remain relevant. The European Union has altered dramatically in the 56 years since it was founded as the European Economic Community. It has established a single market, several common policies and a single currency, while enlarging from six countries to 28. But despite five major treaty revisions in the past 30 years, some of the EU's policies and institutions look old-fashioned and tarnished. All across Europe, politicians, business leaders and commentators are asking for changes to the way the EU works.

Much of the unhappiness with the Union stems from the eurozone's travails. In many countries, shrinking economies and rising unemployment have given European integration a bad name. National parliaments and governments seem to be losing power over economic policy to unelected institutions. The 'troika' – the European Commission, the European Central Bank and the International Monetary Fund – has forced budget cuts and structural reform on countries already in recession.

But people are frustrated with much more than the monetary union. In Britain, hostility to the EU itself is particularly strong. The rise of the United Kingdom Independence Party has pushed Prime Minister David Cameron into promising an in-or-out referendum in 2017. There is plenty of discontent with the EU in other countries, too. In Germany, ministers demand that the EU pay more attention to 'subsidiarity' – the principle that the Union should act only when strictly necessary, and that member-states should act where possible – and criticise the Commission for wanting too many powers.<sup>1</sup>

In France, senior officials complain about excessive EU red tape. The Dutch government in June 2013 published a paper listing 54 policy areas where it wants no further EU involvement. This paper urged the Commission to propose less-detailed laws, and to respect the principle of proportionality.<sup>2</sup> The paper also told the Commission that it should

1: The EU treaties define subsidiarity by saying that the EU "shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the member-states, either at central level or at regional and local level, but can rather, by reason of the scale

or effects of the proposed action, be better achieved at Union level".

2: The EU treaties define this by saying that the content and form of the Union's action should not exceed what is necessary to achieve the objectives of the treaties.

not propose rules when the legal base justifying the legislation was uncertain or indirect.<sup>3</sup> The following month the British government published the first batch of reports from its review of EU competences, assessing the positive and negative impact of EU actions and policies on the UK.<sup>4</sup> There has probably never been a moment more propitious for reforming the EU.

The eurozone's many ailments have distracted attention from the fact that the EU's institutions and policies are badly in need of an overhaul.

*“The European Parliament pushes the Commission into making proposals that are on some occasions unnecessary.”*

The reforms proposed in this report would, we believe, make the EU both more successful economically and more accountable. Our report does not attempt to tackle the eurozone's problems, which the CER covers in another recent publication.<sup>5</sup>

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## The key themes of this report

We examine the EU's institutions and then its policies. One guiding principle of our institutional proposals is subsidiarity. Originating in Roman Catholic theology, this idea was important to Jacques Delors (Commission president from 1985 to 1995) and is now popular in Germany. A strong and independent Commission is essential to the well-being of the EU; the Commission is the only body that can battle in favour of the single market and the wider European interest. Nevertheless it sometimes pays insufficient heed to subsidiarity and proposes too many or too-detailed rules.

Part of the problem, we argue, is that the European Parliament pushes the Commission into making proposals that are on some occasions unnecessary. We therefore call for the commissioners to become less dependent on the MEPs. The Commission should also strengthen the impact assessments that it carries out before proposing laws. And we suggest that national parliaments should play a greater role in policing subsidiarity.

A second guiding principle is that power in the EU needs to be made more clearly accountable. Given the complexity of EU decision-making, it is not always evident who is responsible for taking decisions and how

3: 'Testing European legislation for subsidiarity and proportionality – Dutch list of points for action', Dutch government, June 2013.

4: The reports concluded that the EU was in most respects beneficial. However, the government chose to publish the reports when Parliament was in recess (on a day

that a royal baby was born) and made little effort to brief the media.

5: See 'The future of Europe's economy: Disaster or deliverance?' by Paul De Grauwe, George Magnus, Thomas Mayer and Holger Schmieding, CER report, September 2013.

they can be held to account. We do not think that yet more powers for the European Parliament – a body whose own legitimacy is in doubt – can help to make the EU as a whole more legitimate.

But we do suggest that a greater role for national parliaments in EU governance would improve accountability. They should gain the power to block unnecessary legislative proposals and to call for the repeal of redundant laws. We would also like to see a forum of national parliamentarians meet in Brussels and help to hold the European Council to account.

Part of making the EU more accountable must involve ensuring that money is spent properly. Although fraud in EU institutions is much rarer than many people imagine, the perception that large sums of money are being wasted is damaging. The European Court of Auditors regularly exposes ineffective policies and irregularities, while OLAF, the EU's anti-fraud agency, does some useful work. But both need a shake-up and more resources.

The EU's ability to develop coherent external policies, or not, matters hugely for its reputation in other parts of the world, and may affect its capacity to negotiate free trade agreements (FTAs). The European External Action Service (EEAS) has had a bumpy relationship with the Commission, which controls most of the money that this embryonic EU foreign ministry spends. We argue for more co-ordination between the EEAS and the parts of the Commission that deal with external relations. We would also give the EEAS more freedom to set its own rules and procedures, so that it can act more speedily.

We conclude the institutional section by pointing to the dangers of the Eurogroup – the euro countries' club – forging policies that could damage the wider single market. We suggest how the non-euro countries should work to maintain the integrity of the single market.

In our discussion of EU policies, the overarching theme is the need to improve Europe's potential for economic growth. At EU level, little would do more to generate jobs and growth than the extension of the single market into services. The EU's priority should be to liberalise those services that are most easily traded – such as business services, information technology services, construction and transport. We also call on the EU to pass the necessary laws to allow pan-European e-commerce to take off.

The partially-achieved single market in energy is in danger of unwinding: very different national subsidy regimes for renewable energy may reduce cross-border competition and convergence between national energy markets. We urge member-states to follow the Commission's guidelines on how to minimise these risks.

Investment in green technologies should be a major source of high-skilled employment. But the EU's Emissions Trading Scheme, designed to encourage investment in low-carbon technologies and curb carbon emissions, has failed, because the carbon price is too low. We propose reforming the scheme so that the price of carbon rises. But we also recognise the limits of what a carbon market can achieve. We therefore suggest that the EU should emulate the US and Canada by introducing regulations to ensure that power generation produces less carbon.

*“The EU should emulate the US by regulating to ensure that power generation produces less carbon.”*

Another way of stimulating economic activity is for the EU to negotiate free trade agreements with countries in other parts of the world. To its credit, the EU

has several such agreements in the pipeline. However, some FTA negotiations with democracies are likely to be delayed by the EU's insistence on linking them to a process of monitoring human rights in the country concerned. We would end that linkage and seek to promote human rights through other diplomatic methods.

Contrary to what many eurosceptics say, the EU's working time directive does little damage to European economies. We would nevertheless reform it in line with subsidiarity, so that national governments have more freedom to define the rules for working time.

The EU's current budget does not do a great deal to promote growth, with about 80 per cent of the money being spent on farming and regional aid. We suggest a strategic review of the EU's budget, to help set an agenda for future reforms. This should lead to the phasing out of some farm subsidies, particularly for larger farmers, and the withdrawal of regional funds from the richer member-states. The money saved should be diverted to projects that can promote growth – such as cross-border transport and energy links, or the European Research Council.

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## The British problem

An agenda for reform would benefit all Europeans. But it would also help to deal with the British problem. Cameron's January 2013 Bloomberg speech, in which he promised a referendum, was imprecise about the changes he wanted in the EU. This leaves him with a choice. On the one hand, he could work with other EU governments to pursue reforms that would not require treaty change; or reforms that would need small treaty changes but not alter the fundamental relationship between member-states and the EU. On the other, he could pursue a significant repatriation of powers, either to all the member-states, or to Britain alone through opt-outs.

The first option, if pursued with diplomatic skill, and in favourable circumstances, could produce results. Many EU governments would support measures to make the EU more efficient and accountable. They might even agree to tweak the EU treaties to achieve certain reforms, if and when those treaties need to be re-opened.

But if Cameron pursued the second option – in line with the desires of many Conservative Party members – he would fail. There is no appetite in other member-states for the EU to hand back significant areas of competence, such as employment regulation, farming, fisheries or free movement of labour. The Germans, it is true, will work very hard to keep the British in the EU. Chancellor Angela Merkel has hinted that she would not rule out returning a few powers to member-states. But though she and other German leaders like subsidiarity, they think that substantive repatriation would be a step too far. And even if they were willing, say, to let the British opt out of social and employment legislation, which they are not, they could never persuade every other member-state – some of which are strongly committed to 'social Europe' – to ratify the treaty change required to bring that about.

Many Conservatives believe that if the British government adopts a tough style of negotiation, and threatens to recommend a No vote in the forthcoming referendum, its partners will be driven to offer opt-outs. But these Conservatives should be aware of the great fear among other governments of reopening Pandora's Box. If one country were allowed to opt out of the policies that it disliked, others would demand the same privilege. The French would insist on the right to subsidise their car industry, the Poles would want exemptions from rules on carbon emissions, and so on. The single market would soon be left in tatters.

## The EU can be reformed

Any British government, of whatever political colour, should focus on reform, not repatriation. It is certainly very hard to reform the EU, given the need to work with 27 other governments and slow-moving institutions. The most hard-line British eurosceptics, whose ranks now include Lord Lawson, the former Conservative chancellor, argue that the EU is unreformable. Therefore, they conclude, Britain should leave it.

But this analysis is too pessimistic.<sup>6</sup> For more than 50 years, the EU's policies and institutions have been undergoing change and evolution, often for the better. Consider a few examples.

In 1985, when the Delors Commission came up with a blueprint for the single market, cynics dismissed the ambition as hopeless. But the

*“For more than 50 years, the EU's policies and institutions have been undergoing change and evolution.”*

Commission pressed ahead with plans to scrap non-tariff barriers to the free flow of goods, services, capital and labour, and the single market – though far from perfect – now exists.

Even the much-maligned Common Agricultural Policy has been transformed over the past quarter century. Subsidies to farmers used to be linked to production, which encouraged unwanted lakes of wine and mountains of butter. But now subsidies are tied to the area cultivated, which means that over-production is no longer a problem – though further reform is certainly needed. In May 2013, EU ministers agreed on a serious revision of the Common Fisheries Policy, devolving the management of fish stocks to member-states, and banning the practice of throwing dead fish back into the sea.

Institutions can change, too. In 2000, the CER argued that the EU would achieve more in foreign policy if those parts of the Commission and the Council of Ministers secretariat that worked on external relations merged into a single body.<sup>7</sup> The Lisbon treaty created such a body, the European External Action Service, which – despite teething troubles – can better speak on behalf of the EU than the disparate entities it replaced.

So EU leaders should not shy away from the challenge of reform. Most of the reforms that we suggest – in the blue boxes that end each section

6: Charles Grant, 'Britain could reshape Europe if it would only try', *Financial Times*, May 15<sup>th</sup> 2013.

7: Charles Grant, 'EU 2010: An optimistic vision of the future', CER report, 2000.

of this report – would not require treaty change; some would. Our list of reforms is far from comprehensive. And we make no apology for the fact that a lot of our suggestions are practical rather than dramatic. But we believe that the reforms proposed in this report are feasible, could win the support of many member-states and should be pursued.





## Chapter 1

# Institutions

## 1.1 A stronger and more effective European Commission

The EU cannot function well without a strong and independent European Commission. It needs the Commission to promote the single market, ensure that everybody follows the rules, protect the interests of small member-states against large ones, and think long-term about the broader European interest.

As the euro crisis has continued, the Commission has gained greater technical powers to supervise eurozone economies. At the same time, however, its standing and moral authority vis-à-vis the member-states have declined. Twenty years ago, many people looked to the Commission to set the EU's agenda and take the lead in managing crises. They do not expect the Commission to play those roles today.

A lot of national politicians and businesses complain that the Commission is hyperactive in proposing too many detailed EU laws, that it responds too slowly to pressing problems, that it is insufficiently focused on essential issues and that it is too close to the European Parliament. Some of these criticisms are unfair: national governments tend to whinge when the Commission does its job of policing the single market or seeking to extend it.

But the Commission does propose excessive numbers of rules. In 2013, for example, it proposed banning restaurants from serving olive oil in reusable bottles, introducing quotas for women on corporate boards, heavily regulating the sale of electronic cigarettes and outlawing menthol cigarettes. Whatever their merits, these proposals – only the last of which was adopted – breached most definitions of subsidiarity.

The Commission sometimes sits on a proposal for many years and then sees a propitious moment – perhaps because the country holding the EU's rotating presidency is in favour – to push it into the Council of Ministers. One example is a 2008 proposal that would modestly extend existing rights for pregnant workers. The European Parliament

demanded a much more generous regime of 20 weeks' maternity leave on full pay, but many governments fear the cost, so the proposal has not passed the Council.

The European Parliament's increasing sway over the Commission is unfortunate: MEPs, sometimes under the influence of particular NGOs, often prod the Commission to propose legislation. The Commission may be willing to go along with the idea – or have doubts but fear the consequences of saying no to MEPs. Ask key officials in national capitals why they have become more hostile to the Commission, and they often say “because it is too dependent on the Parliament”.

*“Key officials in national capitals have become more hostile to the Commission “because it is too dependent on the Parliament.””*

The Commission should not take all the blame for this situation. After the 2009 European elections the Commission and the Parliament struck a deal on future legislation and procedures which increased the clout of MEPs. The Council of Ministers spurned the opportunity

to make this a tripartite arrangement; had it done so, it could have balanced the legislative activism of the Parliament and pulled the Commission closer to it.

There has always been some ambiguity over the Commission's various and contradictory roles: it is a political body that initiates legislation and also brokers compromises among the member-states; a technical body that evaluates the performance of the member-states' economies; a quasi-judicial authority that polices markets and enforces rules; and a negotiator of common policies on behalf of the member-states.

Since the outbreak of the euro crisis, this ambiguity has become more pronounced, because the Commission's technical role has grown: it has taken on new powers to supervise national economic policies.<sup>8</sup> So when the Commission pronounces, say, that France may be given two further years in which to meet the 3 per cent of GDP budget deficit rule, is that the result of objective technical analysis or a reflection of the shifting political climate in national capitals?

This ambiguity gives governments and others an excuse to criticise the Commission. And there is a risk that if it becomes too political – a tendency that greater proximity to the Parliament may encourage – the

8: Through, for example, the groups of directives and regulations known as the 'two-pack' and the 'six-pack', and the 'fiscal compact' treaty.

Commission's ability to carry out its technical functions effectively may be compromised.

Many MEPs and most of the pan-European political parties hope to use the May 2014 European elections to make the Commission more directly responsible to the Parliament. The parties say that they will each designate a candidate for Commission president. After the elections they want the European Council to propose the candidate of the party with the most MEPs as president – and then the Parliament to invest him or her. And if the European Council proposed any other name, say many MEPs, they would reject that name.

If this scheme worked, it would probably not do much for the legitimacy of the Commission, because the competing candidates are likely to be unknown to most voters. Furthermore, the scheme would foster the illusion that the Commission is an EU government, when in fact the trend of recent years has been for power to shift to member-states; when voters notice that European elections cannot change the fundamentals of policy, they may become even more disenchanted with the EU.

A further difficulty with this method of choosing the president is that fewer strong candidates are likely to be interested. Any serving prime minister would be reticent: he or she would have to announce that they wanted to “go to Brussels”, which would weaken them at home; they would then have to resign and run for the office without being sure of the outcome. Former ministers and MEPs would be most likely to win the party nominations. It is not yet certain that all the political parties and the European Council will, in the end, play this game – there is some hostility in Berlin, for example. If they allowed the Parliament to have the last word on President José Manuel Barroso's successor, the Commission could well become more beholden to the Parliament, and the leading party within it.<sup>9</sup>

Another problem with the Commission is that there are not enough important jobs for the 28 commissioners to do. With so many people around the table, substantive discussions are almost impossible. The one-commissioner-per-country rule encourages both governments and those they appoint to the Commission to assume – in breach of the treaties – that the job of commissioners is to represent their homeland. The large number of commissioners, plus the fact that few of them are heavyweight politicians, has encouraged Barroso to establish a

9: See Heather Grabbe and Stefan Lehne, 'The 2014 European elections: Why a partisan Commission president would be bad for the EU', CER policy brief, October 2013.

centralised, top-down regime. He may not have had much choice, but the resulting system does not encourage debate, innovation or reform.

The relative weakness of the Commission is a problem for the entire EU. What can be done to strengthen this flagging but crucial institution?

The most important step requires not a treaty amendment or an institutional reform, but simply an agreement among heads of government. The European Council should decide to reinforce the Commission's independence by appointing strong figures as commissioners, and above all by ensuring that a heavyweight politician takes on the presidency. That means that the European Council must reserve the right to choose the president – though that person must evidently be acceptable to the European Parliament – rather than allow the political parties to fix the presidency via the European elections. The quality of the people that governments appoint to the key EU jobs in 2014 will reveal how committed they are to reform.

The member-states must mandate the new president and his or her team to maintain their independence from the European Parliament, and support them in their efforts to do so. After the next European elections, the Council of Ministers should join the new Commission and the new Parliament in drawing up a tripartite accord for the EU's work programme.

The problem of too many commissioners needs to be tackled. In the short term, the next president should divide his or her commissioners into seniors – who could become vice presidents – and juniors. The commissioners would remain of equal legal status and would sometimes meet together as a college. But there could be an informal understanding that the senior ones should co-ordinate the work of the juniors in the areas for which they are responsible. We suggest the following senior jobs: foreign policy (to be held by the High Representative, who is in charge of the External Action Service as well as a commissioner); trade; single market; competition; energy, climate and environment; economy; budget (including farming and regional aid); and justice and home affairs. The senior commissioners should meet together regularly.

In the longer run, when the treaties are re-opened, the EU should cut the number of commissioners. Either the large countries should always have a commissioner and smaller countries would take it in turns; or the large countries should have a commissioner more often than the small ones. In the past, small countries have blocked such systems, insisting that if the number of commissioners is to fall, there should be an equal rotation (the Lisbon treaty specifies such a rotation but allows the European Council to disregard it, which it has chosen to do). They should think again, for the sake of a smaller and therefore more effective Commission. If the large countries made it very clear that commissioners from small countries – as long as they were suitably qualified – would be just as likely to get the best jobs as those from large ones, the smaller states might agree.

Other treaty amendments could make it easier for the member-states to curb the Commission's tendency to legislate. Currently, the Commission is not obliged to withdraw a proposal unless the member-states unanimously request it to do so. A new provision could require the Commission to withdraw a proposal if asked to do so by a qualified majority of member-states. And Commission proposals could be limited by a 'sunset clause': if a proposal does not become law within, say, three years, it should become void.

A new treaty should also give the European Council the right to sack the Commission. The Parliament has that power and by threatening to use it forced the resignation of the Santer Commission in 1999. If the treaties said that either body could sack the Commission, its equidistance between governments and MEPs would be reinforced.



## 1.2 Improving the quality of rule-making

In recent years, the Commission has tried to improve the quality of EU legislation and to reduce the burden of regulation associated with it. It consults more widely than it used to. It carries out impact assessments which try to work out the costs and benefits of the new measures it is considering, according to economic, social and environmental criteria. It has worked to simplify the *acquis communautaire*, the existing body of EU laws, by repealing redundant ones and making those still in force easier to understand (for example, by consolidating laws and their subsequent amendments into a single text). And it has tried to reduce the burden of complying with EU rules, particularly for small businesses (see below). Although the Commission's success should not be overstated, all these efforts have yielded some results: thanks partly to the consolidation of previously disparate texts, the EU has repealed 5,590 legal acts since 2005.<sup>10</sup>

Nonetheless, many businesses and some governments complain that the Commission remains addicted to regulation, and that EU rules are too onerous and detailed. Small businesses, in particular, complain about the disproportionate costs that they face in complying with EU rules in areas like data protection, public procurement, the use of chemicals (laid down in the 'REACH' directive) and prospectuses for raising capital.

However, the Commission thinks a lot of the criticisms are unfair. It points out that member-states are responsible for deciding whether new legislation should be adopted – and, in the case of directives, for choosing how EU rules should be implemented into national law (where 'gold-plating', the adding of unnecessary detail in the national law, often occurs).

The Commission adds that some of its initiatives aimed at reducing regulatory burdens go largely unreported, notably in the countries that complain loudest about EU regulation. One such initiative is the Commission's 'Regulatory fitness and performance programme' (or REFIT). Under REFIT, the Commission has screened the entire stock of

<sup>10</sup>: European Commission, 'Regulatory fitness and performance (REFIT): Results and next steps', Communication from the Commission to the European

Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, October 2<sup>nd</sup> 2013.

EU law with a view to identifying areas where the regulatory burden could be alleviated. In October 2013, it announced the first results of this exercise, identifying legislative proposals that it intends to withdraw, as well as measures in force that it plans either to repeal or simplify. The Commission also points out that it is making special efforts to reduce the burden of regulation on small and medium-sized enterprises (SMEs). Its ‘Top Ten consultation’, for example, asked SMEs to identify the ten pieces of EU legislation they found most burdensome. Having received feedback from SMEs, the Commission is currently looking into ways of reducing regulatory and other burdens in some of the areas identified. It has, for example, already cut the

*“EU institutions should do more to counter the perception that ‘Brussels’ is a regulatory machine that has run out of control.”*

fees that SMEs in the chemicals sector must pay to the European Chemicals Agency.<sup>11</sup> It is now routine for the Commission to exempt the smallest companies from new EU directives.

The Commission also says that, as a result of impact assessments, it often abandons legislative proposals that one or other commissioner has drafted. However, it does not publicise which proposals it has scrapped, for fear of embarrassing the commissioner concerned.

All this is true. Even so, the Commission and other EU institutions should do more to counter the perception that ‘Brussels’ is a regulatory machine that has run out of control.

Take impact assessments. They have had a positive influence on Commission proposals – and are generally well regarded by outside organisations that have monitored them, like the OECD. But they still attract criticisms. Some observers complain that impact assessments merely provide cover for the Commission to do what it intended to do all along. Others, citing the proposed financial transactions tax, grumble that the Commission can still opt to propose legislation, even if its own impact assessment predicts that the costs will outweigh the benefits. Others still point out that the technical work of impact assessments is often farmed out to external consultants, who may have a financial interest in telling the Commission what it wants to hear if they seek to win repeat business. Finally, some critics argue that impact assessments should not be evaluated by the Commission’s own Impact Assessment Board, but by an external body.

<sup>11</sup>: European Commission, ‘Commission follow-up to the Top Ten consultation of SMEs on EU regulation’, June 18<sup>th</sup> 2013.



Negative impact assessments should not, as some critics argue, prevent the Commission from proposing legislation: if that were the case, political decisions would effectively be subordinated to the findings of technical bodies. But the Commission should take several steps to increase confidence in the impact assessment regime. First, it should publicise those cases when it opts not to legislate because of a negative impact assessment; this might allay suspicions that these exercises are merely cosmetic devices designed to justify what the Commission intended to do anyway. Second, to reduce institutional groupthink and strengthen the objectivity of the impact assessment regime, the Council of Ministers should appoint external experts to sit alongside Commission officials on the Impact Assessment Board.

The European Parliament and the Council of Ministers also need to start thinking about the impact of the amendments that they propose to EU legislation. The Parliament has taken some tentative steps in this direction. Both it and the Council should set up special units to produce impact assessments on major legislative amendments.



### 1.3 Enhancing the role of national parliaments

Some of the EU's waning legitimacy stems from its poor performance: unemployment remains high, many economies have been in recession, and leaders have quarrelled while failing to come up with convincing cures for the eurozone's ailments. But there is also the problem of how power is held to account in the EU's complex and opaque decision-making procedures. In the eurozone, in particular, national governments and parliaments are losing their ability to set budgets and other economic policies, as power flows to EU institutions. When the eurozone takes decisions on bail-outs, there is no accountability at EU level.

The European Parliament argues that it should be the main body for holding eurozone decision-makers to account, and for making the EU as a whole more accountable. But there are several problems with this view.

First, the Parliament tends to be obsessed with enhancing its own powers – and those of the EU more broadly – in preference to speaking for the peoples of Europe. MEPs are often out of touch with the decreasing numbers of people who bother to vote for them (just 43 per cent of the electorate in 2009) and with their national political systems. If turnout is once again poor in the May 2014 European elections, there will be more questions about the Parliament's legitimacy.

Second, in areas of EU policy-making that have unanimous decision-making, such as foreign policy, the Parliament's role in the system is limited. And there is no appetite among member-states for boosting the Parliament's powers in such areas.

Third, many decisions taken at EU level on the eurozone, for example on bail-outs and the conditionality that applies to them, have to be implemented by national parliaments. Thus the German parliament had to approve money for the Cypriot bail-out, and the Cypriot parliament had to vote to close down the island's banks. The European Parliament does not vet eurozone bail-outs because they do not (with some minor exceptions) draw on the EU budget.

Therefore there is a strong case for enhancing the role of national parliamentarians in EU and eurozone governance. MPs often have more legitimacy than MEPs, because they are closer to voters and elected on a higher turn-out. If they were more involved in the EU they might start to consider the wider European interest and, as they became more knowledgeable, be less willing to blame ‘Brussels’ for every regulation they dislike. National parliamentarians are also well-placed to take a view on whether EU legislation complies with the principles of subsidiarity and proportionality.

*“There is a strong case for enhancing the role of national parliamentarians in eurozone and EU governance.”*

National parliaments need to learn to co-operate more closely. The Lisbon treaty created the ‘yellow-card’ procedure, whereby if a third or more of national parliaments believe that a Commission proposal breaches

subsidiarity, they may – during the eight weeks that follow the proposal’s publication – produce a ‘reasoned opinion’ and ask that it be withdrawn. The Commission must then withdraw the proposal or justify why it intends to proceed. So far this procedure has been fully used on just one occasion, in 2012, when the Commission withdrew a measure that would have enhanced trade union rights. But on several other occasions a group of parliaments has got together and urged the Commission to amend a proposal. The Commission, realising that these national parliaments could – working through their governments – create a blocking minority in the Council of Ministers, has then altered its proposal (for example this happened in 2012 with a directive on public procurement).

The next Commission should undertake to give national parliaments 12 rather than eight weeks to produce reasoned opinions; and to treat any future yellow cards as a 'red card' – meaning that it would not proceed with a measure that a third of national parliaments considered in breach of subsidiarity.

A small treaty change could turn the yellow-card procedure into a formal red-card procedure, so that, say, half the national parliaments could oblige the Commission to withdraw a proposal. Another treaty amendment could allow red cards to be shown if national parliaments believe that the principle of proportionality has been breached. A similar system could enable national parliaments to club together to make the Commission propose the withdrawal of a redundant or unnecessary existing EU law. The principle could be extended so that a third or more of national parliaments could request that the Commission legislate in a particular area.

A more fundamental reform would be to implement the long-discussed idea of establishing a forum for national parliamentarians in Brussels. The forum's workload should be modest, so that the best and brightest MPs would want to participate. It should not duplicate the legislative work of the European Parliament. Rather, the forum should ask questions about, and write reports on, those aspects of EU and eurozone governance that involve unanimous decision-making and in which the Parliament plays no significant role.

A 'National Parliamentary Forum' could become a check on the European Council. It could challenge EU actions and decisions that concern foreign and defence policy, or co-operation on policing and counter-terrorism. On eurozone matters the new body could – meeting in reduced format, without MPs from non-euro countries – question the Eurogroup president and give opinions on bail-out packages. The forum could start work as an informal body and, if it proved useful, be endowed with formal powers – such as electing the Eurogroup president – through a new treaty.



## 1.4 Improving oversight of EU institutions and policies

The European Court of Auditors, and the EU's anti-fraud office, known as OLAF, are little known but play an important role in checking that the Union spends taxpayers' money properly. Both bodies need to improve their performance. Reforming them would help to reassure the public that European funds are effectively and honestly administered.

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### The European Court of Auditors

The European Court of Auditors is the EU's public audit institution, comparable to national bodies such as the UK's National Audit Office or France's Cour des Comptes. The Court of Auditors checks whether the EU's accounts fairly reflect its finances, whether money from the European budget is spent legally (that is, according to the Union's financial rules), and whether spending programmes are well managed, efficient and effective.

A public audit institution like the Court can play a vital role in revealing exactly what is happening to taxpayers' money. This is especially true in a body such as the EU, where the lines of public accountability are blurred by the complexity of its institutions. But to fulfil this potential, the Court of Auditors must produce timely, high-quality reports. These must then be acted on by the legislature – in the EU, that means the Council of Ministers and the European Parliament – which should keep up the pressure for better spending.

The Court of Auditors produces a report for each year, examining all the EU's accounts and pronouncing on whether funds are being spent legally and properly. These annual reports make clear, year after year, that much of the EU budget is subject to error – that is, not spent exactly according to the rules – especially in the area of the regional funds, which account for over a quarter of all spending. (The Court will not give a green light to spending with a higher than 2 per cent rate of error.) That does not mean there is widespread fraud; but rather that many national public administrations tend to follow their own rather than EU financial standards when administering European funds. This is the reason why the Court has never signed off fully on the EU's

annual spending, despite having found no evidence of any serious maladministration in Brussels for the past decade.

The Court's special reports can provide valuable insights into how EU money is being spent, as well as sound the alarm when particular policies are failing (as its auditors did with special reports on the reform of sugar subsidies in 2010, and on EU aid to Egypt in 2013). But the body takes too long to produce these. The best national audit institutions can produce, from start to finish, an authoritative study in a few months. The Court's special reports typically take the best part of two years to produce. This means that they are rarely issued soon enough to be properly taken into account when a relevant policy is being reformed.

*“MEPs' treatment of the Court of Auditors' special reports is too often late and perfunctory.”*

The annual reports could be speeded up, too. The Court's report on the EU's accounts and expenditure for 2012 will not be published before November

2013. As a result, it will be well into 2014 before MEPs decide, having studied it, whether to give the Commission approval for its budgetary operations of two years previously.

Not only does the Court need to work faster, but the Commission and European Parliament also need to respond more speedily and comprehensively to its reports. The Parliament has a particularly vital role to play. MEPs do consider the Court's annual reports and whether expenditure complies with relevant rules. But their treatment of the Court's special reports is too often late and perfunctory: a brief debate conducted months after a report's publication. The Parliament generally makes little or no effort to demand better performance from those in the Commission that run expenditure programmes. MEPs should be seen to press for European spending to achieve its goal efficiently – and when it does not, to ask for changes. They should regard the Court of Auditors' reports as a key asset in helping them achieve value for money for the European taxpayer.

Eventually, the drive to achieve better value for money at EU level should include the Court itself. The current structure, with the Court run by 28 auditors, one from each member-state – each with his or her own *cabinet* – is cumbersome, wasteful and one reason for the Court's slowness.



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## The European Anti-Fraud Office (OLAF)

OLAF is responsible for pursuing fraud against the EU's budget, whether it is perpetrated within the Union's administration or elsewhere (as is the case with cigarette smuggling and other kinds of VAT fraud). OLAF has had some successes, for example in working with the private sector to tackle smuggling from Russia and the Balkans. But it suffers from a lack of resources and questions about the way it works (OLAF faced criticism for its handling of the investigation which led to the resignation of John Dalli, the Maltese commissioner, in October 2012). National prosecutors frequently complain that the quality of investigation files handed to them by OLAF leaves much to be desired. With no more than about 20 investigators dedicated to regional funds, it can only pursue the worst cases of fraud that it uncovers. Strangely, the office is part of the European Commission, a body with which it should not be too intimate.

The future development of OLAF will depend in large part on whether a group of member-states decides to go along with the Commission's plan to establish a 'European Public Prosecutor' (EPP). This would be a more powerful body than OLAF, with special powers to prosecute suspected wrong-doers before national courts, for offences involving the Union's financial interests, including the fraudulent use of EU funds. (Currently, OLAF depends on national prosecutors being willing to act against the individuals that it targets.) However, some member-states are opposed to a European Public Prosecutor, so the Commission wants it established as an 'enhanced co-operation' (a sub-group of EU countries), which needs the backing of at least nine member-states. The debate over this radical proposal is likely to be protracted and, even if agreed, establishing an EPP would take several years.

The EU should ask Transparency International, the anti-corruption NGO, to publish a special report that ranks the Commission, as well as the administrations of the Parliament and Council of Ministers, alongside the member-states. This might help to show the European public that the institutions are by and large clean, and that most of the problems with the spending of European funds lie at national level.

The European Parliament should do more to publicise the recommendations contained in the Court of Auditors' reports, and insist that the Court's findings be acted upon. The Court itself should set a target of eight months as the maximum length of time for the production of a special report.

If the treaties are reopened, EU governments should streamline the Court so that it is run by three 'auditors-general' rather than a college of 28 auditors. To ensure that all member-states have confidence in the new Office of the European Auditors-General, one auditor-general would be drawn from a large, one from a medium-sized and one from a small member-state. The new office should be given the power to offer independent advice on the reform of EU institutions to both the European Council and the Parliament.

Since discussions on the possible establishment of a European Public Prosecutor are likely to be protracted, OLAF should in the meantime be overhauled. OLAF should be reconstituted as a body outside the Commission – and given more, and better qualified, staff. Rather than being defensive and unresponsive to criticisms of the quality of its work, its director should conduct a transparent review of its investigation standards, assisted by anti-fraud agencies and prosecutors from across the EU and from the US. The director should undertake to implement any subsequent recommendations. And if national prosecutors choose in future not to act on a file handed to them by OLAF, they should state the reasons in public. None of these reforms would require treaty change.

## 1.5 Better integration of the EU's external policies

The creation of the European External Action Service, bringing together parts of the Commission, the Council of Ministers secretariat and seconded national diplomats, was intended to make the EU's external policy more coherent. Though the creation of a new organisation has inevitably been difficult, it has achieved real successes, such as brokering reconciliation between Serbia and Kosovo. Nevertheless, the EEAS has failed to fulfil expectations.

There is no systematic co-ordination of the work of the High Representative/Vice President (HRVP) – who is both in charge of the EEAS and a commissioner – and the other commissioners dealing with external issues. Some of the most important aspects of external policy, particularly in the economic field – such as development and trade – remain Commission leads, with their own commissioners. This inevitably complicates the EU's efforts to present a coherent front to the outside world. On China policy, for example, the EEAS and the Commission's trade directorate have often taken different views (in 2013, the former sought to avoid a confrontation with China over differences on trade, while the latter pushed for a tougher line).

Another problem has been that Catherine Ashton, the current HRVP, has no deputies; this has made her job almost impossible, given the broad range of issues for which she is responsible (including some handled by the Commission) and the large number of events and meetings she has to attend.

The decision that established the EEAS obliged it to take on all the Commission's rules and procedures, though these are cumbersome and not designed for a diplomatic body that sometimes needs to act swiftly. In particular, the EEAS is subject to Commission rules on recruitment and the spending of money. Some Commission staff resented the creation of the EEAS and have used the fact that they control most of its money to limit its freedom of manoeuvre. Sometimes there is excellent co-operation between the two bodies, for example on Serbia and Kosovo, but it is personality dependent rather than built into the system.

EEAS officials in overseas delegations often cannot spend even tiny sums without the Commission's consent. The EU's Financial Regulation normally prevents the EEAS spending money on implementing policy without subcontracting the task to an outside agency, which is a slow and rigid process. All this can have absurd consequences. Officials sometimes use their own pockets to pay for diplomatic meetings. And when the EEAS wanted to send a fact-finding mission to Libya, in the winter of 2012-13, both the need to tender for the security team and a shortage of funds delayed the mission by about six months.<sup>10</sup> Compared to the Commission, the EEAS is extremely under-resourced: travel budgets are almost non-existent, and overseas delegations are small (a year after the office in Burma opened, it had only two staff).

*“EEAS officials in overseas delegations often cannot spend even tiny sums without the Commission's consent.”*

Although it is obliged to take on staff from the member-states, the EEAS has also had to retain the Commission staff that they replace. The result is that many of the latter hang around in Brussels without real jobs for them to do. There

are thus too many officials in Brussels with chains of command that are too long and indistinct; and too few at the sharp end overseas. The Commission's recruitment rules can also make it difficult for the EEAS to appoint people to the jobs it wants them to do. And how can ambassadors abroad build teams, given that Commission officials in their delegations report to and are appraised by Commission staff in Brussels rather than themselves?<sup>11</sup>

<sup>10</sup>: Small sums of money can be spent quickly via the Instrument for Stability, which is administered by a Commission team within the EEAS. This enabled police trainers to be sent to Burma in April 2013, a month after they were requested.

<sup>11</sup>: Some of the EEAS's problems are covered in the 'EEAS Review', published by the service itself in July 2013.

The EU needs to ensure that the various strands of its foreign policy are more joined up than they have been. The Commission president should make it clear that he or she regards the HRVP as having authority over the development, humanitarian aid and enlargement commissioners. The president should co-ordinate the work of the HRVP and the trade commissioner. All this should help to ensure that these various commissioners take account of the EU's wider strategic interests in the activities and programmes for which they are responsible. The Commission president should encourage the institution to be less defensive towards the EEAS, and to involve it in its own inter-departmental discussions.

The external relations commissioners, bar the trade commissioner, should become formal deputies to the High Representative, and another deputy – probably a very senior official – should be based within the EEAS. This should leave the HRVP with more time to focus on strategic leadership of the Union's external policies. The deputies could be appointed without changing the treaties.

The EU decision that established the EEAS needs to be re-opened, so that special financial and administrative arrangements apply to it, in line with its particular needs. ECHO, the part of the Commission responsible for humanitarian aid, has been exempted from some of the normal rules so that it can move rapidly. The EEAS should receive a similar dispensation so that it has more freedom to spend money and take action quickly. It should also be able to decide upon its own recruitment procedures. These changes should not prevent intimate co-operation between the EEAS and the Commission.



## 1.6 Managing conflict between the eurozone and the single market

Until 2009, there was little conflict – real or perceived – between the eurozone and the EU's single market. However, since the onset of the euro crisis, the perception that the interests of the eurozone and the single market are diverging has begun to take hold. As the eurozone integrates more deeply in response to the crisis, and as some non-euro countries, such as the UK, prefer to stand back, there is a growing fear that a wedge could develop and threaten the integrity of the single market.

This fear is fed by two possibilities. The first is that the eurozone could form a caucus that dictates policy to the rest of the EU on matters that should be settled at the level of 28, like single market rules; eurozone ministers would turn up at meetings of the Council of Ministers with a common line and impose their view. The second is that a more integrated eurozone could lead to divisions within the single market. For example, the ECB has tried to force trades in euro-denominated securities to be cleared in the eurozone (a move that the UK has referred to the European Court of Justice on the grounds that it violates single market rules).

There is no question that the growing integration of the eurozone poses challenges to the single market. France has long been keen to build up eurozone-specific institutions, and Germany seems willing to move at least some way towards the French position. Meeting in Paris in May 2013, François Hollande and Angela Merkel called for stronger eurozone governance, including regular eurozone summits, a eurozone budget, a full-time president of the Eurogroup and a eurozone formation within the European Parliament.<sup>12</sup>

But it is far from certain that the euro countries will be willing or able to impose their views on the rest of the EU. To start with, there may not be a natural eurozone caucus: euro countries disagree on many issues, from environmental and employment regulations to the desirability of a financial transactions tax.

Moreover, the European Commission takes the integrity of the EU at 28 very seriously. When the eurozone 'outs' have expressed legitimate

<sup>12</sup>: François Hollande and Angela Merkel, 'France and Germany – together for a stronger Europe of stability and growth', May 30<sup>th</sup> 2013.

fears, the Commission and the 'ins' have tried to accommodate them. In the eurozone's fledgling banking union, for example, the potential for conflict between ins and outs has been alleviated by allowing countries outside the eurozone to join the banking union; and by introducing special voting procedures in the European Banking Authority to prevent those in the banking union imposing their views on those (like the UK) that choose not to join it. Furthermore, Germany and the

*“As the eurozone integrates further, the UK would not serve its interests by asking for special treatment.”*

more liberal-minded eurozone members, noting that the 28 are on balance more market-friendly than the 18, are keen to ensure that the Eurogroup does not determine single market rules.

As the eurozone integrates further, the UK would not serve its interests by asking for special treatment (for example, in the form of opt-outs from single market legislation on financial services). Such demands would fall on deaf ears, not least because other member-states would rightly see them as a threat to the integrity of the single market.

Britain should instead play its traditional role as a champion of the single market, but do so more smartly than it has sometimes done in the past. This would mean recognising that a strong Commission, for all its faults, is the best guarantor of British rights in the single market; and that the UK can avoid isolation over rule-making for the market, if it puts a bigger effort into building alliances (notably with countries inside the eurozone). The UK is far more likely to be listened to if it is seen as a constructive and engaged player in the EU. It will have less influence on the market if it behaves as a country that repudiates the norms and mores of the club – which include a commitment to compromise – and looks like it is heading for the exit.

Britain is far from isolated in being in the EU but not the eurozone: even after Latvia adopts the euro in 2014, there will still be ten EU countries that do not use the single currency. The UK should not – as some British politicians have suggested – seek to become 'leader' of the eurozone outs. Many of them plan to join the euro in the long run and are therefore more willing to accept constraints on their economic policy-making than the UK (all but the UK and the Czech Republic signed the fiscal compact treaty that entered into force in January 2013). Furthermore, some of them do not want to be seen as too close to the troublesome British. Nevertheless because most of the outs will not be



in the euro for many years, they do share some British concerns and interests – for example, to prevent the Eurogroup caucusing on single market rules.

The UK should work with the other nine non-euro countries to design safeguards for the 28-country EU. They should ask for observer rights in the Eurogroup, to ensure that it does not pre-cook decisions that should be taken at 28 in the Council of Ministers. They should defend the Commission's role in policing EU rules – including the relationship between eurozone ins and outs – and ensure that any new eurozone institutions do not undermine the Commission's role. Furthermore, when the treaties are next revised, they should press for the insertion of a new article spelling out that the Eurogroup may not act in a way that harms the integrity of the single market.



## Chapter 2

# Policies

## 2.1 Extending the single market

The EU's single market is the world's largest and most highly integrated trade area. The EU has used three tools to try to boost trade within the market. First, it eliminated tariffs on goods. Second, it established the right of companies and people to sell their wares or labour, or invest, in other member-states – the so-called 'four freedoms' of goods, services, labour and capital. Third, it continues to try to remove non-tariff barriers, the obstacles to trade erected by 28 different sets of national regulations.

These tools proved highly effective in the 1980s and 1990s: trade in goods and services between the member-states grew quickly, until it accounted for over a third of Europe's output. This is far higher than trade within other regional trading blocs. However, in the last decade, integration has stalled. Trade between the 'EU-15' (that is, the countries which were EU members before the 2004 enlargement) reached 35 per cent of their output in 2000, and remained at around that level until 2012 (apart from a large dip in 2009-10, owing to the financial crisis).

Yet trade integration in Europe should go further. The single market is far from complete, and a comparison with the United States shows why. The US Congress has the power to regulate commerce between the states. America therefore has far less regulatory diversity than the EU. This is one reason why trade between the American states, as a percentage of their GDP, is 70 per cent higher than it is between members of the EU-15. The US's less fragmented economy generates more competition – as firms battle for business across a large, continental market – and so contributes to its faster rate of productivity growth.

How can the EU revitalise the single market? A two-pronged strategy is needed. First, trade liberalisation requires strong political leadership, lest vested interests obstruct reforms that will expose them to greater

competition. Second, the EU needs to focus on those sectors of the economy which offer the largest potential gains in trade.

The European Commission's efforts to deepen the single market are often frustrated by the member-states, which either seek to protect their companies and workers, or are reluctant to cede sovereignty over the regulation of their economies, or both. For example, France wants to be able to disburse subsidies to favoured sectors and firms, and is sceptical about free trade. Germany likes trade liberalisation insofar as it helps its manufacturing sector to export more, but is reluctant to expose its unproductive and highly regulated services companies to further foreign competition. Britain's politicians often say that the single

*“The services sector is the area where deepening the single market would deliver the largest gains.”*

market is the best reason to stay in the club, but at the same time threaten to undermine an important foundation of the single market, the free movement of labour.

Another problem has been a lack of ministerial focus: there is no longer, as there was at the time of the original single market programme, a Council of Ministers dealing specifically with the single market. There is a competitiveness council, covering industry, the internal market, research and space; and a council for transport, telecommunications and energy. A member-state may send a wide variety of ministers to these councils, depending on the subject under discussion.

Which areas of the single market should the EU prioritise? The services sector is the area where deepening the market would deliver the largest gains. Services make up more than 70 per cent of the EU's economy. (Manufacturing's share has been in long-term decline, partly because production has moved to countries with lower labour costs.) The EU has five times as many services companies as the United States, though its economy is of a similar size, because companies in Europe still largely serve national markets. As a result, they are less able to take advantage of economies of scale, face weaker competition and invest less than their American counterparts. This is one reason why productivity growth in Europe's services sector has lagged behind the US over the last two decades.

Services liberalisation has proved difficult in the past. The 2006 services directive was broad – covering services comprising 40 per cent of EU GDP – and thus controversial. It was watered down, and then

imperfectly implemented, as member-states sought to protect their workers and firms from greater competition. (However, the directive can hardly be called a failure: it removed around a third of the barriers to trade in services, according to the Commission.) Germany and France have been cool on services liberalisation, seeing it as an objective that would benefit Britain more than themselves – nearly half of Britain's exports are in services. But in fact the whole EU would benefit from the liberalisation of services, through greater competition and thus improved productivity.

Meanwhile, services are increasingly being delivered online, which makes them more tradable than they used to be. European policy-makers tend to like the 'digital agenda', because it evokes the dynamism of Silicon Valley. Yet the part of the digital economy that the EU can shape most easily, and which could bring the most benefits, is prosaic: shopping, and its business-to-business counterpart, buying supplies. E-commerce has the potential to make services far more tradable, as well as to raise competition and productivity in markets for the sale of goods and services. Shopping over the internet is cheaper and provides more choice than traditional methods; and with digital goods like video and music, delivery is instant.

Yet internet shopping is largely conducted within national borders in Europe: while 53 per cent of Europeans shop online, only 12 per cent buy from suppliers in another member-state.<sup>13</sup> The liberalisation of cross-border e-commerce would boost competition between retailers based in different countries.

<sup>13</sup>: Eurobarometer 332, 2012.

Each member-state should designate a senior minister as its lead person for the single market, and these ministers should meet regularly in a single market council. This should take a strategic overview of where the single market needs to develop.

The EU should deepen the single market in services. It should prioritise the liberalisation of those services that are most easily traded: business services, information technology and telecoms services, construction and transport (such as coaches and railways), in all of which there are significant barriers. Moving step by step would cause less of a furore and deliver more trade than a renewed attempt to liberalise everything in one piece of legislation.

To generate more cross-border e-commerce, the EU will need to agree on some harmonisation of sales, privacy, intellectual property and consumer protection laws. It will also need a tough competition policy to stop platforms like Amazon, Google and Apple abusing their market power.

To its credit, the Commission is pursuing several of these reforms, through its recent Single Market Acts and other legislation. But it will not succeed without stronger backing from the more liberal-minded member-states, which will need to persuade the others that further liberalisation is in their interest.

## 2.2 Sustaining Europe's energy market

The EU has spent 20 years trying to create a single European energy market by dismantling national monopolies, protectionist practices and barriers to cross-border trade and investment. However, this goal of market unification through liberalisation is under threat from national subsidy schemes – those for renewable energy, and those for providers of conventional electricity that step in when there is no wind or sun.

These schemes pose a threat to the single energy market for two reasons. They are national, undermining the geographical unity of the market of the EU-28. And they are state interventionist, challenging the liberalisation that has driven the single market.

The point of creating a single market in energy is the same as in any other sector – to create maximum efficiencies, economies of scale and competitive pricing across 28 countries. But there are two other dimensions, special to energy, that a single market can help deliver.

One is security of supply. The bigger the single energy market, and the greater the diversity of its member-states' energy mixes and supply sources, the more resilient it is likely to be to energy shocks – such as a cut-off of gas shipments or a nuclear accident. Each state potentially has 27 others to help it in a crisis.

The other dimension is action on climate change. The burning of fossil fuels produces two-thirds of the world's greenhouse gases. The development of subsidised renewables has been the most successful element – so far – of the EU's climate policy. And given the EU's increasing reliance on weather-dependent renewables, subsidies for back-up capacity are inevitable.

Three packages of energy legislation over the past 20 years have created the legal framework for a single energy market. Their thrust has been to prevent companies from using their control of fixed networks – such as electricity pylons and gas pipelines – to discriminate against rival energy suppliers. The EU has therefore 'unbundled' (separated) the

management or ownership of these fixed transmission systems from the supply of the electricity or gas itself.

The Commission had hoped that the transmission system operators – once unbundled, freed from any conflict of interest in energy supply and turned into common carriers of energy for all – would build many more cross-border energy interconnectors. But this has not happened, partly because the financial and eurozone crises have weakened many state-owned system operators.

*“The divergence of national renewable subsidy regimes threatens the convergence of energy prices.”*

The result has been insufficient competition and sometimes big price variations across national borders. Many gaps remain in the EU's infrastructure networks, especially for the Baltic states, still linked to the Russian electricity

grid instead of the rest of the EU. The EU has tried to accelerate energy integration by giving itself the political deadline of ‘completing the internal energy market by 2014’ and ending the isolation of ‘energy islands’ like the Baltics by 2015.

However, the divergence of national renewable subsidy regimes has become a major threat to the convergence of energy prices across Europe. In Germany, sporadic surges of its highly-subsidised renewables have driven (more expensive) electricity from fossil fuels out of the market, and flooded neighbouring Dutch, Czech and Polish grids with cheap power. Furthermore, German utilities complain that their gas-fired plants stand idle until called on to provide occasional back-up for renewables. They have threatened to close these plants unless compensated with ‘capacity payments’.

Germany is an extreme case. As Europe's largest and centrally-situated economy, any sharp change of policy – such as its 2011 decision to abandon nuclear power and go full tilt for renewables – has a large impact on its neighbours. But Germany also shows how renewables subsidies are increasingly likely to disrupt traditional power markets.

The member-states choose their own methods of subsidy. The Commission has twice proposed a European renewable subsidy scheme, only to be defeated in the Council of Ministers and Parliament.



The member-states have argued that they need to retain control of renewable schemes, so that they can meet national targets.

Most EU states either have, or plan, subsidy schemes for back-up capacity that favour domestic generators in preference to those from neighbouring EU states. This autarkic security-begins-at-home attitude undermines the single energy market.

The Commission is right to fear the impact of badly-designed national renewables and capacity schemes on its design for a single energy market. Wisely, however, it is focussing on improving rather than banning the schemes, not least because yet another attempt to 'Europeanise' subsidies for renewables would be disruptive and probably fail.

In the autumn of 2013 the Commission is due to issue guidelines on national subsidy regimes. These propose harmonising the way that renewable energy costs are calculated, to encourage convergence of national subsidy rates. The Commission recommends that governments should only change regimes as part of regular reviews, thus avoiding the sudden or retroactive subsidy cuts of the sort that shook investor confidence in Spain in 2013. EU governments should support these Commission guidelines.

They should also follow the British practice of putting annual ceilings on low-carbon subsidies. The UK's subsidy ceiling is arguably too low, but its idea of a planned financial framework would have provided a way of containing costs for member-states such as Germany and Spain that have panicked about the soaring costs of subsidies.

In its guidelines on capacity schemes, the Commission advises governments to consider alternatives to subsidy, such as getting industry to commit to long-term electricity purchases; reducing electricity demand; or building more cross-border interconnectors to facilitate access to neighbours' power. If, in the end, subsidy is still considered vital, it should be opened, through auctions, to all EU generators which can plausibly deliver the electricity.

EU governments should heed these guidelines. One reason is that in 2014 the Commission will issue new state aid rules for energy and the environment, which will empower it to enforce the guidelines in certain cases. Another is that it is in governments' self-interest to make subsidies more effective and less expensive. In energy, as in so many other areas, it is the member-states that are holding back a more integrated market.

## 2.3 Controlling carbon emissions

The centrepiece of the EU's climate policy, the Emissions Trading System (ETS), has not been a success. The ETS is a cap-and-trade system: the Commission sets an overall EU-wide cap for the amount of greenhouse gases that the sectors covered – including power generation and many other industries – can emit. Companies have to buy permits to emit greenhouse gases in auctions. They can then trade such permits, if they have too few or too many. This sets a price on carbon emissions, which in theory encourages energy efficiency and investment in low-carbon energy sources (such as renewables, carbon capture and storage, and nuclear power). But the Commission set the cap for 2013–20 before the depth of the recession was known and has therefore made too many permits available. The carbon price is now only about €5 per ton, which is much too low to encourage firms to invest in low-carbon technologies.

In 2013 the Commission sensibly proposed postponing the auction of some permits. The Parliament prevaricated before finally accepting this proposal in July. This should stop the carbon price falling even further, but will not be enough to rescue the ETS. It needs root-and-branch reform. In November 2012, the Commission said that it was considering long-term reforms, including a floor price. It wrote that “a carbon price floor would create more certainty about the minimum price, giving a better signal for investors”, but went on to repeat long-standing objections to price intervention. A floor price would “alter the very nature of the current EU ETS being a quantity-based market instrument. They require governance arrangements, including a process to decide on the level of the price floor.”<sup>14</sup>

The Commission should not worry about governance. Arrangements already exist to decide the quantity of allowances, so similar arrangements could be used to decide the price level.

A reformed ETS should be accompanied by measures to prevent ‘carbon leakage’, which is the relocation of industry from an area with strong climate policies to one with weak policies. China gets two-thirds of

<sup>14</sup>: European Commission, ‘The state of the European carbon market in 2012’, November 2012.

its energy from coal, so if European factories migrated to China there would be a rise in global carbon emissions. One way to stop carbon leakage would be to introduce border tax adjustments – an import tariff imposed on goods manufactured in countries without effective carbon reduction regimes. However, the practical difficulties of attempting to introduce border tax adjustments would be immense: they would risk setting off trade wars with key partners such as China, while free-trading member-states such as Britain and Germany oppose a concept that could be exploited by protectionists elsewhere in the Union. The EU should therefore continue to give free ETS allowances to sectors that are highly traded and energy-intensive, so that they are not put at a competitive disadvantage.

This special deal for energy-intensive sectors will limit the impact of a reformed ETS. Europe should therefore underpin the ETS with regulations. The EU has a much better record with the use of regulation to combat pollution than it does with the use of market mechanisms.

*“The EU has a much better record with the use of regulation to combat pollution than it does with the use of market mechanisms.”*

For example, in 1992 the EU made catalytic converters mandatory on all new cars, a move which led to substantial improvements in air quality. Likewise, the 2001 ‘large combustion plant directive’ has controlled acid rain.

Regulation should start with the electricity sector, which is not at risk of carbon leakage and accounts for nearly half of Europe’s carbon emissions. The development of low-carbon forms of power generation would deliver significant economic benefits to Europe, including major export opportunities.

Other parts of the world have taken the lead on regulating power generation. In 2007, California implemented an emissions performance standard (EPS) which requires new or upgraded coal power stations to have emissions no higher than those of an efficient gas plant. Some other American states have followed suit (as did the Canadian federal government in 2012). In addition, in June 2013 the Obama administration instructed the US Environmental Protection Agency to implement regulations to make carbon capture and storage mandatory on all coal power stations, including existing ones. It also mandated an EPS to follow the Californian standard.

In Europe, the Commission has consulted on whether to propose an emissions performance standard. The British government has proposed an EPS in the energy bill that is passing through Parliament at the time of writing. In July 2013, the European Investment Bank adopted a new set of criteria for energy lending, including an EPS (though the level is less demanding than the current Canadian and proposed US and UK limits).

The EU should set an ETS price floor, to provide price stability and make the carbon price high enough to attract investment in low-carbon technologies. The price should start at €30 per ton, and increase by at least €1 each year.

The EU should also adopt an emissions performance standard. The Commission should propose an EPS as stringent as that proposed by the US, Canada and the UK – to ensure that electricity generation is no more polluting than a new gas power station. The Commission should be ready to increase the standard, if and when technology develops, and scientific advice indicates the need for more cuts to greenhouse gases.



## 2.4 Free and fair migration

Because of EU rules on free movement, Europeans are currently freer to move around their own continent than at any time since the outbreak of the First World War. Of all the EU's achievements, this is one of the most courageous and tangible. Yet it is increasingly being called into question.

The EU's single market cannot function properly unless workers are free to move between participating countries. But just as certain EU countries sometimes press for exemptions from EU rules that would allow them to protect their national industries, some European governments – with Britain's the most prominent – are talking about restricting the access of EU migrants to welfare. The European Commission is right to be vigilant lest national politicians seek to create barriers to intra-EU migration. If anything, it should become easier for workers to move around the EU, not more difficult: the Commission estimates that there are currently almost two million job vacancies across the EU that employers cannot fill from domestic labour markets.<sup>15</sup>

Free circulation of people around Europe naturally means some advantages and disadvantages for the migrants' home and host countries. Take Britain, where immigration has risen towards the top of voters' concerns. According to Eurostat and the UK Office for National Statistics, there are around 2.3 million EU nationals living in Britain (3.6 per cent of the population), and around 1.7 million Britons living in other member-states. (Austria, Belgium and Spain all have more EU nationals as a percentage of the local population, while Germany has more in absolute numbers, 2.6 million.)<sup>16</sup>

The UK's open labour market tends to attract young, and therefore healthier, migrants who support the vitality of its labour force and pose less of a burden to the National Health Service than the native population. By contrast, Spain – home to an estimated 760,000 Britons, many of them retirees – complains that its medical system is under intense pressure because of the requirement to look after EU residents and tourists.<sup>17</sup>

Research suggests that the impact of EU immigrants claiming welfare benefits in the country they move to is small. It is certainly eclipsed by

15: European Commission, 'European vacancy monitor – issue No 8', February 2013.

17: John Springford, 'Is immigration a reason for Britain to leave the EU?', CER policy brief, October 2013.

16: Eurostat, 'Foreign and foreign-born population by group of citizenship and country of birth', January 1<sup>st</sup> 2012.

the benefits of having an open European labour market, in which the vast majority of migrants move to work and pay their taxes like anyone else. There is very little evidence of 'welfare tourism': just 0.8 per cent of immigrants to the UK from the rest of the EU claim unemployment benefit after one year's residence, for example. And only 1.7 per cent of all EU migrants in the UK claim unemployment benefit, compared to 4.1 per cent of the native born population, according to data from the UK's Office of National Statistics.<sup>18</sup>

Welfare fraud involving EU nationals from other countries is at worst a minor nuisance, although there are not yet any reliable statistics showing its impact across the Union. But anecdotal evidence suggests that welfare fraud is more of a problem on the continent than in Britain or Ireland, partly due to the cost of air travel. In May 2013, the Dutch authorities uncovered a Bulgarian-Turkish crime ring which bussed Bulgarian villagers to the Netherlands every week, to register for and collect benefits. Finland and Spain also report problems with welfare fraud linked to EU migrants.

*“The vast majority of EU migrants to Britain work and pay their taxes like anyone else.”*

Although the scale of the problem needs to be kept in perspective, any perception of widespread welfare fraud by EU migrants has the potential to undermine

popular acceptance of free movement and the integration of *bona fide* EU migrants. Against this backdrop, in April 2013 Germany invited Austria, Britain and the Netherlands to join it in asking the Commission to make it easier for governments to expel serial welfare fraudsters and other wrong-doers. The Commission, however, challenged the four governments to come up with some evidence that would justify re-opening the acrimoniously negotiated free movement rules. In documents submitted to the Commission, the British government could identify only one case of benefits fraud by an EU migrant.<sup>19</sup> The Commission is due to report back to the EU as a whole at the end of 2013 on whether there is a serious problem. Even if it did propose to re-open the rules on expulsions, the resulting negotiations would probably drag on for years: the Mediterranean countries, for example, could see the move as an attempt to lock their citizens out of Northern Europe's labour markets. Governments would do better to tackle a minor problem with the social security rules designed to support free movement. This is that benefits must be paid to the children of EU migrants, even if the children do not live in the country making the payments.

<sup>18</sup>: CER analysis of Office of National Statistics, Labour Force Survey data, 2012.

<sup>19</sup>: 'Britain admits it has no figures on EU "welfare tourist" numbers', *The Daily Telegraph*, October 7<sup>th</sup> 2013.



It is important to remember that the right to free movement is reciprocal: the obligation to accept EU nationals is shared equally by all member countries. If the right was withdrawn, so that Britain could send home its Poles, Spain would send back its British pensioners, Germany and Italy would deport their Romanians and Bulgarians, and so on. Any attempt to tinker with the existing rules, to introduce restrictions on the right to move freely, could easily upset the delicate political consensus on which this unique European achievement rests.

The EU's main rules on free movement should be left alone. But there should be a minor change to the accompanying arrangements for providing social security to migrants. Their families should not be able to claim benefits from a member-state unless they reside in it.

The EU should take steps to manage better the free circulation of people, and to alleviate public concerns about welfare fraud. EU governments should issue 'European Social Insurance Cards' to those of their citizens who wish to exercise their right to free movement. Such a system could be established relatively quickly, by integrating it with the existing European Health Insurance Card system. The new cards would make it easier to identify and track welfare cheats. More importantly, the cards would provide solid information about migratory movements within Europe, because EU nationals would use the same identity number to access local services, no matter where or how often they moved around inside the Union. This new EU-wide system would provide a better basic infrastructure for dealing with the challenges of intra-EU migration.

In addition, EU interior and employment ministers should jointly establish a standing 'migration advisory committee', staffed with independent experts. This body should advise EU governments and institutions on migratory movements (within the Union and between the EU and other parts of the world), provide background analysis on the Union's overall labour needs, and develop criteria for judging in which situations flows may be restricted (as EU law allows in emergencies).



## 2.5 A more flexible working time directive

The working time directive (WTD) has become a totemic issue in Britain and some other member-states. However, although the WTD is flawed in many ways, it is not a particularly burdensome piece of legislation. The WTD says that employees should not work more than 48 hours week (averaged out over a four-month period) and that everyone should get four weeks paid leave annually. The UK is one of the 16 EU countries that use the individual opt-out offered by the directive, which means that every British worker can opt out of the 48-hour week rule.

Nobody can be sure how many workers use the opt-out since many companies do not comply with the requirement to list their opted-out employees, and a lot more do not bother to count working hours at all. Many countries in Europe give their workers more generous rights than those enshrined in the WTD, and several have simply ignored those bits of the directive that did not fit their established labour market rules and practices.<sup>20</sup>

The Confederation of British Industry says that the working time directive is not its main concern when it comes to EU employment legislation (the agency workers directive – which gives temporary staff employment rights that are similar to those of permanent employees – is a bigger headache for some businesses).

Several attempts to reform the WTD have failed over the last ten years. EU governments should, however, have another go, to clear up the difficulties created by two rulings of the European Court of Justice. In 2000, the ECJ ruled that all on-call time that doctors, firemen or prison wardens spend at their place of work should count as working time, even if they are resting or asleep. In 2003, the ECJ added that workers should have a rest immediately after a shift, even if that shift was spent on-call.

These rulings, known as *SiMAP* and *Jaeger*, have created considerable problems for 24-hour public services. There is a majority in the Council of Ministers for mitigating the *SiMAP/Jaeger* rulings by applying subsidiarity and allowing governments to set their own rules for on-call time and rest

20: Katinka Barysch, 'The working time directive: What's the fuss about?', CER policy brief, April 2013.

periods. However, the European Parliament has refused to accept such a reform unless the individual opt-out is abolished.

*“Individual governments should have more leeway to define rules on on-call time and rest periods.”*

The European Parliament should rethink its opposition to the individual opt-out, because this clause provides some much-needed flexibility. Today's labour markets need to be adaptable in order to accommodate just-in-time demand management, part-time workers, working from home and other non-standard working practices.

EU governments and the Parliament should agree on an amendment to the directive that reduces the effect of the *SiMAP/Jaeger* rulings. Individual governments should have more leeway in defining their own rules on on-call time and rest periods, especially for 24-hour public services. For example, one country might decide no longer to count on-call time that is spent sleeping as working time. Another could decide that it still wishes to count all on-call time as working time, but not hour for hour.

## 2.6 Simpler free trade agreements

The EU's negotiation of free trade agreements (FTAs) with other parts of the world is an important means of generating more competition and growth within Europe. To its credit, the EU has recently completed FTAs with the Central American states, Colombia, Peru and South Korea. In addition, it is negotiating deals with Canada, India, Japan, Malaysia, Thailand, Singapore and Vietnam – and, since July 2013, the United States.

Since 1995, the EU's agreements with countries in other parts of the world have included human rights provisions. In 2003, the EU went further and decided that the agreements should include a clause on combating the spread of weapons of mass destruction (WMD). In 2004, a further clause on co-operation in counter-terrorism was added. These provisions are now contained in the political documents – known as association agreements or partnership and co-operation agreements – that accompany FTAs.

Such clauses are 'suspensive', which means that a breach of these political commitments enables either side to suspend an agreement. The policy of the European Parliament is to veto any trade agreement that lacks suspensive political clauses.

These clauses are likely to create problems with some key FTAs under negotiation, because the countries concerned regard the EU's desire to monitor their human rights as patronising and arrogant. Canada is unwilling to have the EU check on its human rights performance. India finds the prospect of these clauses humiliating. Japan thinks them unwarranted. And when some of these democracies see that the EU will not make the same demand of the US in the imminent Transatlantic Trade and Investment Partnership – because the EU knows very well that the US would never accept such clauses – their hostility to political clauses is likely to grow.<sup>21</sup>

If the EU persists with this approach, it is likely to delay several important FTAs. In any case, there is not much evidence that political clauses produce benefits. For example, the EU's 2004 Euro-Mediterranean Agreement with Egypt (which established a 12-year transitional process to a fully-fledged FTA) did nothing to alter the

21: The negotiation of a trade-opening agreement between the EU and China – not a democracy, unlike the other countries mentioned in this paragraph – has

made little progress for several years. One of several reasons is China's objection to human rights clauses.

human rights performance of Hosni Mubarak's regime. The EU has never activated the political clauses to suspend an FTA, and so they have little credibility.

When negotiating FTAs, the EU should drop the insistence on clauses covering counter-terrorism and counter-proliferation. It should also drop the human rights provisions for agreements with most countries. An exception should be made for neighbours that either aspire to EU membership or seek a closer partnership with the EU. In practice the EU is unlikely to want to suspend an FTA with such countries, but the symbolism of the human rights clauses should remain.

None of this means that the EU should downgrade the importance of human rights in its foreign policy. The EU should be serious about conditionality: it should not give aid or technical assistance, or commit to closer political relations with countries that abuse human rights or the rule of law. Furthermore, in the event of human rights violations (or of failure to combat terrorism or proliferation) the EU should resort to diplomatic methods and if necessary targeted sanctions against those responsible.

## 2.7 A more modern EU budget

In February 2013, EU leaders agreed on a budget for the period 2014-20, and in June the Parliament approved a slightly modified deal. Like many of his counterparts, David Cameron hailed the negotiations as a personal victory: Britain's rebate remained untouched and the overall size of the budget did not increase. Sadly, however, the EU missed an important opportunity to reform a budget that defies reason, and which was already dismissed in 2003 as an "outdated anachronism" in an important report for the European Commission.<sup>22</sup> Too little of the budget promotes economic growth, for example through R&D or cross-border infrastructure projects that neither national governments nor the private sector have provided.

Budget heading	Amount 2014-20, € billion	Percentage of total
Structural funds	325	34
Common Agricultural Policy	278	29
Competitiveness and growth (including R&D and trans-European networks)	125	13
Rural development and fisheries	95	10
Administration	62	6
External relations	56	6
Security and citizenship	16	1.5

TABLE:  
The EU's  
multiannual  
financial  
framework,  
2014-20  
(inclusive)

Source:  
EU multiannual  
financial  
framework  
agreement,  
July 2013.

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## The structural funds

The EU's structural funds, which account for 34 per cent of the new financial framework, are intended to promote economic development in less-developed parts of the Union. Yet more than a third of the total is spent in the poorer regions of rich member-states, which should be able to finance regional aid themselves. It is inefficient for some of the richer countries' contributions to the EU budget to be recycled via Brussels, back to their own less-advantaged regions.

*“It is often unclear who is responsible for deciding what the money is spent on.”*

Accountability over how the money is spent is also a problem. The European Commission and the member-states agree on the amount that each country will receive at the start of the seven-

year budget cycle, and national and local governments must then come up with projects to spend the funds on. National and regional governments co-finance the projects, so it is often unclear who is responsible for deciding what the money is spent on, and whether the projects follow EU or local priorities.

National and local governments are primarily responsible for checking that the money is spent on eligible projects and that recipients do not defraud the EU. But as they have strong incentives to ensure that the money is spent in the defined period, they are not always as tough as they should be in stamping out errors and abuse. According to the European Court of Auditors, 62 per cent of the errors and fraud it has uncovered in the distribution of regional funds could have been detected by national audit authorities if they had checked properly, but were not reported to the Commission.<sup>23</sup>

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## The Common Agricultural Policy

Over the past 20 years, successive reforms of the Common Agricultural Policy (CAP) have improved it and diminished the amount the EU spends on farming. But the CAP needs further reform and still takes too large a share of the budget – around 40 per cent, if spending on rural development is included. (However, by 2020 the CAP itself will take only 27 per cent of the budget.)

<sup>23</sup>: European Court of Auditors, Annual report, 2011.



Most CAP spending is now on ‘single farm payments’ – which reflect the size of the farm concerned – rather than price support for production, as in the past. Farmers are required to meet certain environmental and animal welfare standards in order to qualify for the full range of subsidies. Yet farm payments still make little economic sense. Farmers in newer member-states receive less per hectare than farmers in older member-states. And there are large farms in Western Europe that receive over a million euros of subsidy a year.

In 2011, the Commission proposed that a large farm should receive no more than €300,000 a year in subsidy. The Council of Ministers rejected this sensible proposal in June 2013. Britain and Germany were among those blocking the reform – on the grounds that the CAP should not discourage large farms, since they are more efficient (Britain is also influenced by the fact that it has relatively few small farms).<sup>24</sup>

For decades, radical CAP reform has been stymied, in part, by an implicit alliance between France, which receives the most CAP payments, and the UK, which relies on its relatively small take from the CAP to justify the rebate on its EU budget contribution (British officials have calculated that the UK gains more financially from the combination of an insufficiently reformed CAP and a rebate, than from a radically reformed CAP without a rebate).

In the long run, subsidies are unlikely to diminish unless national governments are forced to justify them to their electorates. And that will not happen until governments are responsible for paying at least some of the subsidies themselves.

24: However, in a final agreement in October 2013, the Council, under pressure from the Parliament, agreed

that farmers gaining more than €150,000 a year of subsidy should lose 5 per cent of it every year.

## The budget

EU leaders need to create the political momentum for a fundamental change in the structure of the Union's budget, beyond 2020. They should establish a strategic review of the budget, tasked with reporting in 2016 on 'How should the EU's budget change, to support the likely future tasks of the Union?' This should be much more ambitious than the modest 'mid-term review' of spending priorities that the Commission has undertaken to present in 2016. The National Parliamentary Forum<sup>25</sup> – if and when it is established – should make its own submission to the review, as should the European Parliament.

Less should be spent on farming and regional aid. Some money could be saved in EU administration. Scrapping the European Parliament's monthly commute to Strasbourg, as well as the Economic and Social Committee and the Committee of the Regions (both redundant institutions), would save about €400 million a year. Such cuts would signal a serious intent to reduce waste.

However, the overall size of the budget should remain similar to the current level of about 1 per cent of EU GDP. Even if it were politically feasible to shrink the budget significantly – which it is not – there is a strong case for addressing some big challenges at EU level. More should be spent on crucial cross-border transport and energy links, which the private sector and national governments have failed to provide; on the European Research Council, which since it started in 2007 has built up an impressive track record of funding cutting-edge science projects purely on the basis of peer-reviewed excellence;<sup>26</sup> on aid to the EU's neighbouring countries, whose welfare is closely linked to that of the member-states; and on EU development assistance.<sup>27</sup>

25: See page 30.

26: Britain has some of Europe's best universities, so it is not surprising that it has gained a bigger share of the ERC's €1.8 billion a year budget than any other country. In 2012 British universities won 80 grants from the ERC, more than twice as many as French or German universities.

27: The British government's 'Development Co-operation

and Humanitarian Aid Report', published in July 2013, as part of its EU competences review, was generally positive on EU aid programmes. It praised DEVCO, the Commission's development directorate, for 'strong monitoring and financial management systems, with moderate administration costs'. Funding provided by ECHO, the humanitarian relief office, 'is relatively efficient, timely and flexible'.

## Regional funds

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Only poorer member-states should receive payments from the regional funds. Richer countries – those with a per capita income of 90 per cent of the EU average or higher – should decide whether and to what extent they wish to support their own regions.

To increase accountability, national governments should take clear responsibility for the spending of EU regional funds. They should sign off on their local governments' spending of these funds, with a detailed audit of accounts, and declare them free of fraud and error. Currently, only a few countries, including the Nordic member-states, do so.

## The Common Agricultural Policy

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The maximum subsidy that a large farm can receive should be capped. Those payments that farmers receive to protect the landscape and wildlife should be phased out; environmental goals should be achieved through regulation. Farmers in countries that have joined the EU since 2004 should receive payments under the same formula that applies to West European farmers. In the longer term, an increasing share of the single farm payment should be borne by national governments. Initially, member-states could put up 50 per cent of the subsidy, with the rest paid by the EU as a whole. Eventually, the member-states' percentage should rise, and in the richer ones, governments should pay for all the subsidies. The British government should be more willing to trade parts of its rebate for fundamental CAP reform.



# A summary of recommendations

## Reforms not requiring treaty change

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### A stronger and more effective European Commission

The EU needs a Commission that is strong and independent, rather than dependent on the European Parliament. The member-states should appoint senior politicians as commissioners, and ensure that the next Commission president is a heavyweight. They should mandate the Commission to maintain an equal distance between the European Parliament and the Council of Ministers.

When the new European Commission takes office, after the May 2014 European elections, it should join the Council of Ministers and the European Parliament in drawing up a tripartite accord on the EU's work programme.

To deal with the problem of there being too many commissioners, they should be divided into seniors and juniors. The seniors should co-ordinate the work of the juniors and sometimes meet among themselves.

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### Improving the quality of rule-making

The impact assessments that the Commission carries out before legislating need to become more credible. When the Commission decides to drop a proposed measure as a result of an impact assessment, it should publicise the decision. The Council of Ministers should appoint external experts to sit on the Commission's Impact Assessment Board.

When the Council of Ministers and the European Parliament propose significant amendments to EU legislation, they should carry out their own impact assessments.

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## Enhancing the role of national parliaments

National parliaments need to play a bigger role in policing subsidiarity, the idea that the EU should only act when strictly necessary. The existing 'yellow card procedure' allows a third of the EU's national parliaments to club together to ask that a Commission proposal be withdrawn, on grounds of subsidiarity. The Commission should agree to treat a yellow card as a 'red card', by promising to abandon any proposal that faces a yellow card.

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## Improving oversight of European institutions and policies

The EU should strengthen both the European Court of Auditors and OLAF, the Union's anti-fraud unit. The Court of Auditors should produce its reports more speedily. The European Parliament should bolster the Court's authority by insisting that its findings be debated and acted upon.

OLAF should be reconstituted outside the Commission, given more resources and made to conduct a thorough review of its investigative standards.

The EU should ask Transparency International, the anti-corruption NGO, to publish a special report that ranks the European institutions alongside the member-states.

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## Better integration of the EU's external policies

The EU needs to do a better job of ensuring that its various external policies are aligned strategically. The next Commission president should make it clear that he or she regards the High Representative/Vice President (HRVP) as having authority over the development, humanitarian aid and enlargement commissioners. They should serve as deputies to the High Representative, as should a senior official within the European External Action Service (EEAS). The president of the Commission should co-ordinate the work of the HRVP and the trade commissioner.

The EEAS currently has to operate under Commission rules and procedures. These should be modified so that the EEAS can act more speedily and have more freedom to set its own procedures and decide how its money is spent.

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## Managing conflict between the eurozone and the single market

However the Eurogroup develops, the EU's main decision-making body should remain the Council of Ministers, meeting at 28. Countries that are not in the euro should gain observer rights in the Eurogroup. Any new eurozone institutions that emerge should not undermine the Commission's role in policing the single market and in ensuring smooth relations between the euro ins and outs.

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## Extending the single market

The EU should make deepening the single market a bigger priority. Each member-state should designate a senior minister to attend meetings of a new single market council.

The EU should extend the single market in services by focusing on the liberalisation of those services that are most easily traded – such as business services, information technology and telecoms services, construction and transport.

It should also dismantle barriers to e-commerce, which may entail some harmonisation of laws on sales, privacy, intellectual property and consumer protection.

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## Sustaining Europe's energy market

The growth of national subsidy schemes for renewable energy threatens to disrupt the single market. The member-states should support the Commission's efforts to complete and sustain a single market in energy. They should implement its guidelines on national subsidy schemes for renewable energy, for example by avoiding sudden or retrospective changes to national schemes. And if national

governments choose to subsidise back-up capacity (which may be needed when there is no wind or sun) they should allow companies from other member-states to provide that capacity.

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## Controlling carbon emissions

The Emissions Trading Scheme (ETS) is currently failing to provide incentives for companies to invest in low-carbon technologies. So the EU should set a floor for the price of carbon in the ETS. The price should start at €30 per ton, and increase by at least €1 each year.

The EU should also adopt an emissions performance standard, to ensure that power generation produces no more carbon than a new gas power station.

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## Free and fair migration

Current EU rules on free movement of labour are highly beneficial to every member-state. The problem of some people moving from one EU country to another in order to claim welfare is negligible. But it needs to be addressed, lest support for free movement diminishes. The rules on providing social security for migrants should be amended so that their families cannot claim benefits from a member-state unless they reside in it.

Governments should issue European Social Insurance Cards to those citizens wishing to move to another member-state. The cards would make it easier to identify and track welfare cheats, as well as provide solid information about migratory movements. Wherever they were in Europe, EU nationals would use the same identity number to access local services.

One problem with debates over immigration is the lack of good data. EU interior and employment ministers should establish a standing 'migration advisory committee', staffed with independent experts. This body should advise EU governments and institutions on migratory movements, analyse the Union's overall labour needs, and develop criteria for judging in what situations flows may be restricted.



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## A more flexible working time directive

The working time directive does little harm to the European economy. But it needs a minor amendment, to deal with the problems left by two rulings in the European Court of Justice. This should ensure that member-states are free to choose their own definitions of rest periods and on-call time.

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## Simpler free trade agreements

The EU should make the negotiation of free trade agreements easier by dropping their human rights clauses. An exception should be made when the EU negotiates with neighbours that aspire either to join it or to develop a closer association. However, the EU should be serious about conditionality in its foreign policy. It should not give aid or technical assistance to countries that abuse human rights. And the EU should make clear that the quality of its political relationship with a partner will depend, in part, on its human rights record.

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## A more modern EU budget

The EU budget should prioritise cross-border projects that would boost economic growth. But most of the budget is spent on farming and regional aid. EU leaders should establish a strategic review to report in 2016 on how the Union's budget should evolve after 2020. More money should be spent on pan-European transport and energy links, the European Research Council, the EU's neighbourhood and development assistance.

Member-states with a per capita GDP of 90 per cent of the EU average, or above, should no longer receive regional funds. Member-states receiving these funds should certify that their local governments have spent them properly.

The EU should limit the amount of subsidy that can go to large farms. The member-states should start to share the cost of the single farm payments with the EU budget. Eventually, in the richer countries, the government should bear all the cost of subsidising farmers.

## Reforms requiring treaty change

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### A stronger and more effective European Commission

A more efficient Commission requires fewer commissioners. Smaller EU countries should take it in turns to have a commissioner. Large member-states should either always have a commissioner, or have one more often than smaller countries.

To reinforce the Commission's equidistance between EU governments and the European Parliament, the European Council should gain the right to sack the Commission (which the Parliament can already do).

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### Improving the quality of rule-making

To curb the Commission's tendency to produce too many laws, it should withdraw a legislative proposal if a qualified majority of EU governments ask it to do so. Commission proposals should be scrapped if they have not become law within three years.

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### Enhancing the role of national parliaments

To strengthen subsidiarity, if half the EU's national parliaments ask the Commission to withdraw a legislative proposal on grounds of subsidiarity or proportionality, it should be obliged to do so. And if half the EU's national parliaments ask the Commission to propose the withdrawal of a redundant or unnecessary EU law, it should be obliged to do so. On a similar basis, a group of national parliaments should be able to ask the Commission to introduce legislation on a particular subject.

A National Parliamentary Forum should be established in Brussels, bringing together representatives of national parliaments. This should monitor the European Council and inter-governmental areas of EU policy-making, such as foreign policy, but not play a role in law-making. Meeting in reduced format, without parliamentarians from countries outside the euro, this forum should give opinions on eurozone bail-out packages and elect the Eurogroup president.

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## Streamlining the Court of Auditors

The Court of Auditors, currently run by one auditor from each member-state, should be streamlined into a more powerful Office of the European Auditors-General, run by three auditors-general.

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## Ensuring a proper relationship between the single market and the eurozone

A new treaty article should state that the Eurogroup cannot act in any way that harms the integrity of the single market.

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## A more modern EU budget

The Economic and Social Committee and the Committee of the Regions should be scrapped. The European Parliament's monthly commute to Strasbourg should end: Strasbourg should no longer be an official seat of the Parliament.



## Other publications

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# How to build a modern European Union

**Charles Grant**

**With Katinka Barysch, Hugo Brady, David Buchan, Clara Marina O'Donnell, John Springford, Stephen Tindale and Philip Whyte**

Despite its many achievements, the EU's institutions and policies are badly in need of an overhaul. This CER report proposes a series of reforms, designed to achieve two objectives. First, make decision-making in the EU more accountable. Giving national parliaments a bigger role could improve accountability as well as strengthen 'subsidiarity' – the principle that the EU should act only when strictly necessary. Second, improve the efficiency of the European economy. The CER would further extend the single market into services, simplify free trade agreements with other parts of the world, and redirect the EU's budget towards growth-boosting projects. Many of these proposals could be implemented without changing the EU's treaties. They are all practical ideas that should appeal to reform-minded governments across the EU.