



The UK and Europe: time for a new relationship?

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Section IADS

The eurozone crisis and EU moves towards closer fiscal, as well as economic and political, union, have given rise to renewed questioning of the UK's relationship with the EU. Some opinion polls indicate majority public support for a referendum on whether the UK should stay in or leave the EU. In Parliament an in/out referendum has been one element of a wider debate about the kind of EU the UK would like to belong to. The Government has not ruled out a referendum on EU membership but believes the time is not right for one.

In December 2011 the UK Government's failure to secure certain guarantees for the UK in exchange for UK agreement on an EU fiscal compact for eurozone States marked a significant moment for the UK's already somewhat detached relationship with the EU (the UK does not participate in the euro, and has special arrangements in justice and home affairs matters, Schengen and the Charter of Rights).

Two main scenarios for the UK's future relations with the EU have emerged from the recent debate – one in which the UK remains in the EU, but on different terms to its current membership; another where the UK is outside the EU, possibly in a different regional trading bloc. Under the first scenario the UK renegotiates the terms of its EU membership with a view to repatriating significant EU powers to national control. Many believe there should then be a national referendum on UK membership based on the outcome of the renegotiation. The second scenario is that, given EU moves towards fiscal integration and ever closer political union, the time has simply come for an EU exit, which is now provided for in the EU Treaty. This might be subject to a national referendum. The UK would then negotiate bilateral trade and economic agreements with the EU.

This note looks at views on a referendum on the UK's EU membership, and government, parliamentary and public views on the UK's future relations with the EU.

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1 The Government's position on EU membership

1.1 2010 election manifesto

The Conservative 2010 election manifesto stated that a Conservative-led UK would be "positive members of the European Union", but ruled out any "further extension of the EU's power over the UK without the British people's consent". It pledged to ensure "that by law no future government can hand over areas of power to the EU or join the Euro without a

referendum of the British people” and to “work to bring back key powers over legal rights, criminal justice and social and employment legislation to the UK”.¹

The manifesto was positive about the role of the EU in reconciling divisions in Europe, spreading democracy and the rule of law, fighting poverty and tackling climate change. A Conservative Government would, “like every other member State ... fight our corner to promote our national interest”. It also maintained that “Britain’s interests are best served by membership of a European Union that is an association of its member States. We will never allow Britain to slide into a federal Europe”.

With a view to restoring “democratic control”, the manifesto pledged to amend the *European Communities Act 1972* so that “any proposed future Treaty that transferred areas of power, or competences, would be subject to a referendum”. Furthermore, there were promises not to adopt the Euro without a referendum, not to participate in the establishment of a European Public Prosecutor, to introduce a UK sovereignty bill “to make it clear that ultimate authority stays in this country, in our Parliament”, and to require an Act of Parliament and possibly a referendum before the so-called Treaty-amending “ratchet clause” could be used. All this the Government did by means of the *European Union Act 2011* which gained Royal Assent in July 2011. Finally, the manifesto pledged to negotiate to repatriate to the UK three EU powers:

The steady and unaccountable intrusion of the European Union into almost every aspect of our lives has gone too far. A Conservative government will negotiate for three specific guarantees – on the Charter of Fundamental Rights, on criminal justice, and on social and employment legislation – with our European partners to return powers that we believe should reside with the UK, not the EU. We seek a mandate to negotiate the return of these powers from the EU to the UK.²

The Liberal Democrat election manifesto, [Change that works for you, building a fairer Britain](#), also promised a referendum if the UK-EU relationship changed: “The European Union has evolved significantly since the last public vote on membership over thirty years ago. Liberal Democrats therefore remain committed to an in/out referendum the next time the British Government signs up for fundamental change in the relationship between the UK and the EU”.

Following the election, the [Programme for Government](#) and [Coalition Agreement May 2010](#) emphasised positive engagement in Europe while protecting British sovereignty. The Coalition Agreement included a commitment to examine “the balance of the EU’s existing competences”, with a view to repatriating some of them to the UK. This is still a work in progress.

1.2 The UK’s role in Europe

In opposition the Conservative Front Bench had challenged the Labour Government over its reluctance to hold a referendum on EU Treaty changes, in particular its refusal to allow a public vote on the *Treaty of Lisbon* when it had pledged one on the very similar *Treaty Establishing a Constitution for Europe*.³ However, there was no Conservative promise of a

¹ For information on the coalition Government’s Europe policy see Standard Note 5854, [The Government’s Policy on Europe](#), 7 February 2011

² [“Invitation to join the Government of Britain: the Conservative Manifesto 2010”](#)

³ See Standard Note 5071, [The Treaty of Lisbon: Government and Parliamentary views on a referendum](#), 15 May 2009

referendum on the UK's membership of the EU, and after becoming Prime Minister, David Cameron was reluctant to contemplate one. He told the *BBC1 Andrew Marr Show* on 2 October 2011: "It's not our view that there should be an in/out referendum. I don't want Britain to leave the EU. I think it's the wrong answer for Britain". He reiterated this view at the 2011 Party Conference.⁴

The Foreign Secretary, William Hague, said in interviews before his keynote 2011 Conference speech that questioning Britain's relationship with Europe "would not help us or anyone else", that fundamental changes to Britain's relationship with the EU were "not on the cards at the moment, and that "all the uncertainty about having a referendum about that would probably do further damage to economic confidence".⁵ He told *Sky News on 2 October 2011*:

Of course we will look at any motion, but we won't be in favour of holding now an in/out referendum on Europe. At a time of economic difficulty to actually say to people, instead of getting everything growing in our economy, we are going to spend our time on an in/out referendum which will create uncertainty for businesses in Britain - that wouldn't be a very sensible course of action.

The Government insists that it wishes to "play a full, committed and influential role in the EU". In January 2011 Bernard Jenkin asked the Government why it believed the present terms of UK membership of the EU were in the national interest. David Lidington replied that there were "many things about the EU we would like to change", but that membership gave UK business "full access to the world's most important trade zone" and gave statistics for the "beneficial effect of EU trade" for UK households. He contrasted EU membership with European Economic Area (EEA) and European Free Trade Association (EFTA) membership (see also below), which "have to contribute to the EU budget without being able to negotiate the detail and content of EU legislation, and without receiving benefits such as the exemption from customs requirements and costs". He concluded:

In addition, EU membership gives the UK better leverage and negotiating power on the global stage, allowing us to better achieve our international objectives on issues such as freer international trade, conflict prevention, stabilisation, climate change, human rights and development. There are also wide-ranging benefits for UK individuals, such as the right to study and work within the EU, and to receive free or reduced cost health care on temporary visits within EU member states.⁶

1.3 The EU the Government would like

In [written evidence](#) to the Foreign Affairs Select Committee on 22 May 2012 for its report on the Government's EU policy, David Lidington set out the Government's vision for the EU, for a flexible, "multi-faceted EU where Member States with a range of different interests and needs can work together in informal groupings". He did not want to speculate about possible structures for the EU, but emphasised the importance of national parliaments: "They play too small a role in the EU. Part of the answer to the EU's democratic deficit must lie in their playing a larger role". He continued:

19. What do we want from the EU and how will we work with the EU to ensure we achieve it? First, we want an outward-looking EU that is more dynamic and

⁴ See also [Telegraph](#) and [Independent](#) on David Cameron's opposition to a referendum on EU membership.

⁵ [Guardian 5 October 2011](#)

⁶ [HC Deb 10 January 2011 c232W](#)

competitive on the global stage. The speed and scale at which globalisation is shifting the balance of wealth and political power towards emerging economies poses a challenge to the position of the EU in the world order. This shift reinforces the urgent need for EU countries to reform to stay competitive, generate growth and maintain employment and standards of living. This crisis in the Eurozone has shown the absolute need to ensure that the foundations of Europe's economies are strong.

20. The UK has led the EU debate on reforming the EU economy to deliver growth but we will go further over the remainder of this parliament by looking to keep the immediate need for structural reform at the heart of the debate on growth. We will push for an ambitious programme of deepening the Single Market and reducing the burden of EU legislation. We will also continue to contribute to the EU's prosperity, for example through the City of London, one of the most significant global financial centres. It is in and through the City that many French pensions are managed, German manufacturing companies buy financial services, many energy risks throughout Europe are hedged, and provisions of capital for European infrastructure projects flow.

21. Second, we want an EU that is able to use its collective weight for our common interests, such as trade and security. The UK's ability to influence events abroad is greatly enhanced by our place within the EU. Together we hold more sway than apart and we are stronger in assuring our security when the 27 EU Member States agree. So on issues where there is a common European interest, when the national interests of the 27 EU Member States converge, it makes sense for the EU Members to act together, pool our influence and speak with a united voice.

22. On trade, one voice representing half a billion consumers is heard more loudly in Beijing, Delhi and Moscow, than 27 separate ones. With UK support, the EU has already completed a Free Trade Agreement with Korea worth £500 million to UK exporters. But our ambition does not stop here. We also aim to conclude trade agreements with Canada, India, Singapore and Mercosur, as well as launch a comprehensive package of negotiations with the US, which would tackle the remaining barriers to almost half the world's trade flow.

23. In security and defence policy, as in many other EU policies, there is a need for variable geometry. In Afghanistan, representations from certain Member States are involved in EU military and civilian missions supporting NATO in building stability and security, with a specific focus on police training. In the Balkans, others are working in EULEX as it seeks to bring justice and stability to Kosovo; and off the Horn of Africa, the EU mission, ATALANTA, is tackling international piracy.

24. The Government will work to make sure that the European External Action Service (EAS) acts to boost UK prosperity and security by complementing and supplementing – not replacing - the work of the FCO. The Lisbon Treaty makes clear that the EAS "shall work in cooperation with the diplomatic services of the Member States". The EAS brings together existing EU external action mechanisms and experts from the Commission and Council.

25. While I did not personally support the EAS's creation, now it is established I believe that our goal should be to ensure that it usefully complements and supplements our national foreign policy but does not in any way replace it. Therefore we believe the EAS can have the most effective impact on UK security and prosperity by focussing on: stability in Europe's neighbourhood -

South, East and the Western Balkans; relations with emerging and major powers such as the US and BRIC countries; conflict prevention, development and peace building – especially in Africa; and some key foreign policy challenges such as Iran and the MEPP. We are working at home to promote the EAS as a stepping stone in the career of talented UK officials, so we can ensure that the UK participates fully both in Brussels and in the work of delegations abroad. We remain very clear that the division of competences must be respected, in line with the Treaties; and any changes in representation must be agreed by Member States by consensus. The EAS will only represent the UK where we or the Treaties mandate them to do so - for example, on agreed positions in the CFSP.

26. Third, we want an enlarged EU that helps spread freedom, democracy and the rule of law more effectively in its neighbourhood. Despite the EU's current economic troubles, the extension of European democracy is a success few dared to hope for thirty years ago. Then as now, the prospect of membership of the EU to countries such as Turkey – a key emerging economy – and those of the Western Balkans is providing the incentives to encourage and embed the necessary reforms to enable both the EU and the aspirant countries to benefit from the expansion of stability, security and prosperity across Europe. This is a key part of our vision for the EU.

27. Fourth, we want an EU which faces the challenge of legitimacy. Those within the EU saying that they had a positive image of the EU dropped from 52% in autumn 2007 to 31% in autumn 2011. [3] This is not an isolated trend. The appeal of mainstream politics has weakened in most western democracies in the last thirty years. However, without the roots that sustain national democracies, it is particularly important that the EU addresses demand for greater accountability, transparency, efficiency and probity.

[3] Standard Eurobarometer 76 (http://ec.europa.eu/public_opinion/archives/eb/eb76/eb76_first_en.pdf)

2 Recent calls for an in/out referendum

2.1 Conservative views on a referendum

Almost all UK bills that implement EU Treaty changes have given rise to attempts to make ratification conditional upon a referendum.⁷ The last major EU bill – the *European Union Bill 2011* to implement the so-called 'referendum lock' - was no exception. On this occasion, the Bill itself proposed holding a referendum before agreeing a transfer of power from the UK to the EU. On 24 January 2011 the Conservative eurosceptic, Peter Bone, moved an amendment to the Bill proposing a second referendum on staying in or leaving the EU, if the first referendum was negative.⁸ On 1 February 2011 the Bone amendment was defeated by 295 votes to 26. 20 Conservative MPs defied a three-line whip and voted for the in/out referendum amendment.⁹

On 24 October 2011 a Backbench Business [debate](#) was held on a motion proposed by the Conservative, David Nuttall, calling for a national referendum on whether the UK should:

⁷ See Standard Note 4650, [EU Treaty Bills: the Whip and Referendum Clauses](#), 22 January 2008, and Standard Note 5071, [The Treaty of Lisbon: Government and Parliamentary views on a referendum](#), 15 May 2009

⁸ See [ConservativeHome](#), 23 January 2011

⁹ Of those 20, seven were from the pre-2005 parliamentary intake, five from the 2005 intake and eight from the 2010 intake.

- (a) remain a member of the European Union on the current terms;
- (b) leave the European Union; or
- (c) re-negotiate the terms of its membership in order to create a new relationship based on trade and co-operation.¹⁰

The motion was defeated by 483 votes to 111, with 81 Conservatives defying the whips to vote for a referendum.¹¹ 19 Labour Members and one Liberal Democrat defied their party leadership in supporting a referendum. The main reason the 81 Conservatives voted for the motion was because they want the UK to leave the EU (e.g. Philip Hollobone, “Britain would be better off out of the European Union altogether”, [HC Deb 24 October 2011, c 94](#)), and believed public opinion would support leaving the EU. In the course of the debate, other underlying arguments in support of a referendum included:

- The UK Parliament is becoming “ever more impotent” as the “tentacles” of the European Union “intruded into more and more areas of national life”, (David Nuttall cc 46-7 and Philip Hollobone, c 94), and concerns about “the authority and legitimacy of this Chamber” (Adam Holloway, c 70). (John Redwood, c 104).
- The public have been “fobbed off” by the political elite on the subject of Europe and last had a say on EU membership over 36 years ago (ibid). Giving the people “a chance to hear the arguments in a reasoned way” (Anne Main, c 75). Giving “the British public a democratic vote on our future relationship with the EU” (Priti Patel, Stewart Jackson, c 111)
- EU no longer just a free trade area and disillusionment about ever-closer political union (John Baron c 62).
- Opposition to EU policies: “We have a fisheries policy with no fish; red tape strangling small businesses; financial regulation that suffocates the City; and now we are being asked to spend billions of pounds bailing out a currency that we never even joined” (Douglas Carswell, c 118)
- “continual salami-slicing of our sovereignty” (John Redwood, c 48) and transfers of powers from UK to EU (cc 53 and 55). “The European Union is occupying ground and legislating in matters that should be the preserve of this House” (James Clappison, c 107); “too many of our powers and freedoms and too much of our money have been handed over to Brussels (David Morris, c 128)
- UK trade deficit with the other 26 Member States increased from minus £14 billion to minus £53 billion (Bill Cash, cc 56 and 60).
- Damage to fishing industry (Sheryll Murray, c 89). Damage to UK industry: “If we were to leave the EU, we should also find ourselves not bound by EU competition rules” (Kelvin Hopkins, c 110)
- Government talked about repatriating powers to UK but did not do so (Mark Reckless, c 91)

¹⁰ [HC Deb 24 October 2011 c 46](#)

¹¹ See [The Public Whip](#), 24 October 2011

- The Eurozone crisis is damaging for the UK and the UK should not be asked to help sort out the mess. “we cannot solve our financial crisis until we have freed ourselves from the yoke of European regulation” (Jacob Rees-Mogg, c 108)
- There has been a fundamental shift in the UK’s relationship with the EU (Bill Cash, c 88 and John Baron, c 104)
- Now is the right time for a referendum (James Clappison, c 133)
- To neutralise the threat from the United Kingdom Independence Party at the next general election

On [19 May ConservativeHome](#) reported on a *Sunday Mirror/Independent on Sunday* poll conducted by ComRes, which indicated that Conservative voters were not strongly united behind withdrawal from the EU.

The poll - which puts overall voting intentions at 32% Conservative and 41% Labour - shows that, despite 46% compared to 30% of voters saying they would vote to leave the EU, if a referendum was held tomorrow, only 51% of Conservative voters said they would vote to leave. By comparison, 42% of Labour voters, and 39% of Lib Dem voters would vote to exit the EU. Overall, with "don't know" answers excluded, the ComRes poll suggests a European referendum would result in a 61-39% vote to leave.

On a similar note, a narrow plurality of voters disagree with the statement: "Leaving the European Union would be bad for the British economy in terms of lost jobs and trade". 40% disagreed with that statement, as opposed to 36% who agreed with it. As with an in/out referendum, the Conservative vote is quite similar to the national result: indeed, 37% of Tories thought leaving the EU would be bad for jobs and trade - more than the figure for the population as a whole. 43% of Labour voters, and 56% of Lib Dem voters felt the same way. This suggests a large percentage of the Eurosceptic vote in opinion polls does not identify with the big three political parties.

ConservativeHome also published a poll by *Channel Four News* of more than 1,600 Conservative Party members at the end of May 2012, which found that 83% wanted a commitment to an in/out referendum in the next Conservative manifesto. The questions concerned Conservative MPs’ preferences for the future relationship between Britain and Europe. The [questions and results](#) were as follows:

1. Thinking of the next Conservative General Election manifesto, should the party...?

- Have a commitment to an in/out referendum to be held in the next Parliament: 42 per cent
- Commit to a renegotiation of Britain’s terms of membership with no explicit referendum promise: 17 per cent
- Commit to a renegotiation of Britain's terms of membership to be followed by an in/out referendum: 41 per cent

2. If there was an In/Out referendum tomorrow would you vote?

- In: 23 per cent

- Out: 70 per cent

3. Which of the following options do you favour?

- The UK should remain full members of the EU and participate in further EU integration: 4 per cent
- The UK should remain full members of the EU but reject future integration: 8 per cent
- The UK should secure substantial renegotiation of its existing relationship with the EU but remain full members: 34 per cent
- The UK should leave the EU altogether and negotiate a separate trade agreement: 54 per cent

4. Thinking 10 years ahead, do you think Britain will still be in the EU?

- Yes, Britain will still be in the EU and the EU won't be much changed: 26 per cent
- Yes, Britain will still be in the EU but the EU will be significantly reformed: 38 per cent
- No, Britain will be outside of the EU: 36 per cent

The BBC's Nick Robinson questioned the motives for an EU referendum. In [BBC News, 2 July 2012](#) he suggested:

Some want a referendum because they think the people will do what no mainstream political leader dare - get us out.

Others - who want the UK to stay in Europe - want a vote to put pressure on Europe's politicians to give the UK what it wants.

Many Eurosceptics - both those who want to stay in and those who would sooner get out - believe it will put pressure on a British government to negotiate harder.

Most Tories hope that, whatever the vote is on, the promise of a referendum will help them see off UKIP.

A growing number of Conservatives believe, as Harold Wilson did in 1975, that a referendum is the only way of stopping their party splitting on the issue of Europe.

2.2 Labour views on a referendum

Labour has not ruled out the possibility of an in/out referendum on the EU, and it has been suggested they would campaign to stay in the EU and exploit divisions within the Conservative party.

The [Guardian reported on 19 May 2012](#) that the Labour Leader, Ed Miliband, was "being urged by a growing number of shadow cabinet members and senior allies to promise a dramatic in-out referendum on Britain's future membership of the European Union if Labour

wins the next general election". On 17 May the former Labour Europe Minister, Peter Hain, said on BBC1's Question Time that he believed the British people would deserve a say when the time was right, and he did not think "we should be frightened about giving people a vote". A few days later ([23 May 2012](#)) the *Guardian* reported that "The Labour party will almost certainly promise a referendum on Britain's membership of the European Union in its next election manifesto". Jon Cruddas, who leads Labour's policy review and will help draw up its next general election manifesto, has promised to use "every opportunity" to press for a vote on EU membership and prevent the issue "festering". He backed the People's Pledge campaign for a referendum on the UK's relationship with the EU.¹²

In the Hands Lecture in May 2012 Peter Mandelson, the former Labour cabinet minister, called for an EU referendum. Steering a path between the Government's view and that of UKIP, he said:

We have long tried to believe that the EU would keep getting wider rather than deeper and we would never have to confront our own ambiguous feelings about Union. Events are conspiring to call our bluff.

And for us in Britain this will pose a sharp, for some deeply uncomfortable, choice that we have hoped and sought to avoid. A nation of "reluctant" Europeans will have to confront a choice between taking part in greater integration, including joining the Euro, or an uncertain future.

Having posed the problem thus, I don't think I can really end without some form of conclusion or prescription for Britain. I think my biggest challenge is to the pro-Europeans in the UK. In the version of the future that I have described there are two basic ways of being 'out' of Europe for this country. There is the argument that just says we should be out altogether. The red tape. The bent bananas. The gravy train. What has become the UKIP view.

Then there is the argument that a looser relationship, a place on the second tier is fine for Britain, not out but not fully in. A Hong Kong to Europe's China. Or a Canada to Europe's United States. The second, I think, is where the current government, or the Conservative part of it, probably would be happy to come down.

My view is that both will probably amount to much the same thing.

On 12 July Ed Miliband denied that he was committed to an in/out EU referendum and said he did not think the priority was to have an EU referendum, but to sort out the problems in the eurozone.

2.3 Public opinion on a referendum

The Government acknowledges that public opinion on the subject of the UK's EU membership is low. In a foreword to the [Fresh Start Green Paper on reforming the EU](#), published in July 2012, the Foreign Secretary, William Hague, said:

The British people are also becoming increasingly dissatisfied with the status quo of Britain's place in the EU, a dissatisfaction that has been significantly increased by the previous Government's failure to consult the British people in any way at any stage of the Lisbon Treaty's ratification. Public disillusionment with our membership of the European Union has never been so deep.

¹² [Telegraph 15 May 2012](#)

This is how [YouGov](#) recorded attitudes from June 2011 to May 2012 to an in/out referendum:

	% who would vote for Britain to...		
	Stay in the EU (a)	Leave the EU (b)	(b) minus (a): majority for leaving
June 2011	35	48	13
August	30	52	22
September	33	47	14
October	31	52	21
December	41	41	0
January 2012	34	44	10
April	31	49	18
May	28	51	23

Peter Kellner commented on the results:

The first is that there is some volatility, from a 23-point margin of victory for those who want Britain to leave, to level-pegging. The second is the reason for December's dead heat. That poll was conducted a few days after David Cameron had kept the UK out of plans for a new EU treaty on the Eurozone's financial arrangements. Many people who distrust Brussels felt that if Britain could retain vital financial powers, the need for complete withdrawal had receded. But as this spring's Eurozone crisis intensified, the appetite for withdrawal has revived.

2.4 Government reaction to pressure for a referendum

Further pressure was put on the Government on 27 June 2012, when nearly 100 Conservative backbenchers signed a letter from John Baron to the Prime Minister asking him to give the British people a say on EU membership after the next general election:

We suggest there is a consistent majority in this country who believe that the European Union meddles too much in our everyday lives, that the weight of regulation on our businesses is too burdensome, and that the cost of membership is far too high.

The EU is constantly evolving and is very different to the European Economic Community we joined in 1973.

No-one in this country under the age of 55 has had the opportunity to express their view on this signally important matter.¹³

In an article in the [Telegraph, 30 June 2012](#), David Cameron did not think the time had come for an in/out referendum:

It is vital for our country — for the strength of our economy, for the health of our democracy and for the influence of our nation — that we get our relationship with Europe right.

We need to be absolutely clear about what we really want, what we now have and the best way of getting what is best for Britain. We need to answer those questions before jumping to questions about referendums.

¹³ See [ConservativeHome](#) and [Telegraph 28 June 2012](#)

I am not against referendums in our parliamentary democracy. Parliament is elected to make decisions and be accountable, but when powers are transferred it is right to ask the people. That is why we will ensure the Scottish people can hold a referendum having elected a government on a mandate to do just that.

I am also not against referendums on Europe. The last government should have held a referendum on the Lisbon Treaty. They didn't, so this Government put in place a referendum lock so that no government can ever again pass powers from Britain to Brussels without first asking the British people.

For David Cameron the EU single market is “at the heart of the case for staying in the EU”, and cooperating with neighbouring States made sense “to maximise our influence in the world and project our values of freedom and democracy”. He did not agree with those who wanted to take the UK out of the EU and an early in/out referendum because “Leaving would not be in our country’s best interests”. He thought “the problem with an in/out referendum is that it offers a single choice, whereas what I want — and what I believe the vast majority of the British people want — is to make changes to our relationship”. The Prime Minister outlined what he thought was wrong with the EU:

Put simply, for those of us outside the eurozone, far from there being too little Europe, there is too much of it. Too much cost; too much bureaucracy; too much meddling in issues that belong to nation states or civic society or individuals. Whole swathes of legislation covering social issues, working time and home affairs should, in my view, be scrapped.

Acknowledging that the coalition parties would have different views on this, David Cameron announced that the Government would “be reviewing the balance of the EU’s competences, to provide a national audit of what the EU currently does and its implications for our country”. He pledged to “continue to work for a different, more flexible and less onerous position for Britain within the EU”, and did not rule out a referendum:

How do we take the British people with us on this difficult and complicated journey? How do we avoid the wrong paths of either accepting the status quo meekly or giving up altogether and preparing to leave? It will undoubtedly be hard, but taking the right path in politics often is.

As we get closer to the end point, we will need to consider how best to get the full-hearted support of the British people whether it is in a general election or in a referendum.

As I have said, for me the two words “Europe” and “referendum” can go together, particularly if we really are proposing a change in how our country is governed, but let us get the people a real choice first.

The *Economist* [Bagehot blog on 11 May 2012](#) speculated as to why the Prime Minister might be reticent about promising an EU referendum:

There are lots of rational reasons for Mr Cameron to fear any sort of referendum pledge. Most simply—though Bagehot accepts that this is an argument that makes many people at Westminster yawn in boredom—such a referendum might lead to Britain’s departure.

And although he finds the EU exasperating in lots of ways, the prime minister does not actually want to leave the EU. He does not love the European project,

instead regarding membership as something to be nudged by a cool cost-benefit analysis. And weighing those costs and benefits today, Mr Cameron thinks that the right of his party are simply miscalculating where the balance lies. For him, the benefits still trump the costs, a close ally insists.

William Hague, the foreign secretary, ends up in the same place when he conducts his cost-benefit analysis, other sources tell me, even if—emotionally—there are aspects of European membership that he finds harder to swallow than the prime minister.

In an [interview in the *Sunday Telegraph*, 12 May 2012](#) William Hague distanced himself from the possibility of a referendum at the next general election. He thought that a referendum now on leaving the EU was the “wrong question at the wrong time - partly because we don’t know how Europe will develop over the next few years”.

However, on 1 July 2012 the Foreign Secretary said on the Andrew Marr Show that there might be a “very powerful” case for an EU referendum if Member States agree a closer union.¹⁴ William Hague said the time to decide would come when it was clear how Europe would develop after the eurozone crisis.

3 Renegotiating UK terms of membership

The UK Government has said it wants to be part of a different EU, while others would like the UK to have a different relationship with the existing EU. On the [Open Europe blog on 11 June 2012](#) Christopher Howarth suggested that “Moves in the eurozone towards fiscal union also mean the status quo EU membership terms we have may not be an option even if we wished it”.

Many eurosceptics ask why, if EU trade is the main advantage for the UK, does the UK not leave the EU and establish trade agreements with it and/or its Members? Some analysts think that any move towards a purely free trade UK-EU arrangement would mean leaving the EU and negotiating another kind of relationship with, but not within, the EU. UKIP has sought a kind of relationship, whereby, if the UK remains in the EU, “it should seek the loosest possible architecture for the EU and to be bound by the least political commitments possible”, disengaging itself from “all the non-trading elements (especially the political ones) of the EU” and concentrating only on UK “access as a trading nation to the Single Market and our trading relationship with Europe”.¹⁵

Bill Cash, the Chair of the Commons European Scrutiny Committee, believes strongly that the electorate ought to have a role in deciding the UK’s future relationship with the EU. On 3 July 2012 the Commons Liaison Committee took [evidence from the Prime Minister](#) on the impact of the Eurozone crisis on the UK economy and public policy. Bill Cash asked David Cameron whether he would “call for a convention without presumptions based on the existing treaties, so that the EU can decide what kind of Europe each member state and its voters actually want?” The Prime Minister thought this a “perfectly reasonable suggestion”, but premature, “because at the moment serious and proper conversations are taking place within European countries and between European countries about what needs to be done, and I think we are only at the beginning of those conversations”.

¹⁴ [BBC News 1 July 2012](#)

¹⁵ [Written Evidence](#) to Foreign Affairs Committee inquiry, “The Future of the European Union: UK Government Policy”, 22 May 2012

This section looks at various proposals for a different UK relationship with the EU.

3.1 Repatriating EU powers and competences

The EU Treaty as amended by the Lisbon Treaty grants for the first time an ability to repatriate competences from the EU to the Member States. Even where the Union has competence under the Treaties, there is a possibility that that competence may be returned to national authorities if the Member States that make up the EU agree unanimously to do so. This is because the Member States confer powers on the EU (Article 7 TFEU) and in theory at least, they can decide to change the terms and subjects of this conferral. As Professor Michael Dougan pointed out in [evidence to the Foreign Affairs Committee in May 2012](#):

Lisbon clearly affirms that the EU is merely the creation of its Member States, the latter remaining sovereign states under international law, and that the EU lacks any claim to statehood of its own. Lisbon reinforces fundamental characteristics such as the principle of attributed EU powers and a system of differentiated EU competences.

In practice, and for political rather than legal reasons, it might be very difficult to claim back EU powers once granted.

Exclusive and shared competence

The *Treaty on the Functioning of the European Union* (TFEU) sets out areas of exclusive EU competence and shared EU-Member State competence in decision-making, where the Union and the Member States are both able to act. The term 'shared competence' is often used to describe areas of law-making where the exercise of EU competence does not exclude the exercise of legislative powers by Member States, as long as they respect the primacy of EU law and do not enact laws which conflict with existing EC law and principles. The idea that Member States' competence should be restricted once the EU has acted is well established in Court of Justice case law. Under Lisbon, where the EU is given a competence

The *acquis communautaire*
There is a view that the EU's *acquis communautaire*- the body of EU and Treaty law, Court judgments etc - is sacrosanct and cannot be amended. [Samuel Brittan](#), writing in the *Financial Times* on 26 April 2001, said the *acquis* "does tend to entrench the status quo and place an obstacle in the way of those who would like to repatriate aspects of policy, such as the Common Agricultural Policy, to the national states".

For candidate states negotiating EU entry, permanent derogation from the *acquis* is not permitted, although temporary derogations and transitional periods may be agreed, with the aim of allowing the new Member State to gradually harmonise its laws with the *acquis* in certain, more problematic, sectors. Although existing Member States are obliged to respect the *acquis*, it is a dynamic concept and constantly evolving. Treaty amendment has formed and will continue to form part of the evolution of the EU. It ought to follow that a Treaty amendment to remove a competence from the EU is as much an evolutionary development of the *acquis* as adding a competence. Court of Justice judges also interpret EU law in the light of Treaty amendment in their rulings, and so, while Court of Justice decisions themselves cannot be amended, the process of change and evolution continues. The *acquis* can be amended, which means that in theory at least it can be repatriated.

which is not exclusive, it is shared. In these areas Member States have competence to adopt legislation to the extent that the Union has not exercised its competence, so for example, an environment or energy agreement with a third party would be possible, given

The 'occupied field' doctrine

Many believe that the doctrine of the "occupied field" prevents the repatriation of powers in areas in which the EU Treaties have given the EU law and policy-making competence. When this happens, Member States lose their powers (competence) in this area, even if the EU has not yet legislated. Thus, if the EU is given the power under the Treaties to take legislative action in a particular area, this inhibits Member States from acting, in case their laws are subsequently found to be incompatible with EU law (pre-emption). The EU's power to act in that area is therefore guaranteed forever. However, others argue that the occupied field can be changed if the rules laying down the policy in a particular area are changed. In other words, if the Member States agree to change the rules regarding who has power, powers can be redistributed.

that the EU does not have exclusive internal competence in this area. In other areas the EU is restricted to taking action to support, co-ordinate or supplement the action of the Member States.

Protocol 25 on the Exercise of Shared Competence states that "when the Union has taken action in a certain area, the scope of this exercise of competence only covers those elements governed by the act of the Union in question and therefore does not cover the whole area".¹⁶ It is, however, still possible for EU measures to cover the whole policy area, subject to shared competence, provided that the EU can do so under the relevant Treaty provisions. Further clarification is provided by Declaration 18 on the delimitation of competences, annexed to the TFEU, which confirms that "competences not conferred upon the Union in the Treaties remain with the Member States", and that where there is shared

competence, "the Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence".

The Declaration also clarifies the principle that competences can be repatriated to Member States on the grounds of subsidiarity or proportionality.

What could be repatriated?

There are different views as to what could be repatriated, and any changes would have to be negotiated and agreed by all Member States. Repatriating EU competences would probably require Treaty change using the Ordinary Legislative Procedure: an intergovernmental conference, probably preceded by a convention, and national ratification by all Member States. It is not clear whether the Simplified Revision Procedure (SRP) could be used in this scenario. The SRP can only be used for changes to part 3 of the Treaty on internal policies and Article 48 stipulates that it must not be used to increase the EU's competences. However, it is silent as to whether it can be used to decrease EU competences.

A Trades Union Congress and Foreign Policy Centre report, "[Single Market, equal rights? UK perspectives on EU employment and social law](#)", edited by Adam Hug and Owen Tudor, February 2012, questioned whether employment law could be repatriated at all, noting that David Cameron "felt unable to push for this at the December 2011 Summit". They thought this would require a full Treaty change, unanimity and possibly referendums in some Member States, "where campaigning for a yes vote to enable the UK to undercut that country's social provisions would be something of an uphill struggle if a standalone measure, or would risk undermining support for wider treaty change as part of a package".

¹⁶ Protocol 25, *Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union*, OJC 115, 9 May 2008

An Open Europe report, "[Repatriating EU social policy: The best choice for jobs and growth?](#)" November 2011, by Stephen Booth, Mats Persson and Vincenzo Scarpetta, set out how social policy could be repatriated and what the implications of this would be for the UK.

3.2 More flexible integration?

In May 2012 the Commons Foreign Affairs Select Committee took evidence for a report on "[The future of the European Union: UK Government policy](#)". In [written evidence on 22 May 2012](#), Professor Michael Dougan and Dr Michael Gordon (Liverpool Law School, University of Liverpool), noted that "perhaps the British vision for Europe has changed since Lisbon, even among those actors who are not opposed as such to UK membership: there is certainly a strong political constituency which argues that the extent of our participation in European integration now needs positively to be rolled back"

They recalled that the EU already provides for "flexible integration" through opt-outs and enhanced cooperation, and the institutional consequences of these, such as only participating States being able to vote. Considering the loss of influence for non-participating States, they ask how much further the UK might want such flexibility to go:

E.g. would it be sufficient to encourage more frequent/extensive resort to enhanced cooperation within the framework of the existing Treaties? If so, that would permit the UK to opt into or stay outside given EU measures or policy sectors as the national interest required – but would require building consensus within the EU that enhanced cooperation should be exploited to its full potential (and possibly also a Treaty amendment to remove the requirement that enhanced cooperation may only be used as a "last resort"). Or would the UK wish to negotiate amendments to the Treaties themselves, extending its existing opt-out rights beyond the single currency or justice and home affairs, to cover additional policy fields? If so, that would require the UK to persuade its European partners of the need for potentially far-reaching revisions to its EU membership, potentially including making the difficult case for special treatment within the single market, or a second-rate status for UK workers/consumers.

They look at the costs of flexibility in the form of a possible "tangible loss of policy leadership and influence" through not being at the negotiating table; the risk that non-participating States might find themselves "*de facto* obliged to follow, or work around, the policy agenda agreed by others"; and "concerns about the complexity, transparency and legitimacy of EU decision-making"; noting, however, that:

... such concerns pale when compared to the limitations of more traditional intergovernmental bargaining conducted outside the EU framework. Seeking to negotiate "country specific" Treaty amendments obviously still requires unanimity among the Member States, and opens the door for other countries to bring their own demands to the table, some of which may not serve the UK national interest.

3.3 A new EU institutional structure?

In [written evidence to the FAC on 22 May 2012](#), Open Europe thought the UK should "fully embrace a formalised EU structure based on different modes of membership, based on ... the understanding that Britain will not join the euro". Unlike some analysts, Open Europe did not think the UK would be marginalised by such a relationship.

2.2. The notion that such a multi-faceted EU structure would leave the UK on the side-lines is misplaced: the UK is one of EU's 'big three' economies; it is a large export market; remains a genuine global player; a big net contributor to the EU budget; is home to Europe's financial centre and a nuclear power. The rest of the EU will listen to the UK if it comes up with a constructive agenda. In the EU debate, "influence" is a term too often used – particularly by those who favour the status quo – in a rather lazy and undefined way. Those who worry about loss of influence must give concrete examples of where this is happening and, crucially, *what* the UK should be influencing.

The authors suggested three basic options for the UK's future relationship with the EU:

- Status quo;
- Changing the institutional framework from within, i.e. seeking new membership terms;
- Seeking a new institutional arrangement with Europe altogether, which most likely would involve withdrawal.

They did not believe the status quo was an option, while withdrawing from the EU would "raise more questions than it would answer (the alternative trading arrangements with Europe, i.e. the European Economic Area or a free trade agreement, would also require the 'approval' of EU partners and therefore raise many of the same issues as renegotiation from within)". The UK should in their view push for a new institutional architecture which could include:

2.5. The devolution of powers from EU – at least for the UK: David Cameron has labelled the current crisis "An opportunity, in Britain's case, for powers to ebb back instead of flow away and for the European Union to focus on what really matters." [12] This is the right thinking. Substantially reforming the institutional division of labour between the UK and the EU may be necessary to reconcile public opinion to EU membership. The pursuit of returning powers to the UK and further Eurozone integration is not mutually exclusive – on the contrary.

2.6. The priorities should be areas that have an everyday impact, for example:

- Devolving EU regional spending to richer member states, including the UK, which would save Britain billions and allow it to run a far more effective regional policy (no treaty change); [13]
- The UK should exercise its 'block opt-out' from around 130 EU laws in justice and home affairs, which it could do unilaterally under the Lisbon Treaty (by 2014 – no treaty change); [14]
- As noted below, there needs to be a better balance between European market access and control over vital national economic interests, for example via a veto over disproportionate financial services law (treaty change); [15]
- At least part of the CAP should be re-nationalised (no treaty change); [16]
- A UK long-term objective should be to devolve social and employment law (treaty change). A short-term, intermediate objective should be to minimise the impact of the working time directive (no treaty change); [17]

- EU environmental legislation should be far less prescriptive. A compromise may involve overall targets set at the EU-level but member states free to meet them in whatever way they deem the most cost-effective (no treaty change).

2.7. Far stronger roles for national parliaments: This should include far greater scrutiny powers for MPs (for example a mandate-based system based around the Danish model, which could be achieved unilaterally) and pushing for parliaments to be given a "red card" option which would enable them to veto Commission legislation if there was a significant majority opposed (requiring Treaty change). [18]

2.8. European cooperation must be a two-way street: As noted above, it simply has to be possible under the Treaties for powers to flow back to member states. There are a number of ways in which this could be formalised. For example, the Lisbon Treaty already allows for so-called "enhanced cooperation", whereby a group of member states are free to pursue a policy separately if not all 27 are able to agree. This has already happened in areas such as family law and an EU patent. However, there is no reason why this cannot also work in reverse, with a group of countries deciding to repatriate powers or EU laws, even though it may not be politically possible for all 27 countries to do so.

Footnotes:

[12] From David Cameron's speech at the Lord Mayor's Banquet, 14 November 2011

[13] See Open Europe , 'Off target: The case for bringing regional policy back home', January 2012, <http://www.openeurope.org.uk/Content/Documents/PDFs/2012EUstructuralfunds.pdf>

[14] See Open Europe , 'An unavoidable choice: More or less EU control over UK policing and crime law', January 2012, <http://www.openeurope.org.uk/Content/Documents/PDFs/JHA2014choice.pdf>

[15] See Open Europe , 'Continental shift: Safeguarding the UK's financial trade in a changing Europe'

[16] See Open Europe , 'More for less: Making the EU's farm policy work for growth and the environment', February 2012, http://www.openeurope.org.uk/Content/Documents/Pdfs/CAP_2012.pdf

[17] See Open Europe , 'Repatriating EU social policy: The best choice for jobs and growth?', November 2011, <http://www.openeurope.org.uk/Content/Documents/PDFs/2011EUsocialpolicy.pdf>

[18] Open Europe, 'The case for European localism'

3.4 A trade-based relationship?

Open Europe concluded in their June 2012 report, "[Trading Places: Is EU membership still the best option for UK trade?](#)" that the UK should negotiate "a new set of membership terms", including the UK remaining a full member of the customs union and single market in goods and services, which would allow the UK to remain at the heart of EU cross-border trade, but "substantially reducing the non-trade EU involvement and costs whenever possible"; including repatriating EU powers to the UK.

A free trade relationship was proposed in 2005 by Professor Patrick Minford,¹⁷ Vidya Mahambare¹⁸ and Eric Nowell¹⁹ in "Should Britain Leave the EU? An Economic Analysis of a

¹⁷ Professor of Applied Economics at Cardiff Business School, Cardiff University

¹⁸ Cardiff University and Liverpool University Management School

¹⁹ Cardiff University and University of Liverpool

European Free Trade Area (EFTA)

Iceland, Norway, Switzerland and Liechtenstein are all EFTA members. The original 1960 agreement was reached between countries that sought the benefits of trade without full membership of the then EEC. EFTA countries first lowered tariffs between themselves, and then signed bilateral Free Trade Agreements (FTAs) with the EEC from 1973 onwards. The EEA Agreement superseded those with Norway, Iceland and Liechtenstein. A number of countries that are now EU Member States were formerly EFTA members. The UK was a founder EFTA member, alongside Denmark, Norway, Sweden, Austria, Switzerland and Portugal. EFTA is a free trade area, rather than a customs union like the EU: Member States set their own tariffs, and can reach independent FTAs.

EFTA now has FTAs with 32 countries: Albania, Canada, Chile, Colombia, Croatia, Egypt, Gulf Cooperation Council (GCC), Hong Kong, China, Israel, Jordan, Republic of Korea, Lebanon, Macedonia, Mexico, Morocco, Palestinian Authority, Peru, Serbia, Singapore, Southern African Customs Union (SACU), Tunisia, Turkey, Ukraine.

EFTA has three intergovernmental institutions: a Secretariat, a Surveillance Authority and the EFTA Court.

member.

Troubled Relationship". In the [Introduction, Summary and Conclusions: Why the UK should Renegotiate or Leave the EU](#), they suggested that, by agreement, the UK "should leave the EU's protective agreements altogether", including the CAP, tariffs and anti-dumping measures, "and resume unilateral free trade".

The agreement would place the UK outside the EU's protective arrangements; non-discrimination would be agreed, so that we would have the same access to the EU market as any WTO non-EU member and EU members would have the same free access to the UK market as any WTO

They suggested that if there were "genuine concern about the EU pursuing discriminatory trade policies" against the UK, the UK could also join NAFTA "to create countervailing power in the event of trade disputes". The UK should continue to participate in single market discussions for services, "cooperating on a case-by-case basis to create new agreements", adhere to existing competition agreements, continue in freedom of movement of capital and labour arrangements, and continue to participate in other policy areas by specific agreements in each case. "The 'social dimension' of the EU, including the Working Time Directive imposed for 'health and safety' reasons under the Single Market laws, would be abrogated in the UK". EU law in general would no longer be binding on the UK; only "agreements explicitly made with the EU" would be incorporated into UK law. Minford et al described an interesting arrangement for UK exporters:

In whatever markets EU prices are kept up by the operation of an implicit cartel forcing potential low-price exporters to raise their EU prices – an arrangement we have suggested could be the most widespread of all the non-tariff mechanisms in EU use – then UK exporters too would be subject to this cartel. Ironically, this would benefit them considerably, just as it benefits other low-price participants in the cartel, provided they have a good market share. UK exporters are well established in the EU market and could well find that they continue to do well in it after UK exit to free trade. Since this situation would be costly to the EU and would draw wide attention to the existence of such cartel arrangements, the result could be greater pressure for EU competition, which would be beneficial to EU members. Such a development would bring about greater harmony in the long term in relations between the UK and the EU, making possible closer cooperation in trade policy, a key area from which the

UK would have withdrawn. UK taxpayers would provide UK farmers and manufacturers with transitional assistance because an EU exit would lower the prices they received for their produce, and the matter of farm and rural support would have to be tackled with a long term package “that rewarded farmers for preserving the rural environment and freed them to carry out entrepreneurial development of their business and their assets (especially their land)”.

Open Europe elaborated on what the UK should do to bring about a different, trade-based, relationship with the EU in its *Trading Places* report:

a) UK-level

Continue to boost trade through commercial diplomacy

Although trade negotiation remains an exclusive EU competence, the UK retains the power to promote UK business and exports to non-EU countries, something which the current Government has made a priority. The current destinations for UK’s exports do not correlate well with forecast GDP growth in various world markets. Only 1.4% of UK exports go to India, expected to grow on average by 8.1% a year up to 2050 and only 2.35% to China forecast to grow at 5.9%.

This is an important exercise for two reasons. Firstly, boosting UK trade with emerging and fast-growing economies is clearly beneficial in its own right but, secondly, the less the UK depends on the EU for trade, the stronger Britain’s negotiating position when it comes to reforming other aspects of its EU relationship which represent the costs of membership.

The current Government has been commendably active but more can always be done.

Increase trade expertise in Whitehall

The UK should become a centre for international trade expertise. The UK should increase its input into EU and world trade talks by developing trade expertise on a cross-departmental basis in the FCO, HM Treasury and BIS. The UK cannot afford to outsource its trade policy to the EU. As we have seen, the UK’s trade interests often differ from other member states, so it cannot rely on others to make its case for it.

A cost-benefit analysis of the EU and the alternative options

The UK Government should commission an extensive cost-benefit analysis of UK membership of the EU compared with the alternatives, a process that would serve to both inform and stimulate debate. It is evident that the choices are not simple and that a better understanding of the issues would focus minds on what the UK’s priorities should be both within and without the EU.

137 *Open Europe*, ‘Continental shift: Safeguarding the UK’s financial trade in a changing Europe’, 2012; <http://www.openeurope.org.uk/Content/Documents/Pdfs/continentalshift.pdf>

Benefit Cost

b) EU-level

Secure a ‘free trade’ EU Commissioner

One of the most significant recent UK failures in the EU was the failure to gain an economic portfolio in the current Commission. The deal reached in 2009, in which the UK gained the EU Foreign Minister and France's Michel Barnier was appointed Internal Market and Financial Services Commissioner, was a major strategic mistake, with the UK now often fighting rear guard battles on financial services regulation designed by officials who either do not understand or are hostile to financial services. When the next Commission is appointed in 2014 the UK should use all its influence to gain the Internal Market or Trade portfolios, or at least ensure they go to representatives of economically liberal states such as Sweden, the Netherlands, Ireland or the Czech Republic.

Continue to make the case for free trade and seek allies

The UK Government must continue the argument for EU free trade and remain on the lookout for creeping protectionism.

- The UK should increase its presence in the EU institutions at all levels.
- The UK should seek to create a durable alliance for free trade and liberalisation. There are a number of states, such as Sweden, the Netherlands and Czech Republic that see the need for reform. Better relations with Germany on economic matters could be a great strength.
- Push for 'better regulation' agenda. The UK should seek to apply a filter at an early stage of EU decision making, for instance pushing for a tough independent impact assessment board.¹³⁸

To aid all of the above the UK should set out a clear consistent vision for the UK within a reformed EU based on an economic case for liberalism and structural reform that others can rally behind.¹³⁹

Use 'enhanced cooperation' to restart services liberalisation

The UK should also explore all the possibilities under the EU Treaties' enhanced co-operation mechanism, which is currently being used to establish an EU patent office. There is further potential for likeminded states to continue liberalising services in other areas including, for instance, energy and the digital economy. In order to do this the UK would need to find eight other likeminded states and gain the approval of the EU institutions.¹⁴⁰

Back an EU/eurozone structural reform agenda

The Lisbon Agenda aimed to make the EU "the most competitive and dynamic knowledge-based economy in the world" by 2010. It failed. However, the eurozone crisis presents an opportunity for the entire EU to embark on necessary long-standing structural economic reforms. The UK should get on the right side of the argument by throwing its weight behind a new liberalising economic agenda instead of succumbing to the temptation to lecture the eurozone on how it should be designed in future.

¹³⁸ See Anthony Browne & Mats Persson "The Case for European Localism", Open Europe; www.openeurope.org.uk/research/EUlocalism.pdf

¹³⁹ For ideas on this see Christopher Howarth's article "If he wants Britain to have a vision for Europe, David Cameron should appoint a European Secretary" on Conservativehome; <http://conservativehome.blogs.com/platform/2012/04/christopher-howarth-if-he-wants-britain-to-have-a-vision-for-europe-david-cameron-shouldappoint-a-e.html>

¹⁴⁰ See Articles 20 and 329 of the EU Treaties.

3.5 An economic relationship?

In an article in the [Daily Telegraph, 30 June 2012](#) the former Conservative Defence Secretary, Liam Fox, called for a renegotiation of the UK's relationship with the EU. The UK electorate, he said, had voted for one thing and been delivered another, and had been persuaded to do so by people who "were all too aware of this deception". He spoke of public "resentment", "fuelled by a lack of choice at subsequent general elections, because of the major parties' consensus on the subject, and by the absence of a second referendum". He did not call for an in/out referendum, but for a renegotiation of the UK's EU membership

I believe this is the moment for Britain to negotiate a new, looser and largely economic relationship with our continental neighbours. It is not we in Britain who have brought about the fundamental change in the nature of the EU – we stayed outside a single currency project whose flaws have turned out to be exactly as we envisaged. But that change is the new reality and it must be faced.

There are those who call for a simple "in or out" referendum to be held in Britain soon. I believe this would be a huge error with enormous tactical risks. It is not a coincidence that some convinced euro-enthusiasts support this course of action.

Rather, I would like to see Britain negotiate a new relationship on the basis that, if we achieved it and our future relationship was economic rather than political, we would advocate acceptance in a referendum of this new dynamic. If, on the other hand, others would not accede to our requests for a rebalancing in the light of the response to the euro crisis, then we would recommend rejection and potential departure from the EU.

For my own part, life outside the EU holds no terror. I believe globalisation will increasingly force countries to co-operate more closely on the basis of functional commonality rather than geographical proximity. It would, though, given our economic interdependence be to the advantage of all to create a more stable and mutually agreed compromise.

A few days later, in a [speech on 2 July 2012](#) to the Taxpayers' Alliance (TPA), Liam Fox again called on the Government to negotiate a new relationship with the EU based on economic rather than political considerations. He raised the matter of a referendum following renegotiation, and regretted that if this approach failed, "we would have no alternative but to recommend rejection and consider departure from the European Union". He reiterated the feelings of resentment and deception in 1973 and 1975, and the possibility of life outside the EU.

3.6 Leave the EU but stay in the EEA?

The EEA Agreement extends the EU single market – and its 'four freedoms', of goods, services, people and capital – to include Norway, Iceland and Liechtenstein. As with EFTA, the EEA Agreement is a regional free trade agreement, not a customs union. EEA countries make annual financial contributions to the EU for access to its single market. The EEA does not cover the following EU policies:

- Common Agriculture and Fisheries Policies (although the Agreement contains provisions on various aspects of trade in agricultural and fish products);
- Customs Union;

- Common Trade Policy;
- Common Foreign and Security Policy;
- Justice and Home Affairs (even though the EFTA countries are part of the Schengen area); or
- Monetary Union (EMU).

EEA States must adopt EU standards and follow EU single market directives. Although the EEA does not cover the Common Agricultural Policy (CAP) or Common Fisheries Policy (CFP), some market access is allowed. Following negotiations between the EC and EFTA on the creation of the EEA, an agreement was reached allowing Iceland access to EC/EU markets free of tariff for most of its marine exports and partial access to EU waters in return for a quota of catch by EU fishing vessels in Icelandic waters. Norway adheres to EU fisheries conservation measures and the quota system, but is not part of the CFP or CAP.

Liechtenstein, Norway and Iceland have no representation in the EU institutions and only indirect influence – including the right to be consulted – on EU legislation affecting them. An EEA Joint Committee works to extend EU regulations and directives to the non-EU members of the EEA (with the EU represented by the European Commission). The EEA Council – the members of the EU Council in its General Affairs and External Relations formation and one representative each for the EFTA-EEA country governments – meets twice a year.

Switzerland is in EFTA but not in the EEA and its trade agreement with the EU is conducted on a bilateral basis. It is not in the CAP or CFP, but is in the internal market except for services. It contributes to the EU budget in various ways.

Norway, Iceland, Liechtenstein and Switzerland all participate in Schengen co-operation, which involves:

- being included in the area without checks at internal borders;
- applying the provisions of the Schengen *acquis* and of all Schengen-relevant texts adopted pursuant to it;
- being involved in decisions relating to Schengen-relevant texts, but without the right to vote.²⁰

Those countries that are part of both the EEA and Schengen have committed to adopting altogether about two thirds of the *acquis communautaire*.

Ronald Stewart-Brown, Director of the Trade Policy Research Centre, did not think the EEA option would suit the UK. He argued before the [Conservative “Fresh Start” group in May 2012](#) that “the most promising approach would be to negotiate a new, essentially inter-governmental trade agreement, based on a continuing customs union and structures to preserve free movement of goods, with other chapters covering services, intellectual property etc”. This, he thought would accord with what the electorate voted for in 1975, and although other EU Member States would not like the arrangement, he believed it could be ‘bought’:

²⁰ [“The Schengen area and cooperation”](#), *Europa summaries of EU legislation*, 3 August 2009 [accessed 26 September 2011]

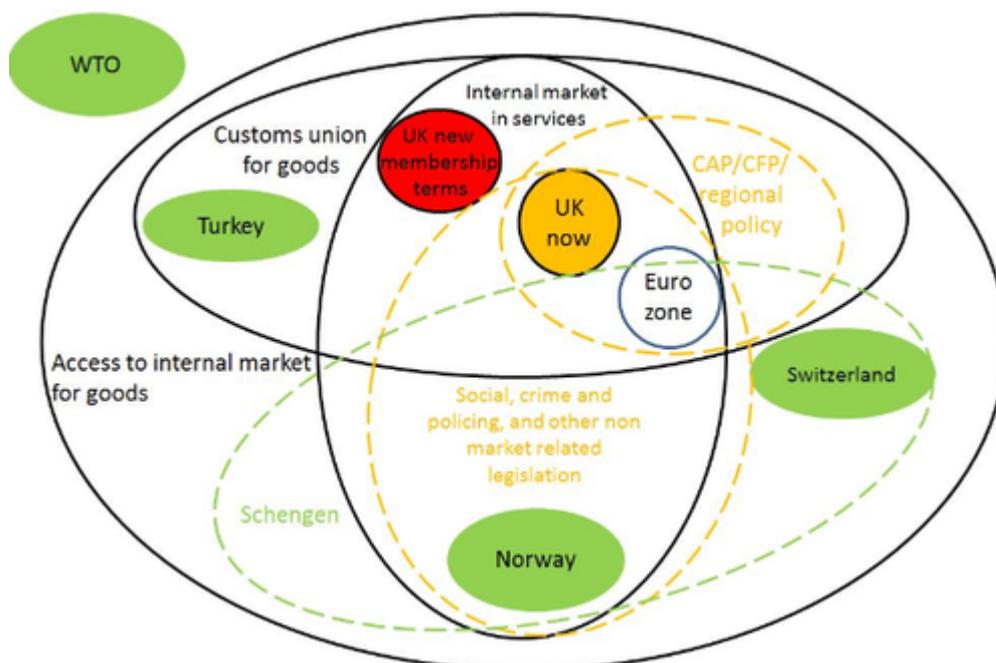
Of course our European friends would not agree immediately. But money talks, and as a price for agreement we could obviously offer to leave some of our present £12 billion a year contribution to the EU budget on the table. We would have to seek to bring the UK business establishment round to our way of thinking. Not only bodies like the CBI and the Institute of Directors. But also opinion formers like the Financial Times and the Economist.

It was asked what leverage the UK has for repatriating powers back from the EU. Surely they need us more than we need them?

3.7 Single Market plus 'pick and mix'?

Christopher Howarth and Stephen Booth, in ["Trading Places: Is EU membership still the best option for UK trade?"](#) June 2012, envisaged the UK in a different relationship from its present one. The UK would remain a full member of the single market in goods and services and the EU's customs union, but take a 'pick and mix' approach in other areas of EU policy. "This would achieve a vital reduction in the non-trade costs of EU membership, such as the EU budget and the burden of regulation, while allowing the UK to remain at the heart of the EU's cross-border trade".²¹ The authors conclude that "The Norwegian, Swiss and Turkish options do not constitute off-the-peg models that the UK can adopt, but are all products of individual countries' characteristics illustrating that a 'UK model' is achievable, but one that is a product of the UK's circumstances".

In their model, illustrated below, "the UK remains part of three circles: customs union for goods, access to internal market for goods and access to internal market for services. In addition, it is conceivable that the UK may wish to retain its opt-in arrangement in justice and home affairs and participate in a far better targeted and modernised EU budget":



The Open Europe authors also consider possible objections to such a model:

²¹ Open Europe blog, Christopher Howarth, 11 June 2012

- There are usually three objections to such a model. First, it involves ‘free riding’, i.e. the UK wants all the benefits of the single market but to pay none of the costs. Second, it will trigger demands for carve-outs from other member states as well as potentially weaker state aid controls which would hurt liberalisation.

Third, the UK could lose ‘influence’ by not being part of all EU policies. In addition, there may be difficulties in re-designing the EU institutions, such as the European Parliament, around different circles of membership, though this is likely to be overcome. Indeed, the Lisbon’s Treaty ‘enhanced cooperation’ procedure has already set an institutional precedent for this. It could be achieved by member states in the Council or their MEPs in the European Parliament not voting on policies to which they are not party.

- While these counter-arguments need to be taken seriously, none of them fundamentally undermine the overwhelming case for renegotiation within the EU. In particular, the idea that the UK is free riding or will end up with a worse deal in trade assumes that EU membership for the UK (and other member states) is currently “Pareto optimal” i.e. there is no other possible outcome of European cooperation that makes every member state at least as well off and at least one member state strictly better off. Loss of influence is a more complicated argument, particularly if there is overlap between different policies, i.e. the euro and financial supervision and regulation. As we have pointed out elsewhere, these areas may require additional safeguards for the UK.¹³⁷ In the end, given trends in the eurozone and in UK public opinion, a new UK model for EU membership may not only be desirable, but also inevitable.

4 What would the UK have to do?

4.1 EU Treaty amendment

A renegotiation of the UK’s present terms of membership would require Treaty amendment, the unanimous agreement of Member States and ratification according to constitutional traditions. However, there is some evidence that the EU Commission and other Member States are becoming less tolerant of demands for special terms in general and for the UK in particular. The UK Government’s veto of the Fiscal Compact in December 2011 did not result in the UK obtaining ‘guarantees’ in return for supporting the Compact, but had the unintended consequence of the other Member States deciding to proceed with an intergovernmental Treaty on closer fiscal union without the UK.

There would be no obligation to hold a referendum on any new relationship with or within the EU, but the Government could legislate for a referendum if it wished, as it did in 1975 (see below).

A repatriation of EU law to the UK or renegotiation of the UK’s relationship with the EU would not be automatic. Legislation would be needed to repeal or amend UK laws that had implemented EU law, and this would not be straightforward. A renegotiation of the UK’s relations with the EU would require legislation to amend the *European Communities Act 1972* to provide for the new relationship, and for specific measures. The November 2011 [Open Europe report on social policy](#) sets out how repatriation might be achieved, considering three options: Treaty change, the renegotiation of specific directives and unilateral UK action - which would be an ‘illegal’ route:

It is clear that any attempt to repatriate powers will be a huge challenge, given that this will require agreement from 26 other national governments and that a comprehensive approach will require renegotiation of the EU Treaties. It is also

clear that if a UK Government is to successfully repatriate powers, it needs to have leverage with its EU partners and be willing to spend a lot of political capital. In addition, it may have to make other concessions in return.

This does not mean that repatriating powers is an impossible task. Greater eurozone integration may need one or more EU Treaty changes, over which the UK has a veto. This could provide the UK with the opportunity to insert a protocol, potentially on social policy, as part of the wider reshaping of the EU architecture.

However, it will be important to separate short-term eurozone crisis management, a crisis which could have direct economic consequences for the UK if it spirals out of control, from the political settlement that is likely to follow in its wake and which can be spread over years. The former is not suitable for horse-trading, while, just as any other member state, the UK has little choice but to engage and seek to maximise its national interest in the shaping of the latter – particularly in light of the potential formation of a tightly integrated eurozone core.

Regardless, the risk with this strategy is that Germany, France and the other eurozone members push ahead with a eurozone-only treaty, outside the wider EU framework, with a similar structure to the original Schengen Treaty. This would strip Britain of its veto and therefore leverage. But even so, Britain potentially has the size and clout to achieve comparable concessions – it is one of the EU's 'Big Three', presides over a big market and is a major net contributor to the EU budget.

The EU often works by consensus, and if a member state – and one of the biggest in particular – sets its mind on a certain task, it is very difficult for the rest of the club to ignore it. No matter what happens, Britain will need to play a long strategic game and prioritise what it really wants to get out of the EU – social policy would be one of many areas to consider. Winning in Europe is rarely achieved through a big bang strategy, but through agenda setting and endless repetition.

4.2 The 1975 UK referendum on EEC membership

In 1970 the Prime Minister, Edward Heath said that further European integration would not happen “except with the full-hearted consent of the Parliaments and peoples of the new member countries” (Denmark, Ireland and Norway). However, there was no UK referendum on UK membership, and in January 1972 the UK and the other three countries agreed to the Accession Treaty.²² After the passage of the *European Communities Act 1972* (ECA), the UK joined the EEC on 1 January 1973. The Labour Party was divided, both on the matter of EEC membership and on the question of whether accession ought to be subject to a referendum. Labour, which had been in opposition since 1970, was highly critical of the conduct of the entry negotiations and the results achieved by Edward Heath's Government.

In April 1972, the anti-EEC Conservative MP, Neil Marten, tabled an amendment to the *European Communities Bill* which called for a consultative referendum on UK entry. Although Labour had previously opposed a referendum, the Shadow Cabinet supported Marten's amendment. For the February 1974 general election, Labour's manifesto promised renegotiation of the UK's terms of membership and a consultative referendum on continued membership under the new terms, if they were acceptable. In the October 1974 Labour

²² Norway later voted against membership in a referendum.

election manifesto, this became a pledge that a future Labour Government would “give the British people the final say, which will be binding on the Government - through the ballot box - on whether we accept the terms and stay in or reject the terms and come out”.

On 1 April 1974 the then UK Foreign Secretary, James Callaghan, announced to the EEC Council of Ministers that the Labour Government intended to fulfil its election manifesto pledge to renegotiate the terms of the UK’s EEC membership, calling for a “fundamental renegotiation of the accession treaty”. As Simon Young commented in an article in *The World Today*, September 1974, in Europe “This was widely treated as a deeply shocking statement”. He described the UK demands:

Although the new British Government did not challenge the principle of British accession itself, it nonetheless hoped to obtain improvements and amendments if the United Kingdom were to remain within the Community. In particular, it wanted to obtain an extension to the preferential terms agreed with regard to the transitional period, the purpose of which was to allow the entry of Caribbean sugar and New Zealand butter into the United Kingdom.

The British also demanded a reduction in the contribution to the Community budget and the renewal of direct subsidies, or deficiency payments, to small farmers in the poorest regions. Cornered by the left wing of his party, Harold Wilson finally had to accept a referendum on the principle of British accession to the EEC following a renegotiation of the terms of accession.²³

Harold Wilson returned as Prime Minister after the October 1974 elections, again promising to renegotiate the terms of Britain’s EEC entry. In December 1974 he formally requested a renegotiation of the UK’s membership terms at the European Council. On 26 February 1975 the Government published a White Paper announcing the referendum to be held after the results of renegotiation were known.

The European Council agreed to new terms for the UK in Dublin by 11 March 1975 and renegotiation largely ended. The Prime Minister told the Commons the next day that after successfully agreeing terms on the budget and on New Zealand, the Government had “taken our discussions within the Community on renegotiation as far as they could go”.²⁴ On 26 March 1975 the Referendum Bill was published and on 31 March 1975 came a White Paper (Cmnd 6003) setting out the results of the UK renegotiation. On 9 April 1975 the Commons voted by 396 to 170 to continue in the Common Market on the new terms.

The post-legislative referendum was held on 5 June 1975. The referendum was not directly related to the White Paper on renegotiation, but the preamble referred to it. The referendum question was much broader: “Do you think the UK should stay in the European Community (Common Market)?”

There had been considerable debate in 1974 and 1975 on the political and practical difficulties that withdrawal from the EEC would involve. Reginald Maudling, who became Shadow Foreign Secretary in February 1975, also pointed out in the debate on the European Community on 8 April 1975, “by leaving the Community we should be breaching a treaty is of considerable significance and should not be overlooked” (c 1362):

²³ Centre Virtuel de la Connaissance sur l'Europe (CVCE), “[The British call for renegotiation](#)”, 11 August 2011

²⁴ HC Deb 12 March 1975 vol 888 cc509-22

In spite of the apparent outrage in Europe, a renegotiation was agreed. Why did the other Member States agree to this unusual request, made so soon after the UK had signed its accession treaty and joined the EEC? The French Government had some reservations, but the other seven Member States were willing to make concessions to the UK “in order to avoid a victory for the opponents of European integration, an outcome which would have been damaging to the entire unification process”.²⁵ In other words, they agreed for fear of something worse – a future anti-EEC UK Government which could exercise its veto to prevent future Treaty amendments, further integration or the development of any Community policies of which it disapproved.

4.3 Potential obstacles to a new relationship

Tim Bale, professor of politics at Sussex University, does not think the other EU Member States will agree to the UK cherry-picking bits of the EU Treaties that it wants to participate in. To other Member States, “this is simply an attempt at a free ride”. Every Member State would like to have free access to EU markets without conforming to EU rules, “But it doesn’t work like that. They’re probably deluding themselves if they think they can get anything other than symbolic concessions on the part of the other member states”.²⁶

Professor David Phinnemore, of Queen’s University Belfast, discussed options for the UK in [written evidence to the FAC, 22 May 2012](#). He considered the preference expressed by some for renegotiation “as some form of middle way between the status quo and withdrawal”, emphasising that the UK could not “dictate the terms of any renegotiated form of membership”, which would have to address the “the individual and collective interests and preferences of all member states and not just those of the United Kingdom”. He continued:

It is to be expected that the EU’s institutions will also seek to influence the substance of any renegotiations with the European Parliament likely to demand a role in the formal approval of any change. As regards the collective interest, any renegotiated form of membership would set precedents for other actual and would-be members as well as the terms of accession governing enlargement. Renegotiation would have implications well beyond the narrow terms of the UK’s continued membership.

Phinnemore points out that there is “only one form of EU membership: membership”; there are no other forms of membership such as associate or affiliate membership; and notwithstanding a few specific opt-outs, acceding States are expected to subscribe not only to the *acquis communautaire* but also to the political aims of the EU, such as “ever closer union”. He also points out, however, that there are other relationships with the EU, such as membership of the European Economic Area (EEA), which has the major drawback of non-participation in EU decision-making, and other relationships within the EU which have come about by the non-participation of some Member States in projects such as the euro, Schengen, defence policy etc. Of these arrangements he says:

11. Each of these arrangements alters the degree of a state’s membership and has been developed following negotiation between the member states. Each – with the exception of the eurozone opt-outs – also remains rather fuzzy, the boundaries shifting as the relevant *acquis* evolves and opt-ins are exercised. None has been formalized through the creation of a particular form of named membership that is

²⁵ “[The British call for renegotiation](#)”, 11 August 2011

²⁶ [Macleans.ca, 13 July 2012](#) “Britain and the EU: Should they stay or should they go? If 100 Tory MPs get their way, a referendum will leave it to the public to decide”, Michael Petrou

made available – explicitly or implicitly – to others, whether current or would-be members. Only at the time that the relevant treaty change was agreed (e.g. Maastricht, Amsterdam, and Lisbon) was the variable degree of membership established.

Phinnemore notes a reluctance among EU Member States to formalise tiers of membership and suggests five reasons for this:

- securing agreement on what constitutes a second or third etc. tier of membership would be exceptionally difficult given the integrated nature of the *acquis* and the fact that unanimous agreement among the member states would be required;
- member states have studiously avoided any situation where they might be classified as a second-class member as with all certainty would be the case if tiers of membership were established;
- formalizing tiers of membership would necessitate a debate on the balance of rights and obligations associated with each tier leading potentially to differentiated levels of institutional representation and decision-making involvement;
- the existence of formalized tiers of membership could, and potentially would, necessitate a fundamental re-working of how the EU enlarges (e.g. regarding which tier should be the basis for negotiation) and oblige the EU to admit applicant states to some form of membership earlier than would normally be the case;
- if certain rights of membership (e.g. relating to institutional representation or decision-making) were clearly associated with only specific obligations being undertaken, a non-member state meeting such obligations under a contractual arrangement with the EU could legitimately claim such rights.

He did not think there would be much appetite among the EU-27 for formalising different tiers of membership, as the “default option” has traditionally been “for any deviations from ‘full’ membership to be negotiated on an *ad hoc* basis and only when absolutely necessary to secure agreement on a wider set of treaty reforms”. In other words, in the past special treatment for one or two Member States has been agreed in the interests of getting agreement on important reforms. Notably, this did not happen in December 2011, when the UK failed to secure ‘guarantees’ for its financial services sector in return for agreeing to the fiscal compact for eurozone States.

Phinnemore thinks there may be scope for further UK “refinement” of its relationship with the EU - although such a refinement, if agreed by the other EU Member States, might not satisfy the British electorate in a referendum - but points out that “media and academic accounts of successive rounds of treaty reforms reveal a persistent frustration with UK demands for exceptions, exemptions and other special treatment. It may be that the United Kingdom has at last exhausted the patience of other member states”. He postulates that renegotiation would probably mean Treaty reform, “during which the UK would be expected to make concessions to the other member states allowing them to pursue further integration”. In this case, the gap between ‘UK’ and ‘full’ membership would increase even further. This in turn could lead to a questioning of whether the UK, with its reduced commitments and obligations, should retain membership benefits such as representation in the EU institutions and participation in EU decision-making. Phinnemore suggests the UK would be “faced with its own West Lothian question” in the Council, Parliament and other EU bodies, and asks whether the UK could legitimately require acceding States to accept in full the *acquis* if it did

not agree to do so itself. “A UK Government will ... presumably wish to avoid accusations of double-standards”.

5 Two reviews of the UK’s relationship with the EU

5.1 ‘Fresh Start’ Green Paper

On 10 July 2012 the group of Eurosceptic Conservatives known as the ‘Fresh Start’ group published its “Options for Change” Green Paper: [renegotiating the UK’s relationship with the EU](#).²⁷ Proposed reforms included:

- A UK veto of EU financial services regulation
- Reform of the Common Agricultural Policy
- Protection for UK fishing fleet and controls to prevent over-fishing
- Opt-outs from "intolerable" social and labour market legislation
- Earnings and skills limits for migrants entering the EU
- Scrapping UK benefits for illegal migrants
- Boycott of defence initiatives which duplicate NATO plans
- Limiting increases in EU budget

The Group, which is headed by Conservative MPs Andrea Leadsom, Chris Heaton Harris and George Eustice, set out the purpose of the project as follows:

The EU now has a fundamental influence on the UK’s social, economic and political landscape, and yet, since the UK joined the European Economic Community in 1973, it has never shared the strategic vision of the organisation’s founder members. Despite that, and the fact that the UK already has a number of opt-outs from the process of EU integration, Britain has failed to assert an alternative vision of its place in Europe. The UK has now reached a point where a reassessment of its position in Europe is essential. Not all Member States are on the same route to “ever closer union”, as set out in the EU treaties.

The Fresh Start Project is not about leaving the EU; it is about a fundamental renegotiation of the UK’s relationship with it. We must resist any temptation among civil service negotiators to limit our focus to just one or two points in a negotiation. We need a substantial renegotiation and a shopping list of improvements and reforms to the status quo. What are important to us are matters of principle, not matters of negotiating expediency.

The Green Paper looks in detail at options for a different UK membership (e.g. the Norwegian, Swiss or Turkish options), and their costs and benefits; it also sets out proposed reforms by policy area and according to a colour-code indicating how they could be achieved. Green is for measures that can be achieved within the current EU legal framework;

²⁷ Executive summary at <http://www.eufreshstart.org/downloads/executivesummary.pdf>

amber is for those measures that require negotiated EU Treaty change, and red is those steps that the UK could take unilaterally that would involve breaking its Treaty obligations.

The Paper also suggests how the UK Parliament could improve the scrutiny of EU legislation in Westminster and increase UK influence in Brussels.

On a Foreword to the Paper, William Hague congratulated the Group on its “considerable piece of work with many interesting ideas that deserves and will receive proper consideration”, adding that it would make a “stimulating contribution to the policy debate which should be studied by everyone in politics who cares about this vital issue”.

5.2 Government review of EU competences

On 12 July 2012 William Hague launched the Government’s [Review of the Balance of Competences between the United Kingdom and the European Union](#) (Cm 8415). In his [statement](#) to Parliament he made no mention of repatriation of EU powers, but described the eurozone crisis as the background to the Review:

The crisis in the eurozone will almost certainly mean great changes for the European Union over the course of this decade. We understand the case for eurozone countries to take steps towards closer fiscal and economic integration as a logical consequence of monetary union. Given the UK’s place outside the euro, it is right that we have said we will not be part of that closer integration. We support the existence already of multiple forms of EU membership. This flexibility is in the interest of both the EU and UK. The EU is not and should not become a matter of everything or nothing.

As the European Union continues to develop, however, we need to be absolutely clear when it is most appropriate to take decisions at the national or local level—closer to the people affected—and in other cases when it is best to take action at the EU or global level. It would be rash to predict with certainty how the eurozone crisis will end, what solutions will be agreed upon and found to be workable and sustainable, and what choices other countries will make. Until we have a better idea of the answer to those questions, we will not know the decisions that all EU countries will be facing.

He told the Commons the Review will be:

... an audit of what the EU does and how it affects the UK. It will look at where competence lies, how the EU’s competences are used, and what that means for our national interest. It will be Government-led and will involve experts, organisations, individuals and our EU partners who wish to feed in evidence.

It will:

... provide a thorough analysis of what our membership of the EU means for our country and our future, an analysis which is currently notably absent. This body of work will allow everyone, those in Government, in Parliament and, most importantly, the British people themselves a far better understanding of an important part of the governance of the UK, on which to ground and develop this country’s policies in relation to the EU.

However, it will not “prejudge future policy and it will not be asked to look at alternative models for Britain’s overall relationship with the EU”.

Bill Cash intervened (c 472) saying that the initiative was welcome, but suggested the review was “not only about specific powers but about democratic power as a whole, and that that raises the question of the sovereignty of Parliament, and of the wording of the European Communities Act 1972 and its impact on the daily lives of the people of this country[?]”. He also thought it was “essential to incorporate all those questions in the review, as well as on the necessity of holding a referendum as soon as one can possibly take place[?]”. Pressed further by the Shadow Foreign Secretary, Douglas Alexander, and other MPs on the matter of a referendum, William Hague said the Review was not “about a referendum. We passed legislation last year that deals with the circumstances in which referendums will be held, and it is for each political party to explain the circumstances in which they would hold a referendum” (c 473). William Hague later told John Baron “that for any future public debates or a referendum of any kind about the European Union, this exercise will prove immensely useful—for the public, for Parliament and for all involved in the debate” (c 476). The Foreign Secretary insisted that the present Review, due to be completed in 2014, was a “process that will inform the wider debate. It might inform it in different directions, but it will help to ensure that the debate takes place on the basis of established facts”, and refused to commit the Government to a referendum on EU membership (c 482).

6 Conclusion

There has not been since 1974 a major renegotiation of a Member State’s terms of membership, but various Treaty amendments have taken account of specific issues raised or demands made by individual Member States during the amendment negotiations. The EU has proved fairly adept at taking a pragmatic approach to demands for special treatment from Member States. Negative referendum results on Treaty changes, or the threat of a negative referendum, have often given rise to tailored solutions enabling Treaty ratification and implementation to proceed. The UK has negotiated opt-outs from important EU policies, such as economic and monetary union, elements of the Area of Freedom, Security and Justice and Schengen, and the Charter of Fundamental Rights. Denmark, Sweden, Ireland, Poland, the Czech Republic and other Member States have also negotiated Treaty opt-outs. The thought of an EU without the UK was not a pleasant one for the European Commission President, José Manuel Barroso, who in an [interview with former Foreign Secretary David Miliband in the *New Statesman* on 12 July 2012](#), said:

I believe that Europe without Britain at the heart will be less reform-driven, less open, less an international Europe. That is why sometimes when I look at the debate in the UK, I ask myself: “How is it that this country is so open to the world, and apparently so closed to Europe?” It seems a contradiction.

Barroso also commented on the lack of influence the UK would have if it left the EU:

What I can see from Brussels is that, and also from a European perspective I find it a little bit ironic that, some people are suggesting for Britain a role comparable to that of, say, Norway or Switzerland. Norway and Switzerland are two marvellous countries I very much admire – the most advanced countries in the world, in fact, with great qualities of life. But I think Britain is expecting a bigger role in the world than small countries.

The fact that some are suggesting for Britain a role that is smaller than the one Britain already has today seems to me a little bit curious. When the Prime Minister of Britain meets the president of the United States, or the president of China, he has much stronger status and much stronger leverage because everybody knows that Britain is a country that is very influential in the shaping

of Europe as the biggest integrated market in the world, the first economy in the world, the biggest donor of development assistance in the world.

However, it is impossible to say whether the rest of the EU would agree in principle to renegotiate the terms of UK membership, or what they might concede. Reliance on a belief that the EU needs the UK more than the UK needs the EU may not survive another test of 'UK-fatigue' such as other EU Member States evinced at the end of 2011. If the UK did not secure EU agreement on a renegotiation, it could be left with a choice between staying in the EU on current or only slightly amended terms of membership, or leaving the EU altogether under Article 50 of the *Treaty on European Union* and negotiating trade and economic relations with it as a non-Member State.

7 Further reading

- Standard Note 6091, [In brief: UK-EU economic relations – key statistics](#), 20 October 2011
- Standard Note 6089, [In brief: leaving the European Union](#), 20 October 2011.
- Standard Note 6090, [Switzerland's relationship with the EU](#), 20 October 2011.
- *Open Europe*, "[Trading Places: Is EU membership still the best option for UK trade?](#)" June 2012, Stephen Booth and Christopher Howarth
- *Fresh Start* and other views on what the UK could do to negotiate a better deal for the UK in various policy areas:
 - [Social and Employment Law](#)
 - [Structural Funds](#)
 - [Financial Regulation](#)
 - [Policing and Crime](#)
 - [Common Agricultural Policy \(CAP\)](#)
 - [Immigration](#)
- Glenis Wilmott, Labour MEP, 23/03/2012, [Conservative calls to repatriate powers from Europe is really about taking rights away from working people](#).
- Norwegian EEA Review Committee report on Norway's agreements with the EU, January 2012. The following chapters are in English:
 - Official translation of [Chapter 1](#) which includes a brief overview of the Committee's main findings
 - Unofficial translation of [Chapter 13 - Other parties' views on Norway's agreements with the EU](#)
 - Unofficial translation of [Chapter 28 - The way forward](#)

- Official Norwegian Government brochure, “[Norway and the EU - partners for Europe](#)”
- *Public Service* “[The reality of British 'repatriation' of EU powers](#)”, 19 March 2012
- John Redwood, “[Bring home regional policy from the EU?](#)” 28 January 2012
- Centre for European Reform blog, 16 July 2012, “[What Central Europe thinks of Britain and why](#)”, Tomas Valasek
- *Taxpayers alliance*, “[Terms of Endearment: what powers would David Cameron need to repatriate to make EU association work?](#)” Dr Lee Rotherham, 2011
- *BBC News* 5 October 2011, “[EU treaty changes 'years away' – Hague](#)”
- *BBC News* 7 September 2011, “[Tory MPs seeking Labour dialogue over 'EU overhaul'](#)”
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- Open Europe, “[An unavoidable choice: More or less EU control over UK policing and criminal law](#)”, January 2012, Stephen Booth, Christopher Howarth and Vincenzo Scarpetta.
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- *Civitas: Institute for the Study of Civil Society*, May 2005, [Should We Stay or Should We Go? Two Views on Britain and the EU](#) Stephen Pollard
- HM Treasury, “[Literature review – economic costs and benefits of EU membership](#)”, 2010 (?)

- *European Movement Policy Paper 4* “[Relegated to the Second Division? Why Associate Membership of the EU would be bad for Britain](#)”, Diana Wallis MEP, July 2005