



**fresh start**  
— project —

**MANIFESTO FOR CHANGE**


**A new vision for the UK in Europe**

**Foreword from the Rt Hon William Hague MP, Secretary of State for Foreign and Commonwealth Affairs.**

I congratulate all my Colleagues, their staff and others who helped put together Fresh Start's Manifesto for Change. It is a well-researched and well-considered document full of powerful ideas for Britain's future in Europe and, indeed, for Europe's future.

Many of the proposals are already Government policy, some could well become future Government or Conservative Party policy and some may require further thought.

Europe is changing so fresh thinking is doubly welcome. It will be essential reading for all of us when we come to write the Conservative Party's next general election manifesto. I warmly congratulate everyone involved.

A handwritten signature in black ink that reads "William Hague". The signature is written in a cursive, flowing style.



# THE FRESH START PROJECT

## MANIFESTO FOR CHANGE

A new vision for the UK in Europe

January 2013

### Contents

1. Introduction .....	3
2. Trade .....	5
3. Regional Development Funds .....	7
4. Common Agricultural Policy .....	10
5. Common Fisheries Policy .....	13
6. Budget and Institutions .....	16
7. Social and Employment Law .....	20
8. Financial Services .....	23
9. Energy .....	26
10. Policing and Criminal Justice .....	29
11. Immigration .....	32
12. Defence .....	36

## **1. Introduction**

The status quo in the European Union is no longer an option. The Eurozone is facing up to the inevitable consequences of the financial crisis, and is moving towards fiscal and banking union. This is not a path that the British people will go down, and together with other non-Euro members of the EU, we must articulate and negotiate a new and different relationship for ourselves whilst remaining a full member of the EU.

Our ambition is to build on the success of the single market. We want to ensure the EU institutions protect and deepen the single market. We also want to protect British sovereignty, ensuring that the British Parliament can decide what is best for Britain. We do not share the vision of 'ever closer union' as set out in the EU treaties.

The UK has to tread a fine line between fighting for the best interests of Britain, while at the same time supporting our fellow Member States who wish to pursue further and deeper fiscal and political integration. This manifesto sets out the new relationship for Britain within the EU that we want our Government to achieve. Our success in the negotiation will mean a new and sustainable position for the UK within the EU.

We seek five significant revisions to the EU treaties:

- An emergency brake for any Member State regarding future EU legislation that affects financial services.
- The EU should repatriate competence in the area of social and employment law to Member States. Several EU members are already finding their attempts at structural reform are hampered by inflexible EU bureaucracy, and we should work with them to negotiate change. Failing that, we should seek an opt-out for the UK from existing EU social and employment law, and an emergency brake for any Member State regarding future EU legislation that affects this area.
- An opt-out for the UK from all existing EU policing and criminal justice measures not already covered by the Lisbon Treaty block opt-out.
- A new legal safeguard for the single market to ensure that there is no discrimination against non-Eurozone member interests.
- The abolition of the Strasbourg seat of the European Parliament, the Economic and Social Committee, and the Committee of the Regions.

We also seek a number of other reforms that can be achieved within the current treaty framework, either by the UK on its own (such as improving scrutiny in the UK Parliament, removing 'gold-plating', invoking the block opt-out for some policing and criminal justice measures) or following negotiation with other Member States (such as reforms in the EU Budget, in CAP and CFP, and repatriating regional policy).

In this regard, we note that the Council has the power to request the repeal or amendment of mixed competence legislation, particularly to ensure respect for the principles of subsidiarity and proportionality. This power is clearly referred to in Declaration 18 to the Lisbon Treaty and contained in Article 241 of the Treaty on the Functioning of the EU (TFEU). We urge the Government to take advantage of it.

Where EU legislation threatens to cause significant harm in the context of UK practice, for example where patient safety in the NHS is put at risk, and appropriate reforms cannot be negotiated at the European level, the UK should consider unilaterally suspending the relevant obligations until a long-term solution can be negotiated.

This manifesto proposes reforms in each of the following areas: Trade; Regional Development Policy; Common Agricultural Policy; Common Fisheries Policy; the EU Budget and Institutions; Social and Employment Law; Financial Services; Energy; Policing and Criminal Justice; Immigration; and Defence.

If all proposals were implemented, the UK would make significant savings to its contribution to the EU budget. We would also secure control over important policy areas such as Criminal Justice, Employment, Financial Services, and Energy. Equally importantly, we want our Government to require the EU to go further in terms of trade liberalisation, both within and outside the EU.

This Manifesto for Change is not about ‘cherry picking’; its goal is rather to articulate the necessary reforms that would lead to a more sustainable relationship for the UK in the EU.

Returning powers to Member States is not an impossible task. The 2001 Laeken Declaration by the European Council, which set up the Convention on the Future of Europe stated that the EU may “...adjust the division of competences....This can lead to restoring tasks to the member states.” And the UK does have allies, with the Dutch Prime Minister Mark Rutte, saying on 29 November 2012 “What we want to do is have a debate at the level of the 27 [member states] whether Europe is not involved in too many areas which could be done at the national level.”

Proposals for deeper fiscal and economic integration within the Eurozone will require changes to the EU treaties, presenting opportunities for the UK to also negotiate for treaty change. The recent agreement to introduce ‘double majority voting’ within the European Banking Authority was a ground breaking decision that clearly points to a new realism for all EU members. This is an historic opportunity, both to articulate a vision for the UK in the EU, and to negotiate the treaty changes needed to make it reality.

Whenever – and however – the British people are given the opportunity to decide the nature of the UK’s future relationship with the EU, the Fresh Start Project believes that we should be focusing our efforts on a robust but achievable renegotiation of our terms of membership.

## 2. Trade

The recommendations in this chapter would involve treaty change to introduce a new legal safeguard for the single market. Other recommendations would involve negotiation within the current structures.

- The EU is the world's largest economy and trading bloc, and accounts for some 40% of the UK's total exports of goods and services.
- We must maintain and expand the benefits of the single market. Non-tariff and technical barriers remain which limit EU growth. The UK should seek to secure a new legal safeguard for the single market and to push for genuine liberalisation of the single market in services.
- The UK should encourage the completion of more free trade agreements currently being negotiated by the EU, including with Canada, the USA, India and Mercosur.

### 2.1. Background

The EU is the world's largest economy and trading bloc. It accounts for 29% of global economic output, 15% of global trade in goods and 24% of overall global trade. The EU accounts for some 40% of the UK's total exports of goods and services, making it the most important market for UK business.

The crisis in the Eurozone has contributed to a downturn in UK exports to the EU. Although UK exports outside the EU have increased, they have not increased sufficiently to offset the decline in UK exports to the EU. There is a risk that UK businesses competing in growth markets outside the EU are undermined by over-regulation from the EU.

External trade policy is an exclusive competence of the EU; under the Lisbon Treaty the European Parliament enjoys powers of co-decision over trade policy with the Council. The EU has negotiated a number of Free Trade Agreements (FTAs) with countries and regions across the world and negotiations are ongoing in other countries and regions.

The benefits of the single market to the UK are more apparent in the trade of goods than of services. Services account for 71% of EU GDP, but only 3.2% of this is from intra-EU trade. The Department for Business, Innovation & Skills, has estimated that the completion of the single market in services could increase EU GDP by 14% over ten years.

The UK is the second most favoured global destination for foreign direct investment (FDI), and the first choice among global corporations for the location of their European HQs. This record is connected to the UK's access to the single market.

The benefits of the single market, to UK exports and to FDI, are generally accepted to be the reason Britain entered the EU and the main reason for our remaining a member. If the UK decided that, overall, the benefits to EU membership were outweighed by the costs; there are three alternative models of trading with the EU that have been considered, but found wanting:

- Joining the European Economic Area (as for Norway)
- Negotiating a series of FTAs (as for Switzerland)

- Negotiating a new Customs Union (as for Turkey)

Norway, Switzerland and Turkey have preferential trading arrangements with EU Member States but are subject to bureaucratic rules of origin (though only in agricultural products in the case of Turkey). Most importantly, their trade with the EU relies on accepting or complying with many EU regulations over which they do not have a vote. This would be a disastrous position for the UK in terms of services trade. The customs union to which Turkey belongs is restricted to trade in goods and does not include services.

## **2.2. Proposals**

We must maintain and expand the benefits of the single market. The European Parliament tends to have a more protectionist outlook than the European Commission and such a tendency must be resisted. We need to lobby for genuine liberalisation of the single market in services.

The UK should also seek a new legal safeguard for the single market. This would ensure that EU institutions and Eurozone members cannot discriminate against non-Eurozone member interests. This would require a change to existing EU treaties.

We should encourage the completion of more FTAs by the EU, including among others, with Canada, the USA, India and Mercosur. While this is the preferred route, if the EU proves unambitious or unsuccessful in these negotiations, it may be necessary for the UK to explore a means of negotiating more ambitious FTAs for trade in services with other economies in the future.

The UK has deep and historic ties to many countries and regions of the world, including to the Commonwealth. We should deploy British commercial diplomacy and UK Trade & Investment to capitalise on these links and support the growth of British trade with growing markets outside the EU. In addition, large diaspora populations living in the UK, and their links to their countries of origin, should be used to harness trading relations with those countries.

Government support for improving trade within and outside of the EU should extend beyond services provided by UKTI and the Foreign Office to the strengthening of business representation abroad as exemplified by the German Chambers of Commerce. There are effective British Chambers of Commerce abroad but the quality of representation is patchy. Government should work alongside Chambers to strengthen their capacity to promote UK exports.



### **3. Regional Development Funds**

The recommendations in this chapter would not involve treaty change. They would involve negotiation within the current structures, and the current long-term budget negotiations provide a once-in-seven-year opportunity to negotiate these changes.

- Almost 30% of the total EU budget is spent on regional development, to which the UK has made a net contribution of around £21 billion over 2007-2013.
- The UK should regain control over its regional policy by negotiating to limit awarding EU funds to Member States with GDP per head of less than 90% of the EU average. This would benefit 23 out of 27 Member States, and enable regional spending to be focussed only on the poorer Member States.
- UK regional policy should then be implemented via a 'fifth pillar' of the regional growth fund and a new infrastructure investment fund.

#### **3.1. Background**

Since the late 1980s the EU has run its own regional policy, through the EU budget, that extends across all Member States. This policy is implemented through 'Structural Funds' comprising the European Regional Development Fund (ERDF) and the European Social Fund (ESF).

Almost 30% of the total EU budget was allocated to spending on the Structural Funds over the period 2007-2013. This amounts to a sum of €280 billion and reflects a 43% increase as compared to the previous budgetary framework (the 2000-2006 budget allocation for the Structural Funds was €195 billion).

It is estimated that the UK will be making a net contribution to the Structural Funds (and to a much smaller EU 'Cohesion Fund' that only gives money to the poorer Member States) of around £21 billion over 2007-2013. This is the UK's contribution after the money it receives from the Structural Funds is taken into account.

The Structural Funds have serious flaws. These include:

- Allocation of support is based on EU regions that are too large – thus missing pockets of relative poverty and high unemployment.
- Planning of spending is often based on EU regions that do not fit local economic and political realities.
- They have a top-down structure; all spending plans require the approval of the European Commission and should comply with EU guidelines. This can frustrate local innovation.
- The EU will only provide some of the money for Structural Fund projects, with the remainder having to be found in the Member State in question. This can divert money from better-tailored national and local projects so as to unlock cash from the EU.
- There are no rigorous performance criteria linking disbursement of funds to clear results. Indeed, think-tank Open Europe found no conclusive evidence that the Structural Funds have had a positive overall impact on growth, jobs and / or regional convergence in the EU.

- There are excessively bureaucratic rules on how the funds must be administered. The EU management of these funds is focused on compliance not outcomes, with a resulting spend on bureaucracy rather than innovative interventions.
- For wealthier Member States, the Structural Funds recycle large amounts of money, via Brussels, not only within the same country, but often within the same regions. This is an ineffective and costly means of supporting those regions which underperform at a national level.

Negotiations among Member States and the EU institutions are now taking place over the shape and size of the Structural Funds for the period 2014-2020 and new legislation on the funds will be required.

### **3.2. Proposals**

The Government should limit the award of funds to Member States with GDP per head of less than 90% of the EU average. This change should be a priority in ongoing and future EU budget negotiations since it would result in 23 of the 27 Member States making a net saving or receiving more. If such a change had been implemented between 2007 and 2013, the UK would have regained control of £13bn of spending, allowing the UK to maintain existing levels of spending and providing a £4.2bn net saving the Government could have chosen to retain or reinvest in the UK.

The UK should also push for spending from the Structural Funds in the poorer Member States to be much better targeted on results, and commensurate with the ability of the recipients to manage and absorb the funding.

The ongoing negotiations over the EU's Multiannual Financial Framework offer an opportunity to negotiate this change. If this opportunity is missed, the UK should make repatriation of regional policy a priority in the next budget round.

For the UK, as a Member State which has the capacity to fund its own regional policy, the only reliable way of repatriating the Structural Funds would be to negotiate a secure settlement for those areas which are net beneficiaries of the funds within the UK. Between 2007 and 2013, only two regions in the UK (Cornwall, and West Wales and the Valleys) were net recipients. Many other regions of the UK received significant funds over this period, but they contributed far more to the EU Structural Funds via general taxation.

The UK should continue to support these regions via a 'fifth pillar' of the regional growth fund and a new infrastructure investment fund. In fact, if regional policy were repatriated, the savings from reduced administrative costs could be used to enhance the funds that were spent in these regions. The European Commission estimates that 3-4% of total funds are spent on administration.

Such an approach would ensure that the UK would have control over spending within its less competitive regions ensuring an improved targeting of funds to projects and infrastructure bids which will make a real difference to the regional disparity in economic performance which currently scars the UK. A strong focus on performance and outcomes could replace an

overly burdensome EU 'compliance' approach which places far too great an emphasis on administration of the funds rather than results.

Repatriation of regional policy will be difficult politically as some EU countries currently receive a large benefit from structural funds. However, a healthy majority of Member States would benefit from such an approach and with clever negotiation, it should be possible to attract strong political support.

## 4. Common Agricultural Policy

The recommendations in this chapter would not involve treaty change. They would involve negotiation within the current structures, and the current long-term budget negotiations provide a once-in-seven-year opportunity to negotiate these changes.

- The Common Agricultural Policy (CAP) accounts for around 40% of the EU budget, and the UK makes a net contribution of around £1 billion per year. EU farmers are also protected by tariffs, which distort trade, raise food prices in the UK, and harm farmers in the developing world.
- In the long-term, the UK should strive to return agricultural policy to Member States, but the political situation makes this almost impossible to achieve in the near future.
- The direct payments to farmers in Pillar 1 of the CAP should be phased out, and there should be a parallel reduction in red tape and regulation in order to ensure a globally competitive farming sector.
- Pillar 2 payments for environmental stewardship should be increased with new tradable environmental payments introduced to allow productive land to be more intensively farmed and marginal land to be more focussed on environmental stewardship.

### 4.1. Background

The CAP accounts for around 40% of the EU budget and costs around £45 billion per year. Despite reforms which have begun to move the CAP towards a more market facing approach, it remains a hugely bureaucratic and expensive policy, and one to which the UK makes a net contribution of around £1 billion per year.

Apart from the budgetary costs to HM Treasury, UK farming is also penalised by the CAP as the policy is not commonly implemented across the EU. UK farmers receive less money in both Pillar 1 and Pillar 2 than their counterparts in most other EU countries. The cost of administering the CAP is also burdensome for the authorities and farmers. Market management support systems also tend to increase the price of food for consumers. EU tariffs on agricultural imports from outside the EU also often add substantially to the cost of food for EU consumers. The OECD estimated that in 2008, EU tariffs added approximately €25bn of costs to consumers across the EU.

The European Commission has proposed a reformed CAP after 2013. This includes 30% "greening" of direct payments (where they are dependent on fulfilment of certain environmental actions) and new schemes for young and small farmers. It also proposes to cap payments to large farms and to have more equal distribution of payments to Member States in Pillar 1. However, it does not propose a reduction in the overall CAP budget.

The CAP has evolved over time, but the Commission's proposals do not address the key challenge for the future of farming which is how to feed a growing and more affluent global

population. Estimates suggest that the world will need to produce 70% more food in the next forty years to meet global population growth.

In the long-term, the UK should strive to return agricultural policy to Member States, and ultimately create a liberalised global market in agricultural products without significant subsidies. Member States could then implement measures to ensure the long-term viability of farms. However, political constraints, in particular the vested interests of farmers in the EU make this highly unlikely to achieve in the near term.

The UK should focus efforts on reforming the CAP, and as there is scope for substantial renegotiation approximately every seven years, this presents an opportunity for reform.

## **4.2. Proposals**

### **4.2.1. Competitive Farming**

The Government should be ambitious in seeking to reduce the CAP budget. Pillar 1 accounts for 80% of the CAP and these direct payments must be phased out. This must be done uniformly across all 27 Member States to prevent market distortion and unfair distribution of taxpayers' money.

Cutting the amount of direct payments (principally the Single Farm Payment which accounts for 70% of Pillar 1) is vital if we are to have a market facing CAP that encourages innovation and allows our farming sector to compete in a global market where price volatility and increasing costs of production make reform all the more pressing.

However, as direct subsidies are reduced for those commercially successful farms there must also be a parallel reduction in red tape and regulation. There is a huge cost of regulation from the Department for Environment, Food and Rural Affairs (Defra) with over half of these regulations and some 80% of the resulting cost to businesses coming from the EU.

The agricultural sector in New Zealand can keep the cost of production low and compete in a global export market with the lowest level of government support to agriculture in the OECD at only 1% of farm income. This is only possible with light-touch regulation.

In order for the UK to increase the competitiveness of its farming sector the Government must cut barriers to growth. The independent Task Force on Farming Regulation, chaired by Richard Macdonald, and commissioned by the Government has made several recommendations to slash red tape, many of which are now being implemented. However, the Government must go further. In the seven months following the publication of the Task Force's report Defra revoked 39 statutory instruments but introduced a further 41.

There must also be an examination of the way EU regulations are transposed in this country to prevent so-called "gold-plating" of legislation that puts UK farmers and businesses at a competitive disadvantage to the rest of Europe. Defra engagement with EU institutions

should be greater, earlier, and in partnership with industry to shape better regulation. Greater Parliamentary scrutiny of EU regulation would help address this problem and the House of Commons should take forward the independent Task Force on Farming Regulation proposal that Delegated Legislation Committees consider substantive and amendable motions on statutory instruments, including those implementing EU laws.

#### **4.2.2. Environmental Stewardship**

The CAP needs to be an agri-environmental land management policy – not a social policy. The purpose must always be to provide food security and protect the environment. Reform of the CAP must recognise all the stewardship schemes that deliver excellent environmental results.

The European Commission is attempting to use one conservation policy across 27 countries, making it unfit for the needs of individual nations and landscapes. It also does not take into account that the UK's systems of conservation are more advanced when compared to other EU Member States.

Therefore, Pillar 2 should focus primarily on agri-environment schemes with the possibility of tradable environmental payments, which farmers could pass onto other farmers if they did not wish to carry out the environmental measures. Farmers in the uplands provide public good and are invaluable stewards of the natural landscape, protecting ecosystems and habitats for wildlife. They are also an important part of the rural community. It is for these reasons that livestock must continue to be kept on marginal hill land.

However, because of the adverse conditions in which they farm, many would struggle to receive a financial return if the Single Farm Payment was reduced, and would be unable to compete with farms on more commercially viable land. It is therefore vital that as direct Pillar 1 subsidies are phased out, Pillar 2 payments for environmental stewardship are increased for upland farms. There should also be scope for farmers with grade 1 agricultural land and without conservation land to pass their environmental payments onto upland farmers. The overall CAP budget would still be significantly reduced.

#### **4.2.3. International Trade**

The UK must be proactive in forging alliances with other EU Member States and put pressure on the EU to accelerate proposals to reduce tariffs on agricultural goods as part of the Doha Round. Pressure must also be brought to bear on the EU to conclude bilateral Free Trade Agreements with non-EU countries including for agricultural goods.

The Government should also seek to increase UK trade with countries outside the EU, through bilateral channels. The Government should build on its recent successes in China and Russia unashamedly promoting British food and drink products in emerging markets.

## **5. Common Fisheries Policy**

The recommendations in this chapter would not involve treaty change. They would involve negotiation within the current structures.

- The EU's Common Fisheries Policy (CFP) is a highly centralised way of managing fisheries resources and is hindering coastal economies, marine conservation and food security.
- The Government deserves credit for its tough stance on fish discards and decentralisation, and should continue to pursue substantive reforms to introduce catch quotas, rather than landing quotas.
- The UK should press the Commission to bring forward proposals to register the owners of fishing quotas.
- The UK should also negotiate to regain control of our territorial waters (the 6 to 12 mile limit), and to complete the process of regionalising control of fisheries.

### **5.1. Background**

The EU's CFP is a highly centralised way of managing fisheries resources in Europe. In fact, all the key decisions are taken by national fisheries ministers in Brussels, based on proposals from the European Commission. It has fundamentally failed as a fisheries management policy and instead hinders coastal economies, marine conservation and food security.

CFP reform takes place every ten years. The European Commission put forward its latest proposals in July 2011, and aims to have the reformed CFP in place in 2013. The on-going negotiations therefore present the UK with a unique window of opportunity to push for comprehensive reform.

The CFP has so far failed to ensure the sustainability of fisheries in Europe. On the contrary, the existing system of fixed fishing quotas, which is based on the quantity of fish that is landed, not on how much fish is actually caught, has encouraged the practice of 'discards' – unwanted fish being caught and then thrown overboard, dead or alive.

According to the European Commission, it is estimated that in European fisheries 1.7 million tonnes of fish are discarded every year, a staggering 23% of total catches. In 2010, UK vessels discarded an estimated 51,697 tonnes of fish.

EU fishing rules also force the UK to grant foreign vessels access to part of its territorial waters, putting small fishermen – and therefore smaller coastal communities – at a particular disadvantage.

## **5.2. Proposals**

### **5.2.1. Discards**

The Department for Environment, Food and Rural Affairs (Defra) needs to remain ambitious on the sensitive issue of discards, or else face the risk of the current negotiations ending up with nothing meaningful being achieved.

The Commission's plans for CFP reform are a step in the right direction and the Minister responsible for Fisheries, Richard Benyon MP, deserves credit for his tough stance on fish discards. However, there are several areas in which the UK should either push for greater clarity in the Commission's proposal and others where more fundamental reform should be pursued that go well beyond the current proposal.

The UK must shift from the current system of 'landing quotas' to a new system of 'catch quotas' – under which fishermen would be obliged to count all the fish that they catch against their quotas, not just the fish they land. Evidence from pilots in the UK and in other Member States, such as Denmark, suggests that 'catch quotas' can be an effective way to reduce discards.

### **5.2.2. Territorial Waters**

The Government must also set its sights on regaining control of our territorial waters (the 6 to 12 mile limit), allowing the UK to reserve greater access to these waters for the small-scale fleet. In order to achieve this while respecting the UK's EU commitments, the UK should seek an EU agreement to denounce the 1964 European Fisheries Convention.

We also need to support our smaller in-shore fishing fleets by helping them with more 'fishing rights'. As part of this the Government would continue to recognise those countries that have had historical access to our seas prior to the inception of CFP. Countries like Belgium, France, the Netherlands and Germany have been fishing in our waters historically for many years.

### **5.2.3. Regionalisation**

The Commission's proposal for 'regionalisation' of the CFP currently only deals with devolution of powers to individual Member States, but fails to lay down a formal mechanism for regional groupings of Member States to work together. As it stands, the proposal creates legal uncertainty and could ultimately lead to the Commission gaining more powers.

The UK should push for genuine regionalisation of the CFP. Under this scenario, the Commission would still propose a number of long-term 'framework' objectives to be agreed by the Council, while day-to-day management would be handled by regional groupings of Member States surrounding a specific sea basin. For example, the Commission would propose long-term targets for fish mortality over a period of ten years, within which regional groupings of Member States would work on the detail of fisheries management at the sea



basin or national level. Disputes within a regional grouping of Member States would be settled by co-decision between the Council and the European Parliament on the basis of a Commission proposal.

#### **5.2.4. Final Points**

It is vital that the UK speaks with a single voice in Brussels. Greater coordination between central government and the devolved administrations could certainly increase the UK's negotiating strength on CFP reform.

More broadly the UK must support measures to promote less popular fish through changing Government Buying Standards and by increasing the public's awareness of the benefits of eating fish. The "Fish Fight" Campaign has shown that there is widespread public support for reform of the CFP and that less popular fish can be promoted through a concerted campaign.

A total ban on the discarding of fish and greater management of our 6 to 12 mile limits in the short term will help to correct many of the inequalities and mismanagement of the CFP. The UK should also push for the Commission to bring forward proposals for the registration of landing quotas. In the long term, the Government must look towards a totally new fishing policy run by Member States and in that way Britain could have much more control of fishing in our own waters.

## **6. Budget and Institutions**

The recommendations in this chapter would involve treaty change in order to abolish the Strasbourg seat of the European Parliament, the Committee of the Regions, and the Economic and Social Committee. The current long-term budget negotiations provide a once-in-seven-year opportunity to negotiate other changes to the budget.

- We should continue to take the lead in securing a new EU budget that improves effectiveness at no extra cost to any European taxpayer. The UK rebate is justified and should be defended.
- Reform of the EU institutions is politically and symbolically important and would serve to demonstrate the EU's awareness of its Member States' hardships.
- We should substantially cut administrative costs in the European Commission, European Parliament and abolish a number of EU quangos, which in some cases would require treaty change.
- The UK should press for a new Freedom of Information Act for all European institutions.

### **6.1. Background**

The EU is in the process of negotiating the next Multiannual Financial Framework (MFF), a budget ceiling covering 2014-20. The Commission's proposal totals €1trn in commitments that, including "off-budget" items, represents a 5% real terms increase on the payments of the current MFF. The UK Government's position is to argue for at best a cut, and at worst a real terms freeze, although the House of Commons voted for a cut in a non-binding motion.

The MFF is in clear need of significant overhaul to reduce its overall scale, to eliminate the gap between commitments and payments, and to allow more flexibility so that funds can be reallocated to meet need. In MFF negotiations, the UK should focus on three key areas. Reforms to the CAP and the Structural Funds, which are the two largest areas of EU spending, are discussed elsewhere in this manifesto. The third area for focus is reform of the EU institutions. Symbolically and politically, the EU institutions represent the empire building of the federalist agenda. Agreement on reform should be possible because Member States themselves will not lose out.

It is in every European taxpayer's interest for the EU to spend their money more carefully and effectively. Finding institutional savings would demonstrate the EU's awareness of its Member States' hardships, which as yet it has patently failed to do.

### **6.2. Proposals**

#### **6.2.1. 2014-20 MFF**

The UK should be ambitious in its negotiating position. Given our alliances, particularly with other net contributors, the UK should continue to take the lead in securing a deal that

ensures reform and improves effectiveness. The fixed 2% increase per year remains the fall-back and termination of the MFF (meaning the Commission would propose a budget to be passed by the Council via qualified majority voting, without a ceiling) would be a highly risky move for Brussels.

The UK net contribution to the budget was €9 billion in 2012, even after the rebate, making us one of the largest net contributors. Rather than accepting criticism of the current size of the rebate, we should remind Member States that the previous Government had already ceded a significant reduction in the rebate in exchange for promise of CAP reform. Our Government has pledged to protect the rebate. Handing away part of the rebate, like Tony Blair, achieved nothing in the past and we can have no confidence that it will in the future.

### **6.2.2. European Commission**

Institutional reform should start with the Commission. The EU's ambitions for centralisation have resulted in significant increases in administrative spending, despite the austerity it has demanded of many Member States. Administrative costs should be cut by 15%, saving €867 million per annum. That may require the Commission to increase its proposed staff cut of just 0.5% after Croatia's accession to 10%.

Other efficiency savings should include a reduction in the tiers of management, salaries, allowances, and changing the pension age and terms. The cost of pensions for Commission staff is forecast to double to £2 billion by 2045, and it should be noted that all civil servants in the top two grades earn more than our Prime Minister. We therefore welcome the Prime Minister's stance at the budget summit in November 2012. He is right to press for a 10% cut in the overall pay bill, and for reforms to automatic promotion, special tax treatment, and pension rights for Brussels staff.

By participating in its own cuts and efficiency programmes, the Commission will show empathy with all European citizens, reflecting the spending cuts which government departments across the Member States are being forced to make. The 27 Commissioners should lead by example and reform their own pay and pension arrangements.

### **6.2.3. European Parliament**

The UK Government should continue its opposition to the three-city functioning of the European Parliament. Not only would the abolition of the Strasbourg seat save at least €180 million per annum, it would also be a symbol of the ability of the EU to reform itself. The European Parliament itself has voted to stop the "Strasbourg circus".

Treaty change is required for this measure. The UK should build consensus among Member States, many of whom have been vocal in their condemnation of the Strasbourg seat, and whose MEPs themselves voted against its continued functioning. The Secretariat of the

European Parliament, with over 4000 officials, is based in Luxembourg. This Secretariat should relocate entirely to Brussels.

Other institutional reforms the UK should press for include removing excessive travel allowances and services, a review of all other allowances and privileges including the special taxation rate, mandatory production of receipts for all expenses and the abolition of funding to political parties and foundations. Projects that should be scrapped immediately include the House of European History, which is forecast to cost over €150 million to set up.

#### **6.2.4. Quangos and other bodies**

EU spending on quangos has jumped by 33.2% since 2010. Many agencies duplicate work, and reinforce the federal agenda rather than the subsidiarity principle. Moreover, they have a strong incentive to spend money to justify their own existence, often directly on self-promotion.

The UK should press for the abolition of the European Economic and Social Committee (EESC) and the Committee of the Regions. The EESC was created in 1957 as a proto-parliament but now acts as “a bridge between Europe and organised civil society”. It is an advisory body, dominated in large part by unions, and serves little purpose. Its budget is €130 million.

The Committee of the Regions includes councillors, members of the Scottish Parliament, Welsh Assembly and Northern Ireland Assembly. Putting European directives into effect through local government does not require a separate body, and should be delivered through Member State government processes. Abolishing the Committee of the Regions would save €85 million per annum.

Abolition of these bodies will require treaty change. A significant reduction in the budget to leave only a token amount could be accomplished through negotiations on the MFF and would accomplish the same thing. Failing that, a fundamental review of activities and a budget reduction of 50% is required to focus activity.

The UK should also press for savings to be made by abolishing the two human rights agencies (saving €28 million), the four workplace and employment agencies (saving €73 million), the food safety agency (saving €78 million), and the numerous self-propagandising educational and cultural bodies (saving at least €47 million).

#### **6.2.5. Transparency**

The UK should press for a new Freedom of Information Act for all European institutions. All spending over €500 should be published, including any expenses. The Court of Auditors should be given appropriate resources and powers to ensure that the EU achieves a level of accountability suitable for a first world organisation. The UK should work with other Member States to introduce a mechanism to prevent an increase in any budget that has not been signed off by the Court of Auditors.

### **6.2.6. A slimmer, leaner, transparent EU**

The UK must articulate its vision for the future of the EU and its budget and institutions: a slimmer, leaner, transparent EU, spending its citizens' money more effectively, sharing the hardships its Member States will endure throughout this MFF period and putting all spending in the spotlight.

## **7. Social and Employment Law**

The recommendations in this chapter would involve treaty change, in particular for the UK to opt out of Articles 19 and 145-161 TFEU, and to introduce an emergency brake in this field.

- EU-driven social and employment law has imposed an ever-increasing regulatory burden on British businesses and employers. Over two-thirds of the annual cost comes from the Working Time Directive and the Temporary Agency Workers Directive.
- Our primary objective is to return competence over social and employment law from the EU to Member States. This would require treaty change.
- Failing that, the UK should seek to build an alliance of like-minded European partners to call for a substantial lessening of the regulatory burden by repealing legislation and a re-evaluation of the EU's powers in this area.
- Failing that, the UK should seek to negotiate a complete opt-out of all existing EU social and employment legislation, and to introduce an emergency brake to cover future legislation in this field.
- Ultimately, we must make complete repatriation of social and employment law a priority and give Parliament the power to vote on which regulations to keep in place, which to change, and which to remove.

### **7.1. Background**

Especially since the last Government's decision to adopt the EU's "Social Chapter", surrendering the UK's opt-out, EU-driven social and employment law has imposed an ever-increasing burden on British businesses and employers. There is a myriad of different regulations, but over two-thirds of the annual cost arising from EU law in this area comes from the Working Time Directive (WTD) - calculated at over £2.6 billion a year - and the Temporary Agency Workers Directive (TAWD) - calculated at nearly £2 billion a year. Research by the think tank Open Europe has suggested that a halving of this type of regulation by the EU could boost the UK's GDP by £4.3 billion and create 60,000 new jobs.

As well as the financial impact, these directives have imposed a rigid framework upon the UK's otherwise flexible labour model, in an attempt to harmonise our working practices with those of other EU countries – a "one size fits all" approach is simply not practical and does not recognise the different circumstances in each nation. Indeed, this has caused particular damage in the National Health Service, where the WTD has severely impacted on patient safety and the training of junior doctors, as well as imposing unnecessary costs. Too often, regulations are imposed to deal with the poor standards in one country but end up imposing unnecessary bureaucracy on countries like the UK with already tough regulations.

The Conservative Party manifesto at the 2010 General Election promised to "work to bring back key powers over...social and employment legislation to the UK", and the Coalition Agreement committed the Government to "work to limit the application of the Working Time Directive in the UK". Action so far has been too slow, and the economic situation across the continent creates an urgent need and opportunity to bring control over this vital area back to the UK.

## **7.2. Proposals**

We should immediately review the UK's current application of EU social and employment law, particularly with regard to the WTD and the TAWD, and remove any gold-plating, to ensure that any unnecessary regulatory burden is eliminated. This should be part of the Government's review of the balance of competencies.

The UK should also undertake a best practice review of its implementation of EU social and employment law before applying any further EU regulation in this area. It is important to look at how other countries implement EU laws (indeed, if they implement them at all) and consider the best ways to do so in the UK.

All EU nations should be looking for ways to increase productivity, reduce unemployment, and promote growth. The Government should ensure that the UK is at the forefront of such a move, building alliances with like-minded European partners to call for a substantial lessening of the regulatory burden imposed by the EU and a re-evaluation the EU's powers in this area.

The UK must make the case that national control over social and employment law is vital because of specific national factors such as the NHS and the different labour models in place across the EU. We should work with the EU institutions to repeal the WTD. Just as not all EU countries are members of the Eurozone or the Schengen area, we do not need the same labour market rules across the EU. We should accept the differing circumstances in EU countries, and enable flexibility for Member States as part of a Europe-wide pro-competition, pro-growth strategy.

Particularly given the economic climate in Europe, and the recommendations from the Troika to liberalise labour markets in Greece for example, the UK should work towards removing social and employment law as an EU competence.

Ultimately, we must make complete repatriation of social and employment law a priority, and should not settle for anything less. Clearly, any repatriation would require treaty change and this would likely be part of a much larger drive to bring powers back to the UK from the EU.

The UK should negotiate a complete opt-out from all existing EU social and employment legislation, and the EU treaty articles dedicated to producing such legislation (Articles 19 and 145-161 TFEU).

We should also negotiate a new emergency brake to cover future legislation arising out of policy areas in the EU treaties which affect national social and employment law. This would allow any Member State that considers a proposal that affects social and employment law to be a threat to subsidiarity or to an important national interest to refer that proposal to the European Council where unanimity, and hence a national veto, would apply.

National parliaments are best placed to decide on the appropriate social, employment, and health and safety regulations for each Member State, and we are confident the UK Government will retain appropriate domestic legislation in the UK.

If negotiation to repatriate these powers failed, we should consider the unilateral disapplication of EU social and employment law in Britain through an Act of Parliament. This is an extreme option and could well result in fines or suspension of obligations from other EU nations, though it is worth bearing in mind that no fine has ever been levied on the UK Government for non-compliance with EU directives. However, this would not be a petulant act, but rather a signal that this is a red line issue for the UK – hopefully, this would send a signal to the EU that, for the sake of pan-European growth, a better approach is needed, and appropriate diplomacy beforehand would establish support from other sympathetic and economically productive nations.



## **8. Financial Services**

The recommendations in this chapter would involve treaty change, in particular to introduce an emergency brake for financial services regulation, and to introduce a new legal safeguard for the single market.

- A healthy financial services industry is critical to the UK economy and participation in the EU single market affords the UK significant trade benefits. UK financial services are a great European asset and financial institutions from elsewhere in the EU have a significant stake in its success.
- However, increased EU regulation is threatening to constrict our financial services industry in some areas, and the drive towards one size fits all "maximum harmonisation" legislation also risks exposing the UK to lower regulatory standards in other areas.
- There is also a real risk that Eurozone countries will begin to act as a bloc and outvote the UK on key financial issues. The UK has recently achieved a 'double majority' mechanism at the European Banking Authority, to avoid the Eurozone-17 writing the rules for all 27.
- We should build on this precedent, and negotiate a wider safeguard against proposals which are discriminatory or undermine the single market.

### **8.1. Background**

The financial services industry is a critical sector of the UK economy, accounting for 10% of our GDP - just as the automotive industry is critical to Germany, agriculture is to France, and fishing is to Spain. Our financial services contribute substantially to the EU; they represent 61% of the EU's net exports in financial services and 36% of the financial wholesale market.

Participation in the single market affords the UK significant trade benefits throughout the EU, such as better connected business networks and mutually approved standards. Yet increased EU regulation is threatening to constrict the activity of our financial services industry - a staggering 49 regulations, many aimed at restricting financial services activity, have been proposed since 2008. And with impending banking union, there is a real risk that Eurozone countries will begin to act as a bloc; outvoting the UK on key financial issues.

The UK is a gateway through which non-EU business arrives in the single market, keen to utilise the UK's established financial services expertise. To continue to take advantage of this business, and to expand into the world's developing economies, we must ensure the EU does not impede our financial services industry through increased regulation. Global confidence in UK financial services must remain strong.

## 8.2. Proposals

We must maintain and expand the benefits offered by the single market, safeguarding what we already have, and developing further opportunities within and outside the EU. The Fresh Start Project proposes various measures to achieve this aim.

Domestic politicians should do more in the early stages of EU legislation, through greater scrutiny by Select Committees (particularly the Treasury Select Committee). MPs should debate potentially damaging EU proposals in the House of Commons so as to mandate our Ministers to help them to negotiate a more positive outcome with EU legislation. MPs should meet regularly with MEPs in order to keep our Parliament better informed, improve co-ordination of UK strategy, and ensure the position of Westminster is accurately represented in all financial services discussions. We should also prioritise the placement of UK nationals with financial services expertise into influential positions in the EU, for example through graduate schemes and secondments.

The UK and other Eurozone 'outs' have already managed to establish a very important precedent by securing a 'double majority' mechanism, which will prevent Eurozone caucusing, in the European Banking Authority. The risk that the European Court of Justice (ECJ) may prioritise the Euro over the single market remains however. The ECB has already demanded that UK-based clearing houses establish themselves inside the eurozone to be allowed to clear transactions in euros, something the UK has challenged at the European Court of Justice. If the ECJ was to rule against the UK in this case, it would sound a death knell to the success of UK financial services and fundamentally undermine the integrity of the single market.

The UK should seek a new legal safeguard for the single market. This would ensure that EU institutions and Eurozone members cannot discriminate against non-Eurozone member interests. This would require a change to existing EU treaties.

As financial services are a strategically important sector for the UK, we should assert the 'Luxembourg Compromise' in current negotiations. This stated that the Council of the EU would endeavour to find a solution acceptable to all Member States, if very important interests of one Member State were at stake. It has been used by France to protect its agricultural sector, though never formally adopted by the European Commission or ECJ, and is not protected by EU Treaties.

The UK should subsequently negotiate an emergency brake on EU financial regulations. Where proposals are judged by any Member State to have a disproportionate impact, be discriminatory, or undermine the single market, that country should be able to refer them to the European Council, where unanimity would apply. This might be combined with a provision that automatically allowed a certain number of other Member States to proceed with the proposal amongst themselves, if they wished.

Just as importantly, the UK should secure agreement to expand opportunities for financial services within the EU and outside it. The UK should continue to push for genuine liberalisation of the single market, especially in services. We should also seek a binding commitment from the European Commission to secure free trade agreements for financial services in the vast developing markets that offer the brightest prospects for financial exports.

## 9. Energy

The recommendations in this chapter would not involve treaty change. They may, however, require the UK to suspend its obligations under the 2009 Renewables Directive, the Large Combustion Plant Directive, and the Industrial Emissions Directive if they could not be satisfactorily renegotiated within the current structures.

- Much of the UK's existing generating capacity requires replacing over the next decade as nuclear power stations near the end of their operating lives, and EU directives force closure of older coal-fired power stations.
- UK energy policy should be conducted in the context of the withdrawal of most of the largest carbon emitting countries from the Kyoto accords and the overriding emphasis of competitor economies on cheap, reliable energy.
- The EU policy framework for climate change favours decarbonisation over adaptation and renewables over all other energy sources. The UK should renegotiate, or, if unsuccessful, unilaterally suspend its obligations under the 2009 Renewables Directive in order to determine the most suitable mix of technologies for energy security, cost effectiveness and environmental protection.
- The timescale for closures under the Large Combustion Plant and Industrial Emissions Directive should be extended if they cause an unacceptable impact on fuel poverty or energy resilience.

### 9.1. Background

Current UK energy policy has three overriding objectives: to provide cost effective energy and power to consumers and industry; to decarbonise our economy with a particular target of a reduction in emissions of 80% from the 1990 level by 2050; and to achieve security of energy supply.

This policy should be conducted in the context of the withdrawal of most of the largest carbon emitting countries from the Kyoto accords and the overriding emphasis of competitor economies on cheap, reliable energy, including coal in the case of China, India and Germany and fracked gas in the case of the USA.

The Climate Change Act 2008 target of an 80% cut in carbon emissions by 2030 is an exceptionally tough target to meet. It implies significant changes in the way that energy is generated and used. Not only will electricity need to replace fossil fuels as the principal source for transport, power and heating, but the electricity itself will need to be generated from lower carbon sources than at present. No other EU country has set itself such tough de-carbonisation targets.

It is clear from the table below that, of the larger economies, Poland, Germany, Ireland and the Netherlands all considerably trail the EU average in terms of carbon intensity per capita. For Poland and Germany this under-performance is likely to increase as they both move from low carbon sources to an even heavier dependence on electricity generated by coal.

	Renewables (percentage of total energy - 2010)	Tonnes of carbon per capita (2011)	Tonnes of carbon per unit of GDP
EU(27)	0.12	9.2	392
Belgium	0.05	11.1	370
Ireland	0.06	12.8	350
Germany	0.11	11.2	376
UK	0.03	8.8	293
France	0.13	7.6	275
Netherlands	0.04	11.8	351
Poland	0.09	10.7	1275

The EU has developed a policy framework which is orientated towards maximising the potential investment in renewables – not in reducing carbon. The consequence has been a number of directives (most particularly the 2009 Renewables Directive) which mandate renewable targets whilst being silent on the need to cut carbon.

In the UK, a subsidy regime has been developed which emphasises wind, solar and biomass, whilst little progress has been made in other areas. This is beginning to work its way through into higher prices for consumers and businesses (in 2012 18% of industry electricity charges are due to “green” taxes), and will lead to more fuel poverty and less competitive industry than would have been the case had we been freer to reduce carbon in other ways.

The UK starts from a very low base in renewables - just 1.5% of its energy came from renewables in 2005 - and is expected to increase that percentage ten times over, yet Germany’s commitment only requires it to triple its renewables production. This discrepancy puts our manufacturing industry at a competitive disadvantage.

Much of the UK’s existing generating capacity requires replacing over the next decade. Many of our nuclear power stations will have to be taken offline over the next decade as they reach the end of their operating lives. In addition, the Large Combustion Plant Directive (2001) will require the UK to close and replace a number of older coal-fired power stations. Replacing nuclear power stations will require around 7 Gigawatts of capacity and replacing coal-fired power stations will require 12GW to be replaced in the next 10 years.

To put this into context, this would require our 4000 existing onshore turbines to be increased fourfold. The Industrial Emissions Directive 2011, which came into force last year, will make this problem even worse, requiring even more plants to be closed. It has been estimated that capital spending in the order of £150 billion will be needed to replace our ageing infrastructure.

## 9.2. Proposals

The UK should follow two key policy principles:

1. If the UK is to meet its decarbonisation targets, it needs to have the flexibility to decide how to do this, rather than being instructed on how to proceed by EU directives which cover 27 countries, all with very different energy mixes. In particular, it should be free to determine what mix of technologies is best to allow it to meet the objectives set out at the beginning of this paper.
2. We should insist that our EU partners are aware of, and are making similar progress towards, their carbon reduction obligations to ensure that the UK is not put at a competitive disadvantage. In particular, we should robustly defend our national interest vis a vis the high coal burning, high emission countries such as Germany, Poland, Ireland and the Netherlands.

These translate into the following proposals:

1. The European Commission is actively considering developing renewables targets for the period after 2020 when the current directive expires. We should not join this effort unless the primary focus is carbon reduction – not renewables roll-out.
2. The UK should renegotiate, or, if unsuccessful, suspend its obligations under the 2009 Renewables Directive, and not sign up to further commitments with respect to renewable energy targets. Our own roadmap (which would replace it) should maximise the cost efficacy of the reduction measures taken.
3. We should review the timescale of the Large Combustion Plant and Industrial Emissions Directives with particular reference to the requirement to close down our large coal burning stations. To the extent we believe that premature closure is causing an unacceptable impact on fuel poverty or energy network resilience, we should extend their lives. We should make it clear to our EU partners that the large scale construction of unabated coal stations while we switch ours off is not a fair or an acceptable position.
4. We should force a full scale revision of the Emissions Trading System. The current system is penalising the UK for relative success in reducing carbon, by providing cheaper permits for other countries “to work the system” due to the consequent reduction in permit costs.

In all of the above proposals the Government should seek support from other Member States and push for renegotiation of the Directives through the Council’s powers to request the repeal or amendment of mixed competence legislation. These powers are clearly set out in Declaration 18 to the Lisbon Treaty.

## 10. Policing and Criminal Justice

Some of the recommendations in this chapter would involve EU treaty change, while others could be achieved without altering the EU treaties.

- The UK should exercise its 'block opt out' from 131 EU policing and criminal justice (PCJ) laws, as provided for by the Lisbon Treaty.
- Rather than opting back in to any of these EU laws, which would be irreversible and subject the UK to full European Court of Justice (ECJ) jurisdiction, the UK should pursue operational co-operation with EU partners via other means, such as international agreements, memoranda of understanding and voluntary co-operation on a case-by-case basis.
- The UK should seek EU treaty change to allow it to opt out of those EU PCJ laws that it has opted in to since the Lisbon Treaty entered force. These EU laws are not covered by the UK's 'block opt-out'.

### 10.1. Background

The Lisbon Treaty, which entered force in December 2009, radically increased EU control over policing and criminal justice (PCJ). EU laws in this area are now typically decided by qualified majority voting rather than unanimity. EU PCJ laws adopted since the Lisbon Treaty took effect also come under the full jurisdiction of the European Court of Justice (ECJ). This means that the European Commission can bring cases against the UK relating to its implementation of EU measures, and that the ECJ rather than the UK Supreme Court will have the last word on UK law in an increasing number of areas of the UK criminal justice system.

Under the Lisbon Treaty, the UK can exercise a 'block opt out' from 131 *pre-Lisbon* EU PCJ laws, by the end of May 2014. The UK can subsequently seek to opt back into these measures selectively, on a case-by-case basis. However, this remains a matter for negotiation with the EU, and any decision to opt back in would be irreversible and result in the Commission and ECJ assuming full jurisdiction over such measures for the first time.

In addition, the UK has already opted into 22 *post-Lisbon* EU laws in this area, including 8 amending or replacement measures that take pre-Lisbon laws out of the block opt out, ceding overarching control to the Commission and ECJ.

These measures are widely regarded as stepping stones towards a pan-European criminal code, decided by qualified majority voting, overseen by the Commission and enforced by the ECJ and a European Public Prosecutor. In September 2012, Jose Manuel Barroso, the President of the European Commission, re-affirmed: "... our intention to establish a European Public Prosecutor's Office, as foreseen by the Treaties. We will come up with a proposal soon."

### 10.2. Proposals

Britain should retain national democratic accountability over such a vital area of policy and law-making, and preserve the distinctive common law tradition so important in the UK justice system. International law enforcement co-operation with EU partners is vital. However, the

UK does not need to sacrifice democratic control over policy-making via supranational legislation and enforcement to achieve effective practical co-operation.

### **10.2.1. Exercise the block opt-out**

The UK should exercise the Lisbon Treaty block opt-out, to prevent a major transfer of democratic authority from Britain to the European Commission and the ECJ, and avoid becoming bound irreversibly by a large number of EU laws in a sensitive policy area, the majority of which are of negligible law enforcement value to Britain.

These EU laws include mass data-sharing under the 'Prüm' regime, which extends beyond criminals to ordinary citizens, risks a disproportionate burden on the UK, lacks safeguards to protect personal information, and which is systematically vulnerable to error.

These laws also include EU measures designed to harmonise standards of criminal law, from the prohibition of drugs to the balance between hate crimes and free speech, which are predominantly irrelevant to cross-border operational co-operation and should be left to elected and accountable UK law-makers to decide and the UK Supreme Court to interpret.

### **10.2.2. Rather than opting back in to EU laws covered by the block opt-out, pursue arrangements for operational co-operation that do not cede democratic control**

Instead of opting back in to EU laws under the block opt-out, the UK should pursue a re-negotiated model of PCJ co-operation with EU partners based on more flexible arrangements, where this adds law enforcement value, including treaty arrangements not subject to ECJ interpretation, memoranda of understanding and ad hoc co-operation. The UK should also build on existing alternative arrangements such as its co-operation with EU borders agency Frontex.

This approach should include the following:

- Offer to continue practical co-operation on criminal records checks.
- Offer to continue co-operation with Eurojust, the EU's body for co-operation and co-ordination amongst EU prosecutors, when it comes to cross-border matters, while avoiding the Commission's plans for a new EU law giving Eurojust the power to initiate criminal investigations in the UK.
- Offer to continue operational co-operation with Europol.
- Offer ongoing support to joint investigation teams on a case-by-case basis, subject to principles enumerated in a memorandum of understanding and under the ultimate judicial authority of the UK Supreme Court as regards operations in the UK.
- Negotiate international treaty arrangements on extradition to and from other EU countries, including basic safeguards that shield innocent citizens from spurious or flawed fast-track extradition to countries with poor criminal justice records, and which retain the UK Supreme Court as the ultimate judicial arbiter of the extradition of British nationals.
- Offer to continue and build on existing information co-operation under the Schengen arrangements for the purposes of border controls and security co-operation, without becoming bound by Schengen EU laws.



- Offer to continue administrative co-operation, which requires no legal basis, such as exchanges of liaison magistrates, the EU Directory on counter-terrorism specialists, and training at the European Police College, either on an ad hoc voluntary basis or under a memorandum of understanding.

### **10.2.3. Extend flexible co-operation to PCJ areas not covered by the block opt-out**

The UK should negotiate EU treaty change to opt out of the EU PCJ laws that the UK has opted in to since the Lisbon Treaty entered force, and which ensures the UK can conclude international treaties, if needed, with EU partners to pursue more flexible co-operation in these areas.

Such new EU treaty provisions would allow the UK to opt out of the European Investigation Order, a measure which will empower authorities in other Member States to direct UK police to conduct investigations, under ECJ jurisdiction.

The UK should offer operational co-operation under more flexible arrangements where it assists UK law enforcement, including passenger name record checks for the prevention or investigation of serious crime and terrorist offences.

Opting out of existing EU PCJ laws is likely to involve the repeal of implementing UK legislation by Parliament, and will add to the workload of Government to come up with workable alternatives. This is a price worth paying to retain democratic control over PCJ issues in the UK.

## **11. Immigration**

The recommendations in this chapter would not involve treaty change. They would involve negotiation within the current structures.

- The free movement of people across the EU has brought many benefits, but is also adding to the strain on the UK's infrastructure and public services.
- The UK should introduce transitional controls on immigration for new Member States, and should seek reforms to gain more control over the type and amount of benefits paid to EU nationals who are currently in the UK but not working.
- The UK should seek further reforms to prevent known criminals from entering the UK and to return convicted criminals to their Member State of origin.

### **11.1. Background**

The free movement of people across the EU has brought many benefits for business and trade. British nationals have been able to live and work throughout Europe with few restrictions and talented Europeans have been able to come to Britain, set up businesses and add value to British firms. However, as the EU has expanded, the almost unrestricted access that over 500 million Europeans have to live and work in the UK is adding to the strains on Britain's infrastructure and public services. With the UK population set to reach 75 million by the mid-2030s and immigration accounting for two-thirds of this population increase, action needs to be taken to reform Europe's free movement rules as part of wider efforts to reduce net migration.

The UK is also not unique in seeking to curb immigration. Angela Merkel has warned of the impact of immigration and the associated failure of multiculturalism while recently elected French President Francois Hollande has called for limits to economic migration. Although Member States are able to reduce non-EU migration, under existing Treaty arrangements restrictions to the free movement between Member States of EU nationals can only be made on grounds of public security, public policy and public health. The principle of free movement can only be reformed substantially through Treaty change. The majority of Member States, the European Commission and European Parliament would be unlikely to support any changes to this principle. Nevertheless, there are ways that the Government can adapt existing rules to reduce immigration from Europe, test the limits of the existing arrangements and press for reforms to EU directives to secure favourable changes.

### **11.2. Proposals**

#### **11.2.1. Changing the right to reside requirements and access to social security**

Out of the 2.3 million European nationals living in the UK, 551,000 are unemployed or economically inactive and 146,000 have never worked. The number who are economically inactive has risen by 23% since 2008 and those who have never worked are up by 30%. This is despite the disproportionately larger number of European nationals of working age living in the UK compared to the population as a whole. Existing free movement rules give them

access to benefits and the social assistance system, the right to reside in the UK and automatic permanent residence after five years.

The European Commission has been pushing for more powers to effectively override national controls over eligibility to social security and open up our benefits system for even more foreigners to enjoy. Recently the European Commission has challenged the UK over its rules which prevent some EU nationals from claiming child benefit and Jobseeker's Allowance. Free movement laws initially designed to help employers recruit and Europeans to work are now being left open to abuse by European nationals wanting to enjoy better benefits and public services in the UK.

The Government should continue with the efforts started by the previous Employment Minister Chris Grayling to build an alliance of Member States opposed to the Commission's meddling in domestic social security rules. Austria, Cyprus, Denmark, Finland, Germany, Ireland, Malta, the Netherlands, Portugal, Slovakia, Slovenia and Sweden are reportedly supportive of these efforts. The Government should seek to galvanise enough support within the European Council to make a request under Article 241 of TFEU for the Commission to reconsider its approach to social assistance and the right to reside to give Member States greater flexibility to set their own rules on eligibility.

As part of the Government's review of the balance of competencies, full consideration should be given to seeking amendments to the Free Movement Directive (FMD), and in particular Article 7, which would enable Member States to exercise greater discretion to prevent European nationals who are economically inactive from being entitled to receive prolonged periods of social assistance.

Under existing rules, European nationals living in the UK are able to secure permanent residence automatically after 5 years, with some becoming eligible sooner. This means there are 1.6 million European nationals living in the UK who have permanent residence or who are eligible for permanent residence by virtue of the fact they have lived in the UK for 5 years. Out of that number, 900,000 have lived in the UK for 10 or more years.

Reforms should be sought to the FMD to raise the threshold for automatic eligibility for permanent residence from 5 years to 10 years.

### **11.2.2. Restricting immigration from new EU Member States and transitional controls**

Under the last Labour Government, a failure to introduce transitional controls when eight new countries from Eastern Europe joined the EU in 2004 led to a significant influx of migrants from Eastern Europe. In 2003 there were 556,000 Europeans employed in the UK from the 14 other EU Member States and the 12 countries set to join in 2004 and 2007. By September 2011, almost 1.3 million Europeans were employed in the UK, with the numbers from the accession countries rising from 50,000 to 728,000. Transitional immigration restrictions were applied to Bulgarian and Romanian nationals, but they will expire at the end of 2013 opening up Britain to 29 million more people. The Government's Migration Advisory Committee has already warned that: "Lifting restrictions would almost certainly have a positive impact on migration inflows to the UK from those countries." Britain should not be left unprepared for new waves of European immigration in the future.

The Government has made a commitment to apply “transitional controls as a matter of course for all new EU Member States.” This policy is welcome. However, transitional controls are time limited and once that period has expired large populations from less economically developed and less wealthy countries could still come to Britain. This effectively means that mass influxes of immigrants are postponed rather than controlled.

For future accessions of new Member States to the EU, the UK Government should secure the right in Accession Treaty agreements to renew or revise transitional controls in respect of immigration beyond the initial control period. This would enable the UK to control inward migration from new Member States in a more flexible manner and, if appropriate, extend restrictions. Britain can unilaterally veto the Accession Treaty if this objective is not met.

### **11.2.3. European National Offenders**

Looking after the safety and security of the population is a priority for any Government, and to make our streets safer we should remove foreign national offenders from the UK. Although more than one-third of the foreign prisoner population in this country are from European countries, some 4,000 offenders, only around one-fifth (1,100) of foreign nationals deported from Britain are sent back to other European countries. The EU Prisoner Transfer Agreement has been introduced to enable countries to return EU nationals to the Member State of their nationality but question marks remain over how effective it will be.

The UK Government should exercise its powers under Article 27 of the FMD to prevent dangerous and persistent criminals from entering the UK. If this approach is challenged through the ECJ, then the Government should seek to revise the FMD accordingly.

The UK Government should also take action to deport a higher number of European national offenders than will be achieved through the EU Prisoner Transfer Agreement. A clear removals policy should be established to empower the Government to deport EU nationals based on the seriousness of convictions received and/or length of custodial sentence handed down, including those with permanent residence.

### **11.3.4. Asylum Seekers**

Britain should always provide a safe haven to those in genuine need. Despite being an island nation, Britain has dealt with an annual average of over 23,000 asylum claims in the last five years that figures are available. Many asylum seekers, genuine and bogus, will travel through other EU Member States where they could seek asylum before arriving in the UK. But only 9.1% of the total number claiming asylum in the UK were considered for removal to a safe third country and just 5.4% were transferred from the UK to another Member State.

The Government should promptly return any asylum seeker who has come to the UK after entering another EU Member State, as it is able to do through the Dublin Regulation. This will reduce the numbers of asylum seekers in the UK. In the event that the first country they entered in the EU is unknown, the UK should have the right to return the asylum seeker in question to the last known EU Member State where that asylum seeker was present. Such a

policy would require the UK to press for amendments to be made to the existing Common European Asylum System and the Dublin Regulation.

## **12. Defence**

The recommendations in this chapter would not involve EU treaty change.

- NATO remains the cornerstone of Britain's defence strategy and nothing should be done to undermine it.
- As all aspects of Common Security and Defence Policy (CSDP) are decided by unanimity, the UK should use its veto to block any measure that does not meet its objectives. CSDP must not be allowed to become a vehicle to challenge NATO, nor to create a European Operational HQ, nor to create a "European Army".
- Some EU operations have added value, and the UK should retain its membership of the European Defence Agency so long as it continues to deliver real, practical, capability.

### **12.1. Background**

Nothing should be done to undermine NATO. It has been, and remains, the cornerstone of the defence of Britain and the continent of Europe, uniquely binding the USA into the efforts to maintain European security.

The Common Security and Defence Policy (CSDP), remains an inter-governmental element of EU cooperation. As a consequence, the UK has the power of veto, a power which the current Government has exercised in rejecting any increase in the budget of the European Defence Agency (EDA).

The basis upon which military activity operates in respect of CSDP is where NATO is unable, or unwilling, to take action. Under the CSDP, the EU has developed what it calls the "comprehensive approach" which seeks to capitalise upon the interest of a number of EU countries in undertaking opportunities such as capacity building in which NATO does not have such a keen interest.

A number of EU operations have added value, in particular Operation Atalanta where the EU operation has been commanded from Northwood, alongside NATO Operation Ocean Shield, to deal with piracy off the coast of Somalia. The EU has focussed specifically upon the protection of aid convoys. The Operation has demonstrated that the use of NATO assets (in this case, Northwood) obviates the need to replicate NATO facilities by building an EU Operational Head Quarters (OHQ). The EU mission to train Somali soldiers in Uganda has also added some value in undertaking a mission in which NATO had little or no interest.

However, Operation Althea, to provide security in Bosnia, has exposed the fundamental weakness of European defence by demonstrating the persistent incapacity to deliver a consistently adequate force.

### **12.2. Proposals**

It had been the intention of the incoming Conservative Government to withdraw Britain from the EDA, but the early signature of the Anglo French Defence Accord made that politically unattractive. Accordingly, we gave the EDA notice that we would review our membership in two years' time (namely, Autumn 2012) and our decision whether or not to continue

membership would depend upon the capacity of the EDA to deliver serious capability. Whilst withdrawal from the EDA might win some immediate plaudits, it could well turn out to be a gesture which would disadvantage the UK.

It is important to recognise that much of the ministerial discussion at EU defence ministers' level is conducted within the framework of discussion about the EDA. Accordingly, if Britain were to withdraw from membership of the EDA, we would be excluding ourselves from a significant part of the EU defence agenda. Since we have a veto, we do not need to accept any recommendations presented within the EDA forum which fail to meet our objectives.

The EDA has in fact delivered some tangible benefits, particularly in the field of training helicopter pilots for operations in Afghanistan by crews from nations which would not otherwise commit. The Maritime Surveillance Programme has also delivered tangible benefit in co-ordinating surveillance of the sea routes around northern Europe and the Mediterranean.

CSDP must not be allowed to become a vehicle to challenge NATO, nor to create a European OHQ, nor to create a "European Army". We should continue to argue that the EU should provide capability which NATO cannot, or will not, as well as providing some of the softer military activities. Since we do not have to horse-trade under majority arrangements, we can wield significant influence and we should therefore continue to promote our vision of CSDP as well as retaining our membership of the EDA so long as it continues to deliver real, practical, capability.

The Fresh Start Project would like to thank those who have contributed so much to this manifesto, in particular:

Gutto Bebb MP, Nick de Bois MP, Therese Coffey MP, George Eustice MP, Mark Garnier MP, Chris Heaton-Harris MP, Gerald Howarth MP, Andrea Leadsom MP, Charlotte Leslie MP, Tim Loughton MP, David Mowat MP, Neil Parish MP, Priti Patel MP, and Dominic Raab MP.

For further information, please see [www.eufreshstart.org](http://www.eufreshstart.org)