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FILE TITLE: <i>Employment and Social</i>		SERIES <i>EUROPEAN POLICY</i>
		PART: <i>3</i>
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LABOUR ADMINISTRATION

Part done

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PART

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DATE CLOSED	11 APRIL 2001
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Series : EUROPEAN POLICY
 File Title : EMPLOYMENT & SOCIAL
 Part : 3

Date	From	To	Subject	Class	Secret
08/01/2002	DTI	HMT	The EU White Paper	U	
09/01/2002	MS/DEFRA	SS/DTI	Regulations to Implement the EC Directive on Fixed Term Work	U	
14/01/2002	PM	SS/DTI	(M) European Employment and Social Agenda	U	
15/01/2002	DTI		Structural indicators	C	
16/01/2002	DPM	SS/DTI	Regulations to Implement the EC Directive on Fixed Term Work	R	
22/01/2002	AGO	FCO	Charter of Rights : Article by Attorney General	U	0
24/01/2002	DTI	DPM	Union recognition the Wilson and Palmer ECHR case	C	
24/01/2002	France/HME	HMT	35-Hour Week	U	
28/01/2002	Cab Off	FA/APS	Copenhagen Visit - Employment and Social Aspects	R	
30/01/2002	Cab Off	DWP	Italian Labour Market	U	
04/02/2002	PUS/DTLR	FCS	Article 226 reasoned opinion: 2001/0380 - Council directive 98/24/EC	U	
08/02/2002	SS/DTI	CST	EU Employment and social agenda	C	
27/02/2002	LC	FCS	EU charter of rights	C	
04/03/2002	SS/DTI	PM	European Employment and Social Agenda	U	
07/03/2002	ss/dfes	FCS	EU Charter of Rights	U	
19/03/2002	SS/DTI	DPM	Young workers directive - end of UK opt-outs	C	
08/04/2002	SS/DCMS	DPM	Young Workers Directive - End of UK Opt-Outs	U	
11/04/2002	SS/DTI	CH/EX	clearance by the EAPC of the second corporate social responsibility r	C	
11/04/2002	DPM	FCS	Article 226:@ supplementary reasoned opinion: 2000/2263: dangero	C	

RESTRICTED - POLICY



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11 April 2002

**ARTICLE 226 SUPPLEMENTARY REASONED OPINION: 2000/2263:
DANGEROUS SUBSTANCES AND PREPARATIONS (LAMP OILS)**

I have seen Patricia Hewitt's letter of 26 March to you seeking agreement from EP colleagues to DTI's concession on the UK's position on Article 95 (formerly 100A) in the replies to the infraction case.

I am concerned that Patricia's letter did not include a Regulatory Impact Assessment (RIA) outlining the costs and benefits of the policy options available here. The RIA would have allowed colleagues to take better-informed decisions on this issue. I am concerned that if this proposal adds greatly to business burdens, these extra costs may be passed on to those consumers, such as the elderly, using domestic paraffin for heating appliances. An RIA would have explored such implications.

I note that FCO officials advise that we should concede and not fight infraction procedures, but I am not clear on what basis this advice was provided. If legal advice is that we would lose the infraction case, then I agree that the UK should concede.

On condition that DTI officials resolve with the Regulatory Impact Unit the concerns I have raised above, I am content for DTI to proceed as Patricia suggests.

I am copying this letter to the Prime Minister, members of EP Committee, Sir Reg Empey in Northern Ireland, Malcolm Chisholm in Scotland, Carwyn Wates in Wales and Sir Richard Wilson.

JOHN PRESCOTT



MATRIX

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Dear Chancellor,

CLEARANCE BY THE EAPC OF THE SECOND CORPORATE SOCIAL RESPONSIBILITY REPORT

I am writing to you as Chairman of the EAPC to seek clearance for the Second Corporate Social Responsibility report. The report reflects the detailed and varied work that is currently on-going and emphasises the cross cutting nature of CSR. The report, which is attached, has been compiled in close consultation with members of the Inter Departmental group on CSR and embodies comments and input from that group.

If you have any further comments, I would be grateful for these by 22 April 2002. I am copying this letter to the Prime Minister, members of the EAPC, Clare Short and Sir Richard Wilson. I am writing in parallel to the Devolved Administrations.

Yours sincerely

pp

PATRICIA HEWITT

*(Approved by the Secretary of State
and signed in her absence)*

SECOND GOVERNMENT REPORT ON CORPORATE SOCIAL RESPONSIBILITY

Working title:

"CLOSE-UP ON BUSINESS AND SOCIETY – Corporate social responsibility report 2002"

Structure:

FOREWORD

Government Strategy on CSR

- vision, strategy, priorities and actions for 2002

INTRODUCTION

- Taking our responsibilities seriously

PART 1: ENCOURAGING THE DEBATE

INTRODUCTION

- Taking our responsibilities seriously

THE POLICY CONTEXT

- Forces for change
- Joined-up policy

THE SOCIAL AND ENVIRONMENTAL CONTEXT

- Changing values
- What the public want
- Defining CSR
- The European agenda
- Debating the case
- Turning words into action

PART 2: CREATING THE FRAMEWORK: GOVERNMENT'S ROLE

LEGAL FRAMEWORKS: EMBEDDING RESPONSIBLE BEHAVIOUR

- Enabling legislation in the Pensions Act
- Modernising company law
- International agreements
- Ensuring Equality
- Getting remuneration right

FISCAL INSTRUMENTS: PROVIDING INCENTIVES WHERE NECESSARY

- Promoting Payroll Giving
- Investing in the community
- CDFI Case Study (box)
- Leading by example (box)

PART 3: DRIVING FORWARD THE AGENDA: WORKING IN PARTNERSHIP

- Pulling it all together
- Gathering feedback
- Strategy for Partnership

TOWARDS A SUSTAINABLE SOCIETY: ACHIEVING ECONOMIC, SOCIAL AND ENVIRONMENTAL AIMS

- Joined-up thinking
- Protecting the environment (government initiatives on environment and SD)

MAINSTREAM CSR AND THE CHALLENGE OF NEIGHBOURHOOD RENEWAL

- Engaging business in disadvantaged communities
- Celebrating achievement
- Recognising untapped potential
- Encouraging high value CSR
- Castle Vale Case Study (box)

ENABLING COMMUNITY ACTION

- Reaching Individuals
- Creativity in the community
- Communications case study (box)
- Supporting Social Enterprise

DRIVING UP SKILLS AND EDUCATION LEVELS

- Linking business and education
- Engaging in adult skills development
- Getting the basics right case study (box)

ENGAGING SMALLER ORGANISATIONS

- Strengths in numbers
- Supporting SMEs
- Understanding the needs of smaller organisation
- HMG Paints case study (box)

GETTING THE MESSAGE ACROSS

- Reporting and communicating CSR actions
- Camelot case study (box)
- Public awareness and labelling

DEVOLVED AND REGIONAL INVOLVEMENT

- Working with the devolved administrations
- Regional actions in England

PART 4: DRIVING FORWARD THE AGENDA: USING CSR TO MAKE GLOBALISATION WORK FOR ALL

INTERNATIONAL ACTION

- Putting CSR on the map
- Making CSR work for the developing world
- International Case Study – Voluntary Code (box)
- International Case Study – Ethical Trading (box)

CONCLUSIONS

- Leading the way in CSR

ANNEXES

- Ministerial Working groups

Foreword

During 2002, the UK has helped lead the way in corporate social responsibility (CSR).

Responsible behaviour is important for organisations of all kinds, large and small. It is crucially an international issue, not just a national one. And it affects business but it also affects the voluntary and public sectors, since there are public concerns not only about globalisation and the power of large corporations, but also about extremism and the unaccountable behaviour of some non-profit bodies.

CSR is exciting because it offers ways of achieving economic, social and environmental benefits at the same time. Many businesses as well as non-profit organisations accept the need for responsible behaviour as a matter of principle; but they also report that CSR can help build brand value, foster customer loyalty, motivate their staff, and contribute to a good reputation among a wide range of stakeholders. At the same time, their involvement can have an immensely positive impact on social and environmental issues, and contribute to the goals of sustainable development that are vital for the whole planet.

The Government is keen to encourage the development of CSR. A successful society needs business, the voluntary sector, and public bodies all working together; and it is a strength of CSR that its approach gets away from the old view that economic and social goals must somehow always be in conflict.

We need to be realistic about this. To be sustainable in a very competitive world, CSR needs to have a genuine economic foundation. It must assist, not compromise, performance; and it needs to be guided by proven experience, not dogma. At the same time, it must stimulate genuinely new behaviours that take organisations beyond legal minima and make a real difference.

The Government has two roles to play in this. First, it can ensure that regulatory and fiscal frameworks encourage CSR and do not stifle it. Secondly, Government can work in partnership with the business and community organisations to catalyse the conversion of CSR theory into real social and environmental investment.

As this report shows, much has been done over the last year. The UK took the lead in responding to the European Commission's Green Paper on CSR; regulatory and fiscal measures have been put in place, and CSR issues have been tackled on topics ranging from deprived neighbourhoods to ethical trading, and from the environment to international poverty. The Devolved Administrations in Scotland, Wales and Northern Ireland have played an important part in this, as have the Regional Development Agencies in England.

However there is very much still to do. CSR needs to become more widespread, and to be an integral part of the way organisations work, not just a peripheral interest. Within Government, Departments need to work more closely together and apply internally more of the CSR good practices that have been developed in the by business and community bodies.

This report sets out the agenda to keep up the progress of the last year, and ensure CSR makes its full contribution to the nation's economic, social and environmental development, and to wellbeing across the globe.

(signed by Patricia Hewitt)

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GOVERNMENT STRATEGY ON CORPORATE SOCIAL RESPONSIBILITY

Vision

The Government has an ambitious vision for corporate social responsibility: to see private and public sector organisations in the UK take account of their economic, social and environmental impact, and take complementary action to address key challenges based on their core competences – locally, regionally, nationally, and internationally.

Strategy

Our strategy for advancing this vision is to

- Promote activities that bring economic, social and environmental benefits
- Work in partnership with the private sector, community bodies, unions, consumers and other stakeholders
- Encourage innovative approaches and good practice
- Define decent minimum levels of performance
- Encourage awareness, trust and healthy public dialogue.

This ties in with the Government's strategy for sustainable development, with its aims of social progress, protection of the environment, prudent use of natural resources, and economic growth and employment.

Priorities and keynote actions

The Government has done a lot over the past year – but there is still a lot to do. Looking to the future, the Government will address five priority issues and take positive action in each:

- Raise the profile and highlight the importance of social and environmental responsibility.
Action: Take full account of opportunities to increase adoption and reporting of CSR as part of a continuing review of intelligent regulation and fiscal incentives.
- Make responsible behaviour a consideration of organisations' core operations.
Action: Take steps to establish CSR within the mainstream decision-making of organisations, with a strong focus on the environment, neighbourhood renewal, adult basic skills and international development.
- Assist the involvement of small and medium sized enterprises (SMEs).
Action: Create a step change in the consistency and quality of CSR guidance to SMEs by stimulating a joint approach among their key advisory organisations.
- Promote greater transparency in CSR reporting and awareness in the marketplace
Action: The Government will consult widely with all stakeholders to ensure that greater transparency and clarity is brought to the current confusing set of reporting models and codes of practice.
- Promote and facilitate good practice in CSR internationally as well as in the UK.
Action: Support the development of the Ethical Trading Initiative and other international, as well as, national work on best practice.

These keynote policies will be supported by steps to improve the impact and example of the Government's own activities, including consideration, within the policy and legal framework, of departmental public procurement practices.

The nature of these actions is described in more detail in the main body of this report.

INTRODUCTION

Taking our responsibilities seriously

This report provides an update on the Government's perspective on corporate social responsibility (CSR). It surveys some of the Government's main actions on CSR, identifies priorities, and sets out keynote policies to promote CSR and strengthen practice.

The Government has an ambitious vision for corporate social responsibility: to see private, voluntary and public sector organisations in the UK take account of their social and environmental impact, and taking action to address key challenges in their areas of operation – locally, regionally, nationally, and internationally.

The Government recognises that CSR is still evolving. Part 1 of this report reviews some aspects of an often lively debate. It then treats the framework-setting role of Government in Part 2, and moves on to partnership actions in Part 3.

There has been a lot of progress over the last year. The private sector has led the way with a number of key initiatives such as FTSE4Good. The Government too has played an important part in certain areas, for instance providing a strong national response to the European Commission's Green Paper on CSR, and assisting the work of the Ethical Trading Initiative on responsible international practices. But there is still much to do. The Government does not have all the answers and recognises that there is still work for the public sector to do to get its own house in order. These are things that we are working on. On some fronts we still need more co-ordination between Government Departments; we still need to adopt more CSR practices within the public sector; and we need more sharply focused action to drive the agenda forward.

This is a challenge we intend to meet in full, and one towards which the first strong steps have been taken.

PART 1: ENCOURAGING THE DEBATE

THE POLICY CONTEXT

Forces for change

Business, technology, communications, workplace and wider society have all been transformed over recent years and will continue to change as we progress into the twenty-first century. This demands new thinking and new strategies.

Increasingly, people are concerned that business should play a responsible role in our society, and businesses are taking social and environmental issues seriously. Events in 2001 have highlighted just how much our globalised world demands new responses – responses that meet social and environmental, as well as economic, needs, and the demands of national and international security. In a globalised world, people want to feel sure that the businesses are acting in a sensitive and responsible way in far-flung countries, as well as at home. Although this is often referred to as "corporate social responsibility", due to its relevance to large companies, it is important for organisations of all sizes, in all sectors.

This presents a diverse challenge to policy makers, who have to wrestle with the challenge of creating a fairer society, as well as a more dynamic market economy. To achieve both these goals, it is necessary to move beyond the old political paradigm, which sees them as somehow mutually exclusive. We also have to look further than old dogmas, which see either regulation or pure voluntary action as the answer.

It is a testament to the developments within our politics and our economy that we have managed to leave behind much of that sterile debate and replace it with a more constructive dialogue, founded on the concepts of sustainable development. This makes it possible to achieve economic, social and environmental benefits, all at the same time.

Joined-up policy

People are the prime source of wealth creation in Britain and across all the developed economies. Investment in human capital, in children and people, is an economic necessity and not just a social cost. Once a stable economic framework is secured, the most important way to grow the economy is to increase the productivity of each person employed and to increase the labour force, drawing more and more people into employment.

This requires a flourishing private sector, with a stable macro economy, high levels of education and skills, a world class science and technology base, modern infrastructure, strong regional economies, a framework of tough pro-competition laws, intelligent regulation – and careful use of natural resources.

In mature economies the business case for incorporating socially responsible practices into core business activities is increasingly accepted. Many companies now see CSR as part of their core business strategy, recognising the pressure of consumers and civil society, bottom line benefits, and the growing influence of socially responsible investment.

However, in developing countries this model often fails. In some countries the abundance of natural resources has exacerbated civil strife. The proceeds of these resources have not been shared widely and have been used to fund a conflict that is, in turn, partly fought over control of the revenue. In these unstable and failing environments, organisations can be driven by short-term needs and encouraged into corruption and unsustainable operations that hurt the poor. The actions of the UK Government aim to help governments of developing country to address these failures.

All this is based on a simple but profound insight – that in the emerging economy of the twenty-first century, the policies we need to care for society and the environment are the same policies that we need to create a successful economy.

THE SOCIAL AND ENVIRONMENTAL CONTEXT

Changing values

It is ironic that this new policy agenda has started to emerge at precisely the point when the legitimacy of the globalised economy is under question. Last year's riots at Gothenburg and Genoa illustrated the level of concern, let alone the tragic events of 11 September 2001.

The Prime Minister stated recently: "if globalisation works only for the benefit of the few, then it will fail and will deserve to fail." This statement challenges not only governments but companies to act.

In order to provide poorer countries with a pathway out of poverty we need more trade, not less. This requires governments to establish an international rules-based framework to ensure that trading is fair. But it also requires the business, community bodies, and consumers to act responsibly. For its part, business needs to be a consistent and reliable partner in development. There can be intense public reaction against companies that seem over-powerful, or that make highly priced goods for consumers in the developed world at the expense of human rights in less developed countries, or by ruining the environment. There can also be reactions against civil groups who appear to act irresponsibly.

It is clear that many multinationals already understand the business risks of being perceived as environmentally unfriendly, or as a 'bad' citizen, and the substantial benefits of being a good one. And there is ample evidence to show it is equally important for smaller organisations to ensure they too demonstrate responsible behaviour, even at a very local level. Corporate social responsibility is definitely not just for large corporations, nor is it just for business.

[BOX OUT]

What the public want

The setting for CSR in the UK is one of rising public expectation. The proportion of people who regard an organisation's social responsibility as "very important" when selecting a product has risen from 28% in 1998, to 46% in 2001. Research suggests that as many as one-fifth of consumers now boycotts or selects products on social grounds. The public generally understand CSR to mean responsibility towards customers, the community, employees, and the environment; but awareness of responsible practices is low, and people want to know more (MORI, 2001; <http://www.mori.com>).

CSR is also important in employment. The figures show that staff who are aware of an organisation's CSR activities are 12% more likely to speak highly of it, and that a good reputation for responsible behaviour is a significant factor in graduate recruitment.

The 50 Best Company List, first published in the UK in February 2001, is produced by Great Place to Work UK. The second UK list was published on 24 March and now features the 100 Best Companies to work for. The process used to determine the list is unique in that employees "vote" on their companies by completing the "Trust Index".

[END OF BOX]

Defining CSR

Of course, the first thing that a responsible organisation must do is comply with the laws and regulations that set essential minimum requirements for everyone. These include social obligations, such as equal opportunities and health and safety, as well as environmental requirements. But corporate social responsibility is essentially about behaviours that go beyond basic legal compliance.

To convert CSR principles into practice there needs to be a clear concept of what defines a responsible organisation. The most helpful approach is to describe behaviour. A responsible organisation does three things:

- It recognises that its activities have a wider impact on the society in which it operates;
- In response, it takes account of the economic, social, environmental and human rights impact of its activities across the world; and
- It seeks to achieve benefits by working in partnership with other groups and organisations.

This can bring real business benefits by reducing risk, by enhancing brand value, by opening doors and creating good will, and by improving staff efficiency and morale. It can also attract stable and ethical investment and add competitive edge. At the same time, this approach is one of the ways in which organisations can contribute to the overall goal of sustainable development – which is essential not only for their own future, but for the future of our planet.

[Box this part]

The European agenda

The European Commission (EC) extended the whole debate in Europe by publishing a Green Paper on CSR in July 2001. As a discussion document, the Green Paper raised a number of issues about the relationship between voluntary and compulsory aspects of CSR and a possible standardised European approach – items that could potentially lead to Europe-wide regulation.

The UK consultations on the EC Green Paper led to a much clearer picture of what works in CSR, what does not work, and how public bodies can help make it more effective and widespread.

There was general agreement that CSR is founded on partnership building, an area where UK business and community organisations have together demonstrated what can be achieved. Unsurprisingly, opinions differed as to the role that the EU should play: some argued that the EU had a role for promoting good practice whilst others doubted that the EU could bring any added value to the agenda.

The resulting UK response to the Green Paper was based firmly on the experience of UK organisations in both national and international CSR. In summary, the response argued that:

- A European approach to promoting CSR should seek to mainstream CSR within community policies, engage the private sector and promote greater transparency in the marketplace.
- It should focus on supporting those private sector and Government-backed activities that are already in place, rather than seeking to establish a separate European framework.
- CSR is at different stages of development across Europe and current activities tend to strongly reflect national priorities; these need to be respected.
- There are some areas where action is needed, but in many cases greater standardisation risks stifling further innovation and development. The overall European approach should seek to add value to action, and should not seek to impose unnecessary uniformity on current arrangements.
- European regulation concerning environmental and employment protection is already highly developed. The European approach to CSR should therefore focus on identifying good practice and improving policies for engaging the private sector in less heavily regulated areas, for example, international development, economic regeneration and basic literacy and numeracy skills.
- Mandatory or standardised European labelling of products to indicate their social or environmental credentials was deemed inappropriate, but where social labels are used, there should be greater transparency for the consumer of what they really mean. (This issue is treated further later on in this report.)

Of the 250 Green Paper responses received by the EC, the UK provided over 80. The inputs tended to define the role of the EC as promoting CSR by acting as a catalyst for information, promoting stakeholder dialogue and ensuring that CSR was "mainstreamed" in all European policies. Broadly speaking, business strongly supported a voluntary approach to CSR, which recognised the need for profitability, whereas NGOs argued that CSR could not be developed unilaterally by business and might well entail economic costs. Instruments such as the OECD Guidelines and ILO core Conventions can help to guide corporate behaviour internationally.

The EC plan to publish a further communication on CSR in June 2002, and there will be a Danish presidency Conference on CSR in November 2002. The UK will continue to play a leading role in shaping the CSR agenda at an EU level. Details of the Green Paper, the consultation documents and the responses can be found on the Government's CSR website: <http://www.societyandbusiness.gov.uk/> and at the EU site <http://www.europa.eu.int>.

[End box]

Debating the case

Few would dispute that businesses nowadays are concerned with more than their bottom-line. Corporate social responsibility (CSR) has become a watchword for broader social and environmental concerns. But, as the EC Green Paper showed, there is a vigorous and thoroughly healthy debate about how CSR should be applied and for what purpose.

From a practical point of view it is clear that responsible practices are becoming more widespread, as organisations of all type come under pressure from a range of constituencies. For some, the move towards more responsible practices has been prompted by NGO pressure. However, other organisations have taken a proactive line, without external pressure, in the belief that good citizenship is simply part of building a good business.

Many of the benefits of CSR are intangible or long-term, and this can make hard statistics on bottom-line results elusive. The financial benefits of an energy-saving programme, for example, can be relatively easy to prove, but the returns from improved staff loyalty are much harder to quantify. But for many organisations CSR is not merely about traditional business cases, risk management or enlightened self-interest, but about values and vision. This swiftly leads the debate to very fundamental issues of organisational purpose and governance.

Another debate concerns the link between CSR and society itself. The Institute for Public Policy Research, for example, has suggested that CSR might be viewed as business actions that support the public interest, in ways that go beyond the minimum regulatory requirements. But the public interest is not easy to pin down and invites a whole further discussion about the respective roles of elected bodies, the public sector, NGOs as well as business, in representing and serving the public good.

At the same time the very concept of CSR is not without critics. Some contend that social objectives are inappropriate for business and can only lower business efficiency (which is ultimately bad for society) or lead business into inappropriate societal roles (which is bad for democracy). Others argue that CSR can never be more than mere window-dressing so long as the main duty of companies is to shareholders – profit for the few takes priority over the wider good. Consumer bodies add another voice to the discussion, reminding the participants that affordable, safe, and healthy goods are the most pressing issue for very many consumers.

There is clearly a spectrum of views, but we do not believe that it is constructive to take a polarised view of CSR – especially since CSR is fundamentally about the benefits of an inclusive approach. There is ample evidence that many organisations have found a strong business case for CSR and that it can deliver strong public good at the same time. Increasing public and corporate interest is changing markets and making the case stronger; and Government can help lead the debate and widen and deepen good practices.

Turning words into action

Real corporate social responsibility is about actions, not just words. In the Government's view it is a long-term commitment, with two key challenges:

- Promotion – encouraging more organisations to adopt socially and environmentally responsible practices, and
- Mainstreaming – ensuring that responsible behaviour becomes an integral part of organisations' operations, and not just a peripheral matter.

Together, business and community bodies have led the way in CSR during 2001. They have identified new patterns of behaviour that serve social and environmental needs, as well as the economic bottom-line. The wide diversity of initiatives is welcome proof of the power of CSR to stimulate innovation. Many of the most important advances concern CSR guidance, best practice and benchmarking, plus the development of schemes that recognise success and encourage involvement. The launches of FTSE4Good, the Association of British Insurers' guidelines, and progress of the Ethical Trading Initiative (treated later in this text) all added to the momentum on these fronts, helping to push forward both promotion and mainstreaming.

These twin themes have also been at the heart of the Government's actions to drive CSR forward. The UK Government has already been more active than any other in recognising the significance of CSR, and it has continued the journey begun with the appointment in March 2000 of Dr. Kim Howells as the world's first Minister with responsibility for CSR, but there is still a great deal to do.

[start box]

FTSE4Good was introduced by FTSE in May 2001. It sets out four socially responsible investment (SRI) indices covering UK, European, US, and Global companies, and lists companies which demonstrate responsible behaviour on human rights, the environment and society. An independent committee of 14 international SRI experts review the indices every six months and the scheme is backed by UNICEF, to whom all licensing revenues from the indices will be donated. <http://www.ftse4good.com/>

FTSE are responding to market demand for such an index, which is not confined to the UK. A recent Europe-wide survey of 300 financial analysts and fund managers found that 33% already offer SRI products and 15% plan to introduce them (Euronext/CSR Europe survey, October 2001). Reflecting this interest, an associated online guide to SRI funds was launched in November 2001 at <http://www.sricompass.org>.

The Association of British Insurers issued new guidelines on social responsibility in October 2001. The guidelines build on the best practice and practical experience of businesses and advice from a wide variety of partners. They too emphasise the need to address core business activities. Speaking at the launch event Douglas Alexander, the Minister for Corporate Social Responsibility, welcomed this kind of approach, commenting that it tied in with the Government's desire to work in partnership on the CSR agenda. <http://www.abi.org.uk>

The Heart of the City was launched as a joint initiative by business and the City of London. It too offers new guidance on social impact and reporting for organisations based in the City of London. One-third of City businesses have community programmes, involving an estimated 27,000 staff and providing voluntary support valued at £337M. <http://www.heartofthecity.org.uk>

Members of the **Ethical Trading Initiative** have adopted international standards that come from the Core Conventions of the International Labour Organisation, to which over 170 nations belong. Corporate members of the ETI include major high street names with a combined annual turnover of almost £100bn, and this is expected to rise significantly as more large UK companies join. These businesses have been addressing supply chain issues such as working hours and the "living wage", rights-based issues, boundaries of responsibility in

supply chain management, and quality of monitoring. The Department for International Development (DFID) helped set up the ETI in 1998 and has supported and worked closely with it since then. <http://www.ethicaltrade.org>

Meanwhile Business in the Community (BITC)'s Race for Opportunity campaign recently launched a benchmarking report on 93 companies. 184 companies participated in its Business in the Environment Index, and a new Impact on Society Reporting website was launched. Government is a major contributor to BITC, providing about one third of its total funding. <http://www.bitc.org.uk>
[end box]

PART 2: CREATING THE FRAMEWORK: GOVERNMENT'S ROLE

Nowhere is it more important to make the right decisions than in the national and international legal and fiscal frameworks, and where the Government plays a unique role.

[BOX OUT AND HIGHLIGHT AS AN ACTION AREA]

It is a priority to raise the profile and highlight the importance of social and environmental responsibility, so that CSR becomes part of normal practice for all types of organisation, and for international as well as national operations.

The Government will assist this by taking full account of opportunities to increase and incentivise adoption and reporting of CSR as part of a continuing review of intelligent regulation and fiscal incentives. The impact of new measures such as the Pensions Act provisions will be monitored together with the scope to extend them into other areas.

Government will also work with the investment community to identify socially responsible investment tools and find ways to encourage them to be mainstreamed in the investment community.

[END OF HIGHLIGHT BOX]

LEGAL FRAMEWORKS: EMBEDDING RESPONSIBLE BEHAVIOUR

Action by the DTI

For any organisation, responsible behaviour starts with legal compliance. The UK benefits from a tried and tested framework of laws and regulations on social and environmental issues. To ensure it remains current, this framework is constantly evolving and can be immensely powerful in making CSR part of normal practice in all types of organisations.

This is not simply about specifying legal minima – although that is one aspect of the process. Legislation is not a magic wand; it cannot force virtue, and excessive intervention risks stifling rather than fostering the innovation which has characterised CSR to date. But in its enabling role, legislation can improve transparency and reporting - encouraging more organisations to adopt CSR, and also prompting them to make it a core issue.

Enabling legislation in the Pensions Act

One key piece of enabling legislation came into effect in July 2000, when changes to the Pensions Act 1995 required pension funds to disclose the extent to which they take social, environmental and ethical issues into account when investing money. It did not require funds to undertake any particular policy, This small-seeming step has nevertheless proved very powerful, focusing minds in the financial sector and among companies on the growing importance of ethical investment, and added weight to the movement for SRI exemplified by FTSE4Good. It has also been regarded as a good example of "light touch" legislation internationally, with similar approaches being adopted elsewhere in Europe.

Modernising Company Law

The Government is also committed to modernising company law so that it is up-to-date and promotes enterprise and productivity.

Company law clearly has a potentially important role to play in relation to CSR objectives. Much of British company law derives from principles established over a century ago, and although these principles have served the economy well, the Government recognised that the time was ripe for a fundamental overhaul and launched an independent Review, which published its Final Report in July 2001. Its recommendations for reform include important proposals to improve accountability and transparency:

- directors should continue to act in the best interests of their shareholders but also take account of wider interests, such as relations with employees, suppliers and customers, and the impact of their actions on the community and the environment; and
- larger companies should reduce an operating and financial review (OFR) as part of their annual reports, to include significant trends and any other material items such as stakeholder relations, environmental and community impact and risk management.

The Government will consult on detailed proposals, once it has been able to examine the Review's recommendations carefully. <http://www2.dti.gov.uk/cld/review.htm>

"This review reflects the changes that are needed to get rid of unnecessary burdens and to meet modern expectations about corporate accountability and transparency. A more user-friendly system will boost productivity and make this country a better place to do business."

Patricia Hewitt, Trade and Industry Secretary, July 2001

International agreements

In a global economy, it is important to have international as well as national codes and rules that support responsible behaviour.

The 1998 Declaration on Fundamental Principles and Rights at Work of the **International Labour Organisation (ILO)** establishes internationally agreed core labour standards. It expresses Governments' commitment to eliminating the worst forms of child labour; slavery and forced labour; and to upholding workers freedom of association and right to work free of discrimination. As a Government, we fully and unequivocally support the Declaration and have ratified all eight of the fundamental ILO Conventions.

We equally support the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977, amended 2000), which sets out guidelines for action by Governments, multinational enterprises, and workers' and employers' organisations. <http://www.ilo.org>.

The Government also supports the ILO in its work, through technical co-operation programmes, but does not support a sanctions based approach towards implementing labour standards. That would simply harm the developing countries' economies and make it even more difficult for them to implement core labour standards.

The Government is also actively promoting the **Organisation for Economic Co-operation and Development (OECD)** Guidelines for Multinational Enterprises. The Guidelines set out government expectations of business behaviour globally across a wide area of business activity including environment, labour and disclosure. Although voluntary for business they do contain a follow up mechanism whereby concerns about the activities of Multinationals can be brought to the attention of signatory governments. <http://www.oecd.org>

INSERT QUOTE:

'One of the main fears of anti-globalisation campaigners is that lax regulation is a precondition of commercial engagement in developing countries, resulting in a downward spiral of poor labour, environmental and regulatory standards....where multinationals are unaccountable across borders - and sometimes appear more powerful than the developing countries in which they operate - companies and governments must do more to restore the right balance, increase stakeholder awareness and achieve cross-border accountability'

Gordon Brown, Chancellor of the Exchequer, New York November 2001

Ensuring Equality

The fundamentals of equal opportunities are a central plank of CSR. The UK took an active part in the negotiation of the EC Employment and Race Directives,

<http://www2.dti.gov.uk/er/equality> and welcomed the outcome. The Directives provide a common framework of protection against unfair discrimination across Europe. Their implementation in Great Britain will involve new legislation to outlaw discrimination on grounds of age, sexual orientation and religion in employment and training. The Government also proposes to implement some changes to the Disability Discrimination and Race Relations Acts.

Towards Equality and Diversity contains the Government's proposals for taking forward this work. It consults on general issues, which include the definition of indirect discrimination, tackling harassment, and effective ways of providing advice, guidance and support both to business and individuals.

The Employment Bill underlines the Government's commitment to create highly productive, modern and successful workplaces through fairness and partnership at work. It will deliver a balanced package of support for working parents, at the same time as reducing red tape for employers by simplifying rules governing maternity, paternity and adoption leave and pay, employment tribunal reform, making it easier to settle disputes in the workplace. It also contains provisions to avoid discrimination in pay and pensions for fixed term employees.

Getting remuneration right

In 1998 the main recommendations of the Greenbury, Cadbury and Hampel Reports on corporate Governance were brought together in the Combined Code. This contains principles of good governance, including best practice guidance on directors' remuneration. Listed companies are strongly recommended to comply with the Combined Code, but are not obliged to do so - although if they decide not to, the Listing Rules require them to explain why. <http://www.fsa.gov.uk/pubs>

In 1999, the Government commissioned a report which demonstrated a clear need for improvement and led to a consultative document on directors' remuneration. This led to the announcement in March 2001 that legislation will be introduced to give shareholders of quoted companies the right to an annual vote on directors' pay. The proposals include a requirement for quoted companies to publish a full report on directors' remuneration as part of the annual reporting cycle, as well as other steps which go beyond the Combined Code. These matters were set out in a DTI consultation document in December 2001 for a consultation period ending on 15 March 2002. <http://www2.dti.gov.uk/>

FISCAL INSTRUMENTS: PROVIDING INCENTIVES WHERE NECESSARY

Action by Inland Revenue and HMT

In some cases, it requires fiscal measures to create new models of social engagement, or to assist the take-up of practices which have been previously been uneconomic. Changes to public funding and taxation may be important to some forms of CSR, to stimulate social investment. But like regulation, these fiscal interventions are not a magic wand. Fiscal measures can also distort the market, or create artificial dependencies that ultimately do more harm than good. Equally, people should not be bribed into responsible behaviour, when there is both a social expectation and a business case for good citizenship; but in some circumstances a financial stimulus is necessary, and the Government has taken a lead in providing some key inducements to make CSR more widespread.

Promoting payroll giving

Perhaps the most obvious fiscal backing for responsible behaviour is the Government's support of charitable donations by organisations and their employees.

Payroll Giving is a tax-effective way for employees to donate to charity by authorising a deduction from their gross pay before tax. The scheme has been available for over a decade but was improved in April 2000, when the annual limit on donations of £1,200 was removed. At the same time, the Government announced a major publicity campaign to promote the scheme, backed by a special ten per cent supplement on all donations for three years.

Launched in October 2000 with a £2 million publicity campaign this scheme aims to double donations (from £29m in 1998/99) to £60m a year, raise the number of employees with access to Payroll Giving from 1 in 5 to 1 in 3, and attract higher-paid donors.

Without a scheme available to them, it is simply not possible for employees to use Payroll Giving. The main thrust of the campaign has therefore been to target nearly 30,000 employers to encourage the 6,000 who already offered schemes to re-launch or improve their schemes, and encourage the 23,000 who did not offer schemes to start to do so.

As a result, Payroll Giving donations have increased from £37 million to £55 million in the year to March 2001 and are expected to exceed the campaign target of £60 million a year by March 2002 - a year earlier than projected. Half a million people are now taking advantage of the scheme, including 7,000 giving at a level above the old limit of £1,200 a year.

The Government is also supporting **The Giving Campaign**, www.thegivingcampaign.org.uk which is extending the agenda with research into the business case for payroll giving and ways of extending it to new sectors. Providing a Payroll Giving scheme is becoming more widely recognised as an essential ingredient for socially responsible employers to demonstrate support for their staff and the community. Full details of the Inland Revenue initiative can be found at www.inlandrevenue.gov.uk/payrollgiving.

Investing in the community

Incentives form part of the government's strategy for assisting disadvantaged communities with a major focus on increasing the involvement of business in deprived neighbourhoods. It is doubly essential for companies to be engaged in disadvantaged communities, since business is part of the fabric of self-sufficient neighbourhoods where residents can live, work and access the products and services they need.

The Social Investment Task Force, led by Sir Ronald Cohen, reported to the Chancellor of the Exchequer in October 2000, recommending how to increase our capacity for creating wealth, economic growth, employment and an improved social fabric in our most under-invested

communities. Following that report, HM Treasury are pursuing a number of initiatives which will play an important role in our strategy for assisting disadvantaged communities. Two of these are the Community Investment Tax Credit and the Community Development Venture Fund. <http://www.enterprising-communities.org.uk>

- The **Community Investment Tax Credit (CITC)** offers a tax incentive to encourage private investment through Community Development Finance Institutions (CDFIs), in both not-for-profit and profit-seeking enterprises in under-invested communities. Under current plans, qualifying investments will attract tax credits worth 25%, spread evenly over 5 years. An investor putting in £100k will be able to reduce his tax bill from other activities by £5k per year for 5 years. Qualifying investments will be those made in approved CDFIs. Although CDFIs vary in nature their purpose remains the same: to provide capital and technical assistance to enterprises in disadvantaged communities that are excluded from mainstream commercial finance. They are able to do this effectively because of their close links with and expert knowledge of the communities with whom they work. CITC is now in its final stages of development, and aims to be operational in the second half of 2002, subject to obtaining state aids approval.
- The **Community Development Venture Fund (CDVF)** is a matched funding partnership between Government and the venture capital industry to provide venture capital finance to firms operating in disadvantaged areas. Venture capital can be an important source of funds for growth and development, as well as giving enterprises access to expert advice and guidance. This initiative sits well alongside the CITC, as it provides investment for a different market segment within deprived areas.

The Government has committed £20 million in matched funding to this £40 million Fund, and responses from the private sector have been positive. Government is now working closely with Sir Ronald Cohen on setting up the Fund. The Fund aims to be operational and actively seeking investment projects by the end of financial year 2001/02, subject to state aids approval.

The Fund will invest only in deprived areas, but will otherwise be run as a commercial operation on standard venture capital principles, namely that it will seek to provide capital to businesses which are expected to be successful and show strong growth.

If this project proves successful, it may highlight new and formerly overlooked potential for the venture capital model to work effectively in deprived areas.

CDFI CASE STUDY

The ART to successful business

The Aston Reinvestment Trust (ART), launched in 1997, provides loans, business advice and support to projects that are unable to access full borrowing requirements from the banks. It is based in one of the most disadvantaged areas of the UK, and serves for-profit and social enterprises.

Since 1997, ART has made 81 loans totalling over £1.6 million – which has levered an additional £2.7 million of other funding. ART has raised capital from both the public and private sectors. Social Investors, including private individuals and local and national companies, purchase shares in a mutual organisation, with no immediate promise of a financial return. As ART developed a track record further public sector support has been obtained and this has led to the ability to raise modest loan finance from a Bank and Charitable Foundations to expand activity.

ART provides loans for start-ups, but has so far concentrated on providing working or development capital to established small businesses and social enterprises located in disadvantaged areas of Birmingham, targeting local jobs for local people, such as the following:

- BABA Enterprises Limited is the UK's largest manufacturer of fresh poppadums. ART worked with a bank, the local authority and the DTI to help BABA move to new premises and acquire more equipment to meet increasing demand.
- Betel of Britain is a registered charity that helps people recover from addiction through work programmes in various enterprises, such as furniture restoration, furniture retailing, and gardening. Betel has now graduated to bank borrowing for many of its current trading requirements, having established an exemplary borrowing track record.

[QUOTE]

"ART as a CDFI is a great example of how individuals and companies investing in their own backyard have successfully enhanced the local economy" – Steve Walker, Chief Executive, ART

The Aston Reinvestment Trust is at www.reinvest.co.uk.

[Box out]

Leading by example

The Government is conscious of its responsibility to set a good example. It aims to practice what it preaches. On many counts, we recognise that the journey is only just begun; but some good practices are well established.

People: The Government's aim is for all civil servants to work in organisations that have Investors in People accreditation, and the current level is 98%. This compares with a national average of 23%. 87% agree that they know how they are contributing to the aims of their organisations. The Government is working hard to increase diversity within the civil service. The proportion of women in the top 600 civil service posts has risen from around 14% in 1999 to over 20% in 2001. Over the same period, the proportion of all staff with disabilities rose from about 1.6 to 2.0%, and ethnic minority staff from about 1.7% to around 2.4%. Further information on employment aspects can be found at www.civilservice.gov.uk/reform/.

Sustainable Development: All Government Departments already have "Green Ministers" to champion sustainable development. The Third Annual Report on Greening Government, published in November 2001, provides a comprehensive review of progress on energy management, greenhouse gas emissions, travel, water, waste, procurement, biodiversity and empty residential property.

- All departments have begun consideration of environmental management systems and 10 are now fully certified to ISO 14001.
- 18 departments are now carrying out strategies for raising awareness of sustainable development among their staff.
- The Government estate is now using 17% less energy than in 1990/91, having slipped back from the 18.9% figure last year.
- Seven departments are already meeting the target to recycle 40% of their office waste
- Twelve departments are participating in the Treasury-funded "Watermark" project, the Treasury itself has already reduced water consumption by 15,000 cubic metres per annum saving £18,000 from just one location.

Further details can be found on the comprehensive website at www.sustainable-development.gov.uk

Volunteering: Since 2000 all Government Departments have taken up the Prime Minister's challenge to employers – private and public sector – to give their staff the equivalent of one day's paid time to volunteer per year. Each Department has produced a volunteering strategy and a cross-departmental working group has been set up, led by the Active Community Unit (ACU) to review progress and share best practice. Some Departments have agreed to allow more than one day, for example up to 5 days a year at the Home Office. Departments have also established links on their intranets to Timebank or are collaborating with Volunteer Bureaux on employee volunteering and team challenges.
<http://www.homeoffice.gov.uk/>

Procurement: The government recognises too that there is great potential for it to use its spending power to support sustainable and socially responsible objectives. This needs to be done within EU international rules, based on the principles of non-discrimination, transparency, and competitive procurement. There is the added Governmental policy that all procurement must deliver value for money to the taxpayer. A high-level cross-government group has been set up to investigate these issues and its outputs will inform the development of procurement targets and guidance within a framework for sustainable development on the Government estate, building on existing Green Procurement guidelines.
<http://www.ogc.gov.uk>

The Government will underpin its other CSR priorities by taking steps to improve the impact and example of its own activities, including consideration, within the policy and legal framework, of departmental public procurement practices.

PART 3: DRIVING FORWARD THE AGENDA: WORKING IN PARTNERSHIP

Pulling it all together

The Government's commitment to CSR is broader than legislative and fiscal frameworks. To drive the agenda forward, it is underpinning a range of national and international initiatives to develop, embed and promote CSR, in partnership with, or in support of, the actions of business and community organisations. Many – but by no means all – of these actions are set out in the sections that follow. Some of the actions are UK-wide; others may vary according to the delivery strategies of regional bodies and the devolved administrations in Scotland, Wales and Northern Ireland. Globalisation brings its own issues, and receives special attention in Part 4 of this report.

In undertaking these actions, the Government has made great efforts to listen to the opinions of all parts of society, and to factor them into its strategy – taking inputs from public opinion and from CSR professionals, from businesses, academic bodies and from NGOs.

Gathering feedback

Within six months of his appointment, Douglas Alexander led Round Table discussion groups to receive external advice on how Government could best add value. The DTI also set up three Working Groups and launched three major research projects – all of which have delivered results reported in this paper. The research is also presented in full on the Government's CSR website, www.societyandbusiness.gov.uk.

The Round Tables brought together business people, NGOs, and academics, and were remarkably consistent in their recommendations. Above all, they underlined the priorities set out earlier in this report that CSR needs to be more widely adopted, and that it needs to be part of normal business practice, not an add-on. Round Table participants were keen for Government to promote CSR, encourage transparent, effective reporting of CSR issues, and help smaller organisations to become more involved. They endorsed the use of intelligent legislation such as the Pensions Act and favoured incentives such as fiscal measures, especially where the business case for CSR is marginal. These views aligned closely with inputs from other sources.

The Government also led a major consultation during the second half of 2001 to compile the UK response to the EC Green Paper on CSR. The Minister wrote to a wide range of stakeholders, comments were invited via the Government's CSR website, and the Government held consultation events in London and Edinburgh with business, NGOs and Trade Unions, including the CBI and TUC. These showed uniform agreement that partnership building is vital to CSR, and that it is an area where UK business takes a lead. They also underlined many of the points made separately by the Round Tables. The UK response to the Green Paper has been summarised earlier in this report.

All these inputs have helped shape the Government strategy, not only with regard to regulation and fiscal measures, but also in its approach to driving the agenda forward through partnership actions.

Strategy for Partnership

The Government believes that CSR has a significant part to play in addressing some of the most pressing issues that challenge our society. The following sections illustrate how it is driving forward the CSR agenda through partnership with the business and community organisations in

- sustainable development
- neighbourhood renewal
- skills development
- engaging smaller organisations
- community involvement
- international development.

The themes of promoting and mainstreaming CSR, and the resulting support for guidance, best practice, and benchmarking, run through the Government's actions in all the different focus areas.

[BOX OUT AND HIGHLIGHT THE NEXT SECTION AS A PRIORITY]

Making responsible behaviour part of organisations' core operations is one of the main priorities if CSR is to have its full impact.

To support this, the Government will take steps to mainstream CSR within the core decision-making of organisations, with a strong focus on the environment, neighbourhood renewal, adult basic skills and international development. The Government will focus firmly on high impact, mainstream actions rather than supporting peripheral or philanthropic involvement.

[END OF HIGHLIGHT BOX]

TOWARDS A SUSTAINABLE SOCIETY: ACHIEVING ECONOMIC, SOCIAL, AND ENVIRONMENTAL AIMS

Action by DEFRA, DTI and DCMS

Joined-up thinking

No approach to CSR would be complete unless it tied in with the goals of sustainable development: social progress, protection of the environment, prudent use of natural resources, and economic growth and employment. The government's strategy on sustainable development is well developed and can be found at www.sustainable-development.gov.uk

Protecting the environment

Environmental issues are attracting increasing attention in boardrooms – for sound business reasons. Consideration of environmental impacts brings many opportunities – new markets, innovations, fresh ways of thinking – for those businesses who seize the chance. Companies are also recognising the savings offered by increased resource productivity - the generation of more wealth from less energy and fewer resources.

Government has sought to engage with and support business in recognising and responding to the environmental impacts and opportunities set out above. Examples of this ongoing engagement over the last 12 months include:

Environmental Reporting: In order for businesses, alongside their investors, shareholders and customers, to identify responsibilities and opportunities, they must first understand their own environmental impacts. Many companies already report on this, and have found significant financial benefits accrue from tracking their use of resources. The Government wants to ensure that many more companies follow suit.

DEFRA, in partnership with both the DTI and CBI, published new General Guidelines on Environmental Reporting in November 2001. These sit alongside guidelines already issued for companies reporting on greenhouse gas emissions, waste and water over the past few years, and explain the basics of how to produce an environmental report, suggesting contents and key indicators to report against. Companies can find these guidelines at the DEFRA site, <http://www.defra.gov.uk>

Performance and Innovation Unit Report on Resource Productivity: In November 2001, the Performance and Innovation Unit, based in the Cabinet Office, produced 'Resource Productivity – Making More With Less'. This report was commissioned by the Prime Minister as an investigation into how more goods and services could be produced using fewer inputs

of materials and energy; see .

<http://www.cabinet-office.gov.uk/innovation/2001/resource/report/>.

The report contains a number of recommendations, many relating to resource productivity. This includes monitoring levels of environmental reporting and reviewing options for targeted support for innovation. These will be taken forward over the coming year by Government Departments, including DEFRA and DTI, in partnership with business organisations and advisory bodies, such as the Advisory Committee on Business and the Environment.

Sectoral Sustainability Strategies: DEFRA and DTI have been encouraging trade associations and other representative bodies to develop sustainability strategies. The aim of such strategies is to provide a framework for action within the sector and to complement the activities being taken by individual members to improve their performance. A "Pioneers Group" has been established where the two Departments support the efforts of 20 sector bodies to access research and advice, and the Sustainable Development Commission is also involved, <http://www.sd-commission.gov.uk/index.htm>. Three sectoral organisations – the Society of Motor Manufacturers and Traders www.smmmt.co.uk, the UK Offshore Operators Association www.ukooa.co.uk and the British Retail Consortium www.brc.org.uk have now published strategies. Others are still being developed. A joint publication promoting the production of sustainable development strategies by business sectors will be published in March/April 2002.

Through its Sustainable Tourism initiative, the Government is encouraging the tourism industry to adopt sustainable practices as outlined in the 'Tomorrow's Tourism' strategy. In November 2000, the Department of Culture, Media and Sports, the English Tourism Council and the Countryside Agency launched a revised Green Audit Kit. The kit contains advice for businesses on contributing to local communities by supplying local produce, encouraging visitors to use public transport and setting up voluntary visitor payback schemes. http://www.culture.gov.uk/tourism/tomorrow_tour.html

World Summit on Sustainable Development 2002: This major UN summit will mark the 10th anniversary of the United Nations Conference on Environment and Development in Rio. Its focus will be to obtain a renewed commitment at the highest national and international level to the Rio outcomes and to develop mechanisms for their continued delivery. The UK's overarching strategic objective for the Summit is to make globalisation work for sustainable development, especially for the poorest.

It is internationally recognised that governments alone cannot deliver sustainable development alone and that partnership with civil society, and particularly business, is essential. This engagement has been taken forward through bodies such as Business Action for Sustainable Development (BASD), which includes major industry sector trade groups and multinational companies. Many individual country delegations will also include business representatives, see also <http://www.johannesburgsummit.org>.

"To survive and prosper in competitive international markets, companies must get to grips with environmental issues. The best businesses are now increasing their economic output while using less energy, material or land. Others need to follow their lead. They also need to broaden their management to include all aspects of corporate performance, including the social and environmental alongside economic concerns."

Rt. Hon Michael Meacher MP, Minister of State (Environment)

MAINSTREAM CSR AND THE CHALLENGE OF NEIGHBOURHOOD RENEWAL

Action by the DTLR, HM Treasury, DTI and the Small Business Service

For CSR to have a really significant effect, it needs to become part of the core decisions of organisations. This is essential if CSR is to affect the parts of organisations that have the most impact, such as staffing, procurement, or the choice of production or retail locations. Mainstream functions such as these account for the biggest budgets and affect the largest numbers of people, both inside and outside the organisation. It does not matter whether the organisation is a business, a voluntary or a public body; for all its feelgood factor, CSR is ultimately peripheral unless it becomes part of an organisation's mainstream activities.

This is especially apparent when considering the need to contribute to major national challenges, such as neighbourhood renewal.

Engaging business in disadvantaged communities

The launch of the National Strategy for Neighbourhood Renewal by the Prime Minister in January 2001 marked a major change in the way regeneration is delivered in England with a new emphasis on involving the private, voluntary and community sectors as well as public bodies (see <http://www.cabinet-office.gov.uk>).

Much has been achieved in recent years and many companies have been active in regeneration projects. However achieving large-scale impact has been difficult. To help deal with this, Local Strategic Partnerships (LSPs) have now been set up to lead and coordinate neighbourhood renewal in the 88 most disadvantaged areas by bringing together all the key stakeholders to develop Local Neighbourhood Renewal Strategies. This will help ensure that participating organisations will be pooling resources with the network of other agencies in a truly co-ordinated approach.

The Government is also funding a pilot programme of **Business Brokers in 9 locations**. Delivered in partnership with British Chambers of Commerce and Business in the Community, the Business Brokers will provide an additional resource for the LSPs to help them engage business in the delivery of their Local Neighbourhood Renewal Strategies. The pilot will also provide a central Partnership Academy, to help all LSPs.

Celebrating achievement

Inner City 100 is another action that showcases the 100 fastest growing small companies located in Britain's inner cities. The index includes both 'for profit' and community and social enterprises. To qualify, the enterprises had to have demonstrated growth and created jobs, as well as acting in a socially and environmentally responsible manner.

Inner City 100 is led by the New Economics Foundation and partly sponsored by the DTI and HMT, with other partners from the private sector. The first awards were made at the end of November 2001; further details including a list of the eligible areas and nominations procedures for the 2002 awards are available on www.theinnercity100.org/

Recognising untapped potential

Along with the neighbourhood renewal strategy set out above, the Government's **City Growth Strategies (CGS)** takes a business-oriented approach to inner-city economic development pioneered by the Initiative for a Competitive Inner City (ICIC) in the USA.

The CGS rationale is that many of the UK's poorest towns and cities face fundamental problems that discourage business creation and private investment, yet they arguably have strong economic potential and competitive advantages such as under-served retail markets and under-utilized labour force. These can provide a sustainable business base and create wealth, employment and entrepreneurial role models for the future.

During 2001 the Regional Development Agencies nominated twelve localities for pilot projects and St. Helens, Nottingham, Plymouth and London were selected. The projects will be backed by the Government's Small Business Service (SBS) and the Phoenix Fund.
www.icic.org

Encouraging high value CSR

CGS's principles of hard business case and overlooked opportunity are precisely those that are needed if CSR is to feature in mainstream investment decisions, where it is critical to make the best use of stakeholder resources.

The DTI commissioned a Working Group to consider these issues at the end of 2001, and also commissioned research to look at these issues, especially in the light of US practice.

The Working Group and research agreed on many points. They found that the business drivers for this type of investment are diverse, and both also noted that a number of public, business and community sector partners may need to be involved in order to ensure that the entrant to the market can 'act locally' and maximise the business and community benefits of such a move. The output of the Working Group is summarised in Annex 1.

The research confirmed that there are business benefits to be found in assisting the rebuild of weak inner-city economies, which are now being re-evaluated as missed opportunities in the US. American strategies cannot simply be imported to the UK due to cultural and political differences, for example UK community organisations do not have a tradition of selling their neighbourhoods to big business. Adaptation is required, but home-formed examples are already up and running in the UK (research by BITC). The case study illustrates the results that can stem from this approach.

Castle Vale, Birmingham

CSR case studies usually present the business view of events. The Castle Vale story is different; it concerns a non-profit organisation that achieved such successful partnerships with companies that it secured £86 million of business investment for its community.

Castle Vale was built during the sixties and is home to 11,000 people. The original design favoured high-rise blocks and used unsatisfactory construction methods. The local economy failed to get off the ground and unemployment reached an average of 25% in 1993 compared to the city figure of 17 – 18%.

Castle Vale Housing Action Trust (CVHAT) was established in 1993 and set out to create sustainable improvements. So when **Jaguar** needed to recruit people to build its new mid-range car, CVHAT gave residents an edge by putting them through GNVQ courses and by negotiating additional intensive training in paint shop techniques for them. This customised training programme cost £18,000 and was part funded with an ESF grant of 45%, leaving the actual cost to the HAT of £10,000. The success rate into employment was 81% and met Jaguar's aims of recruiting local staff, especially women.

CVHAT also worked with **Sainsbury's** over the new Castle Vale shopping centre, agreeing a redevelopment that was not only best value in financial terms but also provided the best possible long-term benefits for residents. Sainsbury's established close links with the local community and maintained dialogue throughout the building work. The £35 million shopping centre opened in 2000, and is now valued at £50m, created up to 500 jobs, a third of which were taken up by CV residents, and included a range of other retail units and a petrol station. The 4,650 square metre food store includes Sainsbury's Economy range which enables customers to buy the most popular and essential items at lower prices.

CVHAT's engagement with companies has made the case for major investments. It has also created 1,260 jobs, 2,318 assisted training places, and brought local unemployment down to 5.2% compared to the city's average of 7.6% - besides gaining CVHAT a remarkable string of awards.

Most importantly, this programme is focussed on sustainable regeneration - research is ongoing into perceptions of the area, and improving Castle Vale's image has been viewed as key in attracting businesses and improving its social environment. New and existing businesses are supported by the Castle Vale Business Group (with 90 members). The Group's theme for this year is Corporate Social Responsibility - demonstrating the integration of social awareness into everyday business life in Castle Vale.

Participant websites are at www.jsainsburys.com/csr, www.jaguarvehicles.com/uk, and www.cvhat.org.uk.

ENABLING COMMUNITY ACTION

Reaching the Community

For CSR to be mainstream, it needs to touch an organisation's workforce. In a very real sense, organisations are their people, and employee involvement is one of the most potent ways of delivering CSR – besides giving some of the most valuable returns through enhanced motivation, loyalty, and staff development.

In March 2000 the Prime Minister introduced the Government's Active Community Initiative, which aims to bring about a step change in the level of people's involvement in their communities – to build an inclusive society in which all individual have an opportunity to be involved in their communities. <http://www.homeoffice.gov.uk>

Government Departments are committed to bringing this about this change in two ways; first, in the way they involve volunteers to help achieve objectives, and secondly by increasing the number of volunteers who participate.

As part of this campaign, the Active Community Unit is funding a new website to promote employee volunteering as part of the **Employees in the Community Network**, besides supporting research into the all-round benefits of employee community involvement, the production of case studies, capacity building workshops and a guidance toolkit with Business in the Community.

The Government is also supporting **Pro Help's Free for All**, a study of free professional help available to voluntary and community organisations. *Free for All* gives an idea of what skills are available and how to access them – ranging from the traditional professions such as legal advice and accountancy to the more modern skills involving information technology and the media. It also offers professional people an idea of how they can utilise their skills and how to within the community or voluntary sector. <http://www.prohelp.org.uk>

"The Free for All report underlines the Government's commitment to active communities and the importance of free professional support for voluntary and community organisations." Angela Eagle MP, Minister with responsibility for voluntary and community policy at the Home Office.

Creativity in the community

Another important – and immensely rewarding – field of CSR involves the arts. UK business contributed over £155 million to the arts during 2000 and a large proportion of this concerned arts projects that addressed core CSR issues such as education, life-long learning, health, increasing employee skills and urban renewal.

Arts & Business (A&B) aims to help build communities through creative partnerships between business and the arts – believing that by doing so our communities can be enriched, our individual values enhanced and our society renewed. A&B offers advice, training and information for businesses, with the emphasis on the professional returns from investing in the arts and the local community. During 2000/01, its New Partners incentive programme facilitated a total investment of £2.7 million in the arts by 221 businesses, in cash and in kind. In return, businesses reported increased staff morale and loyalty, raised profile amongst target customers and improved standing in the local community. The arts have always been at the heart of the community and by working with them business can forge links across barriers and to find creative solutions to complex problems.

Arts & Business is part funded by the Department for Culture, Media and Sport and the Arts Council of England and is currently celebrating its 25th year, more information is at www.AandB.org.uk

COMMUNITY CASE STUDY

Communicating Effectively

The UK telecoms company BT has committing £8.5 million to the BT Education Programme, which will involve more than two million school children. The scheme is free and supports the national curriculum. The programme's educational roadshows are put on by the theatre-in-education company CragRats, which is the country's largest employer of professional actors. The scheme has already visited 5,500 of the UK's 28,000 schools – touring 20 schools a day during term time, day in day out.

In addition, BT is backing a volunteer programme, running awards for teachers, and providing schools with educational support materials including videos, a CD-Rom, and a web site.

BT sees a number of benefits from this social investment programme, which fits with its wider business objectives. The 'local BT' element is especially important, since many people think of BT as a national monolith. The accompanying regional public relations for example are always excellent.

Pinning down the commercial benefits of a social investment programme is always difficult. To help tackle this problem, BT has pioneered research into the impact of such factors on customer satisfaction levels, which are critical to its success as a business. The work concluded that BT's overall image and reputation is a 'major determinant of customer satisfaction' and is considerably more importance than other factors, such as how customers feel about the billing process or the cost of calls and rental charges relative to those of its competitors. BT takes CSR seriously, and its findings support the business case as well as the social benefits.

Relevant web pages are at www.groupbt.com/BetterWorld.

Supporting Social Enterprise

The Social Enterprise Unit was set up in DTI in Autumn 2001. Its remit is to promote understanding of social enterprise, identify barriers to its development, and act as champion. Social enterprises are businesses with primarily social objectives whose surpluses are reinvested for that purpose in the business or in the community (rather than being driven by the need to deliver profit to shareholders and owners). There is no single model, but they may include co-operatives, mutuals, employee owned businesses and private companies limited by guarantee. They are seen as having the potential to play a key role in the delivery of public services and generating wealth and improving life in disadvantaged communities. But they also make new markets, where the private sector has either not identified an opportunity or seen it as too risky. While many begin as charities, and some continue to be partly dependent on grants, they aim to be increasingly self-financing through trading as that is what gives them the autonomy and freedom to be innovative, flexible and entrepreneurial. Social enterprises exist in order to deliver on their social objectives, and seek to generate a profit in order to do so. This is different from the corporate social responsibility of mainstream businesses, which is only a small percentage of their effort and does not take precedence over their profit making.

DRIVING UP SKILLS AND EDUCATION LEVELS

Linking business and education

CSR also needs to be part of mainstream thinking if it is to have a significant impact on education and skills.

Education regularly appears as a top priority for CSR, with 65% of the public rating it an extremely important area for companies to support (MORI, 2001). Education is also a rewarding area for CSR. As part of the *Howard Davies Review of Enterprise and the Economy in Education*, a sample of businesses involved in business-education links was surveyed. This found that work experience placements were the most common form of engagement, just ahead of participation in programmes. And 90% responded "yes" to the question "overall, would you say that your business has benefited from the involvement in education", <http://www.daviesreview.org/>.

We need to ensure that our education and employment practices match the jobs and skills that people really want. Evidence is clear that people increasingly want to work in organisations that not only provide economic rewards but which also have a social and environmental dimension.

Engaging in adult skills development

Many organisations have CSR programmes that do excellent work among schools and school-age children and some of these were celebrated in "Business and Society". But as many as 7 million adults in England cannot read or write as well as an average 11 year-old.

"We must therefore encourage as many employers as possible to make a firm commitment to positive action, to address literacy and numeracy skills needs. We will do this by developing literacy and numeracy policies for employers that builds on best practice, disseminating and implementing this widely through partner organisations"
Skills for Life, March 2001

Addressing the workforce's basic skills can be regarded as one of the key areas of corporate social responsibility that has a watertight business case. A report produced by Ernst and Young estimated that poor basic skills cost UK business over £8bn a year, while people with poor literacy and numeracy levels suffer social disadvantage and reduced opportunities. This is the context for a cross-governmental drive involving DfES, the DTI the Small Business Service and the Learning and Skills Council to support workforce development issues.

Since the launch of *Skills for Life: The National Strategy for Improving Adult Literacy and Numeracy Skills*, the Government has been funding the Basic Skills Agency to train workplace basic skills brokers, with a target to train six hundred by July 2002. It is also working closely with, and funding, the TUC and Basic Skills Agency to ensure that Union Learning Representatives become a national network, besides providing funding to increase workplace provision of learning.

The recently-launched Employers Toolkit will help inform businesses of the likelihood of basic skills needs within their own workforce, and motivate them to look for the tell-tale signs. It offers practical information about steps to tackle basic skills needs and signposts diagnostic and learning material. The first model of the Employers Toolkit is aimed at large to medium-sized businesses; further models for smaller-sized enterprises will be produced and launched over the next two years. <http://www.toolkit.org.uk>

Future developments to address basic skills needs will include Pilot schemes to trial the effects of providing compensation and incentives for employers who implement literacy and numeracy programmes for their employees. Addressing basic skills is far-sighted business practice - and good social responsibility.

Getting the basics right

The Ford Partnership Centre, at the Southampton Assembly Plant, was set up in 1999 by Ford Motor Company and Solent Skill Quest (then Eastleigh Action for Skills) as the result of an initiative by the South East England Development Agency to attract over 20 employers into new ways of providing basic skills in the workplace. It was also supported by the Hampshire Training Enterprise Council. The Centre aimed to provide upskilling and learning opportunities for Ford employees and the local community. The opening of the Centre coincided with the award of a European Social Fund to the local housing estate, which enabled the Centre to offer training to residents.

Research with potential users, including Ford employees and the community, identified IT as a major training need, and this highlighted the additional need for Basic Skills and Confidence Building. The same courses were identified as providing a benefit to the Ford workforce and delivery times were arranged to suit shift work patterns. The Centre has now received financial support in the form of three successful bids to the South East England Development Agency.

Provision begins with IT training which is attractive to learners and helps diagnose further needs. For those learners with basic skills needs, a Basic Skills Unit is operated within the Centre by a local college. A range of vocational courses is also on offer to Suppliers to the Ford Plant that includes basic skills components. (e.g. *Abrasive Wheels* and *Health and Safety*).

Putting the basic skills agenda into a business context Geoff Glover, Human Resources Manager at Ford Southampton Plant, said: "We believe it is essential to drive the learning and skills agenda for employers, employees and the wider community. For employers this will create organisational capability to succeed in the increasingly competitive global market in which businesses find themselves today. It will also allow companies to establish themselves as 'employers of choice' to win the contest for talent and to connect positively with the community as potential consumers'.

See also www.ford.co.uk.

[BOX OUT AND HIGHLIGHT AS AN ACTION AREA]

It is a Government priority to assist the involvement in CSR of small and medium sized organisations, who comprise the vast majority of the UK private sector. Appropriate language and small business examples are needed to engage these organisations and to highlight the benefits to the organisation and its employees.

To achieve a step change in the consistency and quality of CSR guidance to SMEs, the Government will stimulate a joint approach among their key advisory organisations. CSR advice to SMEs needs to use the emerging portfolio of CSR guidance identified in this report, rather than inventing yet more solutions. The advice should be supplied via existing SME networks and building on existing communications rather than by creating new ones. Although addressing SMEs first, the advice should also be applicable to small community bodies, NGOs and social enterprises.

[END OF HIGHLIGHT BOX]

ENGAGING SMALLER ORGANISATIONS

Action by the DTI and Small Business Service

Strength in numbers

The great majority of UK enterprises have less than 250 employees, and research (MORI, 2000) has suggested that together they may make a social contribution worth up to £3bn each year. It is clearly in the national interest to encourage good practice in this sector.

At the same time, CSR is likely to become an increasingly important business issue for many small and medium enterprises (SMEs) in future. This is partly because of the increasing take-up of ethical codes of practice by their large customers, which is likely to create a pressure for demonstrably responsible behaviour back down the supply chain.

Supporting SMEs

Unlike large organisations, SMEs are not equipped to develop professional CSR disciplines by themselves, and CSR practices that might be feasible for big companies could be quite beyond the means of smaller organisations. The Government has been keen to ensure that practical advice is developed to support them and maintain the competitiveness of UK business, with the clear understanding that CSR guidance needs to be provided through the existing networks of business advisors. This has been an area where the Government has been particularly active.

A Handbook for SMEs and SME Advisors: The Small Business Service is producing in Spring 2002 an introductory handbook specifically for SMEs, entitled "Encouraging Responsible Business". This straightforward text is intended for distribution to all business advisors in the 45 operators of the national Business Link service. This text, and other advice on CSR for SMEs, and will also be available online. Through this initiative, the government is using its main delivery service – Business Links – to promote the case for CSR among SMEs.

SME Benchmarking Module: A social responsibility module has been added to the Benchmark Index, which is a powerful best practice tool available via the Small Business Service (SBS). This Benchmark Index module helps a business assess its impact on society as part of the overall use of the EFQM Business Excellence Model promoted by the British Quality Foundation. More details of the Benchmark Index can be found via the SBS website <http://www.businesslink.org.uk/>.

SME Toolkit: A toolkit for SMEs is under development, which will contain advice on the rationale for CSR for SMEs; practical guidance on CSR processes; and an automated tool, enabling users to create their own simple social reports. This European project is being trialled in six EC countries and is due to be launched in the UK at the BITC conference in July

2002. Like the Benchmarking Module, the toolkit uses assessment criteria that have been jointly agreed between Business in the Community and CSR Europe.

Extending the Community Mark: The Small Business Service is also supporting an extension of the Brighton "Community Mark" scheme to four new locations. This is a kitemark given to local businesses that have demonstrated a commitment to community issues, especially SMEs. This is intended not only as a form of public endorsement, but also a business benefit, as the hope is that recipients will become favoured suppliers in their markets. <http://www.bitc.org.uk>

Understanding the needs of smaller organisations

Alongside these actions, the DTI also sponsored new research in 2001-2002 into the factors that make responsibility work for SMEs. Initial findings show strong activity, with 86% of respondents believing that they should treat the issue seriously and two in three believing that it contributes to a more successful business. Motivations are varied but include but include personal fulfilment as well as "good business practice" and developing a good business image, plus a focus on internal issues and impact on employees.

The research confirms the importance of some of the work already in hand. The most requested guidance is a checklist of issues needing business engagement – which is precisely the approach of the CSR benchmarking and toolkit items developed during 2001-2.

The study also contains important pointers for the future. Large organisations can be of great assistance but the need is to 'Think Small First'. It would be helpful to co-ordinate guidance across the multiple channels that advise SMEs, and a sector approach could add value in a world where the main triggers for engagement are personal interest, local issues, sector issues, and business survival (research by the British Chambers of Commerce, the Institute of Directors, and Sustainability in consortium with Business in the Community).

HMG PAINTS LTD

HMG is a family owned business whose owners have a strong desire to give something back to society. Fun is also an important motivator for getting involved.

HMG concentrates on two main areas: education and the environment. As members of the Manchester Citypride Education Business Partnership (MEBP), HMG is very involved in educational links through the provision of outdoor classrooms, work experience opportunities, mock interviewing, industry challenges, career fairs etc. HMG find this very straightforward; others deal with the organisational aspects, and HMG only needs to attend and "do its stuff" or let people come to it.

At the same time, HMG is a member of the River Irk Project, which links community groups and the private sector as well as to Manchester City Council to help to regenerate land within the Irk Valley. It is also part of the Red Rose Forest, which is creating urban community forests; and HMG has its own woodland and wildlife area which it has been building up over the last ten years and this is of great value to local schools as well as the local community.

HMG has a constant source of good news stories to tell, which boost morale. Its people like working for a company that cares. It has a greatly enhanced presence locally, regionally and nationally, which again boosts morale but is also a good sales tool. When HMG Paints gained the Coatings Care Award, given by the British Coatings Federation (BCF) for responsible care in Health, Safety and the Environment, the business was cited as having made outstanding contributions to the community.

HMG's website is at www.hmgpaint.com.

[BOX OUT AND HIGHLIGHT AS A PRIORITY]

It remains a priority to promote greater transparency in reporting and in the marketplace, to answer public concern about organisational behaviour and to stimulate good practice.

To drive this forward, the Government will consult widely with all stakeholders to ensure that greater transparency and clarity is brought to the current confusing set of reporting models and codes of practice on the social aspects of reporting. This will build on the research already initiated by DTI and others during 2002 and advise on the further development of flagship projects.

[END OF HIGHLIGHT BOX]

GETTING THE MESSAGE ACROSS

Reporting and communicating CSR actions

Effective CSR requires effective and transparent communications.

This issue comes out again and again across all aspects of CSR. There has been a substantial increase in public concern about the social and environmental responsibility of organisations, but awareness of responsible practices is low, and people want to know more. Where an organisation produces a social report, 9 in 10 shareholders and 2 in 3 employees would expect to see a copy – as would 1 in 4 customers (MORI survey of 1,995 adults, July-August 2001). <http://www.mori.com>

There has been a huge amount of work on this, much of it led by UK companies. Practices for environmental reporting are relatively well-established, but things are much more confused on other aspects of CSR and there is a plethora of proposed standards, codes of practice, and reporting guidelines that can bewilder newcomers.

It has been an aim of Government to help establish best practice on CSR, because this is the best approach to assist the culture change that will really deliver CSR. Several Departments have been involved in helping clarify reporting models and codes of practice, and in Autumn 2001 the DTI invited a Working Group to advise on this subject. The group noted that although CSR was progressing well as a business-led agenda, certain actions could only be delivered by public bodies; and it was keen for the Government help create consensus on UK and international codes of practice, while creating a level playing field. The group's output is summarised in Annex 1. Other relevant work published during the last year include the Government's reports "Creating a Quality Dialogue", which concerns relations between companies and their investors, and "Creating Value for your Intangible Assets"; both can be found at www.innovation.gov.uk.

The DTI also commissioned fresh research in early 2002 on the value of all forms of CSR communications. This suggested that organisations should maintain a focus on how communicating CSR can help them achieve their core objectives. It produced a guide to the most commonly used codes, and a Journey Planner to help people manage and communicate CSR. It also argued that there are many ways in which organisations win trust, and the focus should not be solely on formal codes and verifying reports. All of this is available from the Government's website at www.societyandbusiness.gov.uk. (Research by Corporate Culture and Good Company).

Camelot: A Case Study

Camelot won a fiercely competitive bid in 1993 with the aim of being 'the best lottery operator in the world', and by most business measures it achieved its aim. But there was a backlash; the public perceived Camelot as disproportionately efficient and disproportionately socially

irresponsible compared to other companies – despite the fact that Camelot had achieved many quality and community benchmarks.

Camelot faced up to these challenges by adopting the principles of AA1000 (a foundation standard for social and ethical accounting, auditing and reporting) plus a determined commitment to stakeholder engagement. As lottery operator, Camelot is a proxy for the other lottery partners and is easily blamed for unpopular decisions by the distribution bodies or by the lottery regulator. To change things, Camelot needed stakeholder consultation methods so robust that they would influence its lottery partners as well as guide its own actions.

Camelot set up a 'Winning Company' group of senior directors to oversee internal social and ethical development, so that the people responsible for the audit also implement its outcome. Unlike many other companies, it did not just employ a group of verifiers but set up an independent Advisory Panel of Social Responsibility to exert external discipline upon the company and hold the ring for its stakeholders. Camelot also took all the relevant existing company policies and procedures and checked them against company values. For each stakeholder group, a model of what successful relationships would look like was designed. As well as quantitative research Camelot focused on active face to face dialogue with stakeholders.

Since its first audit Camelot made over 90 changes to the company, including reducing directors' packages and lowering profit levels in the second licence period. But most of the changes have moved it from control and command to a dynamic, empowered company that has close and honest relationships with all its stakeholders as well as with its lottery partners

"We have discovered that an embedded holistic approach to corporate social responsibility has given us a powerful business tool to anticipate issues and to develop policy in partnership with stakeholders. This is all essential if we are to achieve our business objective of 'Winning the trust of the public' in The National Lottery." – Sue Slipman, Director External Relations and Compliance.

Camelot's Interim Social Report can be found at www.camelotplc.com.

Public Awareness and labelling

Public awareness is another aspect of CSR. Many people are concerned about the conditions under which goods are produced, and would like more information to help them decide which products they will buy. This can be provided in many different ways, but labels are the most obvious means at the point of sale.

The Government is keen to encourage improvements in environmental, labour, and other standards worldwide. Many companies are also working to ensure that their supply chains are founded on responsible practices, often with independent verification to check whether they are achieving that goal. However the Government does not believe that regulation on social labels is the best way forward; the processes would be extremely bureaucratic and complex and might penalise countries which are genuinely trying to improve labour standards, making their workers more vulnerable to exploitation and abuse. The Government believes it is better to encourage voluntary, open exchange of information

This subject too was addressed by a Ministerial Working Group at the end of 2001. The group concluded that special labelling may be useful but is not an adequate substitute for a company-wide policies on ethical behaviour; and its effectiveness depends of public awareness. The group advocated voluntary social labelling, but felt that regulation would be premature at this stage. The Group's output is summarised in Annex 1.

Devolved and Regional Involvement

Of course community involvement must be embedded in local requirements. It is not possible in this review to cover all the actions either of local government, or of every regional body. But the devolved administrations in Scotland, Wales and Northern Ireland all have a vital engagement in CSR, as do England's nine Regional Development Authorities.

Working with the Devolved Administrations

Devolution has changed the structure of government in the United Kingdom. While the UK Government is building the broad framework for CSR policy, the devolved administrations are responsible for many of the policy mechanisms for encouraging corporate social responsibility on the ground.

The Scottish Executive welcomes the important framework being developed by DTI on corporate social responsibility. A CSR agenda for Scotland will reflect in part the fact that many of the outcomes of CSR relate to devolved matters including education, sustainable development, enterprise and neighbourhood regeneration.

Since 1999, the Scottish Executive has been committed to building a thriving and sustainable Scotland. Bringing disadvantaged communities back into the economic and social mainstream is a major challenge facing Scotland - empowering those communities is key. Enterprise and investment are crucial to closing the opportunity gap and rebuilding and strengthening communities so as to improve people's lives and build for the long term. The Scottish Executive recognises that involving business in our approaches to regeneration is important to our success. A community regeneration statement will be published shortly which will set out a framework for the future regeneration of disadvantaged communities. Within this framework, the Scottish Executive will reinforce its commitment to harnessing the opportunities that business involvement can bring.

Social Investment Scotland is an innovative example of such partnership working. SIS gives viable, but conventionally 'unbankable' organisations access to a new source of loan funding to help realise their potential. The partnership involves the Scottish clearing banks providing the capital, public organisations providing the development and running costs and all sectors offering their financial and business expertise. The £5m fund should be an incentive to the private sector by acting as an intermediary to channel loans through local community finance initiatives (CFI's). Social Investment Scotland expects to stimulate a significant increase in the current level of loan funding to non-profit distributing organisations over the next 3 years, in the long term, stimulating enterprise in disadvantaged communities, creating wealth and job opportunities.

Under the Welsh Assembly, the Community Loans Fund (CLF) is a joint venture between Finance Wales plc (a wholly owned subsidiary of the Welsh Development Agency) and HSBC plc. The CLF supports community regeneration throughout Wales. It helps the community sector increase long-term sustainability and provides access to sound business advice. It is the Assembly Government's intention that the Fund will continue to grow, and it has allocated almost £2million of support over the next 4 years, which will be matched by HSBC giving an overall budget of nearly £4million. The Welsh Development Agency also supports an annual award scheme, delivered by the economic development company Menter a Busnes, to reward individuals and companies that use and promote the Welsh language besides making a significant contribution to economic prosperity in Wales.

The Welsh Assembly Government believes that its aims can only be achieved if economic, environmental and social issues are simultaneously taken into account in everything it does. Procurement is an important part of this and it has developed a Voluntary Code of Practice for suppliers to ensure the impact of its spending is positive; this can be found at www.winningourbusiness.wales.gov.uk

In Northern Ireland the Department of Enterprise, Trade and Investment co-ordinates CSR activity throughout the various Northern Ireland Departments. An example is the joint involvement and funding arrangements for the Northern Ireland Business Education Partnership (NIBEP). NIBEP's main role is to establish and maintain effective relationships between schools, colleges and businesses, for the mutual benefit of all.
<http://www.niassembly.gov.uk>

Regional actions in England

Since they were established three years ago, Regional Development Agencies (RDAs) have been actively encouraging corporate social responsibility in their own activities and to the broader business community, both in terms of "promotion" and "mainstreaming". Having the lead responsibility within Government for delivering sustainable economic development and growth in the market place, the RDAs have sought to involve the companies in:

- determining the futures for their communities,
- how they undertake their day to day business and interface with their environment, and
- developing the new technologies which will lead to a more effective use of resources.

Among examples from all over England, businesses in the South East are being encouraged to adopt 'mainstream' sustainability policies within corporate decision-making through the ground breaking South East Sustainable Business Partnership led by the South East England Development Agency (SEEDA). Again, the South West of England Regional Development Agency has worked with the Environment Agency and others in launching a project to help the region develop a green competitive edge. The 'Hand in Hand' initiative demonstrates how competitiveness can be achieved through business practices which protect and improve the region's unique and valuable environment, which is worth £1.6 billion to the local economy.

PART 4: DRIVING FORWARD THE AGENDA: USING CSR TO MAKE GLOBALISATION WORK FOR ALL

[BOX AND HIGHLIGHT THE NEXT SECTION AS A PRIORITY]

It is a Government priority to promote and facilitate good practice in CSR internationally as well as in the UK.

To drive this forward, the Government will continue to support the development of the Ethical Trading Initiative and other international work that brings benefits to business, communities and to poor people.

[END OF HIGHLIGHT BOX]

INTERNATIONAL ACTION

Putting CSR on the map

Social and environmental responsibility is absolutely not just a UK or European issue, it is a global one of enormous importance to international development. It is vital to foster good behaviour among organisations operating overseas. International and global issues have already featured at several points in this report, for example the work on international agreements featured in Part 2 and the World Summit on Sustainable Development in Part 3; and it is appropriate to complete this report with a special focus on the whole area of international action.

box or highlight the following statement at this point in the text

The UK Government's policy is to promote and facilitate those business activities that bring economic, social and environmental benefits to all.

end of box or highlight

Making CSR work for the developing world

The process of globalisation is leading to a more interconnected and interdependent world. The increased ease of movement of goods, services, capital, people and information across national borders is rapidly creating a single global economy. Multinational companies now account for a third of world output and two-thirds of world trade. Yet this shift is taking place against a backdrop of global inequality. One in five of the world's population live in abject poverty, without adequate food, clean water, sanitation or healthcare and without education. The new wealth created by globalisation creates the opportunity to lift millions of the poorest people out of poverty. But managed badly, it could lead to further marginalisation and impoverishment.

Many leading companies and other organisations recognise the key role they can play to make globalisation work for everybody. In the UK the growing public interest in the impact of business operations in developing countries has brought issues such as child labour, corruption, human rights, labour standards, environment and conflict into international trade, investment and supply chain relationships. By applying best practice in these areas, business can play an increased role in poverty reduction, sustainable development and promotion of human rights.

The Department for International Development (DFID) and the Foreign and Commonwealth Office (FCO) focus on the impact of business operations overseas, and deal with the international reach of the Government's work on corporate social responsibility. Responsible behaviour has a direct impact on the sustained competitiveness of UK industry; on the

respect for British values worldwide; and on social inclusion, poverty reduction and the quality of life at home and in developing countries. During 2001, DFID set up a team to develop a detailed strategy to facilitate and promote multi-sector initiatives and stimulate replicable best practice for CSR that takes account of the needs of the poor.

Supporting governments in developing countries: This project is planned for 2002 and will be part-funded by DFID and managed by the World Bank. The purpose of the project is to build the capacity of governments in developing countries to participate in CSR initiatives. It also aims to ensure that the practical experience of businesses in developing countries plays a bigger role in helping shape sustainability-related voluntary codes and standards. The project aims to build on the lessons learned, and tools developed, through the Business Partners for Development initiative.

Addressing flashpoints: There is a legitimate concern amongst developing country governments and producers that codes of conduct can in fact act as trade barriers. DFID, through the Ethical Trading Initiative (ETI), aims to ensure that codes of conduct work for the benefit of southern producers. A growing number of producers from developing countries recognise the benefits of codes of conduct and are forming their own organisations to promote international labour standards. Developing countries also have concerns about the cost of complying with the supply chain codes of conduct of multinational companies. Again the Government has commissioned research into how to share the costs of compliance most effectively.

Just Pensions: The Just Pensions Project is a two-year scheme, funded by the National Lottery Community Fund and managed by War on Want and Traidcraft Exchange. It encourages trustees to use their influence, in order to persuade fund managers to invest in socially responsible enterprises. The advisory group to Just Pensions involves many important organisations, including Amnesty International, the Ethical Investment Research Service (EIRIS), the International Business Leaders' Forum, OXFAM, the TUC, the Social Investment Forum and the WWF, as well as the Department for International Development.
www.justpensions.org

Business Links Asia: Business Links Asia (BLA) operates in Indonesia and Vietnam. It is a coalition of multinational enterprises that have a commitment to ethical business practices and are prepared to transfer appropriate knowledge and skills to local small and medium enterprises. In Indonesia the programme is providing technical assistance to leather industry workers. In Vietnam a Management Support System has been developed to assist local businesses in implementing sound health and safety practices. DFID provides financial support to the programme. It is managed by the International Business Leaders' Forum.
www.iblf.org

Resource Centre for the Social Dimensions of Business Practice: The Resource Centre provides access to information, knowledge, contacts, tools and expertise for multinational enterprises and domestic developing country businesses. It launched its Business Poverty Database in September 2001. This is a comprehensive resource of case studies, organisations, websites and publications on business impacts on poverty.. DFID funds part of the Resource Centre's budget.; see www.rc-sdbp.org

Business Partners for Development (BPD): BPD studied, supported and promoted strategic examples of partnerships involving business, civil society and government, working together for the development of communities around the world. The five Clusters of the BPD programme demonstrated that tri-sector partnerships benefit the long-term interests of the business sector, while meeting the social objectives of civil society and the state, by helping to create stable social and financial environments. Currently the programme is drawing together and disseminating lessons learned, www.bpdweb.org

The UN Global Compact: The Global Compact, launched by the UN Secretary-General in July 2000, encourages companies to build nine core human rights, labour and environmental principles into their business strategies for the developing world. The UK Government has strongly supported the Compact from the outset, as an incentive to the private sector to play its part in economic development, while being accountable against universally recognised principles. Several leading UK companies, including Shell, BP, Rio Tinto, BG Group and Unilever, have signed up to the Compact. A number of the participating NGO and civil society groups also have strong links to the UK. www.unglobalcompact.org

Ministerial quotes

"Foreign direct investment does and will continue to far outstrip development aid. We need to think more deeply about the role of the private sector in development and change the mindset from corporate philanthropy to responsible business." CLARE SHORT, SECRETARY OF STATE FOR INTERNATIONAL DEVELOPMENT, DONOR ROUND TABLE ON CSR, LONDON JANUARY 2002

"Acting responsibly, governments, citizens and companies can all make a difference to those global forces which are beyond our individual control." JACK STRAW, SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS

INTERNATIONAL CASE STUDY – VOLUNTARY CODE

Business practices with principles

For some time oil and mining companies, as well as civil society groups, have been concerned about human rights standards around their installations in developing countries. The principles give all parties a comprehensive statement of best practice on the human rights aspects of security, as well as guidelines on human rights safeguards. They also cover security arrangements between companies and the governments of the countries they are working in and private security firms. The Voluntary Principles were launched in December 2000.

2001 saw the process develop further, facilitated by the FCO and US State Department. The group was able to spread best practice and work towards translating the principles into action on the ground, most notably in Nigeria. The Dutch Government joined the group in November 2001. This process is one of the first of its kind to show how government participation in voluntary business/NGO dialogue can produce real benefits on all sides.

A number of leading UK-based extractives companies and NGOs are involved, as are several US-based oil companies and NGOs. The group is also supported by The Prince of Wales International Business Leaders Forum and by the US CSR organisation Business for Social Responsibility.

Further information can be found at: www.hrpd.fco.gov.uk/reports.asp

"These Principles show that governments, companies and civil society organisations can achieve real progress when they work together" - FCO Minister of State, Peter Hain

INTERNATIONAL CASE STUDY – ETHICAL TRADING

Taking the ethical initiative

"Monitoring suppliers and raising their labour standards makes good business sense. Workers are happier, factories get higher productivity and we get goods of more reliable quality." MARTIN PEPPER, LITTLEWOODS

"The ETI pilot has brought a new attitude towards the workplace. The workers now have a sense of ownership and achievement. For us, the ETI has been a springboard to progress social ethics and community development." NIGEL BAILEY, ZIMBABWE FARMER

The Ethical Trading Initiative (ETI) is an alliance of UK retail companies, non-governmental organisations (NGOs) and trade union organisations. It is working to improve conditions of employment in the supply chains of corporate members who deliver goods to consumers in Britain.

The Department for International Development (DFID) helped set up the ETI in 1998 and has supported and worked closely with it since then. Corporate members of the ETI include Littlewoods, Sainsbury's and Marks and Spencer. The combined annual turnover of corporate members amounts to almost £100bn and is expected to rise significantly as more large UK companies join.

The employment standards adopted by ETI members are international standards that come from the Core Conventions of the International Labour Organisation, to which over 170 nations belong. ETI members visit their suppliers, identify conditions that do not meet the ETI Base Code, and then plan improvements in agreement with their supplier. Members also participate in pilot projects that seek to test out techniques of implementation and monitoring of the Base Code. Examples include the wine industry in South Africa, and horticulture in Zimbabwe.

The ETI annual report for 2000-2001 highlights how corporate members are sharing information on horticulture industry encouraging progress on the integration of ethical practice standards, Zimbabwe Save the Children working hours and the "living wage", rights-based issues, supply chain management, and quality of monitoring. ETI now plans to consolidate and expand its membership, and promote multi-stakeholder partnerships.

www.ethicaltrade.org

CONCLUSIONS

Leading the way in CSR

This year has seen great strides forward in the CSR agenda both nationally and internationally. The case for CSR has been demonstrated in an increasing number of different contexts and many more UK organisations are seeing the benefits of incorporating socially responsible practices into their core practices. This is not just a matter of national importance; globalisation adds a further dimension and the impact of business operations in developing countries is of increasing significance.

Although there has been good progress, very much remains to be done. There are still many organisations that are not adopting socially and environmentally responsible practices, and Government does not have all the answers. But CSR moves us on from old paradigms that see social benefit and economic success as mutually exclusive, and either regulation or pure voluntary action as the only answers. CSR demonstrates that economic, social and environmental benefits are all possible at the same time, which are the goals of sustainable development.

Businesses, community organisations and public bodies of all sizes need to take CSR seriously as part of creating a fairer society as well as building a dynamic economy. This can have significant impact on key issues such as the environment, neighbourhood renewal, skills, and international development – assisting both the local and the global community.

The UK has taken a lead on many aspects of CSR, with UK organisations at the forefront in social and environmental reporting, a concern for international issues, and a considered approach to codes and enabling regulation that has been copied by other nations. The Government aims to maintain – and strengthen – this momentum. Its goal is to increase the effectiveness of the modern economy as well as the equity of modern society, at home and abroad.

Annex 1: Ministerial Working Groups

Towards the end of 2001, Douglas Alexander invited groups of experts to investigate specific key topics and come up with suggestions on the best ways for Government to assist. The Working Groups produced substantial reports for the Minister in January and February 2002.

The Working Group on Mainstreaming and Neighbourhood Renewal was chaired by John Spence, Director, Retail Distribution at Lloyds TSB. This group obtained feedback from 100 companies, in a survey of current rationales for community involvement, and the business perception of involvement in neighbourhood schemes. They found that there is a wealth of company engagement in deprived communities, and a whole spectrum of motivations. There is also evidence of a correlation between well-managed, successful businesses and a commitment to CSR activity; but the range of approaches is too varied to declare a consistent link between engagement and bottom line benefits. The Group's recommendations include:

- Further research into the 'bottom-line' business benefit
- Examination of US practices where there seem to be some striking success stories
- More effective local partnerships based on respect for business as well as government and agency priorities
- A 'clearing house' for national, regional and local engagement
- Serious consideration of tax incentives, whose role could be very powerful.

The second Working Group addressed International CSR and Social Reporting and was led by Geoffrey Bush, Chair of the Corporate Responsibility Group and Director of Corporate Citizenship at Diageo. Although generally accepting that CSR should be a business driven agenda, the Working Group considered that certain actions can only be taken delivered by Governments. International consensus can only be fully achieved when Governments consider, discuss and consult together. By increasing this dialogue, real progress can be made on the CSR agenda, such as the adoption of internationally agreed Codes of Practices. The Group made several suggestions for Government, which echo the feedback from other sources:

- Help raise awareness of the business case for CSR
- Government business services to help advise on CSR
- Support business participation in key priorities, including fiscal incentives
- Promote consensus on UK and international Codes of Practice whilst ensuring a level playing field
- Improve the integration and impact of the Government's own involvement
- Integrate CSR more widely into procurement practices.

The Group advocated that Government should treat CSR as a long-term area for development where it should adopt a strategic and consistent approach.

The third Ministerial Working Group of 2001-2002 addressed Social Labelling and was chaired by Yve Newbold, Chief Executive of the Ethical Trading Initiative. "Social labels" are attached to a product to provide information about the social aspects of goods production and covers issues such as fair trade. This is one response to the rise in ethical consumerism, where a recent survey revealed that over 50% of the UK population are "concerned" about ethical issues, with 20% willing to boycott products if necessary. The group concluded that although social labelling is a useful tool at the point of sale, it is not an adequate substitute for a company-wide policy of supply chain management or ethical purchasing. Social labelling is also only effective if there is widespread social awareness. The Working Group considered that regulation is currently premature, but advocated:

- voluntary social labelling
- the creation of a network of promoters of social labels, to improve quality
- recognition and awards for companies that show best practice
- increased support for education and awareness of labour conditions
- financial incentives for companies and others to build auditing and monitoring capacity in supplier countries
- co-ordination of Government actions.

C01/32645/02/00020/mk



Rt Hon John Prescott MP
Deputy Prime Minister and First Secretary of State
Cabinet Office
Dover House
Whitehall
London
SW1A 2AU

8 April 2002

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Dear Deputy Prime Minister,

YOUNG WORKERS DIRECTIVE - END OF UK OPT-OUTS

I am writing in response to Patricia Hewitt's request for comments on the implementation of the remaining working time and night work provisions of the Young Workers Directive not currently transposed in UK law.

My Department was previously consulted by the DTI on the original draft regulations - and the proposed derogations - in December, and we had a particular interest in their impact on the needs of the tourism and hospitality industries. At the time we advised that the derogations would seem adequately to accommodate their particular needs. However, the latest correspondence states that restaurants and bars are no longer covered by the definition of 'hotels and catering' in the description of the specific sectors where night working may be permitted.

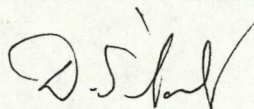
The effect of restricting young workers in the restaurant and bar sectors is significant and I would not support the new proposal for excluding these sectors from the derogations. The hospitality industry needs flexibility in recruitment because of the requirements for shift working and for providing cover during peak periods such as Christmas and the summer season. It is a sector which has faced chronic recruitment difficulties for several years with vacancies accounting for around 14% of all vacancies reported to Job Centres in Great Britain.



I would stress, however, that vacancies should not be filled at any cost, and that I would want to see improvements in service quality and career opportunities, as well as ensuring that there is not exploitation of young workers. The regulations therefore need to strike the right balance between providing a fair deal for the workforce, while ensuring businesses are not subject to unnecessary burdens as a result of changes to legislation.

I am copying this letter to the Prime Minister, members of the Domestic Affairs Committee, and to Sir Richard Wilson.

Yours sincerely,



P.P.
TESSA JOWELL
(Approved by the Secretary of State
and signed in her absence)

1. JPK
2. L. H. L.

EMAILED 19 MARCH

RESTRICTED - POLICY

The Rt Hon Patricia Hewitt MP
Secretary of State for Trade and Industry



GN
COJ
PD
JJM
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The Rt Hon John Prescott MP
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19 March 2002

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Dear Deputy Prime Minister

YOUNG WORKERS DIRECTIVE – END OF UK OPT-OUTS

Certain provisions of the Young Workers Directive were implemented in Great Britain on 1 October 1998 and in Northern Ireland on 23 November 1998. But the UK took advantage of a time-limited opt-out specific to the UK, allowing it not to implement certain restrictions on working time and night work. Following the end of the opt-out on 22 June 2000, I consulted on proposals for implementing the additional provisions, which allow for derogations in some circumstances. I now wish to undertake a further period of public consultation. A draft consultation document, including draft regulations and a Regulatory Impact Assessment is attached. I would like to have a response from the Committee on this issue by 3 April 2002.

I am writing to secure your and colleagues' agreement to my proposals for implementing the remaining working time and night work provisions of the Young Workers Directive not currently transposed in UK law.

The Young Workers Directive provides "young workers" (those over the minimum school leaving age but under 18) with more generous provisions on daily, weekly and in-work rest periods than adult workers and also specific entitlements to health assessments if assigned to night work. These provisions were implemented in the UK through the Working Time Regulations. A derogation in the Directive allowed the UK not to implement stricter controls on working time and night work, namely a maximum eight-hour day and 40-hour working week, restrictions on night work, no individual opt-out from the maximum working hours and no provisions for averaging working time over a reference period. This opt-out expired in June 2000.



The Directive permits Member States to allow young workers to work longer than 40 hours per week where there are objective grounds for so doing, and also to allow night working in specified sectors, also where objective grounds are met. I propose to take advantage of these flexibilities. I consulted on outline proposals to this effect last year and the response was generally favourable. This is a relatively non-contentious issue, and there is general recognition of the need to protect young workers. The TUC would prefer us not to allow any derogation for the restrictions on night work, whereas some employer organisations would like them to be more extensive. I have now refined the proposals in the light of the earlier consultation to ensure the objective grounds tests are workable and legally precise, and also to add bakeries to the list of those exempted from the night work restrictions. I have also clarified that the hotel and catering sector does not include restaurants or bars.

In summary the revised proposals would give rise to the following situation.

- Young workers may not ordinarily work more than 8 hours per day or 40 hours per week, nor at night between 10pm - 6am or 11pm - 7am
- They may work longer hours where this is necessary to maintain continuity of service or production, or to respond to a surge in demand for a service or product, and where an adult is not available to perform the duties and the training needs of the young worker concerned are not adversely affected. They must be adequately supervised during night work hours, where that is necessary for their protection, and be allowed equivalent periods of compensatory rest.
- Young workers may work at night between midnight and 4am, provided the above tests are met, in the following sectors: hospitals or similar establishments and those employed in connection with cultural, artistic, sporting or advertising activities. Young workers may also work between 10 or 11pm to midnight and 4am to 6 or 7am in these sectors and also agriculture; retail trading, a hotel or catering business (not including restaurants or bars), a bakery or postal or newspaper deliveries
- Young workers who are seafarers, in sea fishing or part of the armed forces will be excluded through the extension of existing regulations in the Working Time Regulations that address these sectors.

I think my proposals strike the right balance between implementing the Directive adequately, protecting young workers and providing flexibility in the relevant sectors where young workers tend to be employed.

The total cost of compliance with the new regulations would be in the region of £27 million per annum. An RIA is attached.

The earlier consultation was not done on the basis of draft regulations or an RIA. I propose to undertake a three month period of consultation on the draft regulations, and then to implement these provisions as soon as practicably possible through amendment to the Working Time Regulations (SI 1998 No.1833). The Regulations and consultation document are attached. The

RESTRICTED - POLICY



European Commission is being kept informed of the position and has indicated it will hold off from infraction proceedings while progress is being made to implement.

I am copying this to the Prime Minister, members of the Domestic Affairs Committee, and to Sir Richard Wilson. I am also writing separately to the devolved administrations.

Yours sincerely

Eleanor Brooks

pp

PATRICIA HEWITT

(Approved by the Secretary of State and signed in her absence)

**YOUNG WORKERS DIRECTIVE -
END OF UK OPT-OUTS**

**OUTCOME OF THE PUBLIC
CONSULTATION**

[] 2002

[]

RESTRICTED - POLICY

CONSULTATION DOCUMENT ON PROPOSED REGULATIONS AMENDING THE WORKING TIME REGULATIONS 1998 FOLLOWING THE ENDING OF THE UK SPECIFIC OPT-OUT FROM CERTAIN PROVISIONS OF THE EC DIRECTIVE ON THE PROTECTION OF YOUNG PEOPLE AT WORK 94/33/EC ("THE YOUNG WORKERS DIRECTIVE")

INTRODUCTION

Certain provisions of the Young Workers Directive ("the Directive") were implemented in Great Britain on 1 October 1998 and in Northern Ireland on 23 November 1998. But the UK took advantage of a time-limited opt-out allowing it not to implement other provisions. The Government issued a consultation document on 19 December 2000, inviting views on the proposed approach to implementing these remaining provisions, and in particular the use of the derogations in the Directive. The present consultation now includes a draft statutory instrument and commentary on the various provisions and how they have evolved since the previous consultation.

At present "young workers" (those over the minimum school leaving age but under 18) are entitled to 12 consecutive hours' rest between each working day, two days' weekly rest and a 30-minute in-work rest break when working longer than four and a half hours. There are three other aspects of the Directive now to be implemented, by amendments to the Working Time Regulations. These are the limitation of working time to 8 hours per day and 40 hours per week, and the prohibition of night work between 10pm and 6am or between 11pm and 7am. In addition, the Directive allows Member States to permit derogations from these restrictions in certain circumstances,

Some changes have been made to the original proposals contained in the previous consultation document. These are reflected in the draft Statutory Instrument and Regulatory Impact Assessment, which form part of this consultation document.

In summary the revised proposals would bring about the following situation.

- Young workers may not ordinarily work more than 8 hours a day or 40 hours per week, nor at night between 10pm-6am or 11pm to 7am
- They may work longer hours where this is necessary to maintain continuity of service or production, or to respond to a surge in demand for a service or product and where an adult is not available to perform the duties and the training needs of the young worker concerned are not adversely affected. They must be adequately supervised during night work hours, where that is necessary for their protection, and be allowed equivalent periods of compensatory rest.
- Young workers may work at night between midnight and 4am, provided the above tests are met, in the following sectors: hospitals or similar establishments and those employed in connection with cultural, artistic, sporting or advertising activities. Young workers may also work between 10 or 11pm to midnight and between 4am to 6 or 7am in these sectors and also agriculture; retail trading, a hotel or catering business (not including restaurants or bars), a bakery or postal or newspaper deliveries

RESTRICTED - POLICY

- Young workers who are seafarers, in sea fishing or part of the armed forces will be excluded through the extension of existing regulations in the Working Time Regulations that address these sectors.

You are invited to make comments on the Government's proposals.

Please note that we shall assume that you do not mind your reply being made public unless you advise us otherwise. If you want all or part of your reply to be treated as confidential please say so clearly in your reply.

Responses should be sent by [] to:

Lorna Duffy
Room UG82
Department of Trade and Industry
1 Victoria Street
London SW1H 0ET

Fax: 020 7215 2868
E-mail: lorna.duffy@dti.gov.uk

The Government will be making amending Regulations rapidly once the consultation is complete and responses must be received by the closing date in order to be considered.

CONTENTS

Background

Regulations

Regulatory Impact Assessment

RESTRICTED - POLICY

BACKGROUND

Maximum working time for young workers

Regulation 6 of the draft regulations amends the Working Time Regulations so as to limit the working time of young workers to eight hours a day and 40 hours a week, with no averaging, reflecting the requirements of article 8 of the Directive. There is no provision for individual opt-out.

The draft regulations make use of the derogations provided for in the Directive allowing Member States to create exemptions from the working time limitations where there are objective grounds for doing so (see below) and in the case of *force majeure*. Young workers who are exempted from the working time restrictions in these circumstances will continue to be covered by the provisions applying to adult workers, including both the maximum 48-hour working week on average, and the right to opt-out of that limit.

Night work by young workers

Regulation 7 in the draft regulations extends to young workers the provisions in the Directive which generally prohibit night working between the hours of midnight and 4am, with limited scope for derogation, and between the hours of 10pm and 6am or between the hours of 11pm and 7am with greater scope for derogation. The prohibition relates to the period between the 10pm to 6am period unless the worker's contract provides for him to work after 10pm, in which case it relates to the period between 11pm to 7am timescale. Regulation 8 amends the health assessment provisions in the Working Time Regulations to take account of the new restrictions on night working hours. Similarly, regulation 9 of the amending regulations amends regulation 9 of the Working Time Regulations to extend the requirement to keep records that are adequate to show whether the new limits are being complied with, and regulation 13 extends the exclusion for domestic servants to cover these limits.

Exceptions relating to young workers

Regulation 14 of the draft regulations extends regulation 25 of the Working Time Regulations, to exclude the young workers in the armed forces from these provisions. Regulation 15 of the draft regulations deals with regulation 26 of the Working Time Regulations. This currently deals with the health assessments and rest periods for seafarers and those in sea fishing whose employment is regulated under the Merchant Shipping Act. Regulations made under that Act – the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations (S.I. 1998/2411) – apply these provisions to these workers. They will need to be amended to deal with working time and night work.

Regulation 16 of the draft regulations inserts a new regulation 27(a) of the Working Time Regulations providing for the working time limits not to apply in certain circumstances. These are where the young worker's employer requires him to undertake work which is necessary either to maintain continuity of service or production or to respond to a surge in demand for a service or product; where no adult

RESTRICTED - POLICY

worker is available to perform the work; and where performing the work would not adversely affect the young worker's education or training.

The previous consultation also included a proposal for "operational and customer requirements" as an objective ground, but this has now been dropped in response to concerns that it created too wide an exception.

The *force majeure* derogation is already applied by the Working Time Regulations in relation to daily and in-work rest breaks for young workers and is being extended to the working time and night work provisions as provided for by the Directive.

The derogations from the night work restrictions, provided for in regulation 16 only apply in specified sectors. The previous consultation proposed that the Regulations should allow for exemptions for work during the midnight to 4am period for the sectors specified in the Directive, i.e. armed forces; police cadets; employment in hospitals or similar establishments; and employment in connection with cultural, artistic or sporting or advertising activities and fisheries. Of the responses received, the majority were in favour of the proposed use of derogations for these sectors. We have been advised that the exclusion for police cadets is not necessary, so this has been removed. Otherwise we have decided to keep the list as originally proposed, with the armed forces and seafarers and sea fishing accommodated through a separate exclusion.

The Directive additionally permits Member States to make available exemptions in "specific areas of activity" for periods of night work from 10pm to midnight and 4am to 6am, or 11pm to midnight and 4am to 7am, again when the objective grounds tests are met. The Government proposes that the UK should derogate for those sectors where the midnight to 4am period derogation is to apply, plus: agriculture, hotels and catering (not including restaurants or bars), retailing, postal services, newspaper deliveries and bakeries. The last one has been added to the list originally proposed in response to comments on the previous consultation.

The new draft regulation 27A(4)(a) requires that young workers should be adequately supervised during these hours where that is necessary for their protection.

STATUTORY INSTRUMENTS

2002 No.

TERMS AND CONDITIONS OF EMPLOYMENT

The Working Time (Amendment) Regulations 2002

Made ----- 2002

**Laid before Parliament
2002**

Coming into force --- 2002

The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to measures relating to the organisation of working time(2) and measures relating to the employment of children and young persons(3), in exercise of the powers conferred on her by that provision hereby makes the following Regulations—

1. These Regulations may be cited as the Working Time (Amendment) Regulations 2002 and shall come into force on 2002.
2. The Working Time Regulations 1998(4) shall be amended as provided below.
3. In regulation 2 (interpretation), the following definition shall be inserted after the definition of "rest period"—

(1) 1972 c. 68.

(2) S.I. 1997/1174.

(3) S.I. 1996/266.

(4) S.I. 1998/1833, to which there are amendments not relevant to these Regulations.

RESTRICTED - POLICY

"the restricted period", in relation to a worker, means the period between 10 p.m. and 6 a.m. or, where the worker's contract provides for him to work after 10 p.m., the period between 11 p.m. and 7 a.m.'

4. In regulation 3 (general)—

- (a) before "The", there shall be inserted "(1)", and
- (b) the following paragraph shall be inserted after paragraph (1) (as created by paragraph (a) above)—

"(2) Where, in this Part, separate provision is made as respects the same matter in relation to workers generally and to young workers, the provision relating to workers generally applies only to adult workers and those young workers to whom, by virtue of any exception in Part III, the provision relating to young workers does not apply."

5. In regulation 4(7)(c) (leave to be disregarded in determining average working time), after "maternity" there shall be inserted "paternity, adoption or parental".

6. The following regulation shall be inserted after regulation 5—

"Maximum working time for young workers

5A.—(1) A young worker's working time shall not exceed—

(a) eight hours a day, or

(b) 40 hours a week.

(2) If, on any day, or, as the case may be, during any week, a young worker is employed by more than one employer, his working time shall be determined for the purpose of paragraph (1) by aggregating the number of hours worked by him for each employer.

(3) For the purposes of paragraphs (1) and (2), a week starts at midnight between Sunday and Monday.

(4) An employer shall take all reasonable steps, in keeping with the need to protect the health and safety of workers, to ensure that the limits specified in paragraph (1) are complied with in the case of each worker employed by him in relation to whom they apply."

7. The following regulation shall be inserted after regulation 6—

"Night work by young workers

6A. An employer shall ensure that no young worker employed by him works during the restricted period."

RESTRICTED - POLICY

8. In regulation 7(2) (entitlement of young worker to health assessment before assignment to night work), for "the period between 10 p.m. and 6 a.m. ("the restricted period")" there shall be substituted "the restricted period".

9. In regulation 9 (records showing whether regulations are complied with)—

(a) after "4(1)" in paragraph (a) there shall be inserted ", 5A(1)", and

(b) before "7(1)" in that paragraph there shall be inserted "6A and".

10. In regulation 10(1) (entitlement to daily rest period), for "An adult worker" there shall be substituted "A worker".

11. In regulation 11(1), (2) and (7) (entitlement to weekly rest period), for "an adult worker" there shall be substituted "a worker".

12. In regulation 12 (entitlement to rest breaks)—

(a) for "an adult worker's" in paragraph (1) there shall be substituted "a worker's", and

(b) for "an adult worker" in paragraph (2) there shall be substituted "a worker".

13. In regulation 19 (regulations not applying to domestic service)—

(a) after "4(1) and (2)" there shall be inserted ", 5A(1) and (4)," and

(b) after "6(1), (2) and (7)," there shall be inserted "6A,".

14. In regulation 25 (young workers in the armed forces)—

(a) after "Regulations" in paragraph (2) there shall be inserted "5A, 6A," and

(b) for "a period which would otherwise be a rest period," there shall be substituted "the restricted period, or is not permitted the minimum rest period provided for in regulation 10(2) or 11(3),".

15. In regulation 26 (young workers employed on ships), after "Regulations" there shall be inserted "5A, 6A,".

16. The following regulation shall be inserted after regulation 27—

"Other exceptions relating to young workers

27A.—(1) Regulation 5A does not apply in relation to a young worker where—

RESTRICTED - POLICY

- (a) the young worker's employer requires him to undertake work which is necessary either to maintain continuity of service or production or to respond to a surge in demand for a service or product;
- (b) no adult worker is available to perform the work, and
- (c) performing the work would not adversely affect the young worker's education or training.

(2) Regulation 6A does not apply in relation to a young worker employed—

- (a) in a hospital or similar establishment, or
- (b) in connection with cultural, artistic, sporting or advertising activities,

in the circumstances referred to in paragraph (1), or

(3) Regulation 6A does not apply, except in so far as it prohibits work between midnight and 4 a.m., in relation to a young worker employed in—

- (a) agriculture;
- (b) retail trading;
- (c) a hotel;
- (d) a bakery;
- (e) catering activities, other than at a restaurant or bar, or
- (f) postal or newspaper deliveries

in the circumstances referred to in paragraph (1).

(4) Where the application of regulation 6A is excluded by paragraph (2) or (3), and a young worker is accordingly required to work during a period which would otherwise be a rest period or rest break—

- (a) he shall be supervised by an adult worker where such supervision is necessary for the young worker's protection, and
- (b) he shall be allowed an equivalent period of compensatory rest."

17. In regulation 27 (young workers: *force majeure*) both—

- (a) after "Regulations" in paragraph (1) and
- (b) after "regulation" in paragraph (2),

there shall be inserted "5A, 6A,".

RESTRICTED - POLICY

18. In regulation 28 (enforcement)—

- (a) after “4(2),” in sub-paragraph (a) of paragraph (1) there shall be inserted “5A(4),”;
- (b) after “6(2) and (7),” in that sub-paragraph there shall be inserted “6A,” and
- (c) for “and 9” in that sub-paragraph there shall be substituted “,9 and 27A (4)(a)”.

19. In regulation 30 (remedies), after “25(3)” in sub-paragraph (a)(iii) of paragraph (1) there shall be inserted “,27A(4)(b)”.

RESTRICTED - POLICY

REGULATORY IMPACT ASSESSMENT

Issue

1. To amend the Working Time Regulations (WTR) to reflect the ending of the UK opt-out from the working time and night work provisions within the Young Workers Directive (YWD).
2. Although the UK has implemented the European Union Council Directive on the protection of young people at work, the UK retained opt-outs from certain provisions. The opt outs covered workers aged 16 and 17 who would otherwise, under the YWD, be restricted to working a maximum of 40 hours per week, with a maximum working day of 8 hours, and would not normally be allowed to work at night between 10pm and 6am (or 11pm to 7am). The opt-outs expired on 22 June 2000. Further details are contained in the consultation document 'Young Workers Directive - End of UK Opt-Outs' published by DTI on 19 December 2000.

Objective

3. To achieve benefits for young workers, including a better balance between work and family life, with commensurate improvements in health and safety. Young workers are particularly likely to benefit in terms of access to education and opportunities for personal development.
4. To comply fully with the EU Young Workers' Directive while retaining the maximum flexibility in its implementation.

Benefits

5. There are benefits as well as costs associated with the amending regulations, although these are inevitably more difficult to quantify. The existing Working Time Regulations⁵ have ensured that employees are provided with basic minimum rights through a legal framework, providing minimum standards combined with flexibility for employers. The benefits included a better balance for workers between work and home, greater choice over hours worked and improvements in health.
6. Appropriate restrictions on working time and night-work for young workers would be expected to mean that the workers concerned are more alert and therefore more productive while they are working. This would tend to reduce costs to business while producing benefits for the economy and employers in the longer term.
7. The benefits in terms of improvements to health and family life which may be gained from restricting working hours and night working apply as much to young workers as older workers. For young workers, however, there are likely to be

⁵ See 'Measures to Implement Provisions of the EC Directives on The Organisation of Working Time ("The Working Time Directive") and the Protection of Young People at Work ("The Young Workers Directive") Public Consultation', Department of Trade and Industry Employment Relations Directorate April 1998, URN: 98/645. Annex E contains estimates of the costs of compliance. The methodology and assumptions used in this earlier appraisal have generally been followed in the present assessment.

RESTRICTED - POLICY

particular benefits in terms of access to education and opportunities for personal development, again with benefits in the long term.

8. The Council of the European Union adopted the Young Workers Directive in order to adjust labour regulations applicable to young workers so that their specific developmental and vocational training needs were met. In particular, the effects of work on young people's health, safety and physical development were noted. Young workers are a particularly sensitive risk group who needed to be protected from dangers that specifically affect them. They need protecting from risks arising from their lack of experience, absence of awareness of risks, and from their immaturity. The working time of adolescents should not adversely affect their ability to benefit from education.

Risks

9. One risk of ending the opt out are that some employers who currently employ 16 and 17 year olds in a training capacity may not wish to employ them under the new regulations, thus removing a training and development opportunity for some young people. On the other hand specified derogations (see below) are likely to exempt young workers from the YWD in industries where the requirement to work in a particular pattern, such as night work or extended hours, is an essential part of the job.

Options

10. Regulation is the only means of compliance with these remaining provisions of the YWD. The UK has not sought renewal of the opt outs. The available options for implementation are as follows:

a blanket implementation without derogations

b that the UK should authorise work by adolescents for more than eight hours on any day/40 hours in any week in a range of specified circumstances and that these circumstances should also apply for night working between midnight and 4am, which is only permissible in the following sectors:

- in shipping and fisheries
- in the context of the armed forces and the police
- in hospitals and similar establishments
- cultural, artistic, sports and advertising activities.

11. c that the UK should further authorise derogations allowing working between 10pm to midnight and 4am to 7am in sectors likely to face particular difficulties: agriculture, retail trading, a hotel or catering business (not including restaurants or bars), a bakery and postal or newspaper deliveries and those listed as derogating from the midnight to 4am period. As with the other derogations the specified circumstances would also need to be met. Derogations of the type described above are available to all member states under the terms of the YWD (see 'derogations' below).

RESTRICTED - POLICY

Costs - Restriction of working time to 40 hours per week.

Numbers

12. According to the March to May 2001 Labour Force Survey around 34,000 persons in the UK aged 16 and 17 were in employment and working more than 40 hours per week. The average working week for those working more than 40 hours per week was 47 hours.

Compliance cost

13. We can assume that the work in excess of 40 hours per week is essential to the employer's business and that if the work were not done by 16-17 year olds, workers in an adjacent age group would carry it out. If the average hourly pay of 16-17 year olds is £3.73 and that of employees aged 18-20 is £5.10⁶, then the compliance cost to the employers will be a function of the difference. If we assume, as in previous exercises, 22% for non wage costs, we have a cost which can be attributed directly to the change in the regulations of around £19 million per annum ($=34,000 * 7 * £1.37 * 1.22 * 48$). (The calculation assumes 4 weeks holiday per year). There are a number of reasons why the cost may be substantially less, however. While some of the work is likely to be redistributed to other workers in a higher wage band, some of it will be absorbed within the existing workforce. Some employers will be paying premium rates for overtime working, which could be done in normal time at equivalent or less cost. In theory, the more expensive workers will tend to be more productive than workers they replace, although age related pay structures may not reflect productivity differences precisely. One effect of switching the work to other groups may be that the cost of the older workers rises, as a result of the increased demand. The £19 million annual figure, along with other costs in this note, is believed to be a reasonable illustration of the potential cost, however.

14. It is not expected that there will be any significant administrative costs to employers.

Prohibition of night work.

Numbers

15. About 20,000 employees aged 16 or 17 were recorded in the LFS as ever working at night. Detailed information on the actual hours worked is not available.

Compliance cost

16. As above, we assume that night work is essential to the employer's business and that if the work were not done by 16-17 year olds, workers in an adjacent age group would carry it out.

⁶ See 'New Earnings Survey 2000 (revised)' Office for National Statistics, 2001, Table A15.

RESTRICTED - POLICY

17. The average number of hours worked by young night workers is around 18 hours, but not all of this will be worked at night. Making a further allowance for those who do not always work at night, the estimated compliance cost is:

$20,000 * 18 * 0.5 * 1.37 * 1.22$ (non wage labour costs) * 48 = £14 million per annum.

(20,000 workers at 18 hours each, assuming half worked at night, wage differential = £1.37 and non wage costs = 22%, annualised).

18. Again, we assume that the administrative cost of the necessary reorganisation is negligible.

Restriction of the working day to 8 hours.

19. There are no data available on the extent to which young workers work days of longer than 8 hours. Limitation of the working week to 40 hours will to some extent tend to reduce the number of long days worked. It may also be assumed that employers would deal with this limitation by re-organising work schedules. Compliance costs will therefore be negligible.

Derogations.

20. Under the terms of the YWD, it is open to the UK to exempt certain sectors from the arrangements for night work for young workers. In respect of the period from midnight to 4am these are specified in article 9(2) b of the YWD as shipping, fisheries, armed forces, police, hospitals and other related establishments, cultural, artistic, sports and advertising. For convenience we will refer to these as specified derogations.

21. Around fifteen per cent of young workers who ever work nights work in industries to which these derogations may apply. Accordingly the compliance costs from implementing the restrictions on night working would be reduced by 15%. The proportion of young workers who usually work more than 40 hours in a week in these industries is about 5%.

22. In addition member states may authorise derogations from the period between 10pm to midnight and 4am to 7am by way of exception and where there are objective grounds for doing so. Such derogations are applied in industries concerned with agriculture, retail trading, a hotel or catering business (not including restaurants or bars), a bakery and postal or newspaper deliveries which we shall refer to as objective derogations. About 10% of young workers who ever work at night work in agriculture, hotels and catering and postal services. About 8% of young workers who currently work more than 40 hours a week work in these industries. (See also, 'Impact on Industry Sectors', below.)

RESTRICTED - POLICY

In tabular terms (annual costs)

Compliance cost due to :	Maximum working hours	Prohibition on night work
Without derogations	£19 million	£14 million
Specified derogations	£1 million	£2.1 million
Objective derogations	£1.5 million	£1.4 million
Cost less derogations	£16.5 million	£10.5 million

Impact on small businesses.

23. Around 47% of young workers who currently work weeks of longer than 40 hours or ever work nights work at premises which employ fewer than 25 employees. Accordingly 47% of the compliance cost will fall on small employers who currently employ about one third of the total labour force.

Impact on industry sectors.

24. According to the Spring 2001 Labour Force Survey, about one fifth of the adolescents usually working more than 40 hours a week, were employed in the wholesale, retail and motor trades. Similar numbers were employed in manufacturing and construction.

25. About half the adolescents who ever worked at night worked in the hotel and catering trade.

26. In both cases, numbers are small, however, and the Labour Force Survey cannot provide accurate estimates.

Securing compliance

27. The revised regulations would continue to provide for workers entitlements and could be enforced by complaint to an Industrial Tribunal if denied. In addition limits on working time can be enforced by sanctions which could be imposed by health and safety at work authorities. The extra costs to HSE and Local Authorities of this enforcement activity are expected to be negligible.

Conclusions

28. The total cost of compliance with the new regulations, if implemented, could be as low as 27 million per annum if derogations are applied which is 6 million per annum lower than the cost with no derogations. This is a negligible proportion of the annual UK labour bill of £521 billion in 2000 (wages and salaries plus employers' social contributions). While the compliance cost will fall to an extent on small business, it will still not be a significant extra burden for them.

RESTRICTED - POLICY

29. The benefits of implementing the working time regulations include improvements to health and family life and apply more to young workers than to older workers because they need protecting from risks arising from their lack of experience, absence of awareness of risks, and from their immaturity. For young workers there are also particular gains in terms of access to education and opportunities for personal development. These will all be of benefit to employers in the long term.

Contact point and date:

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March 2002



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Rt Hon Estelle Morris MP

The Rt Hon Jack Straw MP
Foreign Secretary
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7 March 2002

Dear Jack,

EU CHARTER OF RIGHTS

Patricia Hewitt copied me in on her letter of 4 March to you about the possible consequences of changing the status of the Charter.

While I understand that there are important diplomatic issues to consider here, there are also potentially significant implications for our domestic policy. I am particularly concerned that there should not be increased competence in the education area or new, justiciable rights established by the possible incorporation of the Charter into the Treaties.

I therefore agree very much with Patricia that it is important that we consider both the legal and policy implications of such a move and have a collective discussion before we signal any change in our existing policy that the Charter is a political, non binding declaration.

I am copying this letter to the recipients of yours.

Best wishes

ESTELLE MORRIS

department for
education and skills
creating opportunity, releasing potential, achieving excellence



INVESTOR IN PEOPLE



PRIME MINISTER

EUROPEAN EMPLOYMENT AND SOCIAL AGENDA

As agreed I chaired a meeting of colleagues to consider our strategy on EU employment and social affairs. We have agreed a core script setting out our general approach, a prioritised list of current dossiers and list of key players with whom we need to step up our influence. In addition we have agreed on some specific actions to help us achieve our goals. I believe this strategy, if implemented vigorously, will help us join up to ensure the most effective deployment of resources in this potentially difficult area. I shall convene a further meeting in July to review progress.

Since I wrote to you on 12 November we have worked hard in the Employment and Social Policy Council to secure good outcomes on dossiers such as Information and Consultation of Employees and Quality in Work indicators. But a number of actual and potential threats remain, such as the proposed directive on Agency Workers, activity on corporate restructuring and a possible challenge to our Health and Safety regime. Some dossiers, such as the review of the Employment Strategy and the Commission Action Plan on Skills and Mobility present both opportunities and dangers.

At the meeting I chaired on 14 February (as requested in your letter of 14 January) colleagues agreed that we need to keep the EU's focus on the Lisbon targets of labour market reform, employment and job creation, given that unemployment remains the main problem facing the EU. More regulation in the guise of the pursuit of "quality" jobs will tend to protect labour market insiders at the expense of outsiders and in most cases will not be the right way forward. We have shown in the UK that it is possible to combine fair minimum standards in the workplace with an enterprise economy which creates jobs. There is not yet sufficient recognition in parts of the Commission, the EP and in some Member States that the social dimension of the Single Market cannot be pursued in isolation from business concerns, and that a single EU-wide prescriptive solution will often be inappropriate. We need to reinforce the fact that we support a socially progressive agenda, but that it can often be achieved by voluntary means, rather than through ever increasing regulatory activity which attacks flexibility and hampers job creation. The attached core script reflects these points.

As well as trying to change the broad terms of the debate in our favour, we shall of course have to continue to fight hard on all the individual dossiers now on the agenda. To help co-ordinate efforts across Whitehall we have drawn up the attached grid setting out the state of play and we have picked out some of the priority areas where we need to concentrate our efforts (both defensive and offensive). The European Secretariat in the Cabinet Office will take charge of updating this grid on a regular basis.

We also need a step change in our relations with the key players, including the Commission, EP and the EU Social Partners. Relations with other Member States are already strong, especially with Germany, Italy, Spain, Denmark, Sweden the Netherlands and Ireland, but we need to



consolidate them and if possible build bridges with France. There is more common ground here than the rhetoric suggests, but we need to be careful about the language we use. We also need to invest time in lobbying the accession countries, focusing initially on Poland, Hungary and the Czech Republic. Peter Hain is writing to members of Minecor to identify other lobbying opportunities. The attached grid sets out targets in more detail.

The meeting also identified some specific actions that we can take in the short term as follows.

- We are selling the idea that the EU has now established, with the Information and Consultation directive (and as seems likely something on Agency Workers) a comprehensive regulatory framework of decent minimum standards for employees. This needs to be effectively implemented and kept up to date but the focus of future activity should be a cross-fertilisation of ideas and modern approaches through exchanges of best practice, benchmarking and open co-ordination. Several Member States have shown themselves to be supportive of this idea and I strongly recommend that you try to entrench it in the Conclusions of the Barcelona European Council. This would be warmly welcomed by business.
- We must encourage UNICE to become more effective. All Social Chapter proposals now pass first through the EU Social Partners, where ETUC have consistently outmanoeuvred UNICE. I am meeting the new Secretary General on 5 March and Peter Hain is also seeing him. I also intend to encourage the CBI to take a more constructive line in the EU Social Dialogue. They need to play their part in steering this into more productive channels, focusing on best practice and voluntary measures and away from Framework Agreements which are automatically turned into directives (such as Fixed Term Work). They cannot do this without engaging.
- We need to get alongside the accession countries to counter the expansive account of the EU's social acquis which the Commission are likely to be feeding them. Alan Johnson is planning to visit Poland, Hungary and the Czech Republic, perhaps taking the CBI and TUC. The aim would be to present an alternative way of regulating labour markets and promoting social dialogue. We can also offer assistance and guidance on health and safety issues.
- We should use our leverage with other Commission Directorates and Council formations to exercise restraint on DG Employment and the Employment and Social Policy Council. The ECOFIN net in particular offers possibilities and Andrew Smith agreed to pursue this. My officials are planning a presentation to DG Enterprise's business relations group.
- We must take great care to ensure that the Charter of Rights does not become a vehicle for extending social rights in sensitive areas such as for example collective bargaining, strike action and education. We must also guard against changes to QMV voting in Treaty Articles in the Social Chapter which at present require unanimity.
- Gus MacDonald is pursuing as a priority the task of getting adequate follow up to the Mandelkern report on better regulation.



The Group agreed to meet again in July to review progress.

I am copying this letter to Gordon Brown, Jack Straw, Alistair Darling, Estelle Morris and Derry Irvine, and to those who attended the meeting: Andrew Smith, Peter Hain, Gus MacDonald, Barbara Roche, Malcolm Wickes, Alan Whitehead and Sir Stephen Wall.

A handwritten signature in black ink, appearing to read 'P Hain', with a long horizontal line extending to the right.

P H

4 March 2002

DEPARTMENT OF TRADE AND INDUSTRY

EU EMPLOYMENT POLICY CORE SCRIPT

- UK committed to fostering competitive markets with social justice. We want high performance, high quality, high productivity, high skills workplaces with fair minimum standards. In the UK we have put in place an infrastructure of decency through measures such as the national minimum wage, trade union recognition and family friendly policies. We are promoting a partnership approach to industrial relations.
- But workplace standards are meaningless without an enterprise economy which can create the jobs in the first place. Our economic policies in the UK have delivered on employment. We have an employment rate in excess of 70% and low unemployment. We have good participation rates for women and older workers.
- Long term unemployment remains the biggest social problem in Europe. Jobs remain the cornerstone of social cohesion and prosperity. Vital to keep to the Lisbon agenda of creating 20 million new jobs by 2010. Labour market and economic reform policies are essential to achieve this.
- Europe needs an adaptable workforce which has the skills, training and mobility necessary to cope with change. Labour market reform must focus on these issues.
- Labour market regulation must not impede the ability of companies to adapt to change and to maintain competitiveness. In the short term attempts to preserve the status quo through overburdensome regulation will protect those with a job at the expense of the unemployed. And in the long term it will be destructive of jobs.
- European labour markets are not homogenous. EU action must respect different traditions and systems. EU social dialogue has an important role to play in finding innovative and diverse approaches to common problems.
- EU has now built up a comprehensive framework of employment law, especially when compared to other OECD competitors. Effective implementation, not expansion, is needed. The way to tackle new issues is to capture the best approaches in the Member States through a process of benchmarking and exchange of good practice.

	Key players	Priority	Assessment	Strategy
Belgium	Laurette Onkelinx Frank Vandenbrouke	L	A lost cause. Presidency over, so influence has fallen.	Labour attaché to keep regular contact with Onkelinx and Vandenbrouke cabinets
Denmark	Claus Hjort Frederiksen Einar Edelberg Peter Nedergaard	H	Incoming presidency and part of former I and C blocking minority. Onside (and likely to be more so following change of government) but will need close nurturing as presidency approaches. Should look at what we can do together on social dialogue, a key theme for the Danes. Alistair Darling met both Frederiksen and Kjaer in margins of informal employment ministers meeting in Burgos in January.	DTI officials to meet counterparts in London in February Alan Johnson to invite Frederiksen to UK. UK to offer assistance for Presidency conference (including speakers)
Netherlands	Willem Vermeend Theo Langejan	M	Potentially useful allies.	DTI/DWP officials met Langejan in January.
Germany	Walter Reister Gerd Andres Fischer Renate Hornung Draus - BDA	H	Another former member of the I and C blocking minority. Good bilateral contacts with both Reister and Andres (although there is a fear we may be pressing too much on the latter). Elections late in the year, and strong signs of commitment by whoever wins to tackle labour market reform once they are over.	DTI officials to meet counterparts in Berlin in February. Alistair Darling to focus on Reister. Alan Johnson/Malcom Wicks on Andres
France	Elizabeth Guigou	M	Will never see eye to eye, but signs of a thaw as Guigou gains understanding of changes UK has made since 1997. Rumoured not keen on plans on EU social mediation but will not oppose what Commission proposes in other areas. Elections in late Spring.	Alistair Darling and Patricia Hewitt had recent successful meetings with Guigou. Post-election, we should fix up bilateral with new Minister in margins of ESPC.
Ireland	Tom Kitt	H	The Member State whose system of industrial relations and labour law most closely mirrors the UK.	Alan Johnson to keep in regular phone contact on issues and to meet in margins of ESPC. Six-monthly high-level meetings of officials.
Finland	Tarja Filatov	L	Pushes harder on regulatory issues in Europe than its	Officials to visit to get more background

			Scandinavian partners.	on Finnish labour law and policy approaches
Sweden	Mona Sahlin Anna Ekstrom (now head of TUC equivalent)	M	Mixed views. The talk is good but actions sometimes run counter to this. Could not be wholly relied on for instance in quality in work debates. High levels of domestic regulation, strong emphasis on social partnership and very positive on gender issues.	
Luxembourg	Junckers Francois Biltgen	L	Part of Franco/Belgian axis that favours harmonisation and improvement of social standards across EU.	
Greece	Dimitrios Reppas	H	Not a traditional ally, but holds Presidency next year. DG Employment place high hopes on Greeks, after apparently writing off Spain and Denmark. Commissioner is of course Greek, so will want Presidency to make impact in her area.	DTI officials to visit twice in coming year in advance of presidency. Alan Johnson to visit to meet Reppas. Expected pre-Presidency tour.
Italy	Roberto Maroni	H	Good early contacts with new Government in Italy. Much more sympathetic to UK lines. Attempting to reform domestic labour laws, but unions still a force to be reckoned with.	Alistair Darling and Alan Johnson to meet Maroni on 5 February. Joint Italian/UK paper being considered in run-up to Barcelona
Spain	Juan Carlos Aparicio	H	Current Presidency. Good existing relations with well established series of joint seminars. Ministers sympathetic but officials, particularly in the industrial relations area, are more receptive to regulatory approach. Will be tied up with Presidency matters for first six months of year.	Use Cabinet Office/Number 10 links with Moncloa to sell Barcelona language. Alan Johnson to speak to Aparicio once Agency proposals are published.
Portugal	Paulo Pedrosa	M	Labour Ministry traditionally has strong regulatory mindset. Better to focus on the centre or Finance Ministry. Elections in the spring and uncertainty over Guterres' position.	Cabinet Office/Number 10 to feed through key messages to their counterparts.
Austria	Martin Bartenstein Mares Rossman	L	Very corporatist model (all firms must join chamber of commerce). Key Minister is member of Freedom party, so caution needed in handling.	Labour attaché merely to report information.
Poland	Jerzy Hausner	H	Need to increase influence	Malcolm Wicks

			with accession countries, to show them that there are other models of social dialogue and regulation of labour markets than the one they are being presented with by the Commission. Post-accession, Poland will have as many votes as Spain (27).	possibly visiting in March/April to sign UK/Poland cooperation agreement. Exploring scope for Alan Johnson/Malcom Wicks visit in Jun/July (perhaps with CBI/TUC.)
Hungary	Stefan Quacki	H	12 votes post-accession.	Exploring scope for Alan Johnson/Malcom Wicks visit in Jun/July (perhaps with CBI/TUC.)
Czech Republic	Dr Judit Szekely	H	12 votes post-accession	Exploring scope for Alan Johnson/Malcom Wicks visit in Jun/July (perhaps with CBI/TUC.)
UNICE	Phillipe de Buck (new Secretary General)	H	Poor reputation; no strong sense of strategic direction. But new secretary general and president may offer hope for better performance in the future.	Meet CBI regularly to discuss their input into UNICE. Invite de Buck (and new President when appointed) to London
ETUC		L	Well-organised and very effective lobbyist, strong at negotiation. Have huge influence within DG Employment. Secretary General Gablione due to retire. Replacement likely to be French.	Alan Johnson to meet new Secretary General when next in Brussels
CEEP		L	The least important of the EU social partners and dominated by French utilities. But UK has key seat in negotiations and CEEP are a useful source of knowledge to tap.	DTI officials to keep in contact with Local Government Employers Association and Cabinet (main UK members of CEEP).
European Parliament	Theodoros Bouwman (NL: Green) Stephen Hughes (UK PES) Claude Moraes (UK PES) Anna Karamanou (Gr, PES) Mary Honeyball (UK PES)	H	Have a vested interest in more regulation.	Alistair Darling to host reception for MEPs (either UK ones or those on Employment Committee) on eve of next ESPC. Alan Johnson to visit to meet key members of Employment Committee (in

				connection with agency workers directive)
European Commission: DG Employment	Anna Diamantopoulou Odile Quintin	H	Good rapport with Diamantopoulou (but old-style Commission Services beneath her	Patricia Hewitt to meet Diamantopoulou when next in Brussels. Also invite her to London. DTI officials to meet Odile Quintin twice yearly.
European Commission: other DGs	Erkii Liikanen Bolkestein Mario Monti	M	Our success in toning down the restructuring consultation paper was in part due to the engagement of other DGs.	

**European Secretariat
Employment and Social Affairs dossiers
Update: 19 February 2002**

Key priorities – February/March 2002

(shaded in the following table)

Dossier	Lead	Action
1408/71 (reform of social security benefits)	DWP/HO	Have until early May to resolve question of opt-in (though ideally we should try and do so before Barcelona European Council (15/16 March))
Agency (Temporary) Workers	DTI	Need to continue influencing Commission before proposals issue (probably 27 February)
Equal Treatment Directive	CO (WEU)	Conciliation about to start. Need to bolster support on General Occupational Exclusions.
Reform of Employment Strategy	DWP	Need to develop views further and consider Barcelona conclusions language.
Skills and Mobility Taskforce/ Action Plan	DWP/DfES	Key Barcelona agenda item. DWP/DfES considering draft conclusions language.

Things to watch

(that might prove difficult/controversial)

Dossier	Lead	Action
Physical Agents (Noise)	HSE	2 nd reading amendments problematic. Already some inaccurate press coverage (banning orchestral music etc)
Working Time Opt Out	DTI	TUC beginning pressure now on UK to declare it will voluntarily give up its opt out from the 48 hour week in 2003
Charter of Rights and Employment	FCO/DTI	Relationship between the Charter and ER legislation under consideration by lawyers. To be discussed at next interministerial meeting in July.
So Far As Is Reasonably Practical	HSE	Need for high level action if Irish are taken to the ECJ over their Health and Safety regime.
Corporate restructuring	DTI	Signs are that social partner negotiations may break down. If so we need to watch out for Commission proposals for legislation.

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
1408/71 (social security benefits)	DWP/HO	ESPC reached agreement on parameters for reform on 3 December; ratified at Laeken; technical discussions start February 2002. Proposals late 2002 for inclusion of MEPs' assistants.	To ensure genuine simplification for citizens and administrators.	UK not alone in their concerns. Constant lobbying at official level.	Still considering whether or not we should opt in – have until early May to make a final decision.
Active Ageing	DWP	EMCO to produce opinion on Commission report on 7-8 Feb for discussion at ESPC and Barcelona.	Report renews commitment to Lisbon and Stockholm targets, but focuses on job maintenance and quality rather than on job creation and improving participation.	UK will seek language that emphasises job creation and opportunity for all and that avoids prejudicing the outcome of the EES revision.	Welcome the paper's commitment to meeting the Lisbon and Stockholm targets. Disappointed that there is not a much stronger emphasis on measures to improve job creation and expand opportunity and develop skills.
Agency (Temporary) Workers	DTI	Commission to produce initial proposals in late February.	3 way relationship makes equal treatment principle difficult to apply in practice. Many workers in UK on books of more than one agency. UK wants derogation that disapplies equal treatment principle for 12 mths. 18mths is initial negotiating position.	DTI briefing paper circulated to Commissioner, Director General and UK MEPs. Alan Johnson wrote to Monti and Bolkestein on 18 February.	UK experience of agency work is that it contributes to employment growth. Agree need to protect agency workers, but directive needs to take account of the different practices in various member states

European Employment and Social Affairs Dossiers

last updated: 19 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Asbestos worker protection (83/477/EC 2nd Amendment)	HSE	Social Questions Working Group met for 4 th article by article run through of text on 6-1-02. Further meeting on 20 February. The Spanish Presidency's aim is to reach common position at the ESPC meeting on 7 March, assuming EP's opinion has been received by that date.	Germany Netherlands desire for general ban on production and use. UK concern at using this Directive in this way – on legal "vires" and relationship with the marketing and use. Directive 76/769/EEC.	UK has made its views known to other Member States and EC – awaiting clarification. Briefing was been made available to all UK MEPs at the start of 2002.	UK happy to progress this '98 UK presidency initiative which refocuses EU law on the protection of those working with asbestos on to those who are considered most at risk in maintenance work.. Proposal will bring real health and safety benefits.
Atypical work; teleworking	DTI	Social dialogue continuing at European level on non-binding code of practice for teleworkers.	Telework is hard ill-defined and rapidly growing. Do not want to see legislation in this area Would like social partners to concentrate more on non-binding agreements in the future	DTI has convened a group, including the UK social partners, to draw up a Code of Practice. This should be the UK's follow up to a non-binding agreement	We are looking to develop a Code of Practice on teleworking in the UK working with the Social Partners
Collective Redundancies Directive	DTI	Review	*****	*****	*****
Corporate Restructuring	DTI	Initial Commission proposal issued to social partners; may result in legislative proposals during 2002. Signs are social partner negotiations may fail.	Do not want to see further regulation in this area - still to implement Information and Consultation	Ministers, UKREP and DTI officials have lobbied Commission and other member states Officials speaking to CBI, TUC	Restructuring is a necessary part of the economy and obstructing it will in the long term cost jobs. Want companies to emerge stronger than before, to the benefit of all.

European Employment and Social Affairs Dossiers

last updated: 19 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Corporate Social Responsibility	DTI	Commission green paper produced mid 2001; DTI co-ordinating UK response by 31 December; possibility of legislative proposals during 2002. Council adopted a resolution on 3 December.	CSR should be voluntary and business-led Would be very concerned about any mandatory requirements for businesses		Growing body of evidence that businesses can improve their commercial performance through CSR. Regard CSR as a largely private-sector agenda. Imposing new regulatory burdens is likely to stifle the innovation business brings to the field.
Data Protection	HO/DTI	2 nd stage Consultation of Social Partners expected in February			
Equal Treatment Directive	CO (WEU)	Council working group considering EP 2 nd reading amendments. Conciliation begins 21 February.	Avoiding definitions which expand scope, avoiding new burdens on business, forced positive measures by MS and changes to UK legal redress system.	Need to lobby MEPs, other MS. Work with Germany, Austria and Netherlands on General Occupational Exclusions.	
EU Social Mediation	DTI	Council Conclusions (on an entirely voluntary system) agreed on 3 December; featured at Laeken and may appear in next year's DG EMPL work programme.	we do not want to see a formalised structure of EU mediation. Even a list of mediators, paid for the Commission, could create an institution or concept that can be invoked in future dossiers.		UK is not yet convinced there is a need for EU level mediation. Generally speaking, disputes can be settled under the laws and mediation arrangements of the Member States
European Co-operative Statute	HMT	Working group discussions continue.			

European Employment and Social Affairs Dossiers

last updated: 19 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
European Occupational Health and Safety strategy	HSE		To ensure that as far as possible the Strategy accords with UK's own domestic strategy 'Revitalising Health and Safety', with its outcomes based and non legal approach to securing major improvements in the national health and safety performance.	The HSC Chair & senior HSE officials have fed into a number of forums on the Strategy. Additionally, HSE has input several blocks of comments into the EC on the shape of a possible strategy.	UK is keen to play a significant part in framing this important Strategy. Domestic initiative via 'Revitalising Health and Safety' offers many lessons for Europe.
European Works Council Directive	DTI	Review	Would like to implement Information and Consultation before reviewing the operation of the EWC	*****	We will consider any proposals for reform with an open mind. This would most sensibly be left to after adoption of the directive on informing and consulting employees
Financial Participation of Workers	DTI	Proposals expected late 2002.	Commission recognises that UK is at the forefront in the EU in this area.	Intergovernmental meeting planned by Inland Revenue	UK govt believes in the benefits of employee share ownership in conjunction with other employee participation schemes as a means to increase UK productivity.
Future of Europe (and the Charter of Fundamental Rights)	FCO	Charged with producing recommendations for the 2004 IGC, the Convention on the Future of Europe meets for the first time on March 1 st . One of the issues it will be considering is the future status of the Charter.	Want the Charter to remain a political declaration. A number of its Articles go well beyond existing UK and EU law, especially in the employment field, and a change in the Charter's status poses substantial risks.	Secretary of State has written to Foreign Secretary. Alan Johnson to meet Peter Hain (HMG representative on the Convention([tbc]	Charter of Rights is a political declaration not a binding document

European Employment and Social Affairs Dossiers

last updated: 19 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Gender Pay Gap (Beijing Process)	CO (WEU)	Council conclusions adopted 3 December. Onus now on Member States to provide accurate statistics in line with the agreed format for the 2002 report.	Use of full time equivalents very unhelpful.	Timescale unclear	
High Level Group on Industrial Relations and Change	DTI	Report due mid-February	Want report to recognise the diversity of national practices and recommend more non-regulatory outputs from the social dialogue	FCO to speak to the German employers representative (no UK representative)	
Insolvency Protection	DTI	Political agreement reached on Common Position.			
Pensions	DWP/HMT	Joint Social Protection and Economic Policy Council report on objectives and working methods for open co-ordination of pensions adopted at Council on 3 December. Commended at Laeken.	Keep light touch in applying open method of co-ordination – competence for pensions rests with Member States. National strategy reports to be produced by mid-September 2002. More work needed before deciding whether further indicators for pensions are necessary.	Low key at present – by end February EPC and SPC should reach agreement on paper on how to proceed in preparing national reports and joint Council Commission report. Current draft satisfactory to UK. (EPC discussing 7/2/02)	Pleased with progress made to date, and that Laeken endorsed the eleven broad objectives formulated by EPC and SPC. Important to keep a light touch on open co-ordination for pensions.

European Employment and Social Affairs Dossiers

last updated: 19 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Physical Agents (Electromagnetic fields and waves)	HSE	Off the agenda but the Commission committed to introducing.	UK see no current justification for a directive in this area but if any proposal were introduced, it should be based on the international guidelines for occupational exposure.	UK is already taking action to identify possible impact on UK industry.	There should be no hierarchy of actions based on levels below those at which there is no known risk to health. Any proposal should be based on the scientific evidence and not on proposals to address precautions against non-established health risks.
Physical Agents (Noise)	HSE	Common Position adopted 29 October 2001. EP rapporteur's report issued 7 Jan '02. EP Employment & Social Affairs Committee will vote on proposed amendments 19 Feb. Amendments considered by full Plenary 10 April	EP proposes amendments that would increase the costs to industry with no benefits to health and safety. An amendment to apply limits without taking hearing protection into account would make many common industrial activities illegal and industries such as aviation, mining and construction unviable.	HSE has provided detailed factual briefing to UK MEPs to reject the proposed amendments and to support the common position. HSE is also pressing other MS to lobby the EP likewise. Many sectors of UK industry have lobbied intensively in support of the common position and will continue to lobby until the EP vote.	Press articles have appeared condemning the proposed amendments. We support the Council common position on Noise which if adopted will reduce the high toll of occupational noise-induced hearing loss. But are strongly opposed to the amendments proposed which would devastate whole sectors of industry across Europe for no health and safety benefit.
Physical Agents (optical radiation)	HSE	Spanish Presidency Programme at SQWG on 16/1, work may start on this proposal after June ESPC (considered unlikely). Proposals expected under Danish Presidency in late 2002	UK sees no current justification for a directive in this area but if any proposal were introduced, it should be based on the international guidelines for occupational exposure.	UK is already taking action to identify possible impact on UK industry. UK has started networking with colleagues in Member States.	There should be no hierarchy of actions based on levels below those at which there is no known risk to health.

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Physical Agents (Vibration)	HSE	<p>CP reached on 25 June 2001. 2nd reading EP plenary 24 October adopted 7 amendments. Council resolute in opposing key EP amendments.</p> <p>Presidency attempting informal negotiations to head off conciliation due Feb /Mar</p>	<p>Key EP amendment would unacceptably lower whole body limit value of 1.15 m/s² UK leading other MS in resisting this, given severe implications for industry / lack of H&S rationale – but prepared to compromise at the margins elsewhere.</p>	<p>Extensive HSE and industry lobbying may have made rapporteur (Thorning – Schmidt) think again. UK continuing to press its case</p>	<p>Council Common position offers best basis for effective and proportionate regulation. Top priority should be to defend the Council Common Position on the whole-body vibration limit value of 1.15 m/s². This issue is of paramount importance to UK industry.</p>
Poverty/ Social Exclusion indicators	DWP	<p>Report adopted by Council on 3 December. Commended at Laeken. Synthesis Report suggests setting one target for poverty – by 2010 halving the number of people at risk of poverty across the European Union, using 60% of median income as measure.</p>	<p>Commission's synthesis report effectively ignores the work done in the report, which was endorsed at Laeken, which recognised the multidimensional nature of social exclusion.</p>	<p>Initial soundings suggest that many Member States are unhappy with single target. Consensus in SPC that multiple indicators were needed when report for Laeken adopted. Will continue to lobby SPC Members ahead of 20 February Meeting when SPC will be adopted Opinion on Synthesis Report.</p>	<p>UK committed to the fight against poverty and social exclusion - and to eradication of child poverty in UK by 2020. Impossible for any single target to adequately capture the situation of all citizens in all Member States. Single target would distort policy focus and create perverse incentives - would risk diverting resources away from assistance for those suffering the most severe, or persistent, forms of social exclusion.</p>

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European Employment Strategy Reform	DWP	Broad principles to be agreed at Barcelona for detailed work under the Danish Presidency in late 2002. Issue discussed ESPC informal Jan 02 and at EMCO Feb 02.	We want it aligned to Lisbon and more outcome focussed. The new guidelines should focus on key priorities to deliver the Lisbon goals (rather than being a holdall for all concerns in the social field); They should be based on a light touch, unbureaucratic approach.	Already shared opinions with other MSs e.g. Netherlands, Germany and Spain. Using EMCO to continue this with others. No further lobbying until firm proposals developed after Barcelona.	The Spanish summary of discussions at Burgos is very close to our own views.
Skills and Mobility Action Plan	DWP/ DfES	Report presented to DG EMPL on 18 December. Commission published Action Plan 13 th Feb. Action Plan key Barcelona agenda item.	Concerns with many issues including: heavily prescriptive on education, e.g. suggesting all pupils to leave school with two languages in addition to their mother tongue. Calls for a "more rigorous" application of Regulation 1408. The Commission must respect competences of MSs in the area of export of benefits and taxation.	MSs positions will become clear shortly.	Must ensure that actions are linked directly to the Lisbon goals, targets and timetables and take care to respect national competence and subsidiarity when addressing social security, education and immigration issues.

European Employment and Social Affairs Dossiers

last updated: 19 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
So far as is reasonably practicable (SFAIRP)	HSE	Infraction case proceeding against Ireland. HSE keeping abreast and lobbying as appropriate – could have profound implications for transposing EU legislation. EC objects to use of SFAIRP to help implement European H&S legislation.	SFAIRP is a legal concept in UK law which determines the (high) degree of action employers need to take to safeguard H&S of employees. In UK proportionality is incorporated explicitly into legislation and that legislation then interpreted literally through the courts. Continental law allows courts to include proportionality in their interpretation.	UK is already co-operating with Ireland on a SFAIRP strategy – strong argument for continued co-operation. Discussions taken place with CO, UKRep and OGDs. Possible need for lobbying of UK Commissioners to ensure facts and implications of case are fully understood.	If EC proceed against Ireland and UK on SFAIRP, concern would be expressed by industry as to the implications of the challenge and the cost of meeting any changes. SFAIRP extends beyond H&S legislation to the heart of the UK legal system. Strong case for Ministerial action to defend SFAIRP.
Social Dialogue	DTI	Laeken Conclusions refer to the social partners drawing up a multiannual work programme for the social dialogue	Directives arising from agreements between social partners have to be implemented through legislation in the UK Concerns over the accountability and transparency of the process	Officials meeting Danish counterparts 25/2/02 (social dialogue will be a priority for the Danish Presidency) Patricia Hewitt meeting CBI/TUC?	Social Dialogue should put greater emphasis on non-legislative outcomes, such as best practice in order to promote employment and enhance competitiveness
Vertical Gender Directive	CO (WEU)	Proposals expected autumn 2002.	Likely breadth of topics in "goods, facilities and services"		Must stick to Treaty, to legal base and to subsidiarity. Prepared to match the Race Directive.

European Employment and Social Affairs Dossiers

last updated: 19 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Working Time Directive: Review of Opt-out	DTI	Review of derogation for individuals to opt out from 48 hour week in 2003.	UK is the only member state using the opt-out derogation		Want to reduce long hours culture, but need the flexibility afforded by the derogations in the Directive. Best practice is the way forward in the UK
Working Time Regulations: Road Transport	DTLR (DTI)	Negotiations on extension to road transport sector stalled over inclusion of the self-employed. Will proceed to conciliation under Spanish Presidency.			

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FROM THE RIGHT HONOURABLE THE LORD IRVINE OF LAIRG



HOUSE OF LORDS,
LONDON SW1A 0PW

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27 February, 2002

The Right Honourable Jack Straw MP
Foreign Secretary
Foreign and Commonwealth Office
King Charles Street
London
SW1A 2AH

Dear *Jack,*

EU CHARTER OF RIGHTS

I have seen Peter Goldsmith's letter of 21 February, to Peter Hain. I too am alarmed by what I hope is not a drift to a defeatist position on the Charter. We need concerted action now to get our message across and develop an acceptable negotiating position collectively.

Thanks largely to Peter Goldsmith, we ended with up a Charter we could just about accept, but only as a political declaration. As he pointed out to the Prime Minister, the Charter is not suitable for incorporation from the UK's point of view. It could add major new obligations for us and create real uncertainties for domestic laws and policies. For example, the Charter is well capable of imposing on the UK the high labour costs of others via a human rights agenda. The problems are by no means confined to the social and economic "rights": the careful balance struck by our Human Rights Act between Parliamentary sovereignty and the position of the judiciary is at stake. I do not see how a justiciable Charter could include a saving for Parliamentary sovereignty. And so too the future of the ECHR itself is at stake. I doubt that the system could survive a competing and conflicting human rights jurisdiction based on the ECJ in Luxembourg. There are also problems with the civil and political rights in the Charter, some of which are adrift from the ECHR. My officials need to be fully involved in all this.

As I said in my letter of 13 December to you, I believe there is more we must do now to build alliances with EU and Candidate governments. The options for incorporation need to be analysed and gripped collectively now so we can identify where there are any workable bottom line solutions for incorporation. I do not believe we should signal any

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readiness to move from our current 'political declaration only' position until we are much clearer about the options and about the costs and consequences. As Peter Goldsmith says, we should build our current position on the original purpose of the Charter - to make existing rights more visible to citizens and to the EU institutions, whilst preserving the integrity of our own ECHR settlement. It would be helpful if you could confirm that this is the brief Patricia Scotland is also being asked to support.

I am copying this to the Prime Minister, Patricia Hewitt, Peter Goldsmith and Sir Richard Wilson. May I leave it to you to consider whether Peter's letter and this one might be given a full EP circulation given the obvious wider interests in the Charter.

Yours *eww.*

Derry.



Rt Hon Patricia Hewitt MP
Secretary of State for Trade and Industry

020 7215 5468



MATRIX - PR

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Rt Hon Andrew Smith
Chief Secretary to the Treasury
Parliament Street
London
SW1P 3AG

8 February 2002

Dear Chief Secretary

We are meeting on 14 February to agree a strategy for the EU employment and social agenda in the light of the Prime Minister's letter to me of January.

My letter of 12 November to the Prime Minister provided an overview of employment regulation at EU level and the challenges we were facing in coming months. We have worked hard since then to defuse the worst threats of the Belgian Presidency, to secure a good end result on information and consultation and to improve the Commission's Communication on Restructuring. There is much we can welcome in terms of the issues covered by Alistair Darling: the report of the skills and mobility taskforce; the European Employment Strategy and its forthcoming review.

There are, however, still areas where we are likely to meet criticism from UK business. The Commission will soon publish a proposal for a Directive on Agency Workers. Its Restructuring Communication does not explicitly exclude new legislation and there are in any case reviews planned of Directives on Collective Redundancies and European Works Councils. There are difficult dossiers in the health and safety and gender areas. Furthermore, the Convention on the Future of Europe will consider the status of the Charter of Fundamental Rights and whether QMV should be extended; both could have serious impacts on the UK labour market.

The Prime Minister's letter asks for:

(a) Our core European message on employment and social affairs:

I attach a script which encapsulates this (Annex A).

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Our headline goal is the Lisbon targets on employment and job creation. Long-term unemployment is the main problem facing the EU and this will not be addressed through further employment protection legislation (which is already higher in EU compared to the rest of OECD). This means we focus on skills, increasing mobility and making work pay through benefit reform. Our good record domestically (the National Minimum Wage, the current Employment Bill etc) shows we have a positive outlook on social issues, which we have to communicate better in the EU. But in terms of further action, we should be looking to respect our different approaches and traditions and we should be encouraging exchanges of best practice, not regulation, to find the right policy mix for problems in national and local labour markets.

(b) Our response to the flow of individual dossiers:

I attach a grid summarising these (Annex B).

On agency workers, I have pressed the Commission very strongly either not to proceed with their proposal for a Directive (given the social partners could not agree on it) or to modify it so it is more compatible with the way the UK labour market operates. I shall keep up the pressure but this seems another example of the Commission putting "quality" before job creation. On restructuring, we need to get CBI to influence UNICE with a view to keeping the focus firmly on the exchange of best practice.

(c) A strategy for improving communication with our key allies, the Commission, the European Parliament and social partners:

I attach an overview of whom we should target and how (Annex C).

We need to consolidate our existing good relations with Germany, Ireland, Spain and Denmark. We should look for opportunities to mend bridges with France and strengthen links with Holland and Sweden. We have also to recognise the growing importance of the European Parliament and the EU social partners. We should also start to position ourselves with the accession countries, focusing initially on Poland, Hungary and the Czech Republic.

We should also identify some concrete steps that we can take in the short term. In addition to the strategy for strengthening bilateral relations with the Commission, Member States and the European Parliament, I suggest:

(a) We need to get across in Europe a strong message that we now have a comprehensive acquis that provides a framework of decent minimum standards for employees.

What is required is not more regulation, but more flexibility in labour market to meet the Lisbon targets on job creation. Indeed, further legislation in this area may have the perverse effect of excluding people from the labour market. The focus of EU activity should thus be on ensuring effective implementation of existing legislation through the open method of

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coordination and the exchange of best practice, either by Member States or social partners. We have developed conclusions language for Barcelona which encompasses this approach.

We are seeking support from those Member States most likely to agree with us and have had a positive reaction at official level from the Spanish, Dutch and Italians. We should get ECOFIN and finance ministries (who are likely than labour ministries to support our

approach) to press the line that we have reached the natural limit on employment regulation at EU level. We need to secure the support of Prime Ministers' offices in Spain, Germany, Italy, Ireland, Netherlands, Portugal and Denmark. In the light of these soundings, we will need to assess how hard we should push at Barcelona.

Barcelona offers a good opportunity to give a strong steer on the future shape and priorities of the European Employment Strategy. We should minimise reference to quality jobs in this, which might trigger further unwelcome initiatives.

(b) We should invite the new Secretary General of UNICE, and the new President when appointed, to London for talks with Number 10, DTI, HMT and DWP.

Every proposal in the social policy area goes first to the social partners, who are often co-legislators. The social dialogue is becoming more important and it is vital that UNICE performs better than in the past. We need to engage him at Ministerial level. I will see him. I should be grateful if colleagues could as well. We also need CBI fully engaged in the social dialogue process.

(c) We take a hard line in the Convention against changing the status of the Charter, extending QMV to those areas currently requiring unanimity under the Article 137 and removing the exclusions from Article 137 (chiefly, pay and right to strike).

Officials should in parallel assess fully the risks of various forms of incorporation of the Charter.

(d) We need to get alongside the accession countries.

Alan Johnson and Malcolm Wicks are looking at visiting Poland, Hungary and the Czech Republic, perhaps taking along the CBI and TUC. The aim would be to present an alternative way of regulating labour markets and social dialogue.

(e) As part of our strategy to switch the emphasis from regulation to best practice, officials should explore whether the open method of coordination could be extended to industrial relations without creating new threats.

The EU has much to gain from policy competition in which best practice is compared and spread across the member states in an open and constructive dialogue. But we would not want a bureaucratic process designed against benchmarks set by the Commission in areas such as

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collective bargaining, particularly on pay. The report from the High Level Group on Industrial Relations, set up by the European Commission, could provide a peg for a new approach.

I am copying this letter to Lord Macdonald, Peter Hain, Malcolm Wickes, Barbara Roche, Alan Whitehead, Sir Stephen Wall and Bill Stow

Yours sincerely

Patricia Hewitt

pp

PATRICA HEWITT

(Approved by the Secretary of State and signed in her absence)

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CORE TEXT/MESSAGES

- We want Britain at the heart of a strong European Union which delivers prosperity for all.
- To do this we need to continue process of economic reform - delivering stable conditions for growth and employment creation. Long term unemployment is the biggest social problem facing Europe
- Must keep Lisbon employment targets at the forefront of our minds: 70% employment by 2010. 20 million new jobs.

The nature of the economy is changing ...

- Increasingly knowledge-driven and service-intensive. Consumers are more demanding and used to a 24-hour/ 7 day a week culture. As income rises, greater proportion is spent on services, which will drive employment growth. Even in manufacturing, increasing percentage of value added comes from services side (distribution, marketing, customer service).
- Service industries require a higher degree of labour market flexibility. Services are consumed when delivered; part-time and temporary work are used to match demand.

... and we need flexibility to help manage change

- Structural change is essential to safeguard employment and meet Lisbon goals. Business must be able to respond quickly to competitive pressures.
- Business needs a flexible, cost effective and experienced workforce who can respond rapidly to change → need for better skills and greater emphasis on lifelong learning

We recognise the need to protect workers' health and safety ...

- Comprehensive EU health and safety law provides a secure framework for protecting people at work, ensuring that UK nationals working elsewhere in EU have the same basic protection as in the UK.
- Good standards of health and safety contribute to individuals' employability and the competitiveness of business¹

... and the need for minimum standards ...

- Fairness in the workplace and business success go hand in hand.
- Minimum standards ensure decent treatment and encourage firms to invest in their staff. Important to keep knowledge and skills of existing staff. Recruitment is costly. Good morale feeds into productivity.

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- Introduced National Minimum Wage. Brought in Social Chapter measures in short time. Employment Bill currently passing through Parliament.
- We now have a comprehensive acquis at EU level which provides a framework of decent minimum standards for employees.

... but the best security for employees comes from buoyant jobs market

- UK has high employment rates (already above Lisbon targets at roughly 75%)². Low unemployment (about 5% on ILO definition)³. UK labour markets are delivering jobs for disadvantaged sectors of population⁴.
- Tackling unemployment has been a priority in UK. New Deal has helped cut long-term unemployment by almost 60% since May 1997. Focusing now on lone parents and disabled.
- UK rejects "hire and fire" culture. People not changing jobs frequently. Lower number of redundancies per 10,000 population in UK than in many other member states.
- Job security linked to chances of getting a new job as well as fear of losing current one.
- Security comes from having robust and transferable skills.
- Minimum standards must promote, not hinder, competitiveness and economic growth. Levels of employment regulation and innovation are inversely related⁵.
- Lisbon approach more important, not less, in times of economic difficulty.

We want to see more and better jobs ...

- Overriding priority is to help people find work; a job is the essential prerequisite of quality in work. Need mobility and transparency in labour market to enable progression.
- Part-time work, fixed term contracts, "free working", portfolio careers are increasingly the career pattern of choice, particularly of young workers who are mobile and self-reliant, and demanding of what they want from employers. We should not set in stone what jobs are good or bad, because this may not serve the interests of individual workers.
- "Service jobs" are not bad jobs - working conditions generally worse in goods producing sector⁶. Workers more satisfied in service sector⁷. Employment growing more rapidly in high-paying than in low-paying jobs⁸.

... which depend on skills and fostering participation in labour markets

- In tight labour markets, we need more people who want and are able to work. Business needs to draw on a deep and diverse pool of skills and

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experience. Need right mix of incentives to work, opportunities for skill development and flexibility. More help for those currently outside the labour market.

- Need to improve quality in work through education and training. Improving skills is key to better performance and more added value.
- Should be looking for policies that make work pay: introducing benefit regimes that protect the poorest while encouraging those who can work, back into work.
- Flexibility provides more choice of working patterns for workers and encourages a better work-life balance. People welcome this choice. Better work-life balance encourages female participation in labour force (key Lisbon target).

We value constructive partnerships ...

- Partnership benefits employees through increased job satisfaction, involvement and skills; and employers through increased productivity, lower staff turnover and better performance.
- Changing culture in the workplace needs change in attitudes, not legislation. A new challenge for employers, unions and employees. Partnership Fund in UK helps spread awareness of best practice. Just announced increase in amount of money for best practice schemes (extra £20m over two years)
- Should not prescribe how firms inform, consult or involve workers. Different methods are equally valid, depending on circumstance.
- Unions make important contribution but we need co-operation, not confrontation. Work with business, not against it. Business-friendly does not mean union-hostile. UK union membership growing.
- Low levels of industrial action in UK⁹.

... and an effective dialogue ...

- Social partners are actively involved in UK: Low Pay Commission. ACAS. HSC. Bain Taskforce.
- We have a tailored approach to social dialogue; bring in those with expertise and experience who can make an effective contribution to policy making
- At EU level, social dialogue should be a focus for exchange of best practice and the development of codes and guidelines.

... We should celebrate our diversity of approach ...

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- There is no one-size fits all approach. Labour markets and institutional frameworks differ. Labour is still largely immobile between countries.
- Article 136 of the Treaty explicitly states that the Community shall implement measures which take account of the diverse forms of national practice, in particular in the field of contractual relations.

... which enables us to learn from each other.

- Benchmarking, peer group review and codes of practice offer a better way forward than regulation and legislation.
- Explore options for what works well; competition in ideas allows us to pick the best for particular circumstance. For example, UK has more teleworkers than France and Spain - we've made mistakes but have discovered what works - we can share this knowledge.

Proportionality and subsidiarity are key and we must think small first.

- The interests of small firms need to be brought more to the fore. They are the main engines for job creation in Europe.
- Need to "think small first" and keep bureaucracy to a minimum, so we safeguard employment. Small firms are not little big firms.

¹ HSE: The costs to Britain of workplace accidents and work related ill health in 1995/96 (updated) 1999

² 74.9% of UK working age population in employment: 28.18 million people. (May 2001 - need more up to date figure)

³ ILO unemployment 1.51m (5.1%) in Sep 2001. Claimant count 951,100 (3.2%) in Oct

⁴ UK employment rate of older workers is 51% compared to 37% EU average and of older female workers 42% compared to 28% EU average (source Eurostat). UK employment rate of females is 64% to 54% EU average.

⁵ OECD Economic Outlook 70. Special Study.

⁶ Source: OECD Employment Outlook 2001. Table 3.2 page 100. 55% of workers in goods across Europe experiences unpleasant working conditions and 71% unpleasant tasks compared to 30% and 57% in service sector. UK figures are 53 and 72 in goods and 38 and 65 in services.

⁷ Source: OECD Employment Outlook 2001. Table 3.4. From European Survey on Working Conditions, average level of satisfaction is 3.18 in services and 3.03 in goods, and proportion very satisfied is 34.8 in services and 26.2 in goods. European Community Household Panel gives 4.41:4.21 and 14.8 and 11.6.

⁸ OECD Employment Outlook 2001. Chart 3.7. Page 101.

⁹ 12,700 working days lost in Aug 2001 compared to 115,000 Aug 2000. 573,000 working days lost in 12 months up to Aug 2001 compared to 1.3million in 1996.

020 7215 5468

	Key players	Priority	Assessment	Strategy
Belgium	Laurette Onkelinx Frank Vandenbrouke	L	A lost cause. Presidency over, so influence has fallen.	Labour attaché to keep regular contact with Onkelinx and Vandenbrouke cabinets
Denmark	Claus Hjort Frederiksen Einar Edelberg Peter Nedergaard	H	Incoming presidency and part of former I and C blocking minority. Onside (and likely to be more so following change of government) but will need close nurturing as presidency approaches. Should look at what we can do together on social dialogue, a key theme for the Danes. Alistair Darling met both Frederiksen and Kjaer in margins of informal employment ministers meeting in Burgos in January.	DTI officials to meet counterparts in London in February Alan Johnson to invite Frederiksen to UK. UK to offer assistance for Presidency conference (including speakers)
Netherlands	Willem Vermeend Theo Langejan	M	Potentially useful allies.	DTI/DWP officials met Langejan in January.
Germany	Walter Reister Gerd Andres Fischer Renate Hornung Draus - BDA	H	Another former member of the I and C blocking minority. Good bilateral contacts with both Reister and Andres (although there is a fear we may be pressing too much on the latter). Elections late in the year, and strong signs of commitment by whoever wins to tackle labour market reform once they are over.	DTI officials to meet counterparts in Berlin in February. Alistair Darling to focus on Reister. Alan Johnson/Malcom Wicks on Andres
France	Elizabeth Guigou	M	Will never see eye to eye, but signs of a thaw as Guigou gains understanding of changes UK has made since 1997. Rumoured not keen on plans on EU social mediation but will not oppose what Commission proposes in other areas. Elections in late Spring.	Alistair Darling and Patricia Hewitt had recent successful meetings with Guigou. Post-election, we should fix up bilateral with new Minister in margins of ESPC.
Ireland	Tom Kitt	H	The Member State whose system of industrial relations and labour law most closely mirrors the UK.	Alan Johnson to keep in regular phone contact on issues and to meet in margins of ESPC. Six-monthly high-level meetings of officials.
Finland	Tarja Filatov	L	Pushes harder on regulatory issues in Europe than its	Officials to visit to get more background

			Scandinavian partners.	on Finnish labour law and policy approaches
Sweden	Mona Sahlin Anna Ekstrom (now head of TUC equivalent)	M	Mixed views. The talk is good but actions sometimes run counter to this. Could not be wholly relied on for instance in quality in work debates. High levels of domestic regulation, strong emphasis on social partnership and very positive on gender issues.	
Luxembourg	Junckers Francois Biltgen	L	Part of Franco/Belgian axis that favours harmonisation and improvement of social standards across EU.	
Greece	Dimitrios Reppas	H	Not a traditional ally, but holds Presidency next year. DG Employment place high hopes on Greeks, after apparently writing off Spain and Denmark. Commissioner is of course Greek, so will want Presidency to make impact in her area.	DTI officials to visit twice in coming year in advance of presidency. Alan Johnson to visit to meet Reppas. Expected pre-Presidency tour.
Italy	Roberto Maroni	H	Good early contacts with new Government in Italy. Much more sympathetic to UK lines. Attempting to reform domestic labour laws, but unions still a force to be reckoned with.	Alistair Darling and Alan Johnson to meet Maroni on 5 February. Joint Italian/UK paper being considered in run-up to Barcelona
Spain	Juan Carlos Aparicio	H	Current Presidency. Good existing relations with well established series of joint seminars. Ministers sympathetic but officials, particularly in the industrial relations area, are more receptive to regulatory approach. Will be tied up with Presidency matters for first six months of year.	Use Cabinet Office/Number 10 links with Moncloa to sell Barcelona language. Alan Johnson to speak to Aparicio once Agency proposals are published.
Portugal	Paulo Pedrosa	M	Labour Ministry traditionally has strong regulatory mindset. Better to focus on the centre or Finance Ministry. Elections in the spring and uncertainty over Guterres' position.	Cabinet Office/Number 10 to feed through key messages to their counterparts.
Austria	Martin Bartenstein Mares Rossman	L	Very corporatist model (all firms must join chamber of commerce). Key Minister is member of Freedom party, so caution needed in handling.	Labour attaché merely to report information.
Poland	Jerzy Hausner	H	Need to increase influence	Malcolm Wicks

020 7215 5468

			with accession countries, to show them that there are other models of social dialogue and regulation of labour markets than the one they are being presented with by the Commission. Post-accession, Poland will have as many votes as Spain (27).	possibly visiting in March/April to sign UK/Poland cooperation agreement. Exploring scope for Alan Johnson/Malcom Wicks visit in Jun/July (perhaps with CBI/TUC.)
Hungary	Stefan Quacki	H	12 votes post-accession.	Exploring scope for Alan Johnson/Malcom Wicks visit in Jun/July (perhaps with CBI/TUC.
Czech Republic	Dr Judit Szekely	H	12 votes post-accession	Exploring scope for Alan Johnson/Malcom Wicks visit in Jun/July (perhaps with CBI/TUC.
UNICE	Phillipe de Buck (new Secretary General)	H	Poor reputation; no strong sense of strategic direction. But new secretary general and president may offer hope for better performance in the future.	Meet CBI regularly to discuss their input into UNICE. Invite de Buck (and new President when appointed) to London
ETUC		L	Well-organised and very effective lobbyist, strong at negotiation. Have huge influence within DG Employment. Secretary General Gablione due to retire. Replacement likely to be French.	Alan Johnson to meet new Secretary General when next in Brussels
CEEP		L	The least important of the EU social partners and dominated by French utilities. But UK has key seat in negotiations and CEEP are a useful source of knowledge to tap.	DTI officials to keep in contact with Local Government Employers Association and Cabinet (main UK members of CEEP).
European Parliament	Theodoros Bouwman (NL: Green) Stephen Hughes (UK PES) Claude Moraes (UK PES) Anna Karamanou (Gr, PES) Mary Honeyball (UK PES)	H	Have a vested interest in more regulation.	Alistair Darling to host reception for MEPs (either UK ones or those on Employment Committee) on eve of next ESPC. Alan Johnson to visit to meet key members of Employment Committee (in

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				connection with agency workers directive)
European Commission: DG Employment	Anna Diamantopoulou Odile Quintin	H	Good rapport with Diamantopoulou (but old-style Commission Services beneath her	Patricia Hewitt to meet Diamantopoulou when next in Brussels. Also invite her to London. DTI officials to meet Odile Quintin twice yearly.
European Commission: other DGs	Erkii Liikanen Bolkestein Mario Monti	M	Our success in toning down the restructuring consultation paper was in part due to the engagement of other DGs.	

Employment and Social Affairs dossiers: situation as at 08 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
1408/71 (social security benefits)	DWP	ESPC reached agreement on parameters for reform on 3 December; ratified at Laeken; technical discussions start February 2002. Proposals late 2002 for inclusion of MEPs' assistants.	To ensure genuine simplification for citizens and administrators.	UK not alone in their concerns. Constant lobbying at official level.	Support the proposal to simplify and modernise the legislation.
Active Ageing	DWP	EMCO to produce opinion on Commission report on 7-8 Feb for discussion at ESPC and Barcelona.	Report renews commitment to Lisbon and Stockholm targets, but focuses on job maintenance and quality rather than on job creation and improving participation.	UK will seek language that emphasises job creation and opportunity for all and that avoids prejudicing the outcome of the EES revision.	Welcome the paper's commitment to meeting the Lisbon and Stockholm targets. Disappointed that there is not a much stronger emphasis on measures to improve job creation and expand opportunity and develop skills.
Agency (Temporary) Workers	DTI	Commission to produce initial proposals in late February.	3 way relationship makes equal treatment principle difficult to apply in practice. Many workers in UK on books of more than one agency. UK wants derogation that disapplies equal treatment principle for 12 mths. 18mths is initial negotiating position.	DTI briefing paper circulated to Commissioner, Director General and UK MEPs. Alan Johnson to speak to Diamantopoulou: 31/1/02. Patricia Hewitt to speak to Liikanen: 14/2/02	UK experience of agency work is that it contributes to employment growth. Agree need to protect agency workers, but directive needs to take account of the different practices in various member states

European Employment and Social Affairs Dossiers

last updated: 7 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Asbestos worker protection (83/477/EC 2nd Amendment)	HSE	Social Questions Working Group met for 4 th article by article run through of text on 6-1-02. Further meeting on 20 February. The Spanish Presidency's aim is to reach common position at the ESPC meeting on 7 March, assuming EP's opinion has been received by that date.	Germany Netherlands desire for general ban on production and use. UK concern at using this Directive in this way - on legal "vires" and relationship with the marketing and use. Directive 76/769/EEC.	UK has made its views known to other Member States and EC - awaiting clarification. Briefing was been made available to all UK MEPs at the start of 2002.	UK happy to progress this '98 UK presidency initiative which refocuses EU law on the protection of those working with asbestos on to those who are considered most at risk in maintenance work.. Proposal will bring real health and safety benefits.
Atypical work; teleworking	DTI	Social dialogue continuing at European level on non-binding code of practice for teleworkers.	Telework is hard ill-defined and rapidly growing. Do not want to see legislation in this area Would like social partners to concentrate more on non-binding agreements in the future	DTI has convened a group, including the UK social partners, to draw up a Code of Practice. This should be the UK's follow up to a non-binding agreement	We are looking to develop a Code of Practice on teleworking in the UK working with the Social Partners
Collective Redundancies Directive	DTI	Review	*****	*****	*****
Corporate Restructuring	DTI	Initial Commission proposal issued to social partners; may result in legislative proposals during 2002	Do not want to see further regulation in this area - still to implement Information and Consultation	Ministers, UKREP and DTI officials have lobbied Commission and other member states Officials speaking to CBI, TUC	Restructuring is a necessary part of the economy and obstructing it will in the long term cost jobs. Want companies to emerge stronger than before, to the benefit of all.

European Employment and Social Affairs Dossiers

last updated: 7 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Corporate Social Responsibility	DTI	Commission green paper produced mid 2001; DTI co-ordinating UK response by 31 December; possibility of legislative proposals during 2002. Council adopted a resolution on 3 December.	CSR should be voluntary and business-led Would be very concerned about any mandatory requirements for businesses		Growing body of evidence that businesses can improve their commercial performance through CSR. Regard CSR as a largely private-sector agenda. Imposing new regulatory burdens is likely to stifle the innovation business brings to the field.
Data Protection	HO/DTI	2 nd stage Consultation of Social Partners expected in February			
Equal Treatment Directive	CO (WEU)	Council working group considering EP 2 nd reading amendments. Conciliation begins 21 February.	Avoiding definitions which expand scope, avoiding new burdens on business, forced positive measures by MS and changes to UK legal redress system.	Need to lobby MEPs, other MS.	Debate in Standing Cttee 13 February. "UK welcomes updating of the ETD, but aims to maximise consistency with other discrimination Directives"
EU Social Mediation	DTI	Council Conclusions (on an entirely voluntary system) agreed on 3 December; featured at Laeken and may appear in next year's DG EMPL work programme.	we do not want to see a formalised structure of EU mediation. Even a list of mediators, paid for the Commission, could create an institution or concept that can be invoked in future dossiers.		UK is not yet convinced there is a need for EU level mediation. Generally speaking, disputes can be settled under the laws and mediation arrangements of the Member States
European Co-operative Statute	HMT	Working group discussions continue.			

European Employment and Social Affairs Dossiers

last updated: 7 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
European Occupational Health and Safety strategy	HSE		To ensure that as far as possible the Strategy accords with UK's own domestic strategy 'Revitalising Health and Safety', with its outcomes based and non legal approach to securing major improvements in the national health and safety performance.	The HSC Chair & senior HSE officials have fed into a number of forums on the Strategy. Additionally, HSE has input several blocks of comments into the EC on the shape of a possible strategy.	UK is keen to play a significant part in framing this important Strategy. Domestic initiative via 'Revitalising Health and Safety' offers many lessons for Europe.
European Works Council Directive	DTI	Review	Would like to implement Information and Consultation before reviewing the operation of the EWC	*****	We will consider any proposals for reform with an open mind. This would most sensibly be left to after adoption of the directive on informing and consulting employees
Financial Participation of Workers	DTI	Proposals expected late 2002.	Commission recognises that UK is at the forefront in the EU in this area.	Intergovernmental meeting planned by Inland Revenue	UK govt believes in the benefits of employee share ownership in conjunction with other employee participation schemes as a means to increase UK productivity.
Future of Europe (and the Charter of Fundamental Rights)	FCO	Charged with producing recommendations for the 2004 IGC, the Convention on the Future of Europe meets for the first time on March 1 st . One of the issues it will be considering is the future status of the Charter.	Want the Charter to remain a political declaration. A number of its Articles go well beyond existing UK and EU law, especially in the employment field, and a change in the Charter's status poses substantial risks.	Secretary of State has written to Foreign Secretary. Alan Johnson to meet Peter Hain (HMG representative on the Convention) [tbc]	Charter of Rights is a political declaration not a binding document

European Employment and Social Affairs Dossiers

last updated: 7 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Gender Pay Gap (Beijing Process)	CO (WEU)	Council conclusions adopted 3 December. Onus now on Member States to provide accurate statistics in line with the agreed format for the 2002 report.	Use of full time equivalents very unhelpful.	Timescale unclear	
High Level Group on Industrial Relations and Change	DTI	Report due mid-February	Want report to recognise the diversity of national practices and recommend more non-regulatory outputs from the social dialogue	FCO to speak to the German employers representative (no UK representative)	
Information and Consultation	DTI	Political agreement reached. Agreed at Conciliation Committee on 17 December.		The Department will consult in due course on implementation of the directive in the UK which will be due by January 2005	<p>Pleased with the outcome of the negotiations - a much better directive than was originally proposed. Will not affect small businesses</p> <p>All good companies inform and consult their employees. We want to encourage a productive dialogue based on partnership.</p>
Insolvency Protection	DTI	Political agreement reached on Common Position.			

P.17/23

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European Employment and Social Affairs Dossiers

last updated: 7 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Pensions	DWP/HMT	Joint Social Protection and Economic Policy Council report on objectives and working methods for open co-ordination of pensions adopted at Council on 3 December. Commended at Laeken.	<p>Keep light touch in applying open method of co-ordination – competence for pensions rests with Member States. National strategy reports to be produced by mid-September 2002.</p> <p>More work needed before deciding whether further indicators for pensions are necessary.</p>	<p>Low key at present – by end February EPC and SPC should reach agreement on paper on how to proceed in preparing national reports and joint Council Commission report. Current draft satisfactory to UK. (EPC discussing 7/2/02)</p>	<p>Pleased with progress made to date, and that Laeken endorsed the eleven broad objectives formulated by EPC and SPC.</p> <p>Important to keep a light touch on open co-ordination for pensions.</p>
Physical Agents (Electromagnetic fields and waves)	HSE	Off the agenda but the Commission committed to introducing.	<p>UK see no current justification for a directive in this area but if any proposal were introduced, it should be based on the international guidelines for occupational exposure.</p>	<p>UK is already taking action to identify possible impact on UK industry.</p>	<p>There should be no hierarchy of actions based on levels below those at which there is no known risk to health. Any proposal should be based on the scientific evidence and not on proposals to address precautions against non-established health risks.</p>

European Employment and Social Affairs Dossiers

last updated: 7 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Physical Agents (Noise)	HSE	<p>Common Position adopted 29 October 2001.</p> <p>EP rapporteur's report issued 7 Jan '02. EP Employment & Social Affairs Committee will vote on proposed amendments 19 Feb. Amendments considered by full Plenary 10 April</p>	<p>EP proposes amendments that would increase the costs to Industry with no benefits to health and safety. An amendment to apply limits without taking hearing protection into account would make many common industrial activities illegal and industries such as aviation, mining and construction unviable.</p>	<p>HSE has provided detailed factual briefing to UK MEPs to reject the proposed amendments and to support the common position. HSE is also pressing other MS to lobby the EP likewise. Many sectors of UK Industry have lobbied Intensively in support of the common position and will continue to lobby until the EP vote.</p>	<p>Press articles have appeared condemning the proposed amendments. We support the Council common position on Noise which if adopted will reduce the high toll of occupational noise-induced hearing loss. But are strongly opposed to the amendments proposed which would devastate whole sectors of industry across Europe for no health and safety benefit.</p>
Physical Agents (optical radiation)	HSE	<p>Spanish Presidency Programme at SQWG on 16/1, work may start on this proposal after June ESPC (considered unlikely). Proposals expected under Danish Presidency in late 2002</p>	<p>UK sees no current justification for a directive in this area but if any proposal were introduced, it should be based on the international guidelines for occupational exposure.</p>	<p>UK is already taking action to identify possible impact on UK industry. UK has started networking with colleagues in Member States.</p>	<p>There should be no hierarchy of actions based on levels below those at which there is no known risk to health.</p>
Physical Agents (Vibration)	HSE	<p>CP reached on 25 June 2001. 2nd reading EP plenary 24 October adopted 7 amendments. Council resolute in opposing key EP amendments.</p> <p>Presidency attempting informal negotiations to head off conciliation due Feb /Mar</p>	<p>Key EP amendment would unacceptably lower whole body limit value of 1.15 m/s²</p> <p>UK leading other MS in resisting this, given severe implications for industry / lack of H&S rationale – but prepared to compromise at the margins elsewhere.</p>	<p>Extensive HSE and industry lobbying may have made rapporteur (Thorning – Schmidt) think again. UK continuing to press its case</p>	<p>Council Common position offers best basis for effective and proportionate regulation. Top priority should be to defend the Council Common Position on the whole-body vibration limit value of 1.15 m/s². This issue is of paramount importance to UK industry.</p>

European Employment and Social Affairs Dossiers

last updated: 7 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Poverty/ Social Exclusion indicators	DWP	Report adopted by Council on 3 December. Commended at Laeken. Synthesis Report suggests setting one target for poverty – by 2010 halving the number of people at risk of poverty across the European Union, using 60% of median income as measure.	Commission's synthesis report effectively ignores the work done in the report, which was endorsed at Laeken, which recognised the multidimensional nature of social exclusion.	Initial soundings suggest that many Member States are unhappy with single target. Consensus in SPC that multiple indicators were needed when report for Laeken adopted. Will continue to lobby SPC Members ahead of 20 February Meeting when SPC will be adopted Opinion on Synthesis Report.	UK committed to the fight against poverty and social exclusion - and to eradication of child poverty in UK by 2020. Impossible for any single target to adequately capture the situation of all citizens in all Member States. Single target would distort policy focus and create perverse incentives - would risk diverting resources away from assistance for those suffering the most severe, or persistent, forms of social exclusion.
Quality in Work	DWP	Council Conclusions adopted 3 December. Employment Committee to review application of indicators to National Employment Action Plans in February 2002.	After current Employment Guidelines, UK and other want them to be focussed on priorities to achieve Lisbon goals – "more and better jobs" is single aim, so quality must be seen as helping to get people into work. In the meantime would like an indicative list of indicators from which MSs could select ones which best illustrate their achievements.	1 st priority will be to lobby on Guidelines for 2003 from which indicators will follow.	Believe that indicators help to illuminate the progress we are making towards our commonly agreed goals as set out in the Employment Guidelines. The Commission's list seems to be straying from this path. There are examples in this list of quality in work, which are not directly linked to the Guidelines.

European Employment and Social Affairs Dossiers

last updated: 7 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Reform of Employment Guidelines	DWP	Broad principles to be agreed at Barcelona for detailed work under the Danish Presidency in late 2002. Issue discussed ESPC Informal Jan 02 and at EMCO Feb 02.	We want it aligned to Lisbon and more outcome focussed. The new guidelines should focus on key priorities to deliver the Lisbon goals (rather than being a holdall for all concerns in the social field); They should be based on a light touch, unbureaucratic approach.	Already shared opinions with other MSs e.g. Netherlands, Germany and Spain. Using EMCO to continue this with others. No further lobbying until firm proposals developed after Barcelona.	The Spanish summary of discussions at Burgos is very close to our own views.
Skills and Mobility Taskforce	DWP/ DfES	Report presented to DG EMPL on 18 December. Commission publishing Action Plan 13 th Feb. Action Plan. Key Barcelona agenda item.	Concerns with many issues including: heavily prescriptive on education, e.g. suggesting all pupils to leave school with two languages in addition to their mother tongue. Calls for a "more rigorous" application of Regulation 1408. The Commission must respect competences of MSs in the area of export of benefits and taxation.	MSs positions will become clear once action plan is published.	Must ensure that actions are linked directly to the Lisbon goals, targets and timetables and take care to respect national competence and subsidiarity when addressing social security, education and immigration issues.

P. 21/23

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European Employment and Social Affairs Dossiers

last updated: 7 February 2002

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
So far as is reasonably practicable (SFAIRP)	HSE	Infraction case proceeding against Ireland. HSE keeping abreast and lobbying as appropriate – could have profound implications for transposing EU legislation. EC objects to use of SFAIRP to help implement European H&S legislation.	SFAIRP is a legal concept in UK law which determines the (high) degree of action employers need to take to safeguard H&S of employees. In UK proportionality is incorporated explicitly into legislation and that legislation then interpreted literally through the courts. Continental law allows courts to include proportionality in their interpretation.	UK is already co-operating with Ireland on a SFAIRP strategy – strong argument for continued co-operation. Discussions taken place with CO, UKRep and OGDs. Possible need for lobbying of UK Commissioners to ensure facts and implications of case are fully understood.	If EC proceed against Ireland and UK on SFAIRP, concern would be expressed by industry as to the implications of the challenge and the cost of meeting any changes. SFAIRP extends beyond H&S legislation to the heart of the UK legal system. Strong case for Ministerial action to defend SFAIRP.
Social Dialogue	DTI	Laeken Conclusions refer to the social partners drawing up a multiannual work programme for the social dialogue	Directives arising from agreements between social partners have to be implemented through legislation in the UK Concerns over the accountability and transparency of the process	Officials meeting Danish counterparts 25/2/02 (social dialogue will be a priority for the Danish Presidency) Patricia Hewitt meeting CBI/TUC?	Social Dialogue should put greater emphasis on non-legislative outcomes, such as best practice in order to promote employment and enhance competitiveness
Vertical Gender Directive	CO (WEU)	Proposals expected June 2002.	Likely breadth of topics in "goods, facilities and services"		Must stick to Treaty, to legal base and to subsidiarity. Prepared to match the Race Directive.
Vertical Gender Directive	CO (WEU)	Proposals expected autumn 2002.			

European Employment and Social Affairs Dossiers*last updated: 7 February 2002*

Dossier	Lead	Current position	Issues for UK	Handling/lobbying	Presentation/key lines to take
Working Time Directive: Review of Opt-out	DTI	Review of derogation for individuals to opt out from 48 hour week in 2003.	UK is the only member state using the opt-out derogation		Want to reduce long hours culture, but need the flexibility afforded by the derogations in the Directive. Best practice is the way forward in the UK
Working Time Regulations: Road Transport	DTLR (DTI)	Negotiations on extension to road transport sector stalled over inclusion of the self-employed. Will proceed to conciliation under Spanish Presidency.			

FROM ALAN WHITEHEAD MP
PARLIAMENTARY UNDER SECRETARY OF STATE



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- 4 FEB 2002

Dear Jack

ARTICLE 226 REASONED OPINION: 2001/0380 - COUNCIL DIRECTIVE 98/24/EC ON THE PROTECTION OF THE HEALTH AND SAFETY OF WORKERS FROM THE RISKS RELATED TO CHEMICAL AGENTS AT WORK (CAD)

In accordance with Cabinet Office guidance on the clearance of European Commission (EC) Reasoned Opinions, I am writing to inform you and to seek agreement to how we propose responding to a Reasoned Opinion from the EC dated 20 December 2001. Your agreement to the proposed response is sought by 14 February.

The Reasoned Opinion concerns the UK's failure to notify the EC of the provisions it has adopted to implement the requirements of Directive 98/24/EC *on the protection of the health and safety of workers from the risks related to chemical agents at work* - the Chemical Agents Directive (CAD). It requires the UK to take the necessary measures to comply with the Directive within two months of receipt of the Opinion.

Member States were required to transpose the requirements of CAD into their national law by 5 May 2001. A significant programme of action is already in hand. In GB, the Directive's health requirements are being implemented by extending long established health-based regulations with which industry is familiar. These comprise: the Control of Substances Hazardous to Health Regulations; the Control of Lead at Work Regulations; and the Control of Asbestos at Work Regulations. There are comparable Regulations in Northern Ireland (NI) which are also being extended to implement the Directive.

CAD's safety requirements are being implemented by new Dangerous Substances and Explosive Atmospheres Regulations (DSEAR). These will also be used to implement the requirements of Directive 1999/92/EC (required to be implemented by June 2003) for improving protection from explosive atmospheres, i.e. The ATEX Directive. We decided to implement the two Directives together given the overlap of areas covered by them. DSEAR will also replace 20 pieces of old legislation. NI is developing comparable Regulations.



INVESTOR IN PEOPLE

CAD is a complex Directive with detailed requirements that will affect virtually all UK industry. Therefore, it has been extremely important to transpose the Directive's requirements into national law supported by appropriate guidance and Approved Codes of Practice in a way that industry will be able to understand and readily comply with. Developing the implementation package has proved difficult and taken far longer than planned. The consequence has been that the UK has failed to meet the implementation deadline set by the Directive. We are not alone in this. We understand that as at early December 2001, only seven Member States had either reported compliance to the EC or were close to doing so and, as a consequence, the EC subsequently issued Reasoned Opinions against the eight other Member States including the UK.

On 12 July 2001, I wrote to Bill Callaghan - the Chair of HSC - agreeing to a request from HSC for a delay in implementing CAD. This was in order to give HSE time to work up sound and effective regulations that would deliver high compliance with the minimum additional cost to business. In an attempt to prevent infraction proceedings being taken against the UK, UKREP subsequently wrote to the EC on 26 July 2001 informing it of the steps the UK was taking to implement the Directive and of its target implementation date of the summer of 2002.

Meanwhile, however, on 20 July, the EC had written to you drawing your attention to six EC Directives - including CAD - yet to be transposed into UK law. In our response on 18 September to this initial Article 226 infraction letter the UK set out in detail the steps it was taking to implement CAD at the earliest opportunity.

On 19 December 2001, i.e. the day before the EC issued its Reasoned Opinion, UKREP sent the EC copies of two HSC consultative documents (CD) setting out proposals to implement CAD's health requirements. A copy of the HSC CD dealing with the safety requirements of CAD (and ATEX) will be published in February and we will enclose a copy with our formal response to the Reasoned Opinion. NI is using the HSC's three CDs to carry out their own consultation exercises and the Government of Gibraltar has prepared draft regulations on which HSE has been asked to comment.

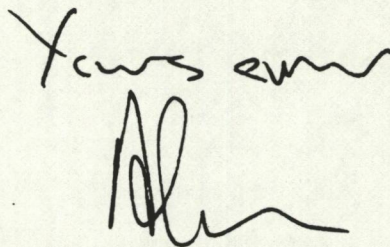
Work on the implementation of CAD is therefore at an advanced stage. However, there is still some essential work to be done in order to comply with requirements imposed by the Health and Safety at Work etc. Act 1974. This involves consulting stakeholders and others on HSC's regulatory proposals for implementing CAD, which will not end until mid-May. Although we cannot comply with the Reasoned Opinion and implement CAD in the two months it allows, in our proposed response we will:

- (a) state that we intend to be fully compliant by summer 2002;
- (b) reassure the EC that existing UK health and safety legislation already provide a structure through which the health and safety risks presented by chemical agents can be adequately controlled by effective precautions and enforcement;
- (c) reiterate that the UK's existing health and safety legislation already implicitly complies with the requirements of the Directive;
- (d) remind the Commission that UKREP included copies of the relevant health and safety legislation currently in force in Great Britain with the UK's letter dated 18 September, in response to the initial Article 226 infraction letter;

- (e) stress that implementing the Directive essentially means refining our existing regulatory regimes and making explicit within our domestic Regulations those requirements of the Directive that are currently only implicit;
- (f) emphasise that the UK has now prepared drafts of its proposed implementing Regulations, but that it must comply with its own national law and consult appropriate stakeholders and other interested parties on its proposals to implement the Directive;
- (g) point out that implementing Regulations, which enjoy the support of stakeholders, are far more likely to be widely understood and complied with;
- (h) regret that the essential consultation process means that the UK needs more time to finalise the texts of its implementing Regulations, and refer the EC to previously published CDs on health and the final CD, which deals with safety issues;
- (i) state that we are unable to comply with the Reasoned Opinion in the time allowed because we are still consulting on the Regulations that will eventually transpose the Directive's requirements into UK national law;
- (j) remind the Commission of the UK's earlier undertaking to implement the Directive at the earliest opportunity, which will be during the summer, and refer the EC to an updated implementation programme, which we will attach to the letter.
- (k) Refer the Commission to the four sets of implementing regulations (3 health based and 1 safety based) which are the subject of consultation

We run a risk, if infraction proceedings get as far as the European Court of Justice, that the Court may find against the UK with the court costs and the prospect of further proceedings to comply with the judgement. Weighed against this, however, there are clear regulatory benefits for British industry in the way we will be implementing. The new regime builds on long - established health regulations with which they are familiar, and creates a new safety regime that will also cater for ATEX. An approach to implementation that did not carry the support of stakeholders, simply to achieve early implementation could itself result in unnecessary costs, with further costs to the public purse if defective implementation required subsequent legislative correction. The balance of advantage, I submit, clearly lies with the line we have taken.

I am copying this letter to the Prime Minister, members of the Committee on European Issues, Sir Reg Empey in Northern Ireland, Malcolm Chisholm in Scotland, Carwyn Jones in Wales and to Sir Richard Wilson.



ALAN WHITEHEAD



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30 January, 2002

Dear Clive

ITALIAN LABOUR MARKET PAPER

Thank you for your letter of 29 January, covering the Italian paper on Reform of the Labour Market.

It is as you say reassuring that the paper says the right things on key policy issues, though it says them at some length, and not always very clearly.

It would be very helpful to have a boiled down version written in more readable English which we could offer to the Italians on Tuesday as the sort of paper which our two Prime Ministers might formally approve. This could essentially be a summary of our approach and the concrete actions we propose should be taken, including implementation of the recommendations of the Skills and Mobility Taskforce, key principles to bear in mind in reforming the Employment Guidelines and so on. If it were possible for your team to prepare something on those lines that would give us a good base for Tuesday's discussion.

On the other points you raise, I think a joint statement at Prime Ministerial level will need to be focused on Barcelona and avoid some of the wider more politically sensitive rhetoric. The precise form of the covering paper will ultimately be for No 10 to decide and depend on wider political considerations.

future work, are there areas in which you think we could add some value jointly with the Italians? Preparation for the new Employment Guidelines might be a promising area. Perhaps we can have a word in advance of Tuesday's meeting.

I am copying this letter to recipients of yours.

yours ever

Martin

MARTIN DONNELLY

cc: Roger Liddle
Win Harris
Glyn Williams (DTI)
Jo Hawley (DWP)

RESTRICTED - POLICY

From: Tim Figures
Date: 28 January 2002

ROGER LIDDLE

cc

COPENHAGEN VISIT - EMPLOYMENT AND SOCIAL ASPECTS

Attachments:

- A Barcelona conclusions language
- B DTI paper on social dialogue (Nov 2000)
- C Account of DTI meeting with Danish Employment Ministry

Here are the papers on the Employment and Social Affairs aspects of Barcelona plus the social dialogue for your visit to Copenhagen. These will also be supplied to Stephen as part of his overall briefing note.

Barcelona:

From the synthesis report and our own preparatory work we have provisionally identified three key Barcelona priorities in this area:

Priority 1: Reform of the Luxembourg Process

We want Barcelona to lay down basic principles about how the detailed work on reforming the European Employment Strategy and Employment Guidelines will be taken forward under the Danish Presidency. The joint UK-Spanish paper agreed at last year's Majorca employment seminar is a good starting point, and we are currently developing our own thinking. But at minimum, we want the new guidelines to be:

- simpler
- less bureaucratic to monitor

RESTRICTED - POLICY

- focus on key priorities to deliver the Lisbon goals of job-creation, including active labour market policies and getting people back into work
- pay special attention to those excluded from the labour market, such as women and older workers.

Suggested conclusions language is attached at A.

Priority 2: Greater labour market flexibility through improving skills and mobility

We welcome the report of the skills and mobility taskforce, and agree that Barcelona needs to deliver progress in a number of key areas needed to take things forward. These include:

Social security reform (1408/71) – we need to work on the basis of the Laeken conclusions to get on with negotiations. Our treaty position means that we need urgently to see the Commission's proposals before making a final decision on whether to opt in, but we are doing all we can to ensure we take that decision as quickly as possible so that meaningful negotiations can begin.

Childcare – we agree in principle with the synthesis report's comments on childcare. We would like to consider further the possibility of signing up to some high-level target in this area.

Education – we have been exploring with the Spanish Education Ministry and DG Education the possibility of a Barcelona target for electronic links between schools to aid language learning. We are hopeful that the Commission has identified sufficient resources to allow all secondary schools who so wish to establish internet links with similar schools in other member states or accession countries by 2004. This would be entirely voluntary in support of existing language teaching in schools – it would not involve granting competence over education to the Commission (who would simply act as administrators of the funding scheme).

Health card – both the Spanish and DG EMP are keen on the introduction of an electronic card to replace the E111 used when seeking emergency healthcare treatment in another EU member state. This would simplify procedures, but is of more benefit to member states

RESTRICTED - POLICY

with insurance based healthcare systems than it is to us. DoH are lukewarm, so if pressed you may wish to say that, while of course we support simplification, we need to do further work to think through the consequences for the NHS. I am meeting DoH on 4 February to go through the detail.

Priority 3: Employment relations legislation

We agreed at the Cabinet Office meeting on 15 February that we should explore the possibility of Barcelona conclusions language saying that – now a basic level of protection was in place – the presumption should be against further European employment relations legislation. But we needed to gently persuade others to take the initiative on this, as it could be counterproductive if the UK were seen to be in the lead.

Equal Treatment Directive

As an example of the sort of unwelcome ER legislation we have been suffering from, we are about to enter a difficult conciliation with the EP on the Equal Treatment Directive. A number of the proposed amendments will impose significant burdens on business. We are particularly concerned about the proposed changes on General Occupational Exclusions (affecting the armed forces), compensation and class actions.

Agency Workers

This will emerge from the Commission on 27 February. We do not accept the basis for such legislation – which seems to be an assumption that temporary work is not ‘proper’ work – when in fact it is an important way into the labour market for many people and a flexible tool employers can use (not least when covering for permanent staff taking their due entitlements such as statutory holidays or maternity leave). We would like to see a derogation from making a comparison between the terms and conditions of temporary and permanent workers for the first 12-18 months of an assignment (we understand that the vast majority of assignments are 6 months or less).

Physical Agents (Noise) Directive

This may well fall to the Danes to conciliate and will be politically tricky. The EP rapporteur (the Danish socialist MEP Helle Thorning-Schmidt (a.k.a. Mrs Stephen Kinnock)) has proposed a number of crazy amendments, the most serious of which would discount the use of ear

RESTRICTED - POLICY

protection when measuring exposure of workers to noise hazards. This would make most noisy occupations impossible to fulfil (e.g. the maximum shift allowed for an airport apron worker would be 15 seconds!).

Social dialogue:

Social dialogue is a wide and amorphous term. It covers activity at various levels: EU, national, regional, sectoral, company and unit/workplace. It could be purely consultative or stretch into codetermination. It can be bipartite or tripartite (concertation) and encompasses collective bargaining. The Danes want to focus on social dialogue but it is not clear how and at what level. **It would be helpful if you could find out more about Danish intentions.**

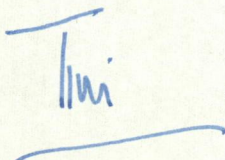
In terms of the EU level, our aims are:

- making the social dialogue more representative, accountable and transparent (in particular strengthening the employers' side to ensure a more even balance - at the moment the odds are tipped in ETUC's favour, come what may)
- switching away from framework agreements to more flexible tools (such as the "code" on teleworking)

Stephen Byers, when SoS at DTI, presented a paper on EU social dialogue to the Ministerial Panel on Regulatory Accountability (attached – a bit out of date now, but good background material).

Another possibly fly in the ointment is the High Level Group on Industrial Relations and Change, which, in the draft we have seen, has plenty to say about social dialogue and which I expect the Commission will want to use the Danish Presidency to push through follow-up action. The draft was pretty poor; it acknowledged trends for decentralisation but said this made it even more important to have coordination (including on wage bargaining). We have passed on comments via Rachel Green to Renate Hornung-Drauss of the BDA (who is on the Group).

Finally, it's worth noting that Stephen Haddrill and Glyn Williams are meeting their Danish Counterparts from the Ministry of Employment on 25 Feb. They met them last in September (before the change in Government) and a note of that visit is attached.



Conclusions Language for Barcelona

(i) LABOUR MARKET REGULATION

The European Council welcomes the adoption of the Information and Consultation of Employees Directive and notes the ongoing work on the proposed directives on Agency Workers, Insolvency (protection of employees) and employee involvement in the European Co-Operative Statute. These measures complete the construction at European level of a comprehensive framework of essential minimum standards of employment regulation, thereby ensuring that the European Social Model safeguards the core rights of employees in the modern workplace. The task now is to ensure that this *acquis* is fully implemented at the national level. Future work at European level should concentrate on fostering partnership, diversity and flexible ways of working, through the exchange of best practice and open coordination. The social dialogue at EU level must be re-invigorated and enriched in order to take forward the practical application of the Lisbon Agenda of competitiveness and quality. National traditions must be fully respected, as well as the need to benchmark against Europe's main economic competitors.

(ii) EMPLOYMENT STRATEGY

The European Council endorses the Conclusions of the ESPC of 7 March [and ECOFIN ?] on the European Employment Strategy. It underlines the importance of ensuring that the Employment Strategy adopted from 2003 has as its first priority meeting the employment targets agreed at Lisbon and Stockholm. To that end it agrees that the future Strategy should run until 2010 and that, without prejudice to the annual "autumn package", the Spring European Council should assess progress each year.

The European Council endorses the view that the future Employment Strategy should focus on the key problems that need to be addressed if the Lisbon and Stockholm employment targets are to be met. It should focus, in particular, on

- equipping unemployed and inactive people with the skills and qualifications they need if they are to find productive employment in the modern labour market;

- removing disincentives for unemployed and inactive people to take jobs, to look for work or to take full advantage of training and other programmes which can help their return to work;
- giving older workers real choice and effective opportunities to remain in productive work, and removing perverse incentives for early retirement which are barriers to achieving the 50% employment target for older workers; and
- creating an effective culture of lifelong learning which gives everyone the opportunity to develop existing skills and learn new skills at any age and at any stage of their career.

The Employment Strategy has pioneered the development of the open method of co-ordination and underlined the effectiveness of this method as a means of making progress towards our shared goals. A revised process which focuses on practical policies designed to achieve the employment targets set by the Lisbon and Stockholm European Councils will mark a further significant step towards our strategic objectives.

DTI/DWP

**MINISTERIAL PANEL FOR REGULATORY ACCOUNTABILITY
EU SOCIAL DIALOGUE: FUTURE PROSPECTS AND STRATEGY**

There is growing emphasis on the role of the EU social partners in the development of EU social policy and directives in the social area. This presents both opportunities and challenges, in particular for the UK where this approach does not always sit easily alongside our traditions and institutional structures. This paper sets out the background to this issue, identifies further developments in prospect, and sets out a strategy for handling and an action plan for the next 12-18 months.

There has been a major shift in the overall direction of EU social policy during the last 4 years, and this approach has been confirmed and reinforced by the conclusions of the Lisbon Summit. The agenda has moved from a narrow preoccupation with harmonising labour market regulation to a much broader-based approach, tackling the key issues of employment and social inclusion, and making progress through open co-ordination between member states rather than legislation.

Some of the older institutional aspects of the European social model, such as the development of legislation through dialogue between the social partners, sit rather uneasily alongside this new agenda. Nonetheless the Commission and most member states see a continued role for some regulatory activity in the social area, in particular in response to changing patterns of work in the new economy. And the consensus amongst others is that this legislative agenda is best taken forward through EU social dialogue wherever possible.

The social partners are currently negotiating on temporary (agency) work. For the future, the Commission has also suggested social partner negotiations on telework, employment status and lifelong learning.

There are aspects of this which create concern. The social partners are not wholly representative of all those active in the labour market, and even less so of those excluded from it. And the European institutions which reflect wider interests (in particular the Council of Ministers and European Parliament) have limited influence over legislation developed through this process.

But EU social dialogue goes with the grain of the way labour markets are regulated in other member states, and reflects approaches at national level which command a wide measure of support. Member states support the Treaty provisions which underpin EU social dialogue and the detailed procedures governing it. There is little prospect that they would block an unsatisfactory directive arising from a social partner agreement, save perhaps in very extreme cases. Recognising the above, our strategy is therefore focused on improving and influencing social dialogue and its outputs from within the existing framework.

For the coming 12-18 months, our **plan of action** should focus on the following:

1. We should influence the overall direction of the EU social agenda to ensure the focus remains on the Lisbon agenda. We should press home the message that any further regulatory activity, whether developed through social dialogue or through Council, needs to be justified, well-targeted and proportionate. We should target in particular the French Presidency's plans for a new social agenda, which will be launched at the Nice Summit.
2. More specifically, the new French agenda is also an important opportunity to influence future areas for social partner negotiations. We should work with sympathetic member states and the Commission to head off calls from some for a major regulatory element. We should insist that any additional areas for social dialogue not identified in the Nice agenda are discussed in the Council first, before the social partners are enjoined by the Commission to enter into negotiations.
3. We should also strengthen the Council's influence over individual social dialogue measures, and seek orientation debates within the Council before the social partner negotiation begins, when we consider helpful Council conclusions are likely to result.
4. We should challenge the assumption that social partner agreements must always lead to directives. The Treaty provides that social partner agreements can be implemented by the social partners themselves as well as by directives, and we should encourage the former approach, where codes of practice or guidelines on best practice seem more appropriate. The proposal for social partner negotiations on lifelong learning may be a good example of such an area.

5. We will seek to build more consensus between CBI and TUC about the future agenda for social dialogue. We should establish early lines of communication on specific areas, to foster a better understanding on both sides of where UK interests lie and identify how both can moderate the negotiating positions of their EU partners without compromising their own interests. DTI Ministers have called a meeting with TUC and CBI on telework, to test the scope for a shared approach.
6. We are establishing closer working relationships with the UK social partners in this area, and will build alliances with them as appropriate to further UK interests on particular measures. We will take this forward on the current negotiations on agency work, with a view to securing better substance and legal clarity should social partner negotiations lead to an agreement.
7. We should continue to press the issue of representativity. We will challenge directives and seek clarifying amendments where the cumulative representativity of the negotiating parties seems insufficient to justify the scope of proposed directives. We will contribute to the Commission's ongoing review of representativity, to ensure social dialogue structures and procedures take better account of SME interests.
8. DTI officials are working closely with SBS and UK representatives of SMEs to ensure small businesses are aware of and consulted about social dialogue measures which affect them. They should work with SBS to establish a more effective voice for SMEs at the EU level and ensure better links between EU representative bodies and their national counterparts.
9. UK-owned multinationals with a presence in several member states should be encouraged to take a more active interest in social dialogue and its outputs, and to bring influence to bear on representative bodies in other member states.
10. The recent decision to strengthen the UK arm of CEEP is a chance to ensure that implications for public sector employers are given more weight when agreements are negotiated. Cabinet Office will in future be directly involved as representative for Government as employer and should ensure that the UK arm is adequately resourced and supported. DTI, Cabinet Office and Departments with major interests as employers should maintain close contact with the new representatives.

11. We should continue to press the Commission to come forward with better impact assessments for regulation developed through social dialogue, and develop our own analysis to contribute to an challenge where necessary the Commission's conclusions.

Further background on the legal basis and procedures for European level social dialogue; its previous outputs and prospects for the future; and the issues identified in the summary above are contained in the Annexes attached.

Action

The Ministerial Panel on Regulatory Accountability is invited to note the analysis and issues in identified this paper, and to endorse the conclusions and action plan.

Department of Trade and Industry

November 2000

Background

The concept of social dialogue at European level arises out of the Social Chapter, which was accepted by the UK Government in 1997 and incorporated by the Treaty of Amsterdam into the EC Treaty. Article 138 of the Treaty requires the Commission to facilitate dialogue between management and labour at EC level. Article 139 provides for the EU social partners to conclude agreements, which may be implemented either by the social partners themselves or, where the agreements cover matters within the scope of the Social Chapter, presented to the Commission for them to bring forward as a proposal for legislation. Under Article 140 the Commission is charged with encouraging cooperation and coordination between member states in areas including collective bargaining.

The three key social partners involved are the Union of Industrial and Employers Confederation of Europe (UNICE), representing private sector employers; the European Centre of Public Enterprises (CEEP), representing public sector employers; and the European Trade Union Confederation (ETUC). The European Association of Craft and Small and Medium-Sized Enterprises (UEAPME), which is the main SME body at European level, is not directly involved but reached a cooperation agreement with UNICE in December 1998 giving them some voice in the process.

There is also provision for sectoral social dialogue, involving representatives of employers and employees within the sector concerned, and a number of specific sectoral agreements have been concluded through these channels as described below.

Article 139 is unique in providing a right of legislative initiative to parties other than the Commission. The procedures which govern the legislative process under this article are determined by the Commission. The essence of these procedures is to respect the autonomy of the social partners themselves in areas where they are competent to act. In practice these procedures and the Treaty provisions from which they derive vest more power in the hands of the Social Partners themselves and in those of the Commission, and the influence of the Council and European Parliament is diminished.

Legislation is by no means the only output of EU social dialogue. In particular, sectoral social dialogue has resulted in a diverse range of agreements, including some which involve guidelines for best practice. And the EU social partners (and those at other levels) play a useful role in commenting on and contributing to the EU employment agenda, guidelines and national action plans. Agreements which lead to legislative proposals are nonetheless a significant output.

Issues

As referred to above, European social dialogue and the procedures which govern it give rise to a number of issues, in particular in relation to the development of legislation. These issues are set out in more detail, below.

1. Role of Council

Member states governments have little influence over legislation developed through social dialogue. Under the procedures and conventions governing legislation under A139, the Council does not amend agreements proposed by the social partners, but save for minor clarifications, can only accept or reject the resulting directives.

Depending on the subject matter of the agreement, Council decisions in this area are usually subject to qualified majority voting, and for political reasons, there is no realistic prospect of mustering a blocking minority in Council against a measure agreed by the social partners.

2. Role of the European Parliament

The European Parliament also has less influence. Unlike other directives adopted under the social provisions of the Treaty, those based on social partner agreements are not subject to co-decision with the Parliament. This is usually seen as an advantage by employer representatives, as the EP's influence tends to run counter to their interests.

3. Role of the Commission

The Commission plays a pivotal role in directives adopted under A139. It is influential in determining the areas in which the social partners are encouraged to negotiate agreements; and it influences the content of those agreements through support to the social partners during negotiations. The request to give effect to a social partner agreement through legislation comes from the negotiating parties themselves, but it is the Commission which then drafts the directive and brokers this with Council.

4. Influence of Social Partners

The social partners are not obliged to enter negotiations on particular areas or to accept the outcome of negotiations. Under current UNICE procedures, CBI cannot be obliged to accept a draft agreement it does not support (3 member states federations are needed to block the decision to enter negotiations, but a single member state federation can veto the final agreement). The decision by employer representatives whether to enter negotiations or to accept an agreement on a particular dossier is frequently dictated by tactical decisions, in particular whether the Commission will come forward with its own (less acceptable) proposal if they refuse. This is what happened when UNICE refused to negotiate on information and consultation.

Though not all of the measures resulting from EU social dialogue are necessarily in areas of highest priority for the TUC, it is nonetheless very supportive of the process and presents a common front with ETUC, which is well co-ordinated, has a clear strategic agenda and is very influential.

5. Representativity

There is an issue about the representativity of the EU social partners referred to above and the legitimacy of extending their agreements, through directives, to others who were not party to the negotiations. Small firms, in particular those in growth areas of the knowledge economy, are not effectively represented through the social partner channels. UEAPME's membership is concentrated on traditional, craft-based SMEs, and the recent deal with UNICE which provides for UEAPME's increased involvement in social dialogue is, though welcome, not a complete or satisfactory solution. This is a sensitive ground with CBI and UNICE, who are reluctant to admit their own shortcomings in relation to SMEs and strongly opposed to changes which would further fragment the employer side representation at EU level.

Representation of public sector employers is weak, and the links between CEEP and major public sector employers in member states are poor or non-existent. The UK was until recently not represented on CEEP, and membership of the UK arm has until now been drawn mainly from local government. Despite this, directives negotiated through social dialogue can have a significant, and in some cases (eg the fixed term contracts directive) a disproportionate, impact on the public sector. The decision earlier this year to reconstitute the membership of UK CEEP and admit representatives of major employers including the NHS executive and central Government in its role as employer presents an opportunity to raise our game.

6. Clarity of social partner legislation

Social partner agreements frequently lack the clarity of directives negotiated through the Council. Difficult issues (such as the coverage of pay in directives on part time work and fixed term work) are fudged, and this can give rise to particular problems on implementation and uncertainty for business until the issues are tested in the Courts.

7. Relationship to national structures and practices

The UK has distinct and different traditions in the way social policy is formulated and implemented. Formal arrangements for dialogue with the social partners are confined to certain specific areas (eg the Low Pay Commission, health and safety). Collective agreements are not legally binding and they are not applied to workers other than those on whose behalf the agreement was made. To the extent that social dialogue does play a part in the UK it is very largely at the level of the individual company or workplace.

This is in contrast with the position in other member states, where EU social dialogue goes with the grain of the way labour markets are regulated at national level. Most have formalised structures for social dialogue at national level and for incorporation of social dialogue agreements into national law. In France, for example, social partner agreements are automatically extended by law to cover those not party to the agreement. In other countries (e.g. Denmark), the social partners play a key role in regulating the labour market and enforcing labour market regulation, in an approach which is seen as a flexible and deregulatory alternative to statutory legislation. There is no single model, but the process and value of social dialogue at both national and EU level commands wide acceptance, and there is no appetite for change.

Measures agreed and in prospect

Three framework directives (those on **part time work**, **parental leave** and **fixed term work**) have been adopted under these procedures. The social partners are currently negotiating a further agreement on **temporary (agency) work**.

The Commission's new social agenda published in June this year identifies **lifelong learning** and new forms of work organisation as priority themes for social dialogue. In particular the Commission has suggested social partner negotiations on **telework** and on economically dependent workers who are not in a conventional employment relationship (ie **employment status**). The social partners have yet to decide whether to enter into negotiations in these areas. The CBI has responded that EU level negotiations are unlikely to add value; the UNICE response is also sceptical, but slightly more open on telework.

Under sectoral social dialogue, a number of more specific agreements have been adopted. Some (in particular those on **working time** in the **civil aviation**, **sea transport** and **maritime** sectors) have resulted in legislation. Others have been based on best practice (eg initiatives on training (hairdressing, telecommunications and other sectors); competitiveness plans (e.g. in graphic industry, footwear sector); guidelines on discrimination (postal service sector)).

**CALL BY DTI EMPLOYMENT RELATIONS DIRECTORATE ON DANISH
MINISTRY OF LABOUR, 24 SEPTEMBER 2001**

Present

Stephen Haddrill - DTI

Glyn Williams - DTI

Tim Goodship - DTI

Carmel Power - Embassy

Marianne Hedegård - Embassy

Peter Nedergaard, Head of International Division
Danish Ministry of Labour

Einar Edelberg, Dep Perm Sec of State, Ministry
of Labour

Kirsten Weber Olsen, Labour law Dept,
Ministry of Labour

Ole Bondo Christensen, International Division,
Ministry of Labour

Summary

A constructive exchange, with a meeting of minds in most areas. The Danes will be robust on I and C and were sceptical about EU mediation. The Danish fondness for social dialogue may need watching during their Presidency. Agency work is not a large feature of the Danish labour market and is regulated by collective agreement.

Danish Presidency

1. Nedergaard said they had met the Commission the previous week to go over current plans for the Danish Presidency in the second half of 2002. The Danes now had a theme for Employment and Social Affairs during their Presidency. This would be "An Inclusive Labour Market through Social Dialogue". An inclusive labour market was the objective; social dialogue the message. The main Presidency priority of enlargement would of course, be an important aspect on the employment side. Otherwise, uppermost in Labour Ministry minds was social inclusion, social dialogue and health and safety.

2. The Danes were planning a series of conferences and seminars as follows:

- 3-5 Sept 2002 – the Danes are organising a conference in Skagen with the Commission on "Social inclusion and Social Dialogue". It would cover inclusive labour market issues and corporate social responsibility, and was designed to follow up a Commission communication on social dialogue. (The latter should issue just before the Danish Informal Employment and Social Affairs Council on 13-15 July.)
- 29-30 Oct 2002 – a conference in Snekkersten, near Elsinore, also on social dialogue. Nedergaard described this as a "supermarket" conference. The intention is to invite the candidates and present them with the different models and experiences of social dialogue on offer in the EU so that they can pick for themselves those which suit them best.
- End Nov 2002 – a conference on the working environment to coincide with the end of "Working Environment Week". The Danish Agency for Working Environment (equivalent of HSE) is organising this and the focus will be health and safety.

3. The Danes said the Commission had also approached them about doing something on work organisation as a follow-up to the Green Paper a few years back. The Commission had

come to them because they knew the Spanish would not agree to do anything. The Danes were still considering whether to have a separate conference or cover this at the Skagen one. They confirmed that work organisation in this context meant ways of organising work in companies ie team building, cross-cutting teams in the workplace, project-based working etc. The Commission were keen for a micro-level initiative to parallel the macro one represented by the Employment Guidelines, and work organisation fitted well with social dialogue.

4. A number of other workshops and seminars are also planned. The Danish programme is deliberately designed so that each element – from the Commission communication on Social Dialogue at the start of their Presidency to the last conference in Nov/Dec – will spill over from one event to the next and create a continuously linking theme.

5. DTI welcomed the Danish ideas and noted the relevance of their chosen theme. The timing could be important. It was possible we would see higher unemployment levels this time next year. The DTI offered to look into the possibilities of a UK Minister speaking at one of the Danish conferences if that would be of interest. The Danes said it would.

6. DTI asked whether the Danes yet had a sense of the outcome they wanted from their Presidency. Nedergaard said they no clear idea yet, but would probably want their Council conclusions to highlight the inclusive labour market and definitely to include social dialogue. The EU needed to use the model of social dialogue more and had plenty of experience on how to organise inclusive working patterns. This was not about imposing extra burdens and costs on business. The Danish Presidency theme was all about win-win. Companies gained from effective work organisation and social dialogue. Europe also faced a labour shortage. An inclusive approach and corporate social responsibility ought to help companies recruit the labour they needed.

Information and Consultation

7. DTI (Williams) noted that social dialogue at company level would be of particular interest now given the need to implement the Information and Consultation of Workers directive. UK wanted to try to find a way to implement the directive through social dialogue. This made it important to demonstrate to employers that the Council Position remained robust. We had been grateful for Danish support over the last couple of years. What was the Danish view of the EP's second reading report?

8. Edelberg confirmed that the Danes had no room for manoeuvre. "Not a comma" of the June Council text should be changed. He had not studied the EP rapporteur's report yet, but they were in touch with Danish MEPs who were well briefed on the Danish Government position and supported it.

9. More generally, Edelberg was concerned about how to handle the EP in the future. It would be hard given co-decision to discard all their suggestions. EP-Council relations were set to get more difficult. The Danes preferred the open method of co-ordination, but if the EP saw this as a method of excluding them, they would oppose it more. There was a longer-term need to think about how to neutralise the EP and involve them somehow in open co-ordination.

10. The UK side agreed that we would face problems with the EP in the future eg on Equal Treatment. But for now, the short-term priority was a robust Information and Consultation Position in Council.

European Mediator

11. Edelberg said the Danes were not enthusiastic about proposals for a European mediator. They would want clarity on what it would do and how it would relate to national mediators/institutes. A voluntary approach did not really help either. It would be unacceptable to have Danish firms opting for EU mediation and by-passing the Danish system.

12. DTI said UK shared these concerns. What about more sharing of experiences between national mediators? The Danes agreed this could be useful. Nordic mediators already had an informal exchange which the Danes would be ready to highlight in EU discussion.

Agency Work

13. The Danish side were not worried about the prospect of a Directive. There were only about 5,000 agency workers in Denmark and collective agreements meant that they were paid the going rate within the host organisation.



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24 January 2002

Dave Ramsden
HM Treasury

cc: GN
DS

Intent J 93

Dear Dave

35-HOUR WEEK

1. You may be interested in two analyses of the 35-hour week which have appeared recently, helpfully supplementing the picture in our telegram last autumn.

Jean Pisani-Ferry

2. First, Pisani-Ferry, who discusses this at some length in his recent book *The Great Adventure: full employment, the market, and the left*. He argues (I crudely summarize a richer argument) that from mid-97 to end-2000 about 360,000 private sector jobs were created per year. Since the trend in the previous period was a net loss of 40k per annum, total job creation was 400k per year, or about 1.4m over the period. Of this, increased economic growth explains about 875,000. How much of the remaining 525k is due to the 35HW?
3. The original rationale for the 35HW, he recalls, was that 20 minutes of each hour cut would be compensated for by increased productivity; 20 minutes by wage moderation over time; and 20 minutes by recycling increased tax and social security payments from the new jobs back to firms via tax cuts etc (the policy of the "three thirds").
4. Has it worked? On productivity, there have been clear gains, probably up to the 1/3 needed, as both the figures and the anecdotal evidence of workers' perceptions demonstrate. On wage restraint, ditto in practice (ie the opposite of the Artus view): collective agreements show that employees contribute to financing the 35HW 3 times out of 4. But the third "third", public sector contribution, has not worked well, because of the dogged resistance from the social partners to using the ring-fenced social security funds.
5. The overall verdict is of one failure, two successes, and one in-between. The failure is the breakdown of the national social dialogue because of the acrimony provoked by the 35HW. The two successes are, first, the revival of social dialogue at the firm level, as new collective agreements were made; and, second, employment (see below). The more ambiguous element is the effect on workers: did they really gain from shorter working hours, or did it



just mean more pressure at work? The answer is that it varies from sector to sector.

6. Quantifying the employment effect: very difficult. In 1999 380k jobs were created, and in 2000 510k, even though growth was slower – so it must be the 35HW that explains at least some of the difference. In the end he is forced back on the reports of the Commissariat du Plan and the Social Affairs Ministry, which suggest that by end-2000 the 35HW had created 200-250k jobs.
7. He goes on to suggest that the remaining c300k jobs created over 1997-2000 stem mainly from a step change in companies' expectations – the cuts in indirect labour costs for the lower paid finally having an effect, enhanced belief in the Euro and economic stability in the final convergence path, etc.

Patrick Artus

8. Second, a more provocative piece from Patrick Artus, Chief Economist of CDC-IXIS. I attach a copy. We are sceptical about some bits of the argument. He argues that the job-creation effect of the 35HW has been quite good but that this comes at a price. In brief: the working week has fallen by 6.5% over 1999-2001. 3% of this was compensated for by hourly productivity gains (so there was an overall fall in productivity) and the remaining 3% created jobs (since production has not fallen, and capital has not been substituted for labour) – by inference, about 400,000 over the period (3% of a private sector workforce of 13m). **Comment:** David Bendor is doubtful about some of the underlying econometrics – I am not competent to comment.
9. But, strikingly, he argues that there has been no change in per capita wage trends in 1999-2001 compared to earlier periods, contrary to the received wisdom that the 35HW encouraged wage moderation. (**Comment:** I think he is missing the point that one might otherwise have expected to see wage acceleration – constantly predicted here, but not yet seen for sure.) Given the fall in hours, the hourly wage and hence unit wage costs have gone up, profits as share in GDP have fallen, and as a result corporate indebtedness has leapt up and internal financing has fallen off. (**Comment** – again, would one not have expected to see this as interest rates fell and investment took off?) Finally, since productivity has fallen by 3% overall, the production capacity of the French economy must have fallen by a similar amount.
10. In short:

“the cut in the working week was probably highly efficient in terms of creating jobs...a 3% rise in total employment over 3 years. The risk is that its negative impact has yet to be felt: a lasting decline in profitability, and therefore in investment; and a definitive shortfall in production capacity against the backdrop of population ageing.”



Comment

11. None of this is conclusive. It is however additional evidence that the 35HW has had some effect on employment, but probably not the dominant one. Pisani-Ferry suggests that its potential ceiling for creating jobs is probably about 400k, and therefore that a mixture of further structural change, better training, more encouragement to older works, better social dialogue, and a more reasonable ECB monetary policy will be needed to bring down unemployment further.
12. It is also clear, I think, that the 35HW has altered working patterns and increased flexibility. There is some interestingly ambiguous evidence about its social effects – on the one hand, greater leisure spending, on the other increased pressure for employees, especially middle managers, at work.
13. One might add that, at least as of now, the most obvious effect of the 35HW, at least in the public sector, has been not to make workers happy but to have made industrial relations worse. There is a constant low-level backdrop of industrial action, and apparently greater employer/employee friction, in large part caused by the requirement for collective negotiations over the 35HW. This is, of course, largely because productivity in the public sector has been so persistently low, because working practices are so entrenched, and because quite a few actually work under 35 hours already. So the shock to the system might well be beneficial in the long run, even if the short-run consequences are traumatic.

Yours ever

(Signed) David Frost

David Frost
Counsellor (Finance/Economic)

cc: Michael Arthur FCO
Creon Butler FCO
Mara Goldstein FCO
James Bowler HM Treasury
Martin Donnelly Cabinet Office
John Holmes
Stephen Howarth
Simon Fraser
Rupert Huxter
Section Dos

Cut in working week in France: Empirical analysis of facts

In this study we will analyse trends in recent years, by drawing on Charts and econometrics. Shortening the working week in France apparently created a lot of jobs, as hourly productivity gains offset no more than half. But the move has lowered profitability markedly and hurt the financial situation of companies, since the oft-described wage restraint does not appear in the macroeconomic data. It has furthermore durably reduced French potential GDP by 3 percentage points and this is a serious handicap in the context of population ageing.

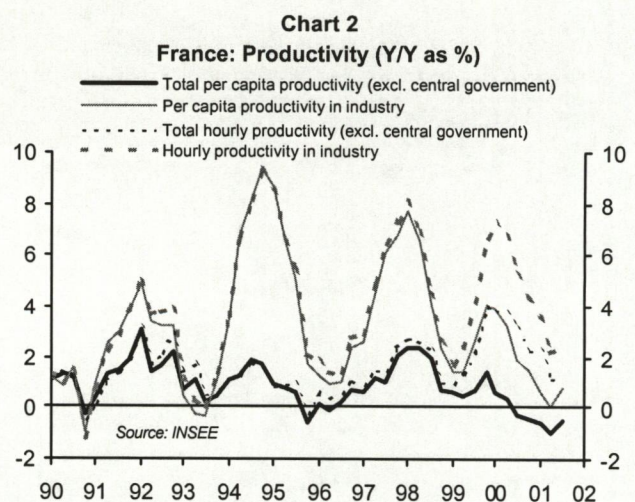
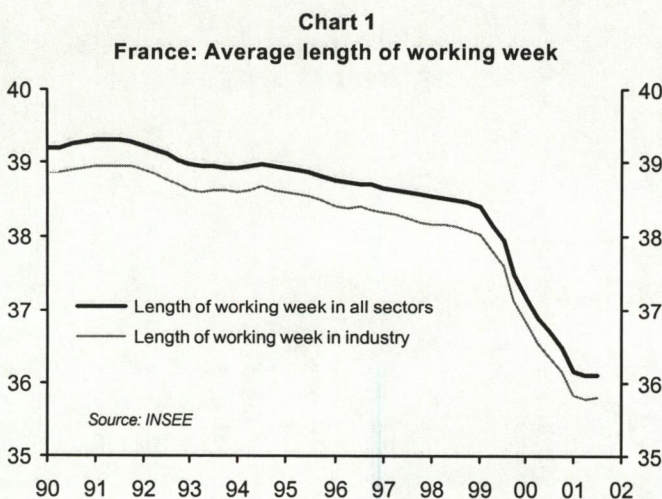
Author: Partick Artus





The magnitude of the phenomenon: Reaction in productivity and employment

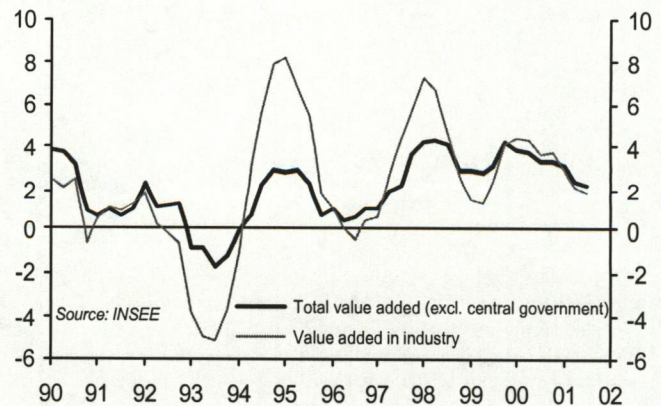
Chart 1 shows that the average working week was lowered in France from 38.5 hours in early 1999 to 36 hours in 2001, i.e. cut by 6.5%. We will look into the apparent effects of this reduction. As is well known, from 2002 onwards, there will be a further cut in the working week in small companies that will be staggered over time. A cut in the working week can be offset by faster hourly productivity gains. Hourly productivity is calculated by drawing on the trends in the working week shown in **Chart 1**. **Chart 2** shows that effectively an increase in productivity did offset the reduction in the working week from early 1999 onwards for the economy as a whole (excluding the public sector) but this trend has not been evident in industry. The rationalisation of industrial production was maybe already so advanced that achieving additional productivity gains was difficult.



Annual gains in per capita productivity have slowed by 1.5 percentage points for the economy as a whole, and roughly 2 percentage points in industry — such a calculation is made difficult by the highly cyclical nature of productivity gains. In 2000 and 2001, the loss in per capita productivity would therefore seem to have been close to 3 percentage points for the economy as a whole (excluding public sector), 4 percentage points in industry, while there was a 6.5% cut in the working week. **About half of the reduction in the per capita working week would have thus been offset by hourly productivity gains.**

To analyse the impact on employment, one has to ask whether the cut in the working week has reduced production. In late 1998 and early 1999, growth was hampered by the emerging-country crisis (**Chart 3**), before renewing more or less with its level of 1997 and early 1998. In other words, no manifest shortfall in production was recorded in 1999-2000, undoubtedly because the French economy was still in a situation of under-utilisation of capacity: in late end-1998, the capacity utilisation rate stood at 85%, under the highs it can reach, e.g. 89% in 1990 and early 2000 (**Chart 4**).

Chart 3
France: Value added in volume terms (Y/Y as %)



The hourly productivity gains seen above may have been recorded thanks to better organisation in companies, but also perhaps via a further surge in business investment: **Chart 4A** shows that the investment rate climbed once again in 1999-2000 after flattening out in early 1998. However, **Chart 4B** does not show any noticeable increase in the capital-to-GDP ratio in 1999-2000, in fact the contrary holds. **It does not seem that capital was substituted for labour in response to the shortening of the working week.**

Chart 4A
France: Investment rate and capacity utilisation rate

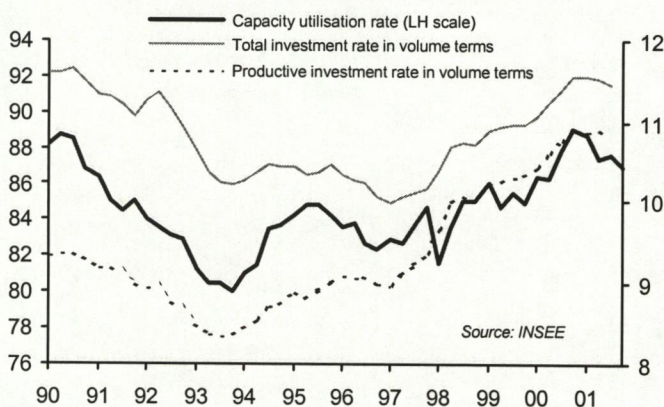
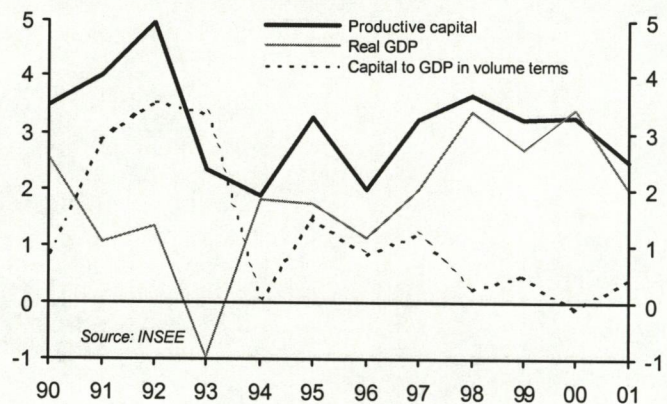


Chart 4B
France: Productive capital and growth (in volume terms as %)



If the level of output did not decline from 1999 to 2001 because of the cut in the working week, and if per capita productivity decreased, logically jobs were created. **Charts 5A and 5B** show that effectively the pace of job creation accelerated between early 1999 and late 2000 — when the economic slowdown set in.

Chart 5A

France: Working week and employment (annualised Q/Q as %)

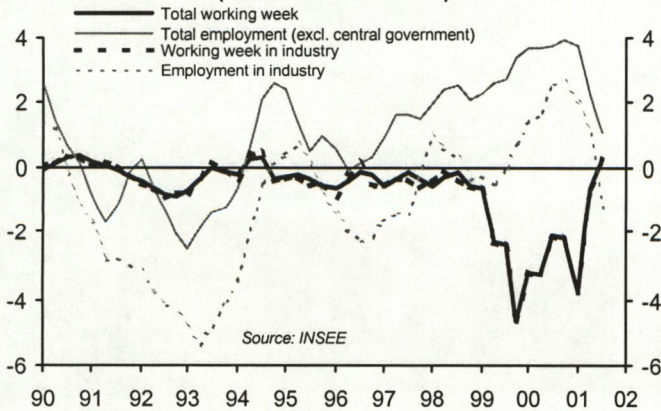
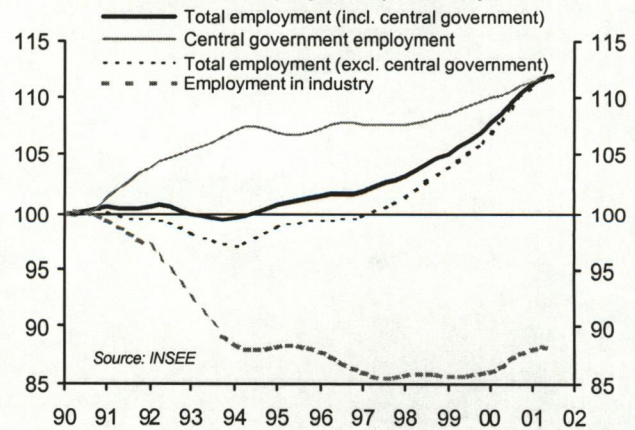


Chart 5B

France: Employment (Y/Y as %)



The impact of the cut in the working week on employment can be confirmed **econometrically**.

We obtain the following results from quarterly data covering the period 1990-2001,

- **for all sectors:**

$$\begin{aligned} \text{Growth in employment} = & -0.20 + 0.70 \text{ employment growth} & -1 \\ & (4.8) \quad (16.8) \\ & + 0.22 \text{ GDP growth} - 0.14 \text{ growth in the working week} \\ & (8.2) & (4.3) \\ & R^2 = 0.98 \\ & Dw = 0.79 \end{aligned}$$

- **for industry:**

$$\begin{aligned} \text{Growth in employment} = & 0.57 + 0.85 \text{ employment growth} & -1 \\ & (8.2) \quad (35.8) \\ & + 0.15 \text{ growth in value added in industry} - 0.12 \text{ growth in the working week} \\ & (10.8) & (4.3) \\ & R^2 = 0.98 \\ & Dw = 0.92 \end{aligned}$$

The long-term elasticity of employment to the working week comes in at - 0.47 for all sectors and - 0.80 in industry.

These results confirm that:

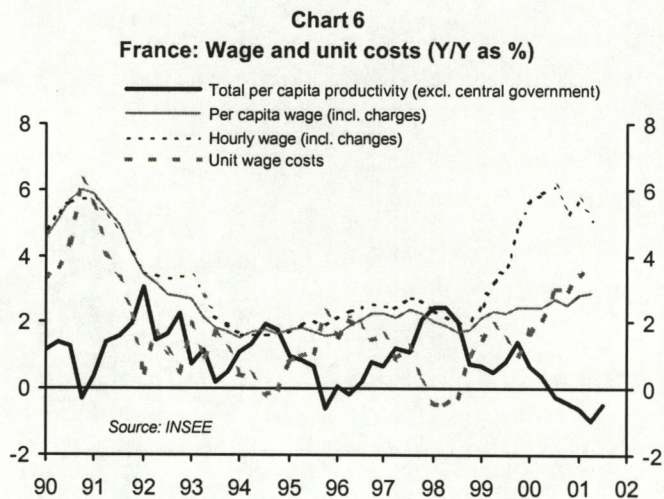
- **the extent to which the cut in the working week was offset by the rise in hourly productivity was lower in industry than in the economy as a whole;**
- **in the economy as a whole, the impact of the shorter working week has been shared for half by the rise in hourly productivity and half by the rise in employment.**

It can therefore be estimated that the impact of the cut in the working week, in the period 1999-2001 was to increase employment by *circa* 3 percentage points in the private sector as a whole that accounted for 13 million jobs in early 1999.

We could, at this stage, draw positive conclusions exclusively from the switchover to the 35-hour working week in France. We need, however, to analyse its possible negative consequences, which relate first to producer costs and profitability; and secondly to the level of production capacity.

Producer costs and profitability

Chart 6 shows that per capita wage costs did not slow in 1999-2000 relative to 1997-1998: **there does not seem to have really been any wage austerity (or restraint) stemming from the changeover to the 35-hour working week.**



The above is confirmed by our **econometric analysis**

For we obtain:

Growth rate in per capita wage

$$= 2.85 + 0.67 \text{ growth rate in the wage} - 1$$

(2.0) (5.1)

$$+ 0.12 \text{ inflation} - 0.20 \text{ unemployment rate} + 0.16 \text{ growth rate in the working week}$$

(2.0) (1.9) (1.3)

$$R^2 = 0.92$$

$$Dw = 2.08$$

The change in the working week has not had a significant effect on the per capita wage: there has not been any wage restraint.

Consequently, the hourly wage (including mandatory welfare contributions) accelerated sharply from 2.5% per year in 1997-1998 to 5-6% in 2000. This resulted from the fact, as seen above, that hourly productivity gains offset only about half of the cut in the working week, and unit wage costs also gathered momentum, up from 1% to nearly 4% per year.

Company selling prices have not trended in line with costs as the GDP deflator rose by only 1% in 1999 and its increase accelerated up to 2% in early 2001 (Chart 7A). Naturally, this led to a decline in company earnings from early 1999 onwards (Charts 7A and 7B). The profit rate relative to GDP fell by nearly 1 percentage point, down from 8.9% to 8%, between the fourth quarter of 1998 and the third quarter of 2000. It fell despite government transfer payments (i.e. a cut in charges) that offset part of the rise in costs.

Chart 7A
France: GDP deflator and profits of non-financial companies (NFCs) (Y/Y as %)

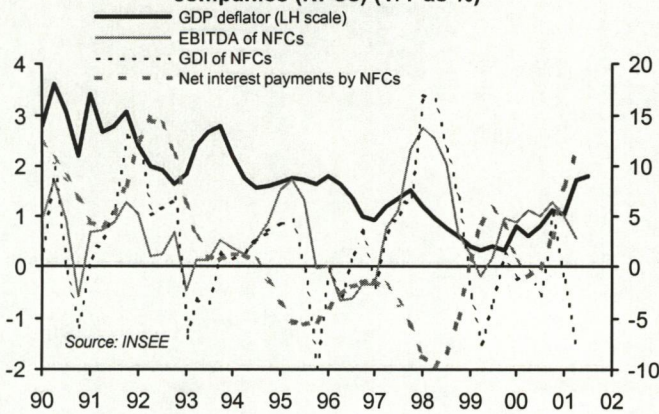
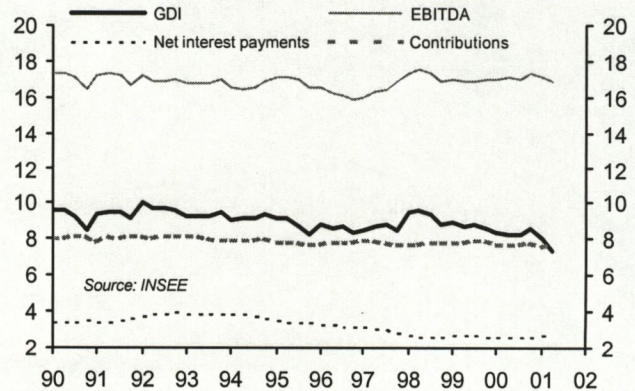


Chart 7B
France: Ratio of non-financial companies (as % of GDP)



Over this same period of 1999-2001 (Chart 8) the corporate debt ratio rose and internal financing melted down: the cut in the working week apparently hurt the financial situation of French companies.

Chart 8
France: Debt and self-financing of non-financial companies

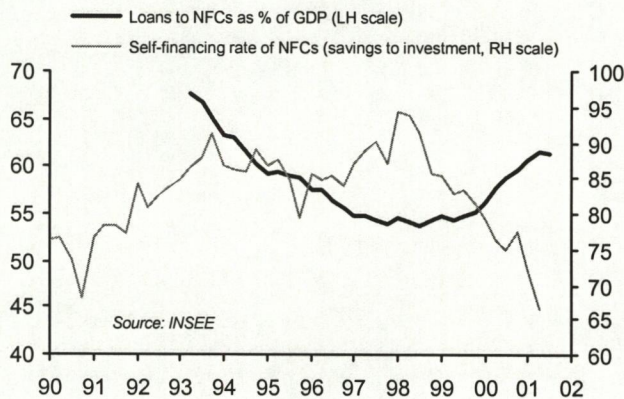
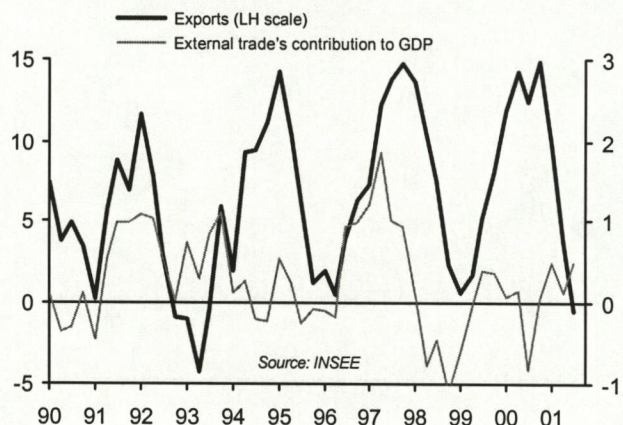
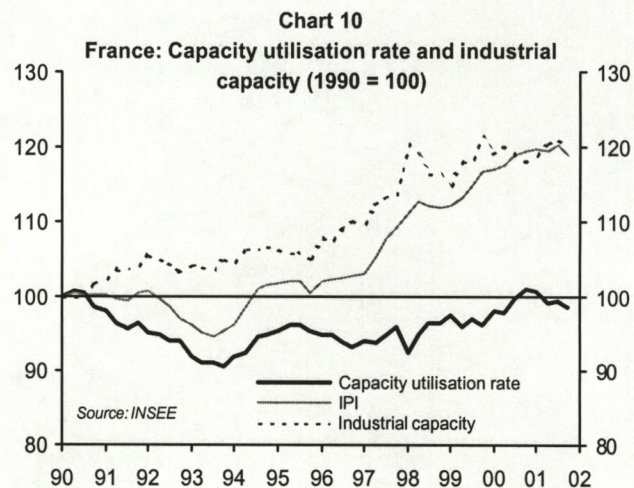


Chart 9
France: External trade in volume terms



Production capacity

In the near term, in a situation of under-employment, the cut in the working week can be offset, as seen above, by a rise in the capacity utilisation rate. This was in fact the case apparently. **Chart 9** shows that factory exports were not at all dampened by the cut in the working week — as would have been the case if output had run into the constraint of available production capacity. This is not the case in the **long term**. If there is a loss in per capita productivity, as seems to have occurred, there is a corresponding loss in potential production, for a given population in age to work. Production capacity can be directly measured in industry by drawing on the capacity utilisation rate (**Chart 10**). From early 1999 to late 2001, even as the investment rate was very high, production capacity in industry rose 4.3%, i.e. 1.4% per year, whereas it had increased 3.2% per year between early 1996 and late 1998: **this confirms that the cut in the working week has reduced production capacity, by more than 5% in all in industry.**



As our estimate is that overall labour productivity was reduced by 3 percentage points in 1999 and 2000 in relation to its trend growth, **the level of potential GDP would therefore seem to have been lowered durably by 3 percentage points.** This is all the more worrisome as, with population ageing, the decline in GDP produced by the population in age to work means the pension problem is even more difficult to solve. The following argument is not often put forward: **even if the long-term GDP growth rate has not been modified, the level of GDP has been reduced durably.**

This choice of economic policy is all the more curious as simultaneously France has committed to raising the activity rate of the population, which is low in relation to other countries (**Table 1**), to increase potential production and help balance the retirement systems. In fact, cutting the working week operates exactly in the opposite direction.

Table 1
Activity rate (as %, 1998)

	< 25 years	25-54 years	≥ 55 years
France	28.0	86.2	36.1
Germany	49.6	83.5	44.5
United Kingdom	69.5	83.3	51.0
United States	65.9	84.1	59.3
EU	46.6	81.3	40.4
OECD	51.7	80.1	50.5

Source: OECD

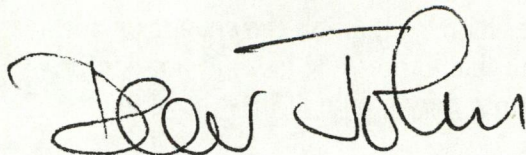
**Conclusion: The risk consists
in a bias towards short-
termism**

The cut in the working week was probably highly efficient in terms of creating jobs from 1999 to 2000. We estimate it was a 3% rise in total employment over three years. The risk is that its negative impact has yet to be felt: a lasting decline in profitability, and therefore in investment; and a definitive shortfall in production capacity against the backdrop of population ageing.

Alan Johnson MP
Minister of State
for Employment Relations & the Regions

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24 January 2002



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UNION RECOGNITION – THE “WILSON AND PALMER” ECHR CASE

The European Court of Human Rights is holding an oral hearing on 30 January on this long-running case, in which the applicants claim that the European Convention on Human Rights (ECHR) gives a right to be represented by a trade union. The UK Government's position is that UK law, both before and since the Employment Relations Act 1999, fully complies with the ECHR. But with current problems with the RMT (one of the unions involved) and the impending review of the Employment Relations Act 1999, it could stir up old controversies.

The case is about the scope of the right under Article 11 of the European Convention on Human Rights (ECHR) “to form and join trade unions for the protection of his interests”. The applicants lost the right to be represented by trade unions when their employers derecognised them. Having taken their cases through the Tribunals all the way to the House of Lords, where they lost in 1993, they then brought a case under the ECHR, which they argue implies a right to recognition, since only through this can a union member in the UK ensure “the protection of his interests”. The Government's position is that there are many ways in which a union can protect its members' interests, and that it is for members of the Convention to decide how to give effect to this right in the light of the very different conditions under which unions operate.

We think we are on strong ground in this, which is supported by previous European Court of Human Rights decisions. In deciding the line we should take in our written observations in 1999 – which I wrote to Charlie Falconer about at the time – we concluded that it was best to argue on principle, and not simply rely on the changes made by the Employment Relations Act 1999. If the Court were to find that the pre-1999 legislation breached the Convention, it would amount to a significant extension of the rights which can be read into it (and also, potentially, into the Human Rights Act and, if it were incorporated in the EU Treaty, the EU Charter of Rights). It could call into question the basis of the statutory recognition regime, as that does not confer an absolute right to recognition, or even to apply for recognition under the statutory procedure (applications are barred where another union is already recognised, for example). It could also bear on other provisions of UK law such as the lack of an

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explicit "right to strike" (which is the issue in another ECHR case in this area, brought by Unison). There could also be implications for implementation of the Information and Consultation Directive.

Nevertheless, the Court may have some sympathy with the position the applicants were in under the previous Government's trade unions laws. If so we would hope they would at least refrain from being too prescriptive about what does have to be done to meet the Convention. We will draw to the Court's attention the changes made by the 1999 Act, so that if they were minded to find that earlier UK law did not confer sufficient positive obligations to fulfil the Convention, they would at least have the option of finding that it does now.

Attempts were made to reach a settlement with the parties before the case reached the Court. However, they insisted not only on financial compensation, but changes to UK law going far beyond those proposed for the 1999 Act, which were judged unacceptable. These included an unlimited right of representation for unions, and a "detriment" provision which would limit employers' freedom to conclude individual contracts with their employees (an area which was also controversial during the passage of the 1999 Act). Ian McCartney, with colleagues' agreement, decided that this was asking too much.

As well as the applicants and their unions (the NUJ and RMT) – represented by John Henty QC, Lord Wedderburn, and Jennifer Eady – there have been third party observations by the TUC and Liberty. Although these are long-running cases, the oral hearing may revive interest in the issue and in statutory recognition more generally, particularly given the RMT's involvement. I believe our line should be a low-key one, emphasising that these are old cases, and the success of the new statutory recognition system. I have encouraged the TUC to do the same. We have also warned the CBI of the hearing. If it follows its normal timetable the Court will not give its actual judgement until some months after the hearing. By then we are likely already to have started the review of the Employment Relations Act and – if necessary, and provided it does not raise fundamental problems – can take account of the ECHR judgement in that.

I am copying this letter to Stephen Byers, Ian McCartney, John Healey, Geoff Norris at No.10 and Sir Richard Wilson.

Yours sincerely

Alan Johnson

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Department of Trade and Industry



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22 January 2002

Dear James

CHARTER OF RIGHTS: ARTICLE BY ATTORNEY GENERAL

Mr Hain may be interested to see the enclosed article by the Attorney General, recently published in the Common Market Law Review. This draws on the Attorney's experience as leader of the UK delegation to the Charter Convention and comments both on the substantive content of the Charter and on its legal status.

The Attorney has also asked me to forward copies of the article with his compliments to ~~Sir Stephen Wall~~ Sir Nigel Sheinwald, Martin Eaton and Mike Thomas.

Yours ever

PAUL BERMAN

A CHARTER OF RIGHTS, FREEDOMS AND PRINCIPLES

LORD GOLDSMITH Q.C.*

At the Nice European Summit in December 2000, the three organs of the Union – the Council (acting for the Member States), the Commission and the European Parliament – solemnly proclaimed the EU Charter of Fundamental Rights. This first comprehensive statement in the human rights field was the result of a hectic 9 month negotiating programme in which I was privileged to participate as the UK Government representative. In this article, I would like to recount something of the history of those negotiations and some personal reflections on the Charter to which we helped give birth.¹

My paper draws its title from the final sentence of the Charter's preamble: "The Union therefore recognizes the rights, freedoms and principles set out hereafter." These words, and the Conclusions of the June 1999 Cologne European Council, which set up the work of the Charter, are the best basis for considering the nature of the European Union's new Charter of fundamental rights. Reaction to the Charter has been a heady mixture of misunderstanding, hostility and unrealistic expectations. I would like to start therefore with the historical background to the Charter and its place in the historical development of the European Union since it helps me to put it in its proper context.

* H.M. Attorney General. The speech on which this article is based was delivered in February 2001, before the author's appointment as Attorney General. The opinions are therefore purely personal to the author. The speech was given at University College London. I want particularly to thank Prof. Jeffrey Jowell, Dean of the Faculty of Law at University College who proposed this event, for giving me this opportunity. I was especially pleased that Lord Hope of Craighead presided at this event. Under his Chairmanship the House of Lords EU Scrutiny Committee made the most perceptive Parliamentary report on the work of the Charter I have seen.

1. See also, in general, "Editorial comment – The EU Charter of Fundamental Rights still under discussion", 38 CML Rev., 1–6; Lenaerts and De Smijter, "A 'bill of rights' for the European Union", 38 CML Rev., 273–300. On a more particular point see in this *Review*, Liisberg, "Does the EU Charter of fundamental rights threaten the supremacy of Community law?", 1171–1199.

1. The historical background

The period after the Second World War saw the emergence of the great building blocks for the protection of human rights which had been so profoundly violated in the immediately preceding years: the creation of the United Nations, whose Charter is explicitly founded on the reaffirmation of "faith in fundamental human rights and in the dignity and worth of the human person"; the beginnings of a global system of international human rights law of which the Universal Declaration of Human Rights followed later by the two binding United Nations Covenants are the best known, but by no means the only, examples; and the protection of human rights at the regional level. In Europe, the Council of Europe, and its proud jewel, the European Convention of Human Rights, put into practice a vigorous and imaginative judicial system for the protection of the fundamental rights of individuals against the power of the State.

Yet, despite these events which were happening at the very time of the birth of the European Communities, the founding treaties made no mention of fundamental rights. This was no doubt because the focus of the Treaties was economic integration and it would not have seemed that the Treaties would be operating in areas or by methods which were inherently likely to violate human rights. That at least was the approach reflected in the early decisions of the European Court of Justice. For example, in the *Stork* and *Geitling* cases,² the ECJ rejected an argument that decisions of the Coal and Steel Community High Authority should have respected provisions of the German Basic Law, the *Grundgesetz*.

But as the competence and the law-making of the Communities grew, so did the demand for an explicit recognition of people affected by the Communities' laws. The Communities were not, it should be recalled, parties to the ECHR, unlike Member States who in due course were all to become parties. So the Communities were not directly bound by the ECHR's provisions. However, did not the powers of the Community's legislators and administrators need to be constrained by respect for fundamental rights in the same way as legislators and administrators of Member States were constrained?

The Court of Justice was the first to develop this idea. Thus, in *Stauder*³ in 1969 the Court promised it would protect "the fundamental rights enshrined in the general principles of community laws" when confronted with an apparent conflict between a social welfare scheme and a right to privacy. Discovery of this concept of "fundamental rights" to be recognized as part of "the general

2. Case 1/58 *Stork v. High Authority* [1959] ECR 17 and Joined cases 16 and 17/59 *Geitling v. High Authority* [1959] ECR 17.

3. Case 29/69 *Stauder v. City of Ulm*, [1969] ECR 419.

principles of community law" did not, however, solve the problem of identification of those rights. The need to catalogue those rights was heightened by the tussle between the Luxembourg Court and the German Federal Constitutional Court in 1970 in what became known as the Solange cases. Told by the ECJ that it was not entitled to adjudicate on the validity of Community acts even if they contravened the German Basic Law, the German Constitutional Court conceded the supplanting of its own jurisdiction "*Solange*" i.e. as long as certain conditions were met, including rights protection in the European Communities based on a catalogue of rights.

The identification of such a catalogue of rights was not however, straightforward. In the *Solange* case⁴ the Luxembourg judges had described these fundamental rights as general principles "inspired" by the constitutional traditions of the Member States. This was, however, an imprecise concept only partly mitigated by the increasing reliance, since the 1974 decision in *Nold*, on international human rights treaties, especially the ECHR, to provide the content to these rights.

It was not, however until 1986 that any direct reference was made to the notion of protecting fundamental rights in the Treaties themselves: a preambular reference was made in the Single European Act. Then, at Maastricht in 1992, there was included for the first time in the Treaty an explicit recognition of the concept of fundamental rights and an obligation on the Union institutions to respect those fundamental rights guaranteed by the ECHR and deriving from the constitutional traditions common to Member States. This is now Article 6(2) of the Treaty on European Union. Reference was also made in Articles 6(1) and 7 to the possibility of sanctions on Member States who persistently failed to respect fundamental rights. This power was much discussed, but not invoked, when Jorg Haider's party came to power in Austria. There are important differences between the two sets of provisions. I do not believe the Charter really reaches this area of Union protection of human rights and I will not refer to it again.

The ECHR continued to play a special part in the ECJ's approach to fundamental rights protection to such an extent that in the *Bosphorus*⁵ case, Advocate General Jacobs was able to say that:

"... For practical purposes the Convention can be regarded as Community law and can be invoked as such both in this court and in national courts where Community laws are in issue. . ."

The identification of other fundamental rights was not, however, so easy. Apart from the reference to the ECHR, the Treaty did not set out a clear catalogue

4. *Internationale Handelsgesellschaft v. Einfuhr und Vorratstelle fuer Getreide und Futtermittel* [1974] 2 CMLR 540.

5. Case C-84/95, [1996] ECR I-3953.

of what were the fundamental freedoms which the Union institutions are to respect. This left it vague and unclear for the citizen what were the rights he or she should expect to be respected at the Union level and uncertainty in what were the rights the ECJ was expected to enforce. This lack of visibility of rights was the subject of European Parliament initiatives, and was also picked up in the Vienna Declaration made at the Vienna European Council in December 1998 which set out a programme on human rights protection in "an effort to make the EU's human rights policies more consistent and more transparent".

That is the background against which the decision of the European Council at Cologne, which set in train the Charter project, is to be viewed. The Member States decided to draw up a declaration of existing rights enjoyed by EU citizens concluding that "... at the present stage of the development of the European Union, the fundamental rights applicable at Union level should be consolidated in a Charter and thereby made more evident." The express purpose was to consolidate fundamental rights acceptable at European level and make "their overriding importance and relevance more visible to the Union's citizens." That emphasis on increasing the visibility of existing rights phrase is repeated in the Preamble to the Charter: "To that end it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological development by making those rights more visible in a Charter".

The purpose of the Charter, as conceived, was therefore to make the *existing* rights which the Union ought to respect more visible. To my mind, that was for two reasons. First, the purpose was to deepen and strengthen the culture of rights and responsibilities in the EU. Bringing together into a single document endorsed by the Member States and Community institutions a proclamation of existing rights will have a powerful effect in reinforcing in the minds of administrators, governments and legislators the rights that citizens possess and the need to respect them. The second purpose was to remedy this lack of clarity in the protection of human rights by declaring clearly which were the rights, freedoms and principles which the Union is to respect. There is, however, it will readily be seen, some tension between the two objectives, which lies at the heart of some of the drafting difficulties encountered.

2. Scope of the Charter

From that description of the purpose of the Charter, three key elements about the scope and status of the Charter become clear.

First, the principal addressees of the Charter are the European Union institutions when acting in the sphere of their competences and not the Member

States when acting in areas within national competence. This appears clearly from the opening words of Article 51 of the Charter. "The provisions of this Charter are addressed to the institutions and bodies of the Union with due regard for the principle of subsidiarity . . ." It is the EU institutions who legislate at the Union level. The purpose of the Charter is to show the limits on the powers which the Union has when exercising the competences provided under the Treaties. It is the EU institutions which are not already clearly bound, unlike Member States, to respect a clear catalogue of fundamental rights set out in the European Convention or in a national constitution. It is for them, therefore, that the Charter is intended. Member States are not the addressees except to the limited extent that they are acting in the implementation of Community or Union law. When they are acting in this capacity they are really acting as the agents of the Community to implement the law passed and so naturally will be subject to the same constraints. This is clear from the second part of Article 51 which says the provisions of the Charter are addressed to Member States "... only when they are implementing Union law." But in the areas of national competence, the Charter is not intended to affect Member States. In those areas the protection of fundamental freedoms for the citizen will be the existing structure of national law and constitutions and important international obligations like the European Convention on Human Rights.⁶ This is critical. For example, without this understanding each State would otherwise have had to insist on the Charter simply mirroring its own national constitution, as it could accept neither greater nor lesser obligations in its own national dealings with its people.

So the Charter will not impose on Member States any obligation when they are acting within their areas of national competence. Still less will it enable the European Court of Justice to rule on acts taken within purely national competence by Member States. This will be important, for example, in many of the areas which relate to the social and economic field to which I will turn later.

There is nothing new in this concept that a Member State when, implementing Community rules, such as a Directive, is subject to the same requirements flowing from the protection of fundamental rights in the Community legal order. The ECJ has on a number of occasions made this clear, e.g. in *Wachauf*.⁷

Before moving on, I should, however, mention one important point. A number of commentators, and not least the EU Select Committee of the House of Lords, chaired by Lord Hope, questioned whether there was not a better route to achieve the aim of the Charter. Whilst sympathizing with the

6. In the United Kingdom, that particularly means the Human Rights Act which came into force across the country on 2 October 2000.

7. Case 5/88, [1989] ECR, 2609.

objective of strengthening the constraints on the EU institutions' actions, they suggested instead that the EU should become a direct party to the ECHR. The EU Committee's Report in May 2000 therefore concluded:

"Accession of the EU to the ECHR, enabling the Strasbourg Court to act as an external final authority in the field of human rights, would go a long way in guaranteeing a firm and consistent foundation for fundamental rights in the Union."⁸

The arguments in favour of that course were, as one would expect, powerfully marshalled. There are others, notably the Strasbourg Court itself and the Council of Europe, who share that view. There is perhaps a particular concern by the latter not to be marginalized as the pre-eminent human rights court in Europe by the powerful Luxembourg Court. But there are undoubtedly good reasons to distrust a duality of final court of appeal on the same topic and some cases, e.g. the *EMESA* decision,⁹ show that surprising differences of interpretation can result.

There were at least two powerful reasons, however, why accession by the EU to the ECHR was not a substitute for the Charter. First, accession by the EU to the ECHR would require treaty changes both to the EU Treaties (which the ECJ had already ruled did not give competence to the EU to accede) and to the ECHR itself, which is only open for signature by States. Achievement of those changes not only would require solution of some important technical problems (e.g. would the EU also have its own judge on the court like all other ECHR members) but also a political will to make those changes. It was, however, apparent in our negotiations that certain Member States were implacably opposed to accession. Second, accession would not of itself have achieved the visibility of human rights required of the Charter. Nor would it have met the demands from many for a catalogue of rights going beyond the classic civil and political rights in the ECHR.

I turn to the second key element. The Charter is not an exercise in extending the competence of the European Union. The purpose of the Charter is not to give Brussels new powers or tasks but rather to limit those powers by making clear the restrictions on what they do – emphasizing that they cannot trample on fundamental rights of citizens in doing so. The Charter makes this clear also in Article 51(2): "This Charter does not establish any new power or task for the Community or the Union, or modify powers and tasks defined by the Treaties." This is an important limitation which has often not been understood in public comment on the Charter. It is the answer both to those who fear, and

8. 8th report of the Select Committee on the EU, Session 1999–2000, "EU Charter of Fundamental Rights", p. 39.

9. Case C-17/98, *Emesa Sugar v. Aruba*, [2000] ECR I-665.

to those who would welcome, the Charter as a way of taking more powers to Brussels and away from national Governments. That is not what it will do. What is now for national governments to decide will be the same after the Charter is agreed as it was before. The Charter will not change that position.

I should answer here an objection which has been raised by some commentators, usually journalistic or political. How, they ask, can this be so when so many of the fundamental rights touch on areas beyond the Union's competence? This is a reasonable question to raise but often misses the point. In some areas there are competences which may one day be exercised e.g. in asylum policy. More significantly, the Charter has to deal with the risk of touching fundamental rights by a side wind when an EU institution is exercising competence in another area. To illustrate the point, let me take an example. Article 10(1) enshrines the right to freedom of thought, conscience and religion. This does not mean the EU Commission is now to be the guardian of religious freedom in Member States; it has no competence to do so. Nor does it impose a new obligation on Member States, all of whom are already bound by the same obligation through adherence to the ECHR. But if, for example, the EU is considering legislation on slaughterhouses, under the competence it does have in agricultural matters, it cannot simply ignore the rituals of various religions in the area of animal slaughter. To ignore those issues would be to deny respect to religious freedom.

The third key element is that the exercise was not about minting new rights but rather an exercise in increasing the visibility of existing rights. The Cologne Conclusions were not a mandate to create new rights. There is an established procedure for creating new rights at EU level through Directives and other legislative processes in which each of the institutions plays its role as do, where appropriate, the Social Partners. That view ultimately prevailed in the Charter drafting body, although not without some opposition. Despite the innovative structure of that body (to which I turn in a moment), the working methods necessarily adopted for the body, the very short period of time we were given to work and the enormous breadth of the project, would have made it impossible to engage in the detailed process of work necessary where genuinely new rights were being crafted. Our task of identifying and describing existing fundamental rights was difficult enough.

Many non-governmental organizations, however, made contributions and sought inclusions plainly with the understanding that we *were* in the business of making new rights. The end result will probably have disappointed them. But only because it had not been clearly explained what the aim of the exercise was. For my part, I would have liked to see clearer explanations of this at an earlier stage so that expectations were not raised and then dashed.

3. The process

Before turning to the Charter's contents I should say a few words about the process. We were a unique body in EU negotiations; neither committee of experts nor IGC. Each Member State had a Government representative; some were Government Ministers, such as the Finnish Chancellor of Justice; some distinguished politicians, such as Jean Luc Dehaene of Belgium and our Chairman, former German Head of State and President of the Constitutional Court, Roman Herzog; some, such as me, volunteered lawyers. The Commission was represented by Justice and Internal Affairs Commissioner, Antonio Vitorino. The EP had a 16 person delegation. Each National Parliament was also invited to send 2 delegates – Lord Bowness represented the House of Lords. This was, I believe, to forestall opposition by National Parliaments, such as the Danish Parliament's rejection of Maastricht. To this 62 there were added alternates, who often spoke, observers and specific submissions by civil society, NGOs and applicant countries.

The end result was a body which was strong on legitimacy, transparency and openness (proceedings were almost all in public and drafts, written observations and amendments were available on the website). Civil society was also invited to make representations and over 300 written submissions were received. There was also a day when NGOs made oral presentations to the Charter body.

It was also very lengthy. Having been warned to expect 5 or 6 meetings in Brussels, in the end I had 29 separate negotiating meetings (including 46 days out of the country), as well as countless meetings in Whitehall, with ministers and with interested UK groups. Debate was often unfocused and observations had to be limited in time which sometimes prevented doing proper justice to a topic.

Because (rightly) we had to work to produce a consensus, the process of agreement was a difficult one in which an inner core, who named themselves the Praesidium, had considerable power.

The body renamed itself "the Convention", perhaps to evoke historical precedent or perhaps simply to avoid Francophoné members the embarrassment of having to wear a badge saying "enceinte", the official French name for the "Body".

Some suggest this is a model for future European negotiations. Personally I very much doubt it.

4. Contents of the Charter

The Charter has 6 chapters, labelled Dignity, Freedoms, Equality, Solidarity, Citizens' Rights and Justice. They were, however, crafted from three baskets of rights evident from the mandate of the Charter body: classic civil and political rights in the ECHR, citizenship rights deriving from the EU and EC Treaties, and social and economic rights. Negotiating the contents of the Charter was a long and difficult process, particularly in relation to the first and third categories. Difficulties arose both from differences in legal traditions as well as political points of view. The end result is inevitably something of a compromise.

The Charter is wide in its coverage. Whereas the first section of the ECHR (i.e. the European Convention excluding the provisions relating solely to the setting up of the Court) consists of 24 articles of which 14 are substantive, the Charter has 54 of which 50 are substantive. The difference is indicative of the wider coverage. The Charter covers the traditional and classic rights and freedoms: right to life and liberty, freedom of thought and expression and association, privacy and family life, equality, fair trial etc. It includes economic freedoms to seek employment, to conduct a business and to property. It refers to the four freedoms on which the Union is built.

It covers, though with a light touch, some areas where law and thought has developed since the ECHR was drafted. Thus it covers: bioethics; rights of children; rights of persons with disabilities; and environmental concerns. These are not, however, *new* rights. They are all to be found already in the case law and the common constitutional traditions of Member States. Often they are also found in international agreements. Thus, fundamental rights in the bioethics field are found reflected in the Council of Europe instrument, the Convention on Human Rights and Biomedicine; children's rights in the New York Convention on Rights of the Child and environmental issues in the Aarhus Convention.

The Charter includes citizenship rights deriving from the EU and EC Treaties themselves: participation in elections, access to documents, to the ombudsman and the right to petition, the right of freedom of movement and residence etc. The most controversial area in which the Charter extends coverage is the field of social and economic rights.

Certain of those elements deserve some special mention.

4.1. *Relationship with the ECHR*

It follows from my previous observations that the Charter was not intended to replace the European Convention on Human Rights. That Convention, the most important element in the protection of human rights in Europe,

both within and outside the European Union, will continue in existence and continue to apply day in and day out to the rights of many millions of people. The Charter has to contain the ECHR rights, the classic civil and political freedoms, but it will not be a substitute for them. I regard that as a very important consideration not only because of the importance that the ECHR has in the national legal order of the Member States of the European Union but also because of its importance as a unifying force for human rights throughout the whole of Europe. It would have been wrong, I believe, to have given second class status to the Strasbourg machinery. As Lord Russell-Johnston, President of the Parliamentary Assembly of the Council of Europe has written: in that event "the Court of Human Rights would become the court for the 'rest of Europe', perceived by many as downgraded and weakened, with its authority and respect for its decisions inevitably undermined".

A major topic of debate within the Convention was how to reflect the relationship with the ECHR. My consistent position was that the relationship of the Charter with the ECHR in the field in which the ECHR operated should be very close. The Charter should not be a rewrite of the Convention which would continue to apply in material courts. I argued against the risk of creating an apparently competing version of human rights. That applied, to my mind, as much to the interpretation of those rights, now underpinned by 50 years of Strasbourg case law, as it did to the expression of those rights. Legal certainty in this field above all should be preserved.

The aim therefore was to prevent the Charter being inconsistent with the ECHR in the areas which the ECHR covers. Others shared the view that the Charter should not appear to create a parallel and competing system of human rights protection. As the President of the European Court of Human Rights noted in a speech on 7 March 2000: "... the Court's main concern in the context of this discussion is to avoid a situation in which there are alternative, competing and potentially conflicting systems of human rights protection both within the Union and in the greater Europe. The duplication of protection systems runs the risk of weakening the overall protection offered and undermining legal certainty in this field."

This view was by no means, however, universally held in the Charter body. Many argued that the ECHR, 50 years old, was out of date both in language and content. In my view that was a poor argument, underestimating the dynamic nature of the ECHR. As the case law of the Strasbourg court shows, it is a "living document" which is developed all the time by the Strasbourg court in the light of contemporary standards and to deal with modern issues. So that court has dealt, for example, with issues of environmental protection, of non-traditional families and their right to respect, and of sexual orientation in public and private life. Moreover, there are grave dangers in attempting to express the same idea in different words. At least to a British lawyer, where a

draftsman deliberately chose different words from another available text, the presumption is that he intended thereby a different meaning.

The contrary arguments were, however, pressed with considerable vigour. Some colleagues were not persuaded that the Strasbourg language was appropriate. Some believed we had not been given the job of just repeating existing phrases. The vehemence of the objections, however, suggested that underlying at least some was a wish to take the judging of EU issues away from Strasbourg. The debate therefore proved particularly long and surprisingly controversial, leading at one point, to a boisterous session in which the only vote ever taken in the Convention was pressed.

In the end, the argument that the rights should be expressed to be the same as ECHR rights was accepted. The method of achieving this, which allowed some modernity of language in the substantive articles, was by the use of a general clause, one of the so-called horizontal articles. Thus, whilst leaving the Union the right to legislate for more extensive rights in the future – a right all Members States have – Article 52(3) provides in its first sentence that

“Insofar as this Charter contains rights which correspond to rights guaranteed by [the ECHR] the meaning and scope of those rights shall be the same as those laid down by the said Convention.”

The Charter Preamble also makes an express reference to the jurisprudence of Strasbourg. Further to help identify which are the corresponding provisions, there is a Commentary by the Praesidium. That Commentary is a diluted version of a proposal I pressed for: a Charter in two parts, a Part A containing a clear declaration of rights and a Part B which provided a more detailed definition particularly by reference across to the existing source of law. This was an attempt to resolve the tension between visibility of the rights and legal precision.

The Commentary makes it clear which rights are the same as in the ECHR. 12 articles, or part articles, are listed as having the same meaning and scope as an identified corresponding ECHR article. A further 5 are listed as having the same meaning but an extended scope e.g. Articles 47(2) and (3) which relates to fair trial provisions relevant to proceedings concerning Community acts, exclude the limitation in the ECHR of application only to civil or criminal proceedings in accordance with existing Community law.¹⁰ Another example is Article 9 – the right to marry and to found a family – which is not expressly limited, as is Article 12 of the ECHR, to marriage between men and women. As the Commentary makes clear, however, this change of wording is to cover cases in which *national* legislation permits non-traditional family arrange-

10. See e.g. Case 294/83, “*Les Verts*” v. *European Parliament*, [1989] ECR 1339.

ments, but the Charter does not impose the granting of the status of marriage to unions between people of the same sex.¹¹

4.2. *Social and economic rights*

The other area of the greatest difficulty in the Convention was the proper treatment of social and economic rights. The Cologne Conclusions required that "in drawing up such a Charter account should furthermore be taken of economic and social rights as contained in the European Social Charter and the Community Charter of the Fundamental Social Rights of Workers (Art. 136 EC) insofar as they do not merely establish objectives for action by the Union." Agreement on the correct interpretation of this masterpiece of committee drafting proved, unsurprisingly, elusive.

As Lord Lester of Herne Hill has pointed out, the stance one takes on the justiciability of socio-economic rights depends to a large extent on one's theory and understanding of democracy. It is to be doubted that judges have any mandate or special expertise to determine how national resources should be allocated between different priorities. These are decisions to be made by governments chosen through the ballot box. A great difficulty, for example, of providing in a legal text for a "right to housing", without clear legislative guidance as to what level of housing would be adequate, who is to provide it, and under what conditions, is that it would appear to leave all these matters to be defined by a judge.

So there are important differences in this area from the classic civil and political rights. First, social and economic rights are usually not justiciable individually in the same way as other rights. Rather, they inform policy making by the legislator. Secondly, these are "rights" which are recognized and given effect to in different ways in the Member States whose competence this primarily is. National governments will therefore decide, in accordance with national priorities how to implement these principles and, especially, how to apply available resources to them. Moreover, at the very least to include such rights would raise expectations that the Charter was giving rights which the EU, the principal addressee, was in no position to deliver, having neither the competence nor the budget.

Others, however, had greater ambitions for the Charter. The debate was long and difficult. The ultimate solution to this problem emerged as a recognition of these differences through a new concept: that these "rights" essentially take the form of principles, which, whilst common to Member States, are implemented differently in their national laws and practices; and that the principles only

11. See in the meantime the judgment, and A.G.'s Opinion, in Joined cases C-122 & 125/99 *P, D. v. Council*, judgment of 31 May 2001, nyr.

give rise to rights to the extent that they are implemented by national law or, in those areas where there is such competence, by Community law. This important development is reflected in the preambular sentence quoted at the start of this paper.

Expressing these provisions therefore as *principles* tied to national law or (where it exists) Community law provides the possibility of identifying these important areas as ones where the Union institutions, where they do act within their fields of competence, should not act to violate those principles. It does not, however, provide any mandate to the Union institutions themselves to try to implement those rights, outside their own competence, or to impose on Member States some obligation to recognize the principle differently from how it currently does under national law.

This approach is reflected not only in the reference to "principles" but also in the particular drafting technique often, if not invariably used, when dealing in this area.

First, the Charter not infrequently uses an expression which captures the concept of non-interference by the Union with a right accorded by national law: so, for example, Article 34 says "the Union recognizes and respects the entitlement to social security benefits and social services. . .". This does not mean it is for the Union to legislate in this area. Nor does this impose any requirement of Member States. It means that the Union should not violate this principle by a side wind in some other legislation within its competence.

Second, there is a frequent reference to "national law and practice" which is particularly found when dealing with socio-economic rights, such as workers rights and social security. This reinforces the notion that the Charter is not interfering with national legislation in these sensitive fields. It emphasizes the need to respect national differences and that it is not for the Union to impose rights in this area except through recognized treaty procedures. This was a reference which was (rightly) reported at the time, extremely important to the UK and for which we had to fight very hard.

Important too in this field was the need to recognize a balance between different rights and, in particular, economic freedoms and enterprise. The Charter therefore both explicitly mentions the freedoms of movement of persons, goods, services and capital and freedom of establishment and recognizes, unusually, in Article 16 specifically a freedom to conduct a business as a fundamental right.

In this area also the Commentary should always be consulted to understand the intent of the draft. In a number of areas, for example, specific reference is made to the terms of existing EC Directives, such as those on working time and maternity leave.

4.3. *Treaty rights*

The area of citizenship rights derived from the Treaties produced less controversy. Here the position accepted in the Charter is that the Convention has no ability to amend the Treaties and that, therefore, the Charter is a catalogue of those rights which are fundamental but that, as the text provides, those rights: "shall be exercised under the conditions and within the limits defined by [the EU and EC Treaties]". The one exception is the innovative summary, culled from ECJ case law, in Article 41 of a right to good administration from EU bodies.

4.4. *Horizontal articles*

Chapter VII contains general provisions. They are the so-called "Horizontal Articles". I have already referred to some of them, e.g. on the scope of the Charter and the effect on the EU's competence, and on the relationship with the ECHR. They are a key point. They define the scope of the Charter and must always be borne in mind. They also include the permissible limitations to rights. None, or at least very few, of these rights is absolute. There is a balance which must be struck between competing rights. And with other important objectives: public order, public morals, national security but also the aims of economic activity, high employment and environmental protection. The provisions recognize the need for that balance. What the Charter will not allow, however, is the EU to fall below the existing standards of human rights protection. This minimum protection is guaranteed by Article 52(1). So the Charter is no licence, for example to suspend fundamental civil and political rights; in this area only the narrow limitations permitted by the strict terms of the ECHR would be allowed.

5. **Status of the Charter**

The status of the document has been much debated. It was proclaimed as a political non-binding declaration. But there have, of course, been calls to make it legally binding and to integrate it in the EU and EC Treaties.

The clear position repeatedly taken by the UK Government, as by others, was that achievement of the Charter's purpose was best attained through a strong and clear political declaration rather than through a legally binding text. The issue was however not one for the Convention to decide. The mandate made it clear that it was for the Member States to decide "whether, and if so how, to integrate the Charter into the Treaties". At Nice the political declaration route was chosen. Some believe that debate is not over.

My own view is that the political declaration route was the right approach. There are two reasons for that. First, it is easier in a political declaration to show a clear statement of values which people can understand without the qualifications and exceptions necessary in a written law. The second reason is that in the end I believe the Charter lacks the precision of language necessary to allow it legal force. President Herzog wanted us to draft so that the Charter could be integrated into the Treaties if that was subsequently decided. In this respect I believe we have not succeeded. Even with the helpful commentary produced by the Presidium, the Charter will lack the precision necessary for a law. So whilst it should be acceptable and valuable as a political statement, my own view is that this text is not suitable for incorporation into the Treaties whether directly or by cross-reference.

This does not mean that the Charter will not be a document to which the ECJ may choose to refer when considering the lawfulness of acts of the EU institutions or the implementation of EC law by Member States. It is already entitled to track the acts of the institutions under First Pillar activities for violation of the fundamental rights which are to be found in the ECHR or in the common constitutional traditions of the Member States (Article 6(2) EC). The Charter will be a useful guiding resource. How useful a guide is yet to be seen.¹² There is no exact parallel with existing precedent. The closest case is perhaps that of the Social Charter. Although reference has been made to the Social Charter in a very few cases in EC jurisprudence,¹³ there is little evidence that it provided inspiration for the ECJ's decisions.

It will, I believe, be important also that, to the extent that the Court does look at the Charter, it recalls that it must be interpreted not as a text intended to be legally binding but as a broad political declaration of rights and freedoms and widely drawn principles.

But in any event as a political declaration the Charter cannot extend the jurisdiction of the Court nor create new rights of complaint. No case can, as such, be based on the Charter. Nor will it entitle the Court to strike down a Community act for alleged violation of a fundamental right if satisfied that, whatever the Charter might on one interpretation suggest, the alleged right is not part of the common constitutional traditions of the Member States.

12. So far, examples are the A.G.'s Opinion of 8 Feb. 2001 in Case C-173/99, *BECTU*, and judgment of the Court in that Case, of 26 June 2001, nyr, and *D. v. Council*, cited *supra* note 11.

13. See e.g. Case C-84/94, *UK v. Commission*, [1996] ECR I-5755 and Case C-67/96, *Albany International v. Stichting Bedrijfspensioenfonds Textielindustrie*, [1999] ECR I-5751.

6. Conclusion

The Charter, therefore, is neither embryo constitution nor new law of binding rights. It does, however, help to put human rights at the heart of Europe, seen perhaps too often as a cold place concerned more with economic integration and red tape than individual liberties and the rights of men and women.

The Charter proclaimed by the European Council, Commission and Parliament at Nice will help to make fundamental rights, freedoms and principles more visible. In the end the strong and clear political declaration represents the best way to enhance visibility while preserving legal certainty. The bottom line is that Brussels must respect fundamental rights as Member States are required to do. The Charter will not impose new obligations on Member States. It will not create new rights. It will not create a parallel system to the European Convention on Human Rights. But it will reinforce and strengthen a commitment to human rights.

In short, for the first time the peoples of Europe have a clear and valuable statement of the rights, freedoms and principles which the Union's institutions should respect. I am glad to have been allowed to be a part of this process.



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16 January 2002

OJ
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SW
MT

REGULATIONS TO IMPLEMENT THE EC DIRECTIVE ON FIXED TERM WORK

You wrote to me on 21 December 2001, copied to members of DA Committee, seeking agreement to regulations on fixed term work and to conduct a twelve-week consultation on these regulations. I am writing to give you DA agreement, subject to the points recorded below.

Replies were received from Margaret Beckett, Derry Irvine, Alistair Darling and Tessa Jowell.

Margaret reiterated her concerns about the possible impact of the legislation on agricultural casual workers and provisions in the Agricultural Wages Order. She hoped that any minor changes that officials might identify when considering these issues would be considered sympathetically during the consultation period. She noted that agriculture was not mentioned in the Regulatory Impact Assessment (RIA) and asked that, if her department's legal advisers confirm that casual workers in agriculture were covered by the Regulations, they should be acknowledged in the RIA.

Derry said he was still of the view that a specific exemption for fee-paid judicial office-holders would be preferable, 'for the avoidance of doubt'. I understand that your legal advisers are in discussions with his about this issue.

Alistair was concerned about the planned implementation date for the Statutory Sick Pay (SSP) changes since there was a possibility that the Inland Revenue, for practical reasons, would not be able to issue revised guidance to employers in time for them to implement the SSP changes by the required date. He understood that your officials were considering with lawyers whether there might be scope to implement the SSP

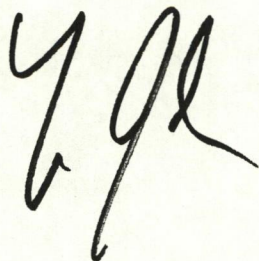


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changes from 1 October 2002 and hoped that the matter could be resolved before the consultation on the Regulations took place.

No other colleague commented. You may therefore take it that you have DA agreement to proceed.

I am copying this letter to the Prime Minister, members of DA Committee, the Lord Chancellor and Sir Richard Wilson.

A handwritten signature in black ink, appearing to be 'JP' or similar initials, written in a cursive style.

JOHN PRESCOTT

SUMMARY: STRUCTURAL INDICATORS

(F)

Areas where progress has been made in the EU:

- Over the last year, **GDP growth** has been accelerating while that of the US has remained constant, although the EU still lags behind the US.
- Whilst **total employment** rate rose by 1 percentage point in 2000 alone, and just over one percentage point in 1999, it is difficult to ascertain if this is a structural or cyclical change.
- **Tax rate on low wage earners** has been falling most noticeably, with a decline of over 1.0 percentage point in both 1998 and 1999, and a further fall of 0.5 percentage points in 2000.
- Over the last few years **ICT expenditure** has grown markedly, with an average increase of around 0.3–0.4 percentage points per annum since 1997 and EU matched US in 2000.
- Growth in **internet access at home** has been very strong, with access rising from just 12 per cent in 1998 to over 28 per cent in 2000.
- Despite accelerating growth in both **early stage** and **expansion & replacement venture capital** data suggests the EU is falling further behind the US.
- **Intra-EU trade integration** rose by 1.2 percentage points in 2000, as compared to 0.1 percentage points the previous year, which suggests this could be cyclical.
- **State Aid** has fallen as a share of GDP through the 1990s, from 1.7 per cent of GDP in 1990 to 1.0 per cent in 1999, but the indicator does not determine whether there has been a move to 'better aid'.
- The share of **jobless households** has been declining at an increasing rate in the EU over the last three years, down by a total of 1.4 percentage points since 1997.
- Over the last three years **long-term unemployment** has been falling dramatically, at around 0.5 percentage points per annum.

Areas where EU has made less progress:

- Although some MS compare well to the US, in 2000 the gap in **labour productivity per worker** with the US increased to almost 3 per cent.
- In 2000, the increase in **total employment rate of older workers** was 0.6 percentage points, which is promising but still below the growth rate needed for reaching the Lisbon target.
- **Business R&D** increased by 0.06 percentage points in 1999 followed by a decline of 0.01 percentage point in 2000 (estimated data). **Total R&D spending** has remained virtually unchanged as a share of GDP.
- Although there was a 1.4 percentage point increase in intensity of **external EU trade** in 2000, there was virtually no change in 1998 and 1999, and the recent increase could be cyclical.
- **Telecommunications prices** showed a small increase in convergence in 2000, except for trans-Atlantic calls where divergence increased dramatically.
- Industrial **electricity prices** have not fallen over the last few years, and there is evidence of increased divergence. For households electricity prices did fall in 1999 and 2000, and there was little evidence of a change in price divergence.
- From 1998 through to 2000 both industrial and household **gas prices** increased noticeably, accompanied by increased divergence in industrial prices.
- The rate of **18–24 year olds not in further education** showed only marginal improvement in 2000, but the current rate of improvement is too low to reach the 2010 target.

CONTENTS

	<u>Summary: Structural Indicators</u>	0
	<u>Contents</u>	0
1	<u>Headline Indicators</u>	2
	<u>Gross Domestic Product</u>	2
	<u>GDP Per Capita</u>	2
	<u>Real GDP Growth</u>	3
	<u>Employment</u>	4
	<u>Total Employment</u>	4
	<u>Female Employment</u>	5
	<u>Male Employment and Employment Growth</u>	6
	<u>Employment of Older Workers</u>	6
	<u>Research & Development Spending</u>	8
	<u>Business spending on R&D</u>	8
	<u>Total spending on R&D</u>	9
	<u>Information and Communications Technology</u>	10
	<u>Internet access</u>	11
	<u>Price in Network Industries</u>	11
	<u>Telecommunications</u>	11
	<u>Gas</u>	13
	<u>Business Investment</u>	14
	<u>Capital Raised on the Stock Market</u>	15
	<u>Long Term Unemployment</u>	16
	<u>Regional Cohesion</u>	17
	<u>Further Education</u>	18
2	<u>General economic background</u>	20
	<u>Energy Intensity</u>	20
	<u>Labour Productivity</u>	21
	<u>Labour Productivity per Person</u>	21
	<u>Labour Productivity per Hour Worked</u>	22
	<u>Inflation</u>	23
	<u>Real Unit Labour Cost Growth</u>	24
	<u>Public Balance</u>	24
	<u>General Government Debt</u>	25
3	<u>Employment</u>	27
	<u>Employment Growth</u>	27
	<u>Total Employment Growth</u>	27
	<u>Female Employment Growth</u>	27
	<u>Male Employment Growth</u>	28
	<u>Unemployment</u>	28
	<u>Tax Rate on Low Wage-Earners</u>	30
	<u>Life-long Learning</u>	31
4	<u>Innovation and Research</u>	33
	<u>Education Expenditure</u>	33
	<u>Patents (EPO)</u>	33
	<u>High-Technology Exports</u>	34
	<u>Venture Capital</u>	35
	<u>Early-Stage Venture Capital</u>	35

HEADLINE INDICATORS

	<u>Expansion and replacement Venture Capital</u>	36
<u>5</u>	<u>Economic Reform</u>	38
	<u>Trade Integration</u>	38
	<u>Intra-EU Trade</u>	38
	<u>Total trade</u>	38
	<u>Prices</u>	40
	<u>Relative Price Levels</u>	40
	<u>Price Convergence</u>	40
	<u>Price in Network Industries</u>	41
	<u>Electricity</u>	41
	<u>Public Procurement</u>	42
	<u>State Aids</u>	44
<u>6</u>	<u>Social Cohesion</u>	45
	<u>Income Distribution</u>	45
	<u>Poverty Rate</u>	46
	<u>Persistence of Poverty</u>	46
	<u>Jobless Households</u>	47
<u>7</u>	<u>Environment</u>	49
	<u>Greenhouse Gas Emissions</u>	49
	<u>Volume of transport</u>	49
	<u>Modal split of transport</u>	51
	<u>urban air quality index</u>	53
	<u>Municipal waste</u>	55
<u>8</u>	<u>The Use of Indicators</u>	58
	<u>The EU context</u>	58
	<u>Ways to utilise indicators</u>	58
	<u>Establishing consensus</u>	59
	<u>Benchmarking</u>	59
	<u>Targets</u>	59
	<u>Dynamics</u>	60
	<u>Focusing Policy-making</u>	60
	<u>Limits of indicators</u>	60
	<u>Size and proportionality</u>	60
	<u>Cyclical impacts</u>	60
	<u>Measurement issues</u>	61
	<u>Institutional context</u>	61
	<u>Lags in policy impact</u>	61
	<u>Performance vs Policy indicators</u>	61
	<u>Under-use</u>	61
	<u>Approach</u>	61

1

HEADLINE INDICATORS

1. The gap with the US on **GDP per capita** has increased through the 1990s. **GDP growth** in the EU is less than in the US overall, but some Member States have experienced higher growth.
2. The EU has experienced a substantial rise in the total **employment rate** to 63 per cent, moving closer to the 70 per cent target by 2010. Employment rate rose by 1 percentage point in 2000 alone. **Female employment rate** is growing fast enough to reach the 2010 target.
3. On current trends the EU will not reach the target for **employment of older workers** (age 55–64) by 2010 on current trends.
4. **EU R&D spending** has changed little as a share of GDP, and is falling increasingly far behind the US.
5. Very strong upward trend in **EU expenditure on ICT**, despite a sharp decline in the US.
6. There has been promising growth in **internet access** right across the EU.
7. With the notable exception of trans-Atlantic calls which show increasing divergence, **telecommunications prices** have come slightly closer together in the EU. Both industrial and household **gas prices** have increased sharply since 1999, which coincide with increases in commodity prices.
8. After a dip in the early 1990s, **business investment** as a share of GDP has shown a strong increase across the EU and is levels comparable to the US.
9. The level of **capital raised on the stock market** (as a share of GDP) has shown a downward trend in the EU.
10. There has been a strong favourable downward trend in **long-term unemployment** in the EU.
11. **Regional cohesion** of unemployment has fallen back to 1991 levels.
12. Despite some gains, at current rates of growth the EU is not on track to meet its target of halving the number of **18-24 year olds not in further education** by 2010.

GROSS DOMESTIC PRODUCT

1.1¹ The Lisbon agenda makes a key point of sustaining economic growth. Analysis of GDP per person and GDP growth are thus important for Lisbon, but are useful as well for highlighting cyclical changes that can impact on other indicators.

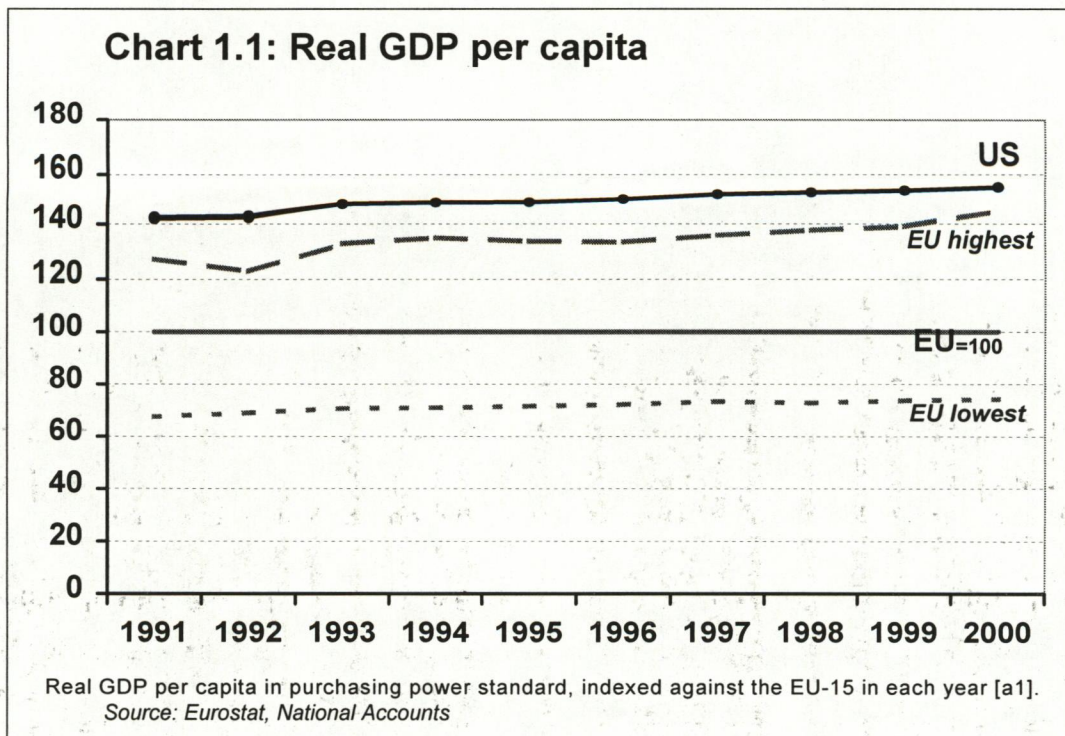
GDP Per Capita

The gap with the US has increased

1.2¹ The US continues to pull ahead in GDP per capita, rising from a position of 42 per cent greater than the EU in 1991 up to 55 per cent higher than EU in 2000. The gap grew by 2 per cent in 2000 alone. There is much more that the EU needs to do to catch-up with US levels of economic growth.

1.3 The average of the best-performing EU countries is still noticeably below that of the US. The three worst-performing countries are dramatically below, at under half of US GDP per capita.

1.4 The distribution of GDP per capita has not changed significantly over the decade. The ratio between the highest and lowest three countries in the EU remains at about 1.9. While this does not show significant progress towards convergence of incomes in the EU, it is worth noting that at least no countries are falling further behind – that is, the internal gap is not widening.



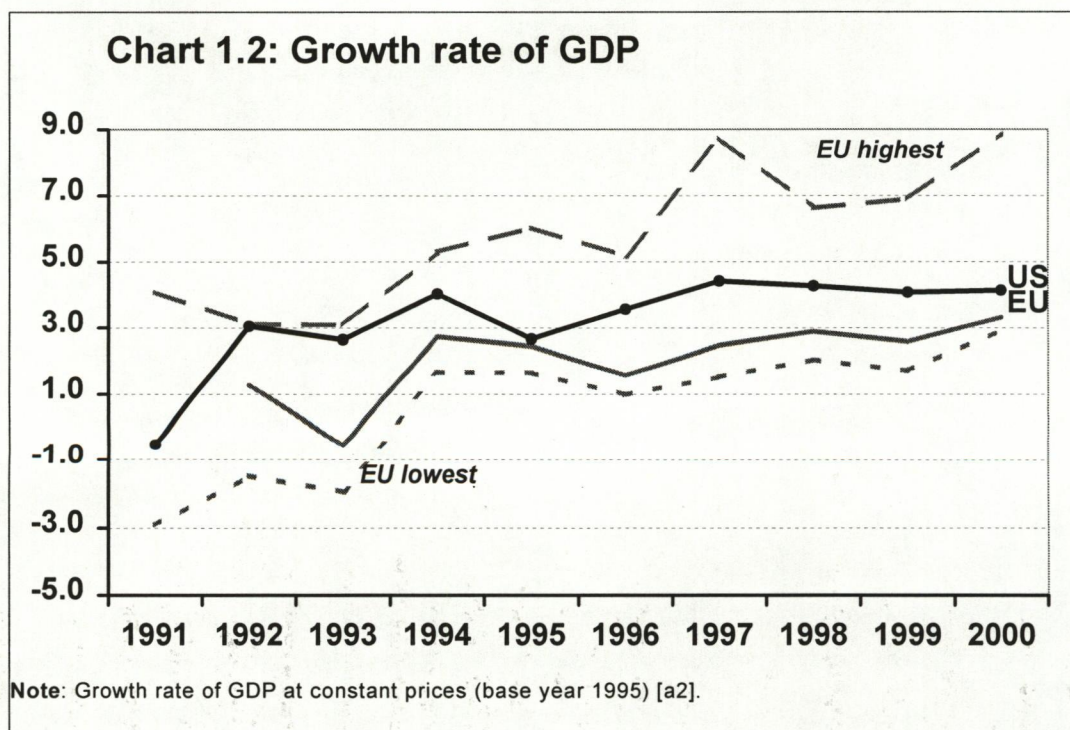
Real GDP Growth

EU growth rate is catching up with the US

1.5 EU growth as a whole lagged the US by an average of 1.3 percentage points over the decade. Over the mid 1990s, as the US has boomed, this gap increased to 1.7 percentage points, but fell down to 0.8 percentage points in 2000. However, performance has varied within the EU.

1.6 Some countries have been notable growth success stories in the 1990s: the best performing EU countries have grown faster than the US through most of the decade. However, these success stories have not been sufficient to prevent a widening in the GDP per capita gap with the US.

1.7 Over the last year, GDP growth in the EU has been accelerating while that of the US has remained constant, although the EU still lags behind the US.



EMPLOYMENT

1.8 Employment is a central strand of the Lisbon agenda, which aims for “sustaining economic growth with more and better jobs”.

Total Employment

**70 per cent
employment by
2010**

1.9 At Lisbon the Council agreed to a target of a **70 per cent employment rate by 2010** across the EU as a whole, with an interim target of **67 per cent employment rate by January 2005** agreed at Stockholm.

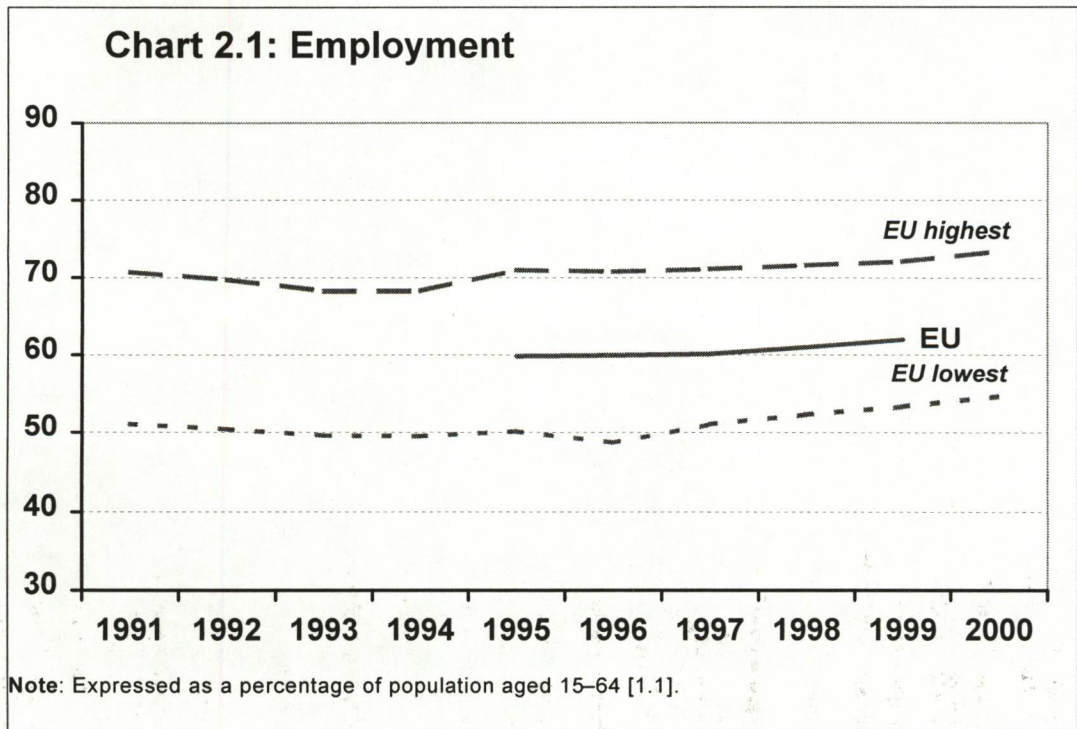
1.10 These average EU-wide employment rate targets to be reached by 2010 mean that steady progress has to be made over the period. At Stockholm, the Council reaffirmed that “increasing employment rates demands active employment policies as foreseen in the European Employment Strategy, implementation of which needs to be strengthened”.

1.11 In 2000, total employment in the EU was 63.1 per cent. The EU must therefore raise average employment by 0.7 percentage points per annum, which is equal to the annual increase achieved over the last 5 years. In other words, **the EU is on track to meet the employment target if it can maintain the current rate of employment growth**. However, if the high growth is cyclical this may be unlikely.

1.12 Employment rates will be subject to cyclical fluctuations in the economy. These cyclical fluctuations can make it difficult to assess the structural progress in the economies.

1.13 Four Member States have already reached 70 per cent employment, and another three are within 3 percentage points of the target. However, three Member States have employment rates of below 60 per cent, and if the growth rate experienced by these states over the last decade continue they are unlikely to achieve employment rates much above 60 per cent.

1.14 EU employment rate rose by 1 percentage point in 2000 alone, and just over one percentage point in 1999. The growth rate of employment (unadjusted for changes in labour force) showed an increase in the EU but a sharp decline amongst the highest EU Member States.

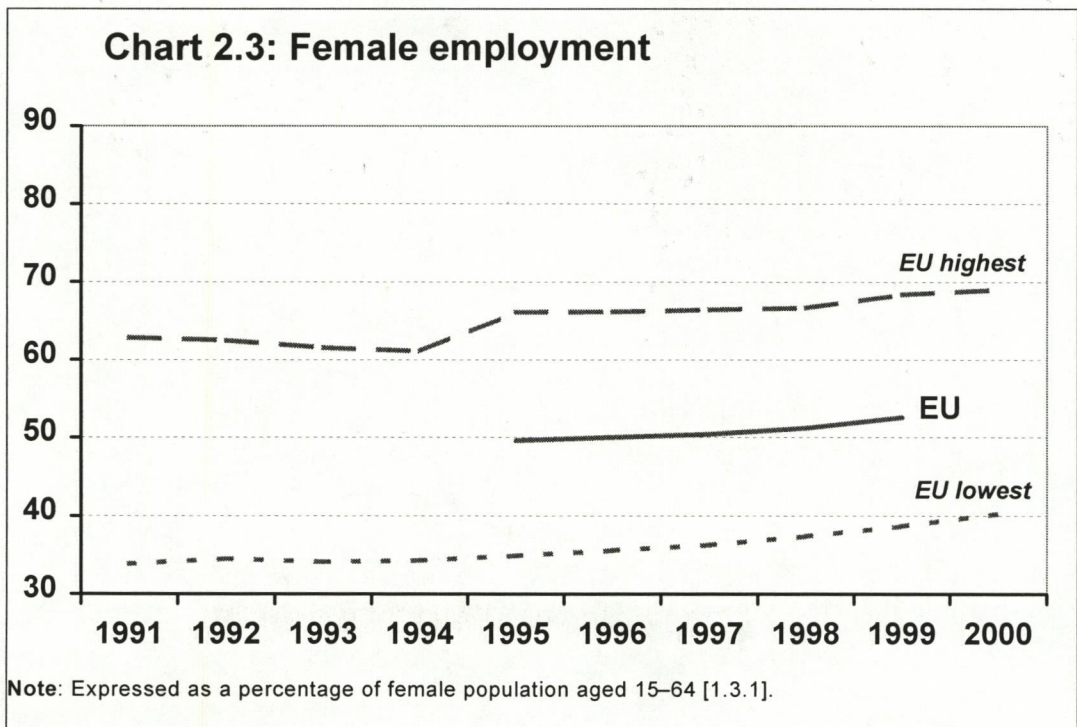


Female Employment

60 per cent female employment by 2010

1.15 A further commitment at Lisbon was that **female employment rate should reach 60 per cent by 2010**, and an **interim target of 57 per cent by 2005** was agreed at Stockholm. In 2000 the employment rate amongst women in the EU was 53.8 per cent, with six Member States already meeting the 2010 target.

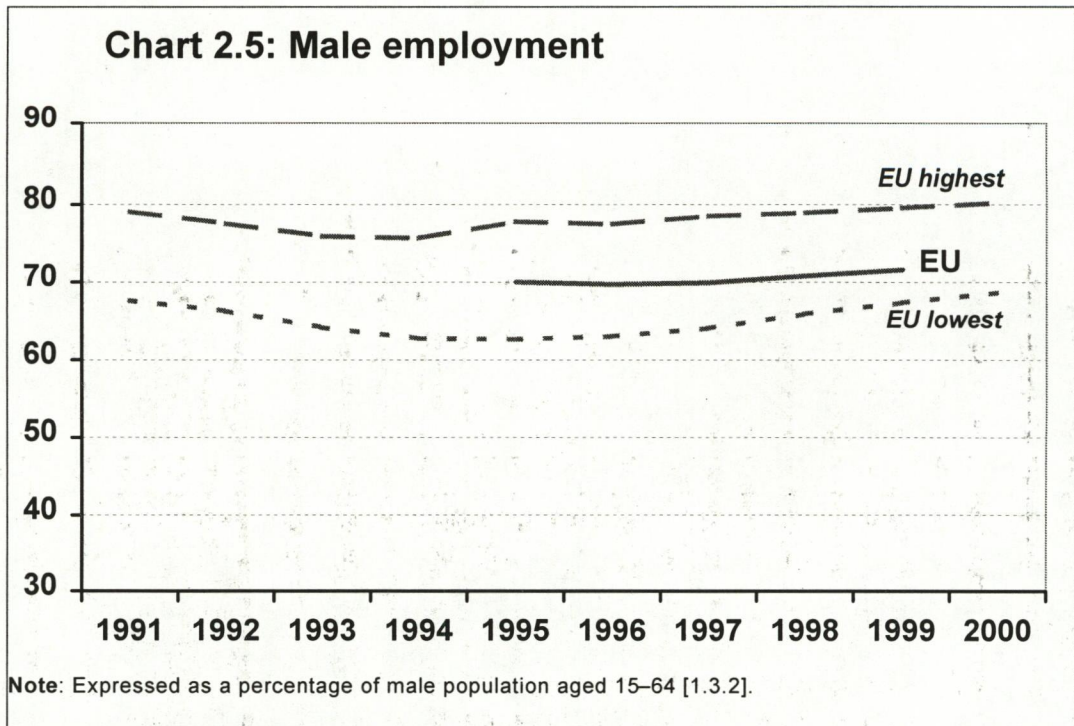
1.16 Since 1995, the employment rate has risen by an average of 0.8 percentage points per annum. In order to achieve the 2010 target an increase of 0.6 percentage points per annum is needed. Hence, if current growth rates in the EU were maintained then the EU would be on track to reach the female employment target. In 1999 and 2000 female employment rate rose quite significantly, at over 1.2 percentage points per annum. However, like any employment rate, it is influenced by the cyclical pattern of the economy.



Male Employment and Employment Growth

1.17 Male employment is notably higher than female employment and has remained relatively constant over the decade, with some downturn in the early 1990s. The male employment rate in the EU has remained around or above 70 per cent, which is the 2010 target for total employment.

1.18 In 2000, male employment rose by 0.7 percentage points, continuing the high levels of growth in employment rate experienced in 1998 and 1999.



EMPLOYMENT OF OLDER WORKERS

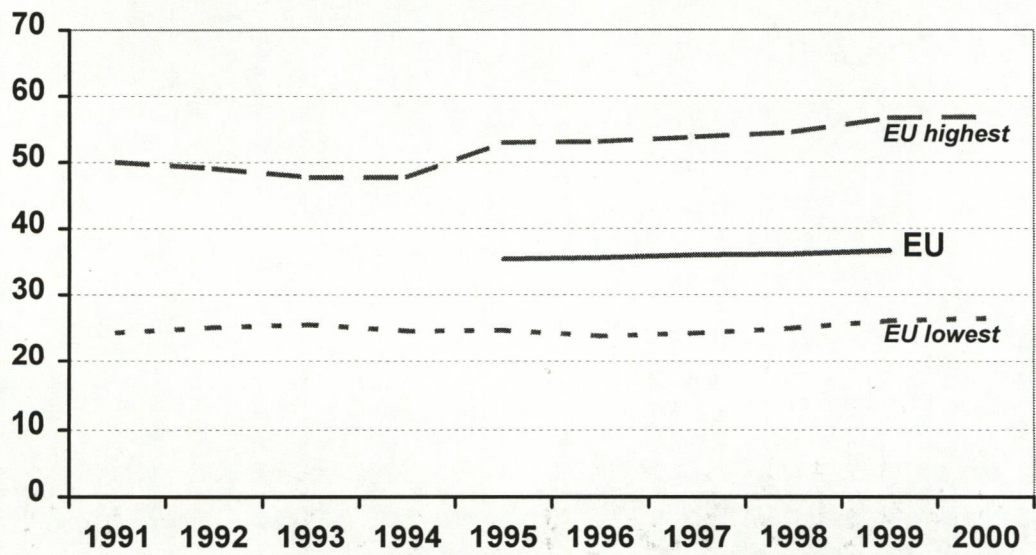
50 per cent older worker employment by 2010

1.19 At Stockholm the Council committed to the goal of full employment and saw it as an important way of meeting the challenge of the ageing population. Hence the Council agreed a target for increasing the average EU employment rate among older women and men (age 55-64) to 50 per cent by 2010. Over the decade from 1991 to 2000 the employment rate amongst older workers has remained between 35 and 37.5 per cent. Four Member States all already exceed the target of 50 per cent employment, while five have rates below 30 per cent.

1.20 Although the average EU rate fell in the early 1990s, since 1995 the employment rate amongst older workers has risen by just under 0.4 percentage points per annum. If this recent growth continues then employment amongst older workers would reach 41 per cent by 2010. The indicator thus suggests that the **EU will not reach the target by 2010 on current trends** despite the favourable cyclical position, and that further policy measures will be needed to increase the growth rate to the requisite 1.25 percentage points per annum.

1.21 In 2000, the increase in total employment rate of older workers was 0.6 percentage points, which is promising but still below the requisite rate for reaching the Lisbon target.

Chart 2.7: Total employment rate of older workers

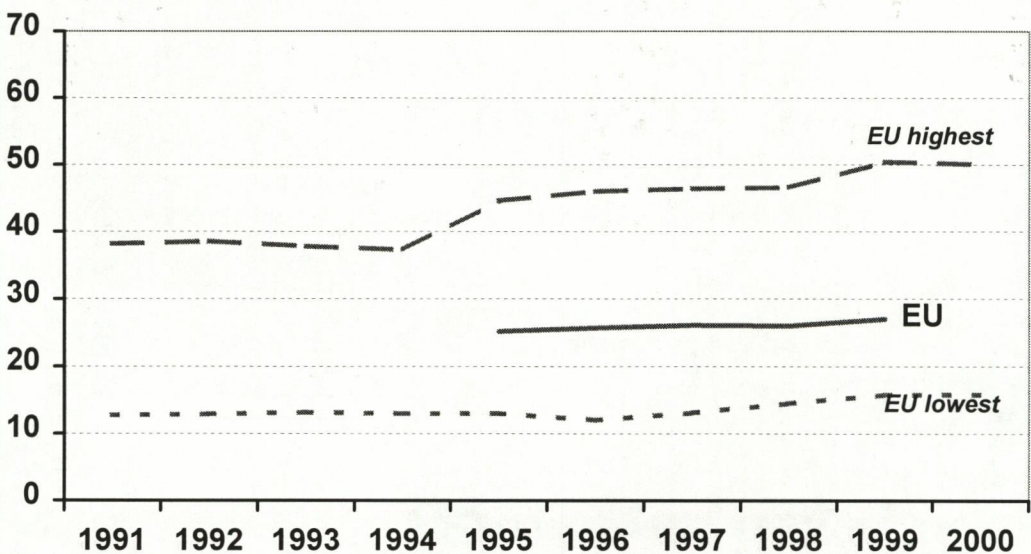


Note: Expressed as employees aged 55-64 as a share of total population aged 55-64. [1.4.1].

1.22 The breakdown of employment amongst older workers by gender reveals that the lowest employment is amongst females. While employment amongst male workers is almost 50 per cent, for females in the EU aged 55-64 the rate is below 30 per cent. This suggests that policy either needs to be raise older male worker employment significantly, even up to levels comparable to the general workforce, and/or increase older female worker participation drastically. The history of the demographics may partially explain this, and as time passes the new cohorts of older female workers will be more likely to have a previous work history.

1.23 Female employment amongst older worker has risen only slightly, working out to an average of 0.45 percentage points over the last decade. If this rate of growth continues then by 2010 employment by older workers will only reach just over 31 per cent, which is significantly below the target for the entire older work population.

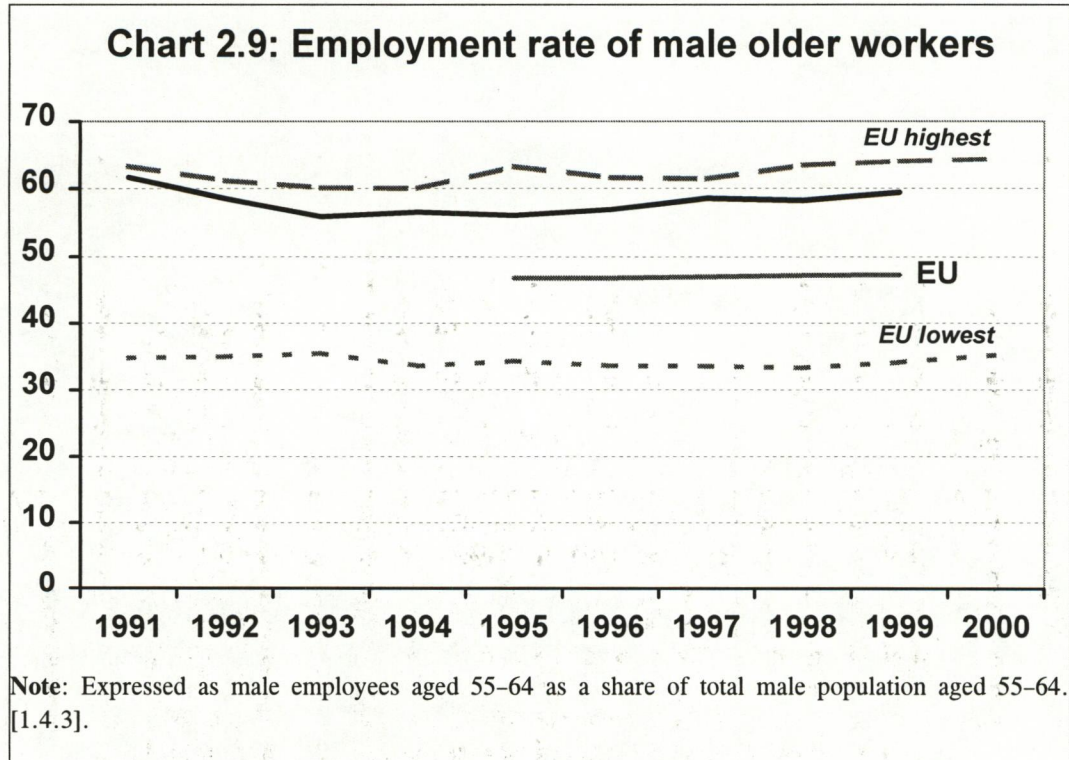
Chart 2.8: Employment rate of female older workers



Note: Expressed as female employees aged 55-64 as a share of total female population aged 55-64. [1.4.2].

1.24 By contrast, employment amongst older male workers is almost 50 per cent already, but has in fact been falling from over 50 per cent in 1991 to a low of 46.8 per cent in 1995–96 and then slightly recovered to 47.6 per cent in 2000. Even if the growth over the last five years is continued male employment amongst older workers will remain just below the 50 per cent target.

1.25 In 2000, the rate of employment amongst female older workers rose by 0.7 percentage points, as compared to just 0.3 percentage points for men.



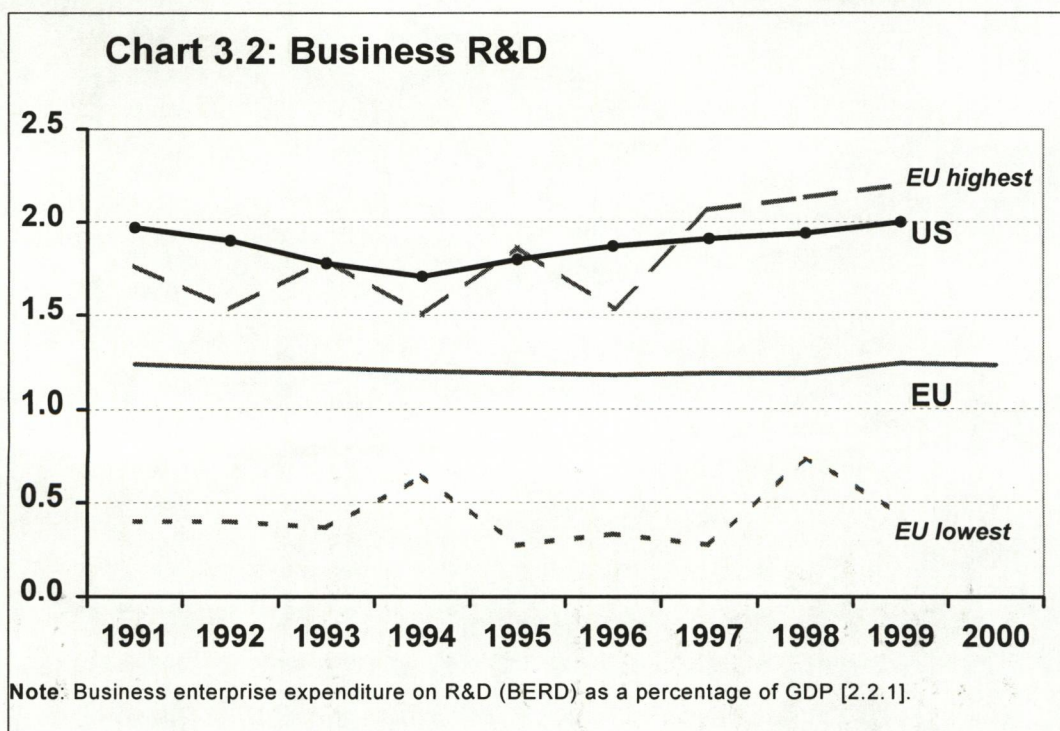
1.26 At Lisbon, the European Council agreed the goal of making Europe “most competitive and dynamic knowledge-based economy in the world” by 2010. This means that the EU must have a leading performance on R&D.

RESEARCH & DEVELOPMENT SPENDING

Business spending on R&D

1.27 In the decade to 2000, R&D expenditure as a share of GDP in the EU has remained at around 1.9 per cent, with no evidence of an increase over the last few years. EU performance is consistently below the US, which remained at around 2.6 per cent over the same period. Although some Member States do exhibit R&D performance comparable or in excess of the US, with business R&D spending of up to 2.2 per cent of GDP, such comparisons may be misleading, as similar sized parts of the US, e.g., California, may have significantly higher R&D intensities.

1.28 There has been an increase in EU business R&D of 0.06 percentage points in 1999 followed by a decline of 0.01 percentage point in 2000 (estimated data).

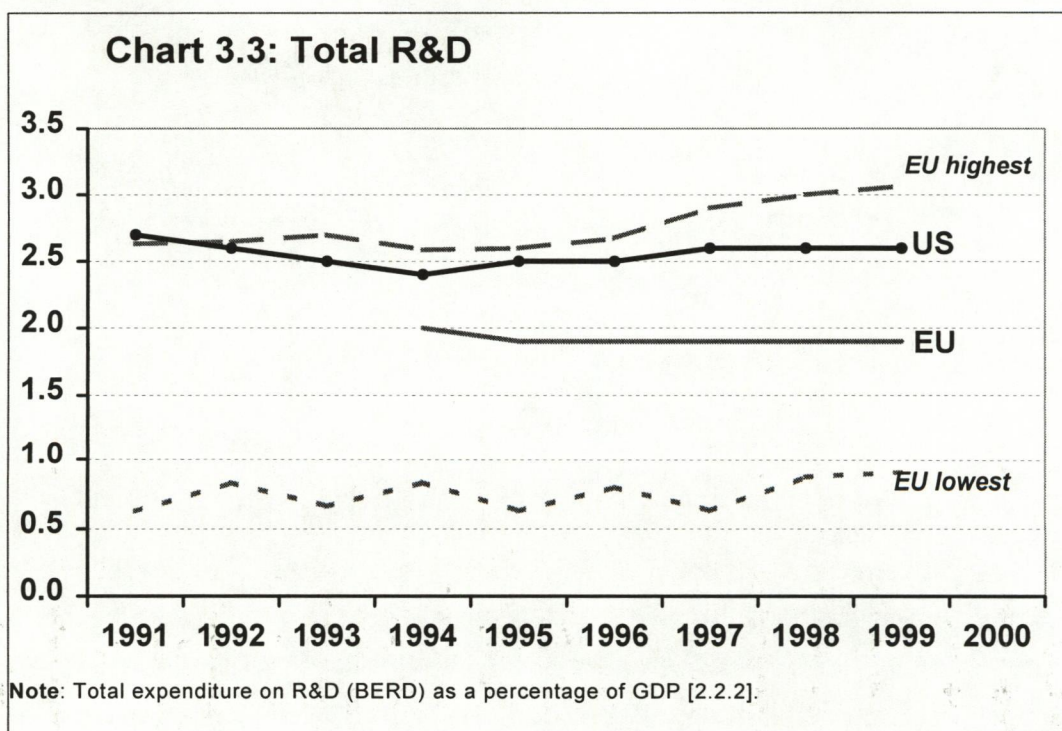


Total spending on R&D

1.29 The total R&D spending of the highest performing Member States (taken as the average of the highest three in each year) has outstripped that of the US, but the EU as a whole is significantly below the US. In 1998 and 1999 R&D spending remained virtually constant in the EU.

1.30 The lowest-performing Member States in the EU have dramatically lower R&D spending, with a GDP share running at less than half of EU average and around a quarter that of the US.

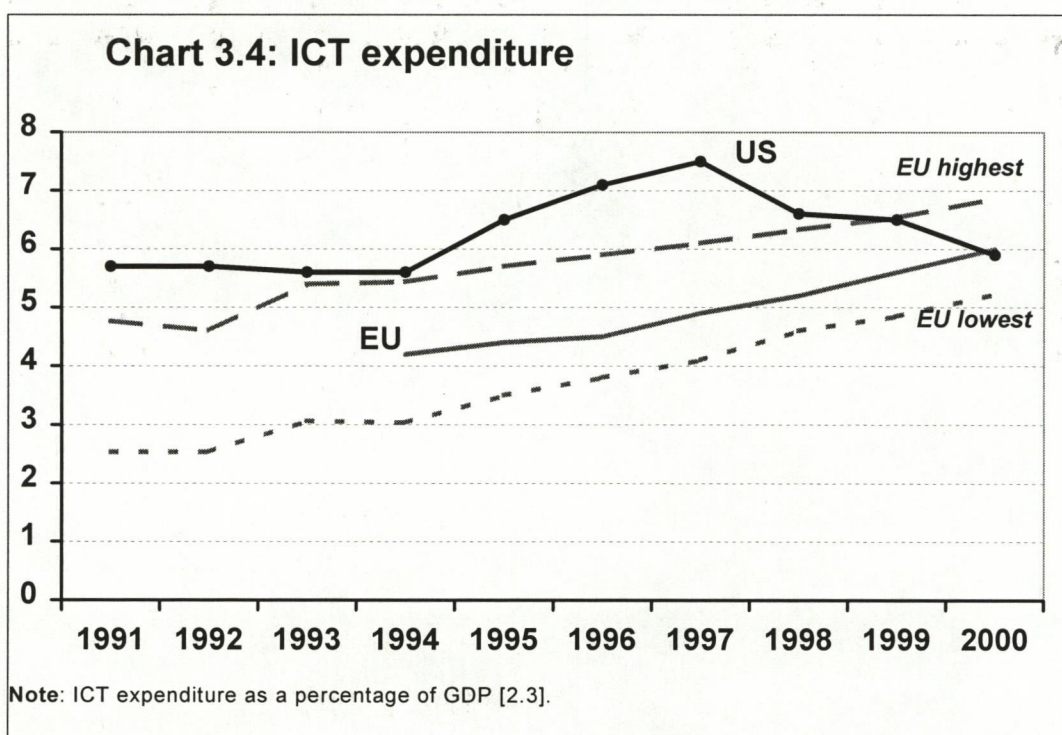
1.31 The indicators suggest that the majority of EU countries will need to significantly increase R&D expenditure if the EU is to succeed in its goal of becoming the most dynamic knowledge-based economy in the world by 2010, and there is no evidence of any improvement in performance over the last decade. This suggests a major structural change is needed, as even the best-performing Member States only reach performance comparable to the US through significant state spending.



INFORMATION AND COMMUNICATIONS TECHNOLOGY

1.32 Overall spending by businesses and consumers on information and communications technology (ICT) is significantly higher in the EU has shown a steady increase over the last decade. In 1991 EU spending was below 4 per cent of GDP and this has since risen to just over 6 per cent in 2000.

1.33 While the EU spending has in fact matched the US in 2000, this is only following a sharp downturn in the US. Over the last few years ICT expenditure in the EU has grown markedly, with an average increase of around 0.3-0.4 percentage points per annum since 1997. This compares to sharp declines in the US of 0.9 percentage points in 1998 and 0.6 percentage points in 2000.

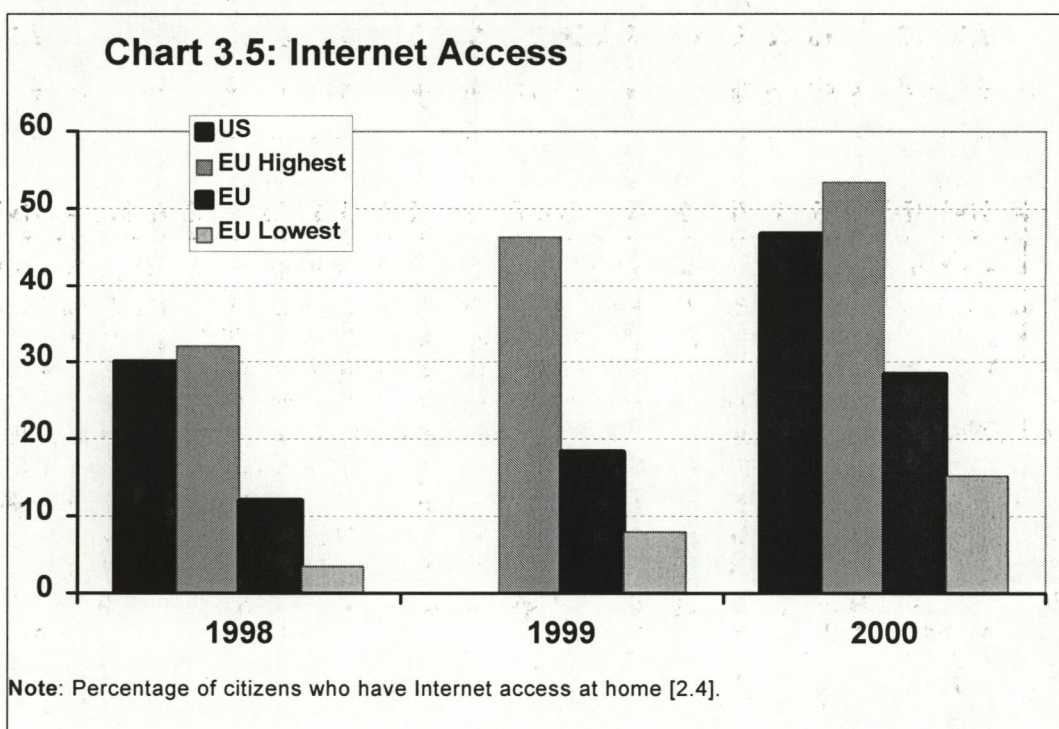


INTERNET ACCESS

1.34 At Lisbon the council set out a number of proposals for **fostering the use of internet technology**, including recognition of the need for low-cost, high-speed networks for internet access and for all schools to have internet access. The indicators examine one aspect of internet access, which is the percentage of citizens who have access at home.

1.35 In 2000 28.4 per cent of EU citizens had internet access at home, as compared to 46.7 per cent in the US. Again, the spread within the EU is very wide, with three Member States exceeding the US at over 50 per cent access, as compared to four Member States with access rates below 20 per cent.

1.36 Growth in internet access has been very strong, with access rising from just 12 per cent in 1998 across the EU, while the US has grown slightly more slowly but from a higher base of 30 per cent in 1998. While the EU is behind the US, several countries are surpassing the US and growth has been consistently strong, which suggests that the outlook is promising.



PRICE IN NETWORK INDUSTRIES

1.37 Network industries, such as gas, electricity and telecommunications face different issues from most other products for completing the single market. Whereas most products can be traded regularly, network industries require a dedicated transmission mechanism. Lack of open access to this network can therefore limit trade. At Lisbon, the Council made a commitment to increase the openness of network industries.

1.38 As the single market in networks is completed, it is expected that the increased competition would reduce price differentials, and hence relative price levels would tend to converge.

Telecommunications

1.39 Within the telecommunications industry there has been no strongly prevalent pattern. For local calls, the range of prices amongst the EU Member States in 2000 was approximately equal to that in 1997. There has been some narrowing of relative price levels over the last two years, although this does follow a widening in the preceding year. Within the EU national calls have shown a similar price pattern to local calls.

1.40 By contrast, calls to the US from the EU have exhibited increasing divergence of relative price levels. In 1997 the range was 70–125 per cent of EU average, by 2000 this had risen to around 40–160 per cent of EU average. This suggests that competition is not eroding the price differentials in transatlantic calls.

1.41 The US has lower costs for local calls than any Member State, which may be because local calls in the US are unmetered. National calls in the US, whilst 30 per cent higher than the EU average in 1999, fell very suddenly to around half of EU average in 2000. Policy-makers should examine the cause of this sudden fall, as it may have useful guidance for EU policy.

Chart 4.6: Price in network industries: Local call [3.4.1].

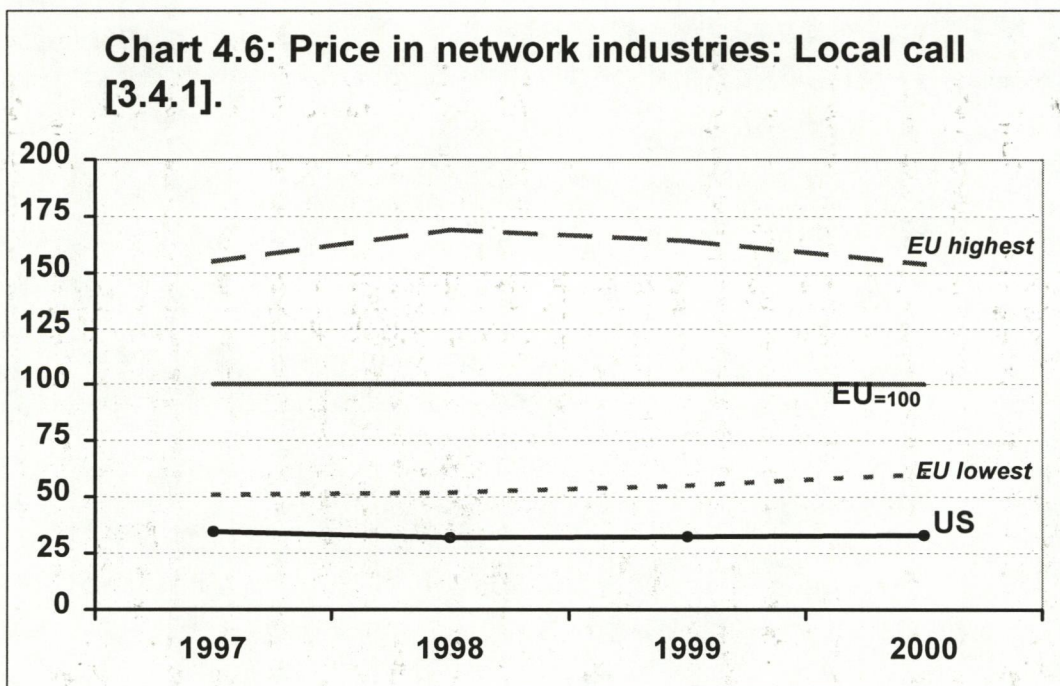


Chart 4.7: Price in network industries: National call [3.4.2].

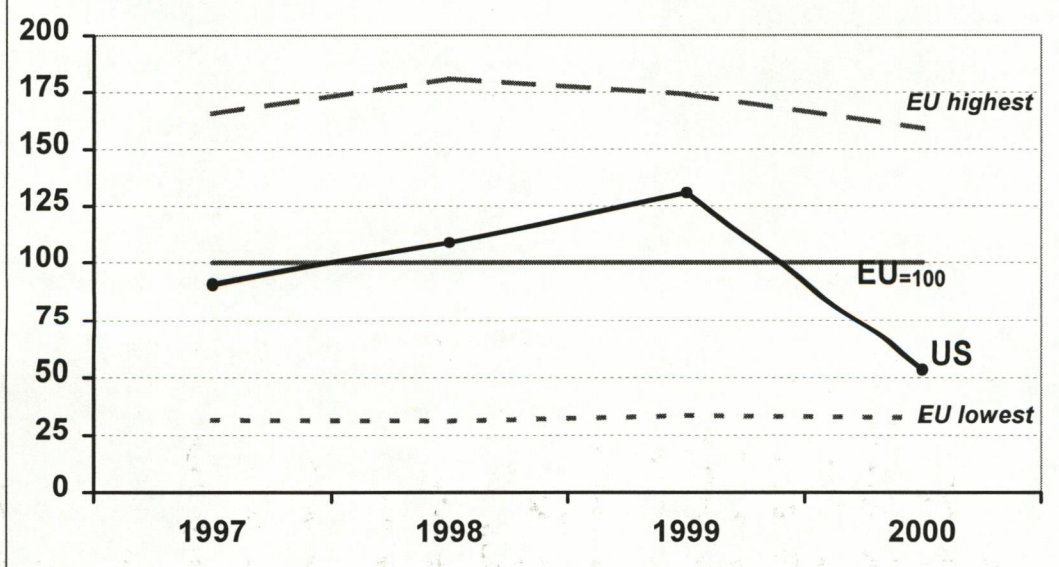
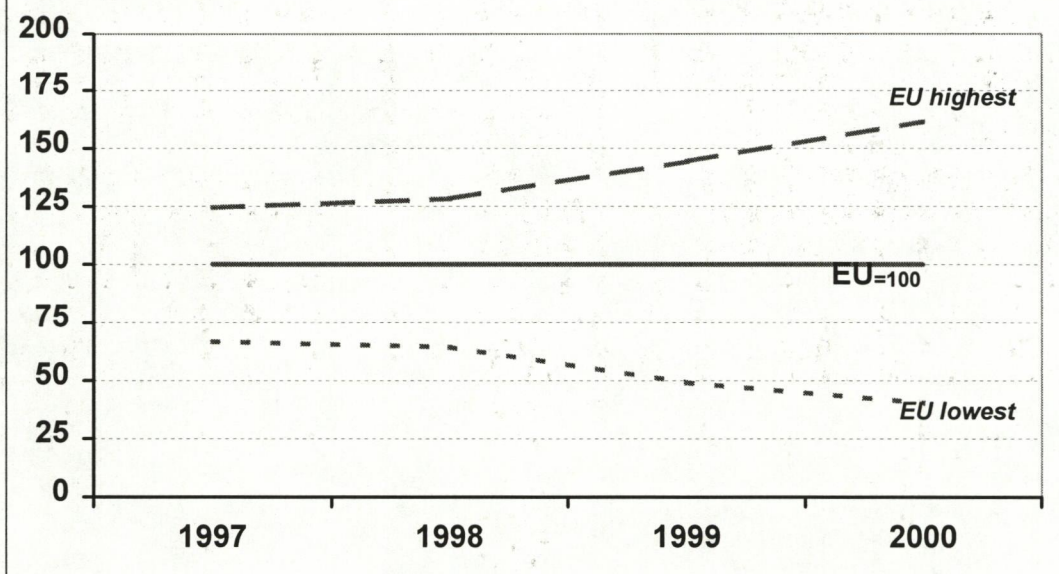


Chart 4.8: Price in network industries: Call to the US [3.4.3].



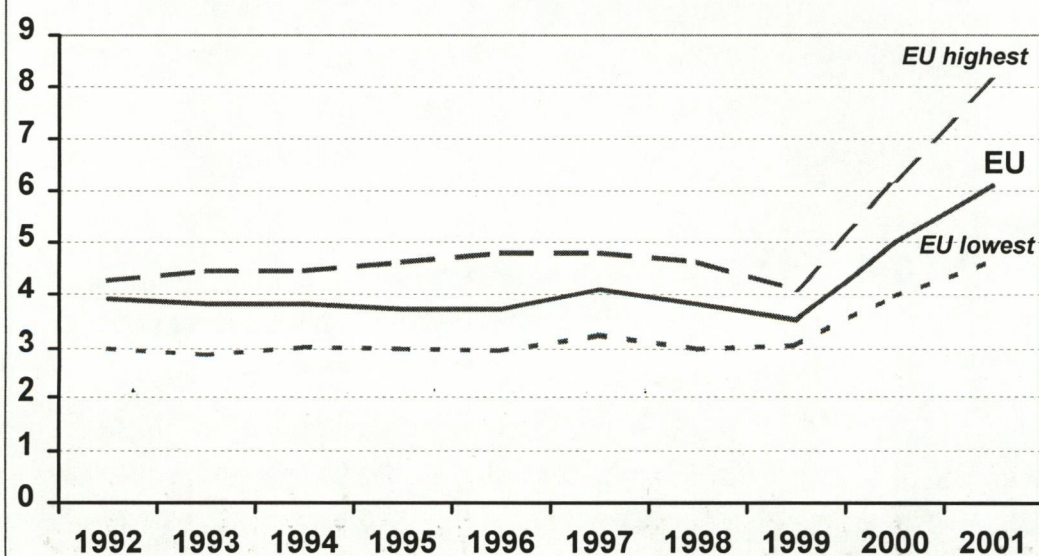
Gas

Gas is more expensive and still wide variation across EU

1.42 Gas prices were relatively stable over the period 1991 to 1998, but in 1999 prices across Europe rose considerably. This sudden increase suggests that there is an exogenous factor at work, such as increased oil prices (to which gas prices are linked). The variation in prices across the EU is still quite high, although not as high as for electricity (cheapest is around half the most expensive), suggesting that the single market for gas is still far from complete. However, variation has increased for industrial users but lessened for households.

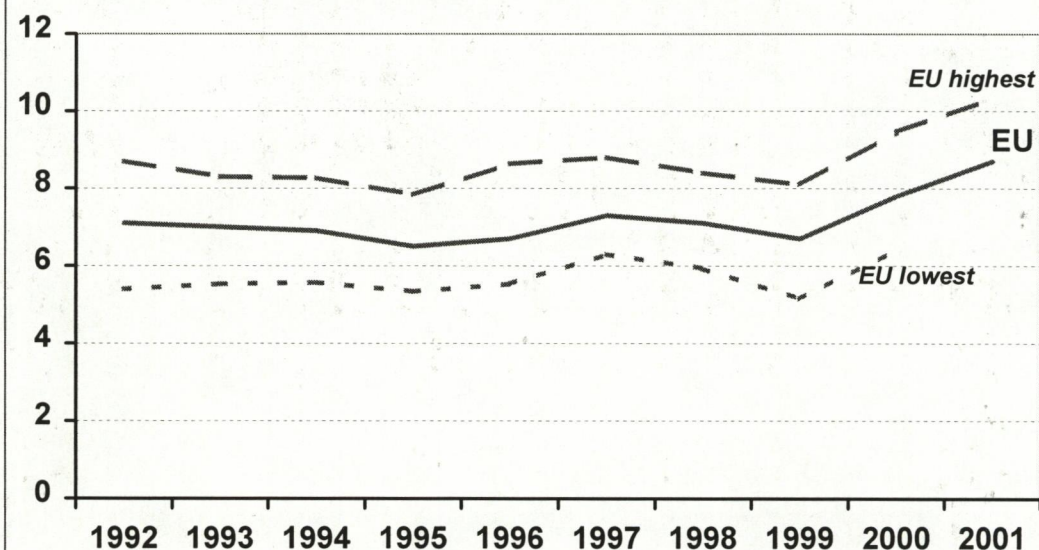
1.43 From 1998 through to 2000 both industrial and household gas prices increased noticeably, accompanied by increased divergence in industrial prices.

Chart 4.11: Industrial gas prices



Note: Industrial gas in euros per Giga-Joule [3.4.6].

Chart 4.12: Household gas prices

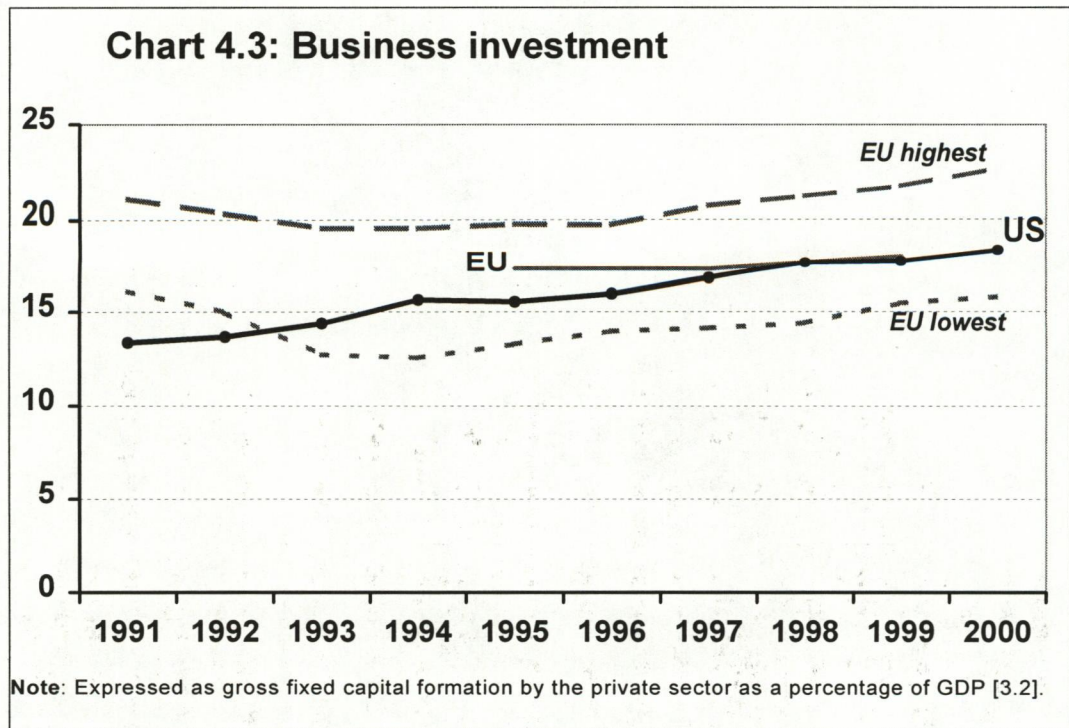


Note: Household gas in euros per Giga-Joule [3.4.7].

BUSINESS INVESTMENT

1.44 Investment is a key driver of growth in an economy, so levels of fixed capital formation can be taken as an indicator of growth potential in an economy. Over recent years, the EU has shown a comparable performance to the US, with business investment of around 18 per cent of GDP.

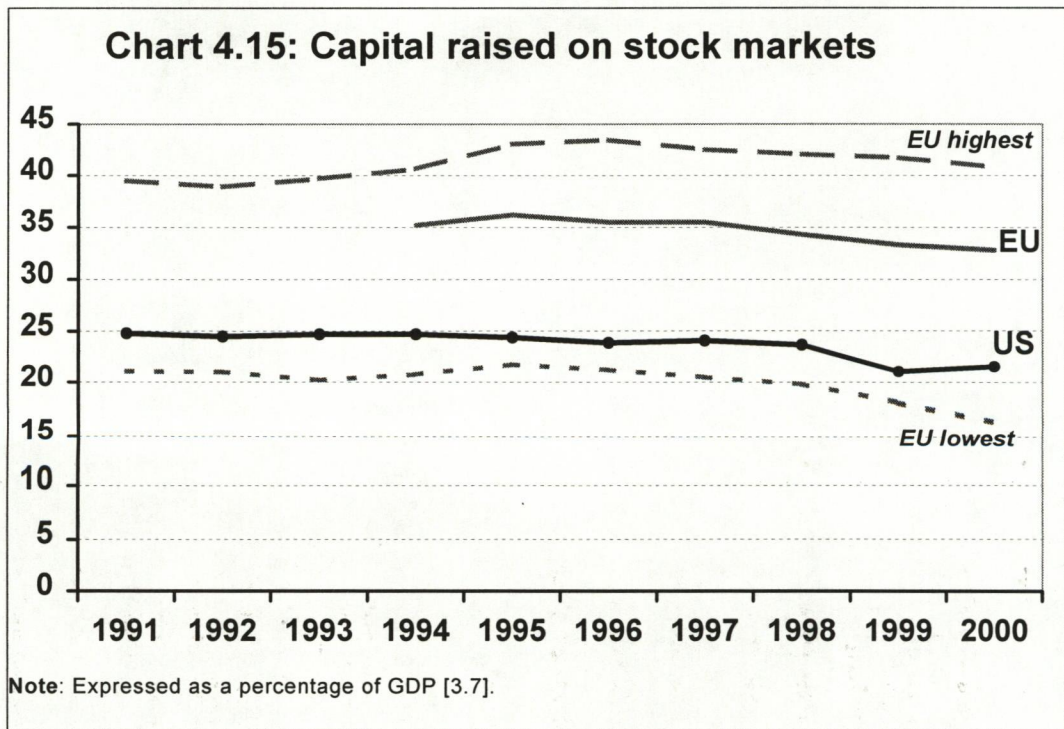
1.45 A number of Member States show business investment in excess of 20 per cent of GDP, significantly higher than the US. However, the lowest-performing Member States are not drastically below the US, at just over 15 per cent of GDP. It is worth noting that GDP per worker (see Chart x) is higher in the US, so business investment per worker is also higher – implying a higher capital-labour ratio.



CAPITAL RAISED ON THE STOCK MARKET

1.46 A well-functioning capital market is crucial for facilitating investment in an economy, as it is an efficient way of bringing savers into contact with investors.

1.47 The EU has a consistently higher capital raised per unit of GDP than the US over the 1990s, in some cases at least 20 per cent higher. However, capital raised on the stock market has fallen as a share of GDP over the last 3 years, which could reflect either lower investment or increased debt or internal financing.



LONG TERM UNEMPLOYMENT

1.48 Long-term unemployment is both a social issue, in that it relates to persistent poverty, and an economic issue, in that long periods of unemployment tend to be self-perpetuating (hysteresis) and lead to higher overall unemployment.

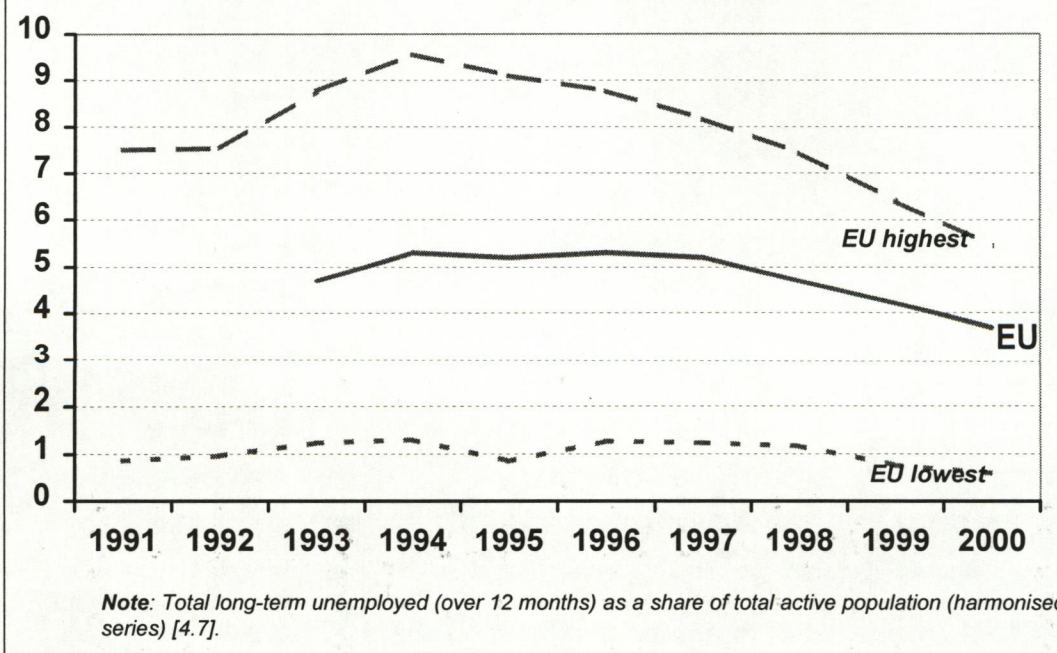
1.49 The trend in long-term unemployment bears a similarity to the trends shown in both general unemployment and jobless households. This is an increase during the early 1990s followed by a decline from around 1997. This suggests that there may be some relation between these variables: for examples higher unemployment levels may increase the likelihood of long-term unemployment and hysteresis could mean that long-term unemployment tends to perpetuate unemployment.

1.50 The EU's rate of long term unemployment has been falling noticeably since 1996, which could represent a structural change but alternatively would be in keeping with cyclical fluctuations. There have been huge drops amongst the Member States with the highest long-term unemployment, which have fallen from a high of 9.6 per cent to a low of 5.4 per cent. The best performing EU Member States have by contrast an extremely low rate of long-term unemployment – between 0.6 and 1.3 per cent.

1.51 Over the last three years long-term unemployment has been falling dramatically, at around 0.5 percentage points per annum

1.52 There may be measurement issues in long-term unemployment due to varying definitions of active participation in the labour force. Also, some workers may become discouraged and leave the active labour force by choice.

Chart 5.7: Long-term unemployment



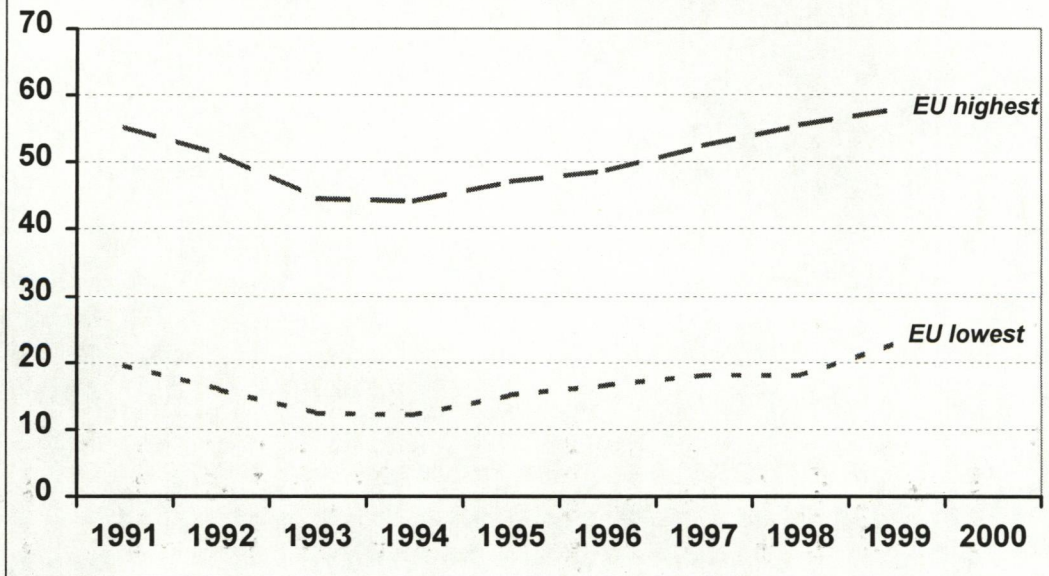
REGIONAL COHESION

1.53 The coefficient of variation in unemployment rates across regions is used to shed light on the level of regional cohesion. Hence it shows the degree to which unemployment is concentrated in some regions or alternatively spread more evenly across the Member State.

1.54 Regional cohesion exhibits a very notable counter-cyclical pattern for both the most and least regionally cohesive Member States. The coefficient fell in the early and mid-1990s when unemployment was highest. [One possible explanation could be that regions with histories of high unemployment are exhibiting structural unemployment with little cyclical unemployment, while areas with a history of higher unemployment are more subject to cyclical unemployment.]

1.55 Overall, however, regional cohesion in most Member States returned to 1991 levels, although the coefficient has been increasing over the last few years.

Chart 5.5: Variation in unemployment rate across regions [4.4].



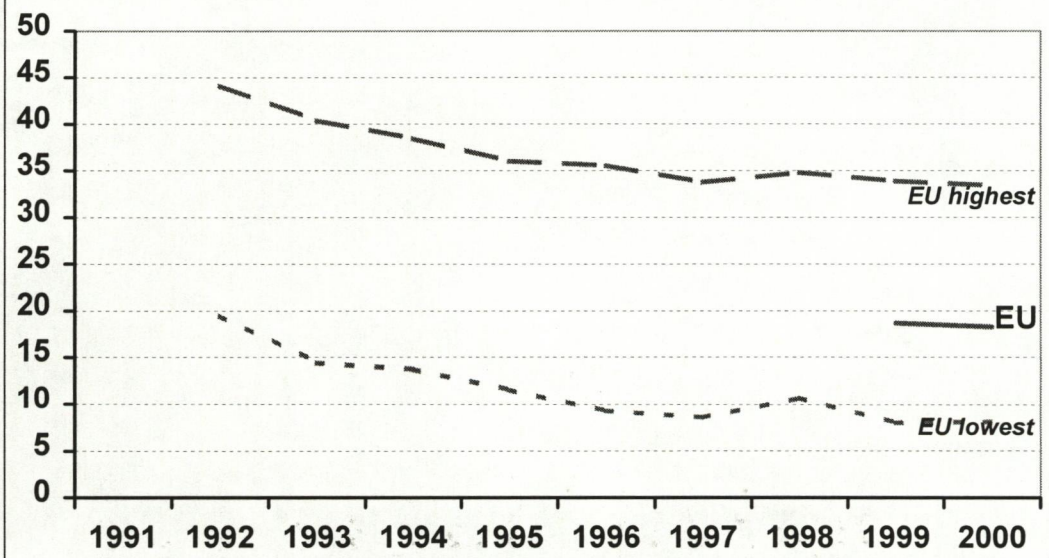
FURTHER EDUCATION

1.56 The EU has a target to **halve the number of 18–24 year olds with only lower-secondary level education** by 2010, as set out at Lisbon. In 2000, 18.3 per cent of school leavers aged 18–24 years old were not in further education, implying that the target for 2010 is to reduce this rate to below 9.2 per cent.

1.57 EU-wide data is unavailable before 1999, but between 1999 and 2000 the rate fell by 0.4 percentage points. To halve the number the rate would have to fall by over 0.9 percentage points each year till 2010. Again, there is a strong divergence between the highest and lowest rates in the EU. Two Member States have already reduced the number of school leavers not in further education or training to below the 2010 target, whilst some have rates over 28 per cent.

1.58 As the EU is not currently on track to meet its target for further education, some Member States, particularly those with very high rates, will need to take very active policy measures to help the EU to achieve the 2010 target although there was an encouraging decrease in 2000.

Chart 5.6: Education ratio



Note: Share of the population aged 18-24 with only lower secondary education and not in education or training [4.6].

2

GENERAL ECONOMIC BACKGROUND

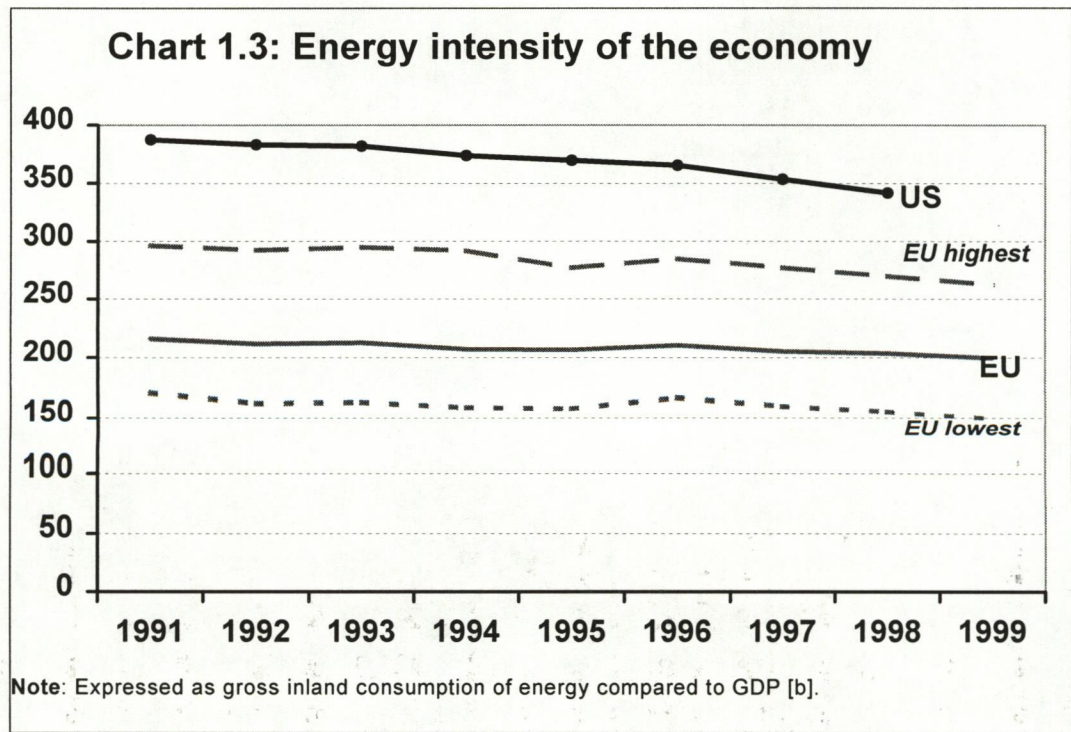
- **GDP per capita & GDP growth** are discussed in the Headline indicators.
- All of the EU still shows a declining **energy intensity of GDP**, at levels lower than the US.
- The differences in **labour productivity per employee** in the EU has widened, with only some Member States competing with the US. The gap with the US on **labour productivity per hour worked** is lower, and narrowed noticeably in 1999.
- Right across the EU **inflation** has fallen, but there was an upturn in 2000.
- **Real unit labour costs** have generally been decreasing across the EU.
- EU countries and the US have moved from net deficit on **public balance** to net surplus over the 1990s.
- **General government debt** has been declining in the later half of the 1990s.

ENERGY INTENSITY

2.1 At Gotheborg the Council made a commitment to integrate the promotion of sustainable development into policy making. Although more indicators are being developed, at the moment the only sustainable development indicator included is the energy intensity of the economy.

EU has lower energy intensity than US

2.2 All EU member states have a much **lower energy intensity than the US**, but both the EU and the US have exhibited a downward trend in energy intensity with the greater change occurring in the US. During the period 1991-2000 the gap between EU and US GDP per capita has widened. Over the last year the EU's energy intensity continued the gradual decline experienced since 1996.



LABOUR PRODUCTIVITY

2.3¶ Productivity is a key driver of sustainable economic growth. There are two measures of labour productivity used in the indicators., expressed per person and per hour worked.

Labour Productivity per Person

2.4¶ Average labour productivity per employee in the EU is significantly lower than in the US, where output per employee is almost 40 per cent greater. This gap has widened over the last decade, from a low of 30 per cent in 1994. This suggests that productivity growth in the US has in fact been higher than in the EU. In 2000 the gap with the US increased to almost 3 per cent.

Except some MS,
EU is falling
behind US

2.5¶ While the US has been pulling ahead of the EU average, some individual Member States in fact show higher labour productivity than the US. The best performing Member States remained consistently above the US over the entire decade. This pattern has continued in 2000.

2.6¶ Within the EU labour productivity, in terms of output per employee, showed increasing convergence in the mid 1990s, but over the last few years the gap between the most and least productive has increased. In 2000, the most productive Member States had almost twice the productivity of the lowest.



The first part of the report deals with the general situation in the country. It is a very interesting and informative study of the economic and social conditions of the country at that time.

The second part of the report deals with the specific details of the country's economy. It is a very detailed and thorough study of the various aspects of the country's economic life.

The third part of the report deals with the social conditions of the country. It is a very interesting and informative study of the social structure and the various social problems of the country.

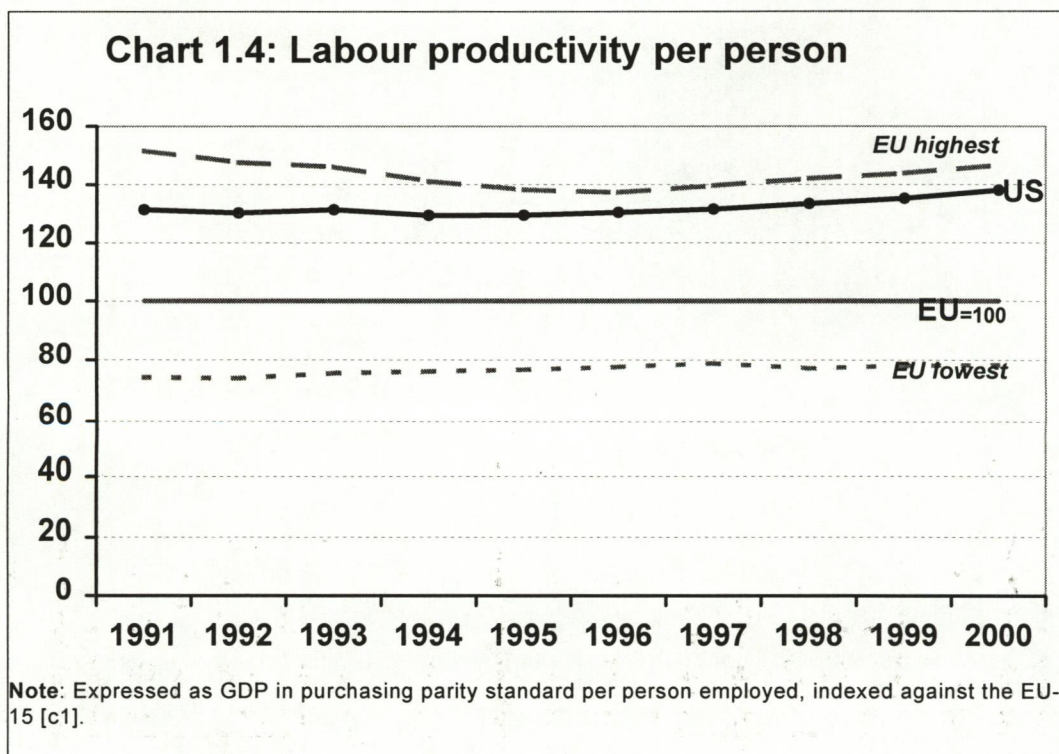
The fourth part of the report deals with the political conditions of the country. It is a very interesting and informative study of the political system and the various political parties of the country.

The fifth part of the report deals with the cultural conditions of the country. It is a very interesting and informative study of the cultural life and the various cultural institutions of the country.

The sixth part of the report deals with the foreign relations of the country. It is a very interesting and informative study of the country's relations with the various other countries of the world.

The seventh part of the report deals with the future prospects of the country. It is a very interesting and informative study of the various factors that will influence the country's development in the future.

The eighth part of the report deals with the conclusions of the study. It is a very interesting and informative study of the various findings of the study and the various recommendations that are made.



Labour Productivity per Hour Worked

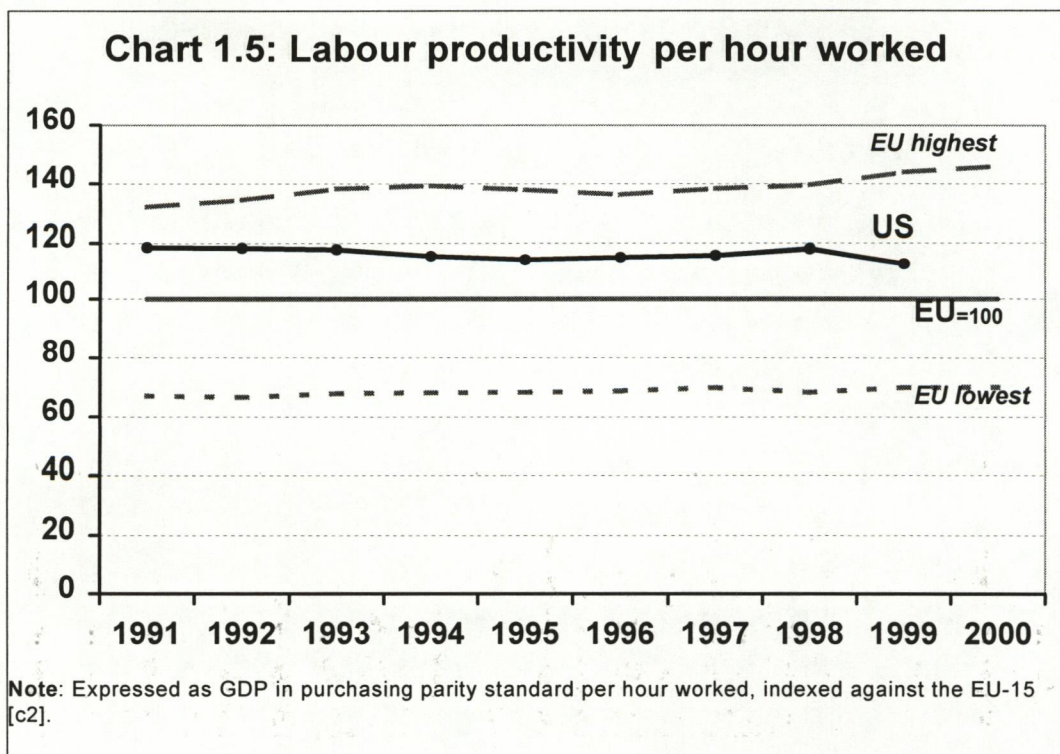
2.7 While labour productivity per employee is a good representation of how an economy is utilising its labour for production, it is not a full comparison of growth because it does not take into account differences in hours worked per employee.

2.8 Comparing the EU to the US, a notable difference arises compared to labour productivity per employee. Labour productivity per hour worked in the US has been less than 20 per cent above the EU average over the 1990s, compared to the 40 per cent differential when expressed per employee. This suggests that EU employees work less hours, but are still less productive in those hours than US employees.

Per hour, EU labour productivity narrowing with US

2.9 In 1999, there was a notable drop in the gap between EU and US labour productivity performance. Labour productivity per hour in the US fell from [120] to [115] per cent of the EU average. This sudden change could be due to specific measurement factors, such as change in the purchasing power parity used, and future data may help to determine if this narrowing of the gap is sustained.

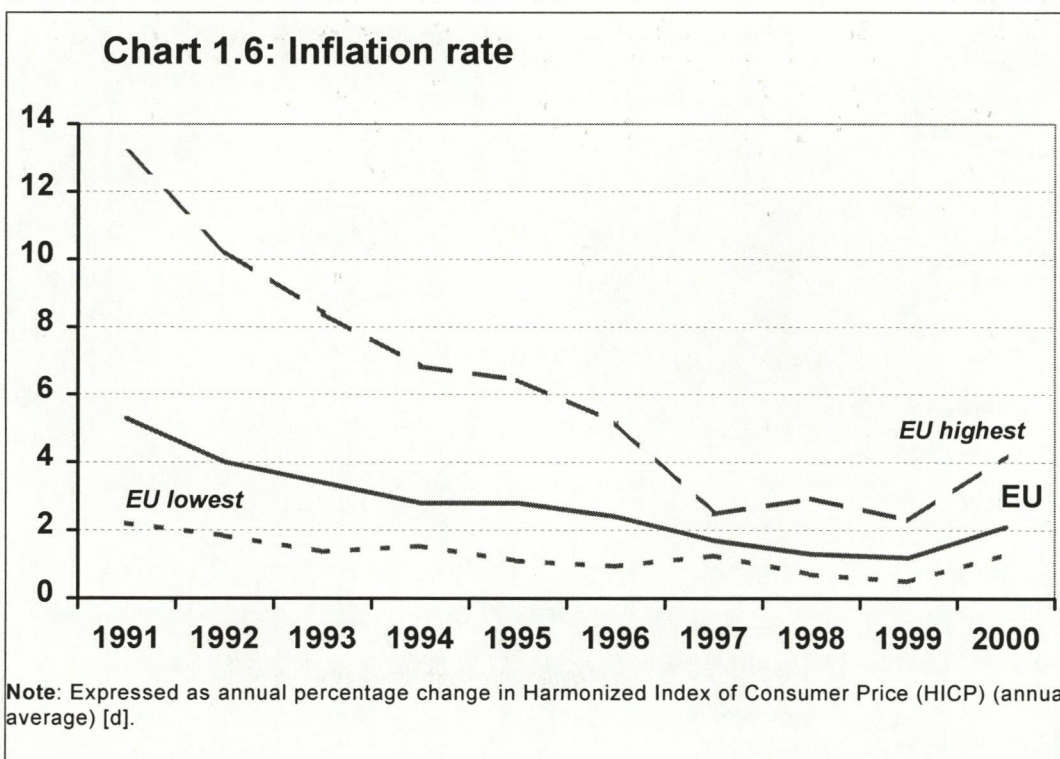
2.10 Within the EU, the distribution of labour productivity is similar whether expressed per employee or per hour worked – that is, the highest performing are double that of the lowest performing. This suggests that there may be little difference in the number of hours worked across the EU.



INFLATION

2.11 There has been a marked improvement in inflation performance in the EU over the decade, from an average of 5.3 down to 2.1. Additionally, the range of values across the EU has fallen sharply.

2.12 While cyclical factors are important for examining inflation performance, the sustained fall in average level of inflation suggests real structural changes. In 2000 inflation in most Member States showed an upturn, which could be the result of a combination of cyclical factors.



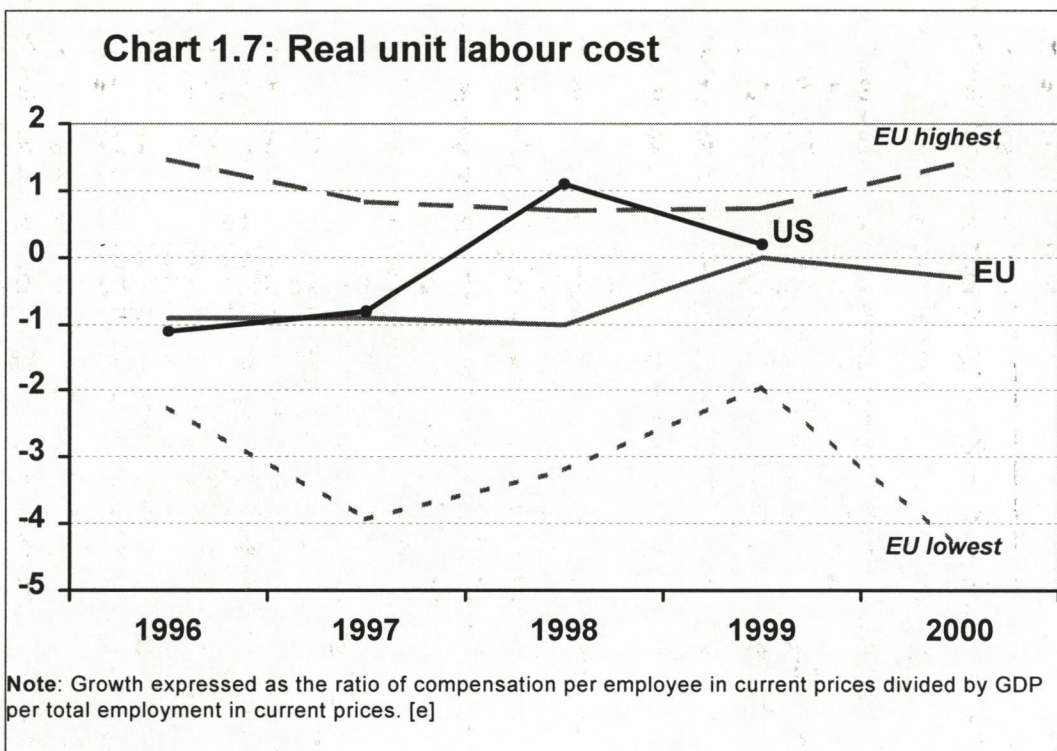
REAL UNIT LABOUR COST GROWTH

Falling real unit labour costs in the EU

2.13⁰ Real unit labour costs have broadly been falling across the EU over the latter half of the 1990s, although always at a rate of less than 1 per cent per annum. With the exception of 1999, labour costs have been falling on average in the EU. Compared to the US, where costs in fact rose in 1998 and 1999, real labour costs have fallen more in the EU.

2.14⁰ The performance varies widely across the EU. Some Member States have shown consistently increasing real unit labour costs (relative to output per employee). Other Member States have shown very significant drops in real unit labour costs, with decreases of over 4 per cent in one year.

2.15⁰ In 2000, some Member States experienced very significant falls in real labour costs (over 4 per cent) and as a whole costs in the EU fell by 0.3 per cent.



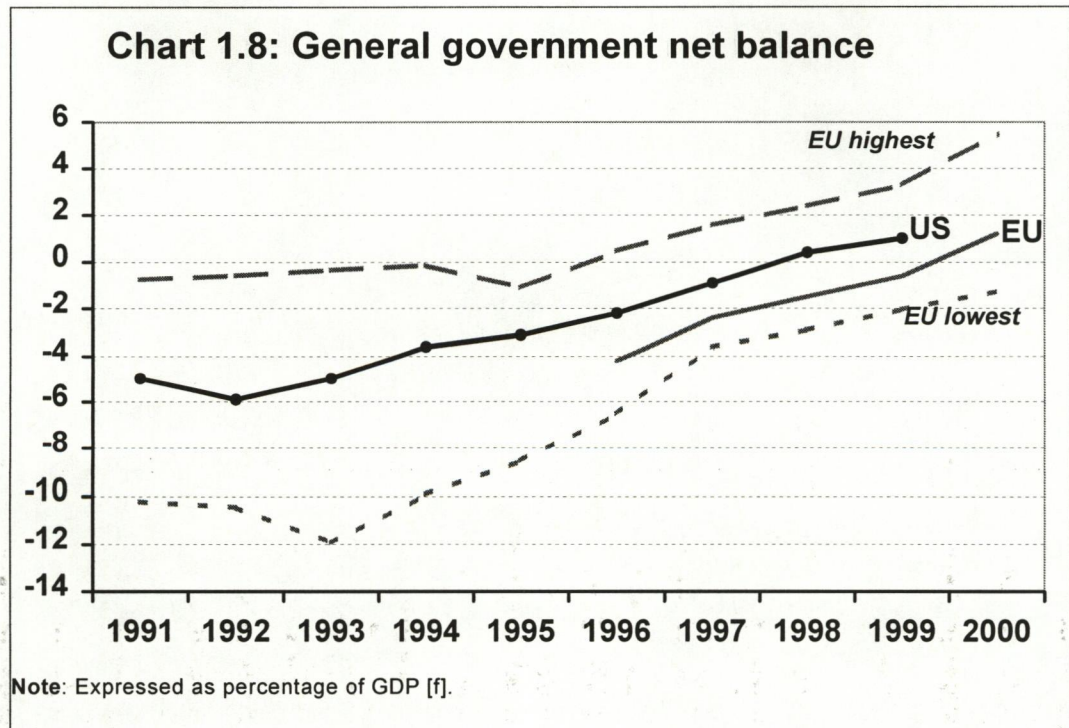
PUBLIC BALANCE

Shift from net deficit to net surplus

2.16⁰ There has been a clear positive trend in both the EU and the US of governments moving from running net deficits to running net surpluses. In 2000, the first time for which data are available, the EU as a whole ran a net surplus. The US, on the other hand, reached a surplus in 1998 for the first time in the 1990s.

2.17⁰ Again, the performance is varied across the EU. The highest performing Member States have run net surpluses since 1996, and prior to that only run small deficits. On the other hand the lowest-performing Member States have run deficits through the entire decade. However, these countries have shown substantial improvements in performance in the early 1990s, dropping from almost 12 per cent of GDP down to less than 2 per cent.

2.18⁰ In 1999 and 2000 the general government net public balance increased moved from negative to positive for the first time in over a decade.



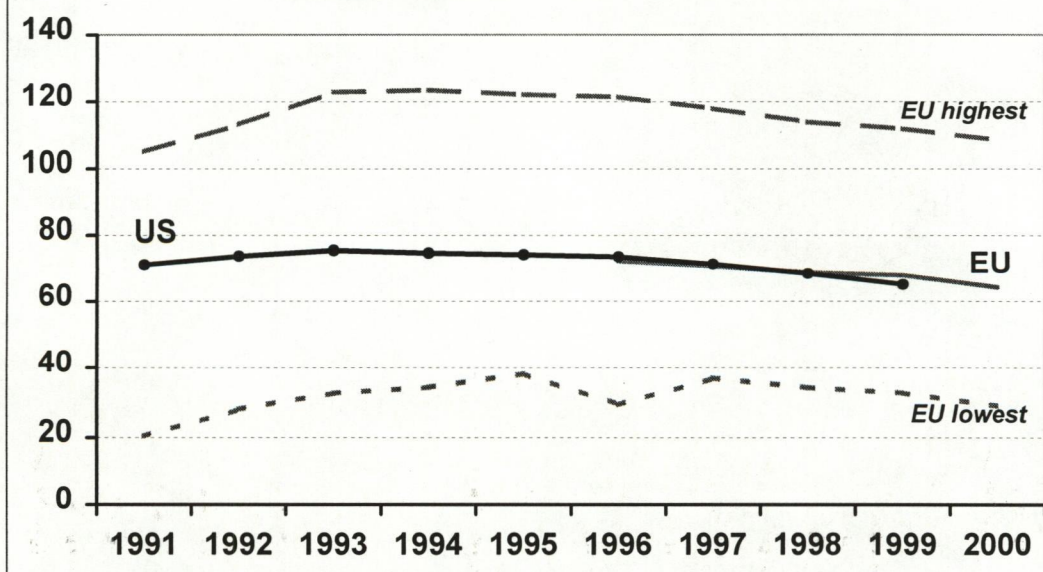
GENERAL GOVERNMENT DEBT

2.19 Changes in net public balance over the 1990s has translated into falling Government debt. Expressed as a share of GDP, government debt in most EU Member States rose slightly in the early 1990s but fell again to near 1991 levels again by 2000. A similar pattern has been seen in the US across the same period.

2.20 The difference in government debt between the most and least indebted Member States has remained relatively constant, with the highest indebted countries having a five times the debt as a share of GDP compared to the least indebted.

2.21 In 2000, general government debt in the EU fell by almost 6 per cent (4 percentage points).

Chart 1.9: General government debt



Note: General government consolidated gross debt as a percentage of GDP [g].

3

EMPLOYMENT

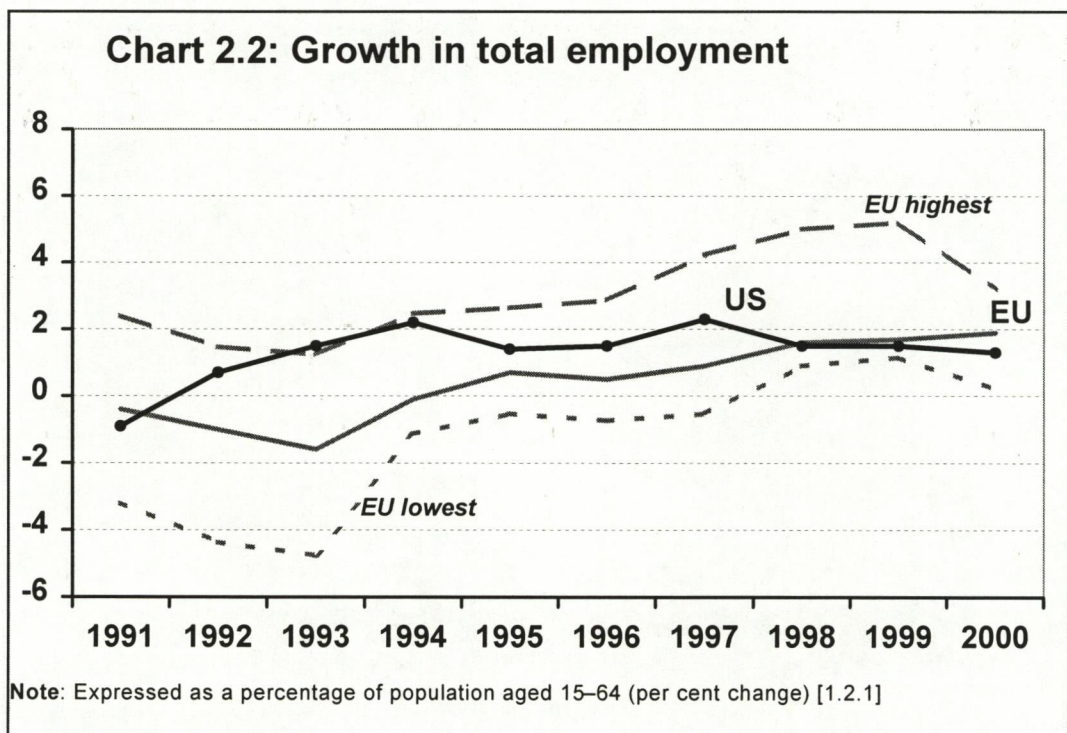
- **Employment growth** has been remained positive and relative steady over the last five years in the EU, both for men and women.
- There has been a steady decline in **unemployment rates**, for both men and women, in the EU.
- The **tax rate on low wage earners** has fallen in the EU, but remains higher than the US in most Member States.
- The rate of **lifelong learning** has increased only marginally in the EU over the last few years.

3.1¹ Employment rate (total and by gender) and employment of older workers (total and by gender) are included in the Headline indicators, Chapter 1.

EMPLOYMENT GROWTH

Total Employment Growth

3.2¹ Employment growth in absolute terms has been positive for most Member States from the mid 1990s, generally around 1 or 2 per cent. In the early 1990s cyclical downturns meant that employment in the EU fell overall.



Female Employment Growth



The first part of the report deals with the general conditions of the country during the year. It is noted that the weather was generally favorable, with a moderate amount of rain and a mild temperature. The crops were well advanced, and the stock raising season was successful. The people were generally content, and there was no serious trouble of any kind.

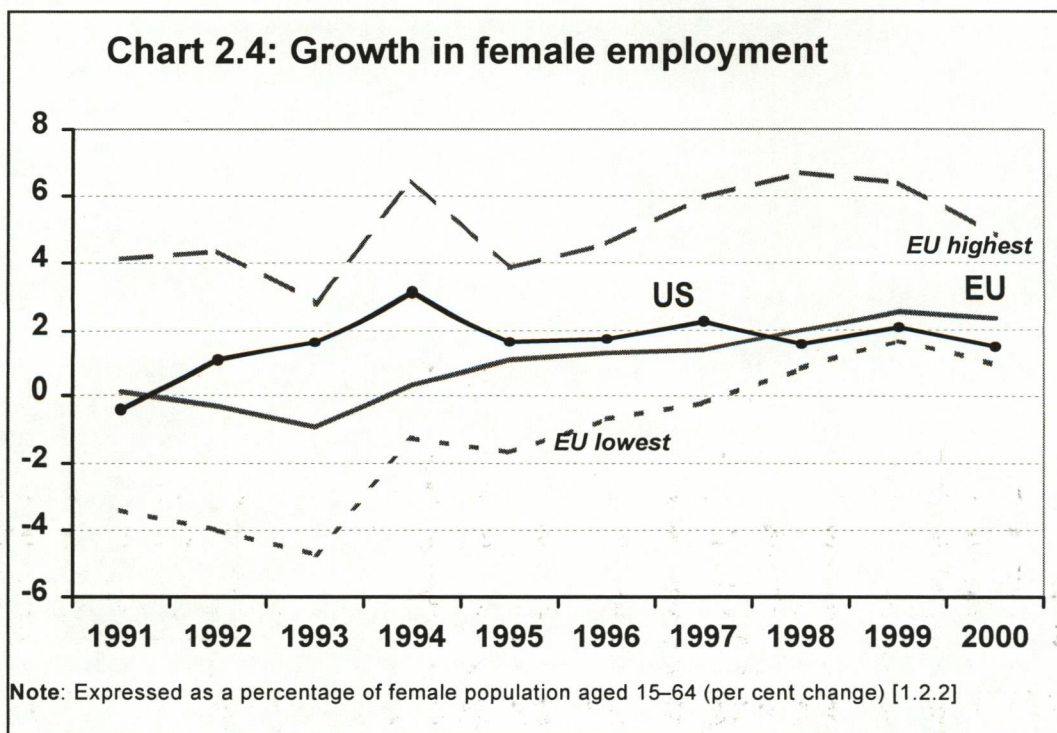
The second part of the report deals with the financial condition of the country. It is noted that the government has been successful in maintaining a low level of debt, and that the public works program has been well managed. The economy is generally sound, and there is no serious inflation or deflation.

The following table shows the results of the various departments during the year. The figures are given in thousands of dollars.

Department	1910-11	1909-10
Revenue	100,000	95,000
Expenditures	90,000	85,000
Surplus	10,000	10,000
Debt	5,000	5,000
Public Works	2,000	2,000
Education	1,000	1,000
Health	1,000	1,000
Police	1,000	1,000
Fire	1,000	1,000
Other	1,000	1,000

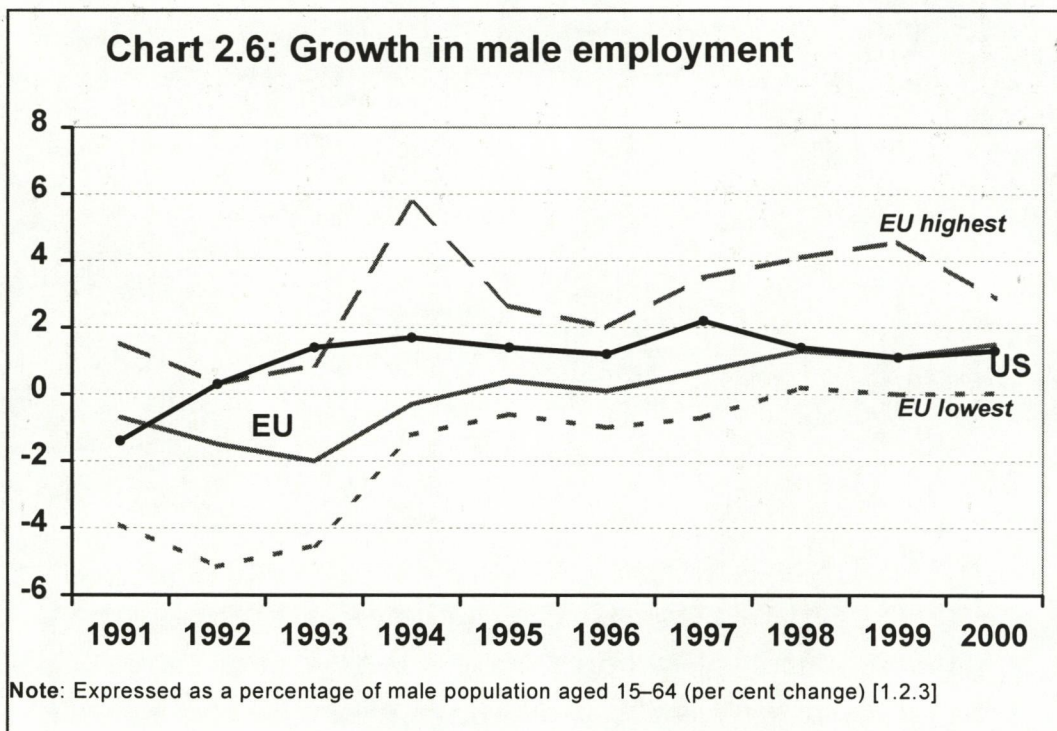
The third part of the report deals with the social conditions of the country. It is noted that the people are generally well educated, and that there is a high level of moral and ethical standards. There is no serious crime or vice, and the people are generally well behaved.

3.3 Growth rates in female employment have been quite high over the last decade, generally in excess of that of general employment, which may be due to increases in the participation rate.



Male Employment Growth

3.4 Growth rates in male employment levels have been lower in the EU than the rates for women.



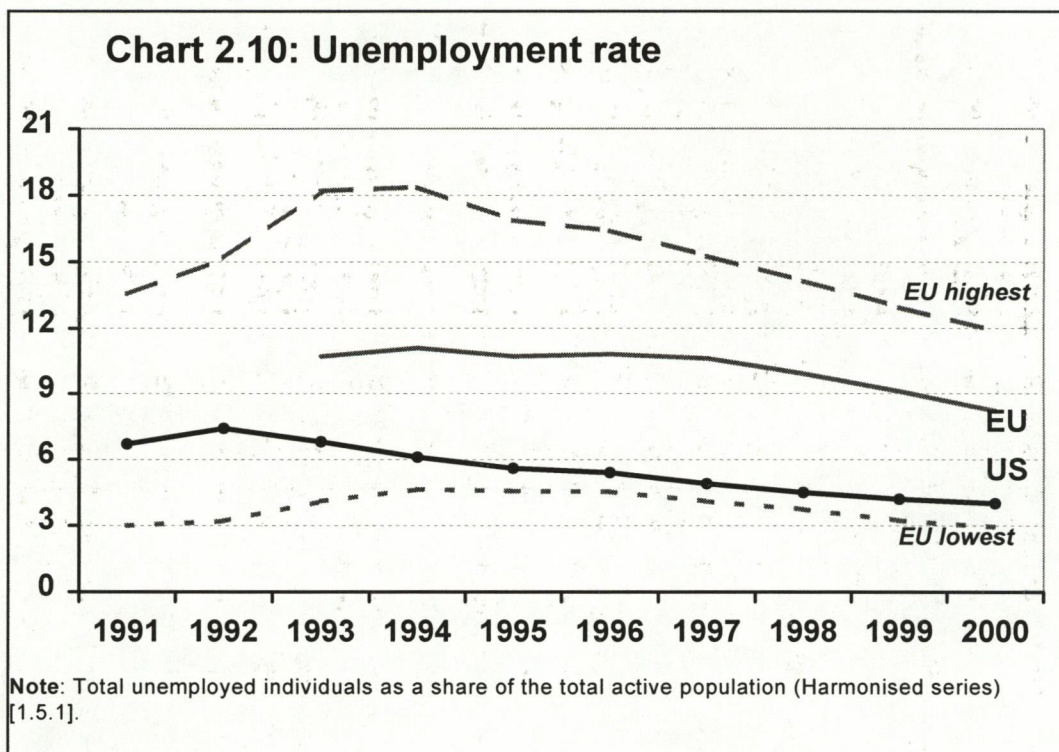
UNEMPLOYMENT

3.5] As opposed to employment rates, unemployment in the EU has shown more drastic changes. This is unsurprising since unemployment examines only the active population (rather than total) who are those most likely to be moving in and out of work.

3.6] Unemployment in EU Member States has shown a downward trend overall, but EU unemployment still remains significantly higher than the US. EU unemployment has remained at 3 to 5 percentage points higher than the US.

3.7] The Member States with the lowest rates of unemployment show rates consistently below that of the US – with unemployment rates as low as 3 per cent. Conversely, the Member States with the highest unemployment have been drastically higher, reaching a peak of over 18 per cent in 1993 and 1994. These countries suggest a strong cyclical unemployment change.

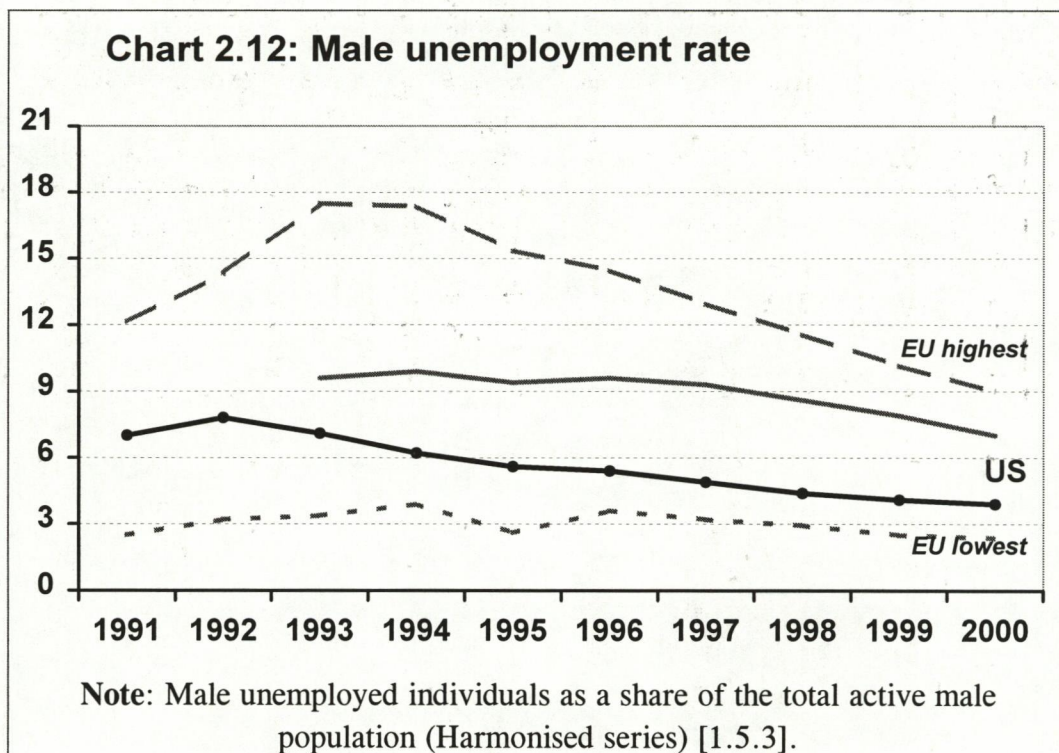
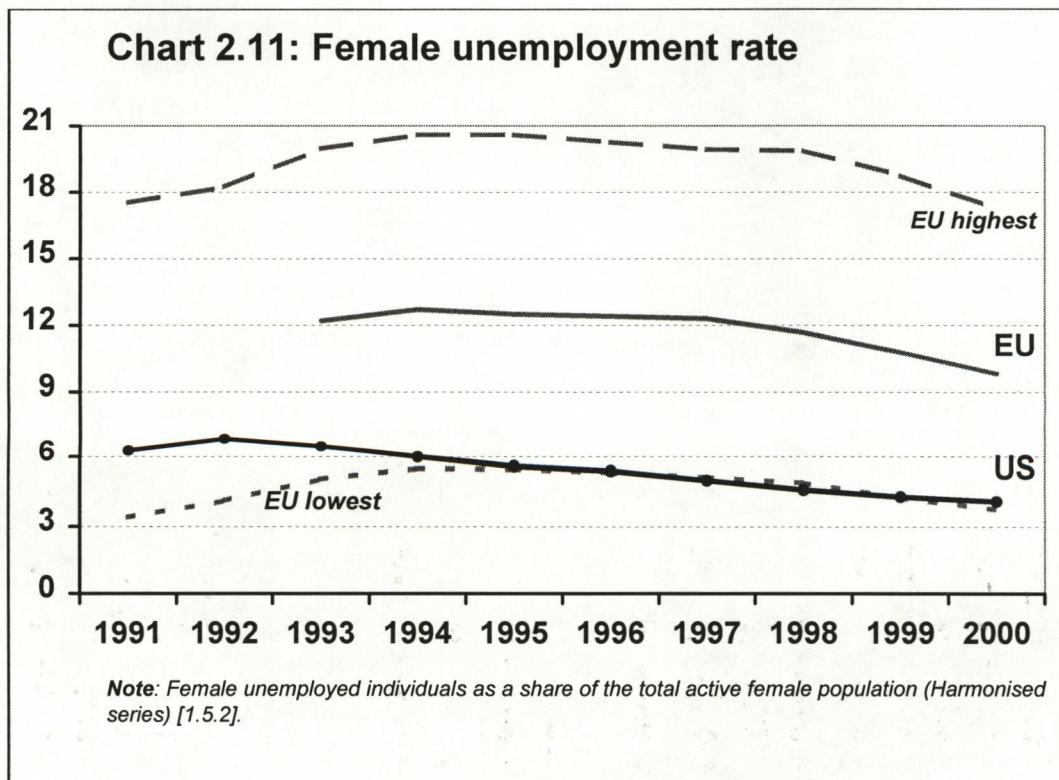
3.8] Over 1999 and 2000 unemployment in the EU fell by 0.8 and 0.9 percentage points, respectively. This is a significantly faster rate of improvement than in previous years.



3.9] Unemployment amongst females actively seeking works has remained consistently higher than for males across the EU. The difference for the EU has stayed above 2.5 percentage points throughout the relevant time period. By contrast, in the US female unemployment is almost identical to male unemployment, and in some years has even been below male.

3.10] Again, the experience across the EU shows some Member States with particularly high unemployment for males and females, while others have either exceeded (in the case of males) or matched (in the case of females) the performance of the US.

3.11] In 1999 and 2000 both male and female unemployment rates fell at a similar rate, between 0.8 and 1.0 percentage points per year, with the drops in female employment being the greater.

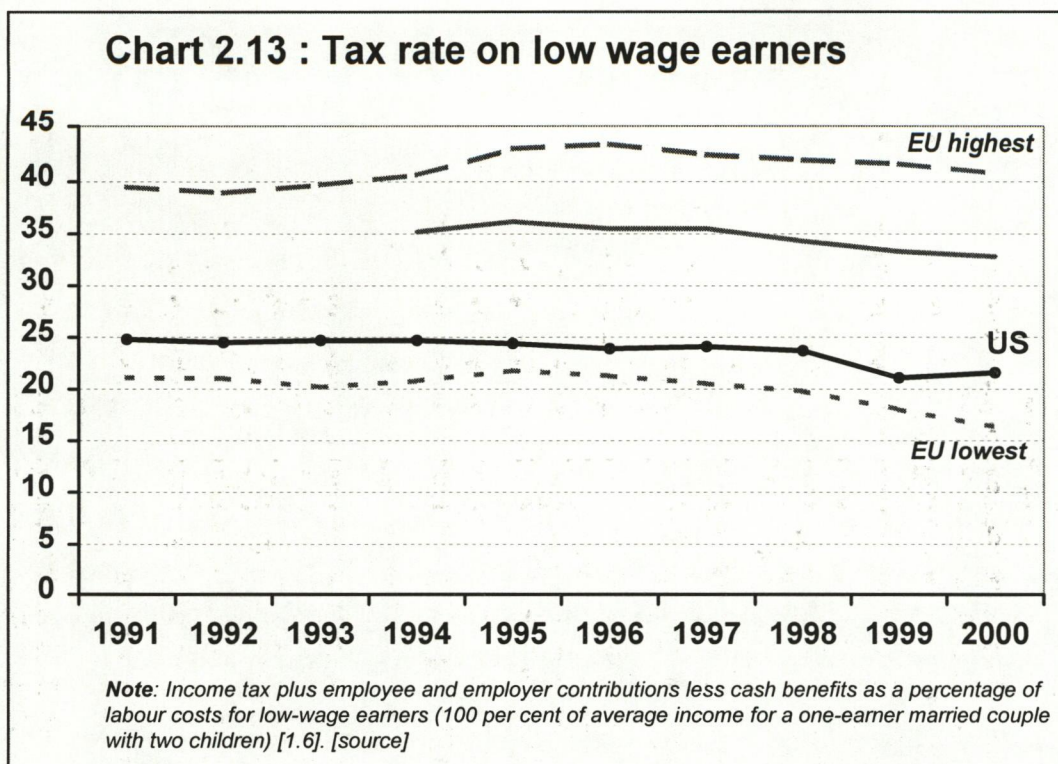


TAX RATE ON LOW WAGE-EARNERS

3.12 The Council made a commitment at [Lisbon] to alleviate the tax pressure on labour, and in particular on the low-paid. The indicator provides only an example, since it is based upon a hypothetical married couple with two children where one person earns 100 per cent of the average wage.

3.13 Nonethless, it shows marked difference between the EU average, the US and the extremes within the EU. Throughout the 1990s the EU had a tax rate on low wage earners of more than ten percentage points higher than the US. Some low-tax Member States show tax rates a few percentage points below the US, but the most highly taxed low-wage earners in the EU face rates almost double that of the US.

3.14 Over the past few years the average tax rate in the EU has been falling most noticeably, with a decline of over 1.0 percentage points in 1998 and 1999, and a further fall of 0.5 percentage points in 2000.

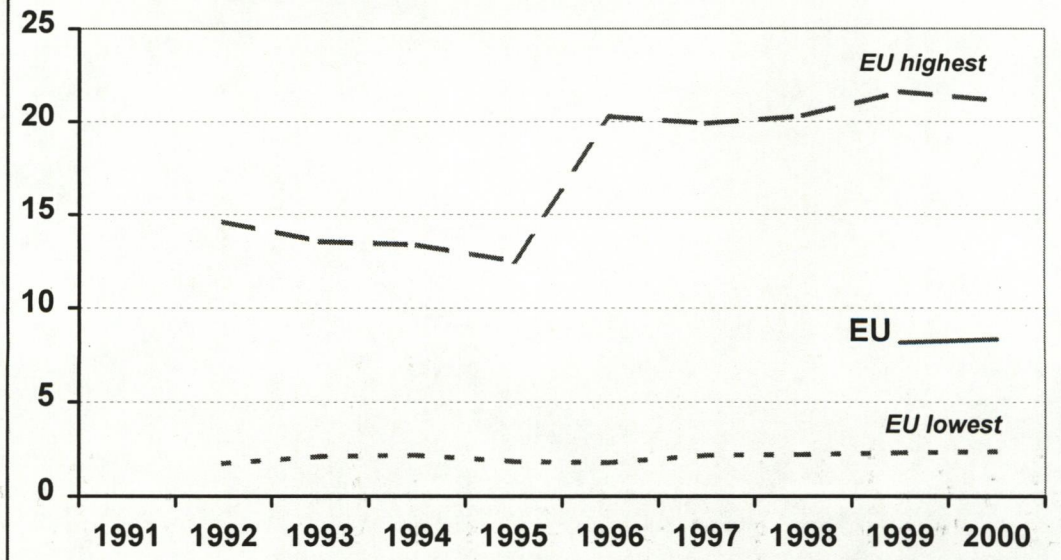


LIFE-LONG LEARNING

3.15 For lifelong learning, there is a great divergence between Member States, with the lowest having only 1.1 per cent of 25–64 year olds participating in education and training, as compared to over 21 per cent in the highest. There are two clear groupings of Member States, with the lowest eight all below 7 per cent and the highest seven all exceeding 15 per cent.

3.16 Aggregate EU data on lifelong learning is limited, but the data does show that over 2000 there was a small increase of 0.2 percentage points.

Chart 2.14: Lifelong learning



Note: Percentage of population aged 25-64, participating in education and training (adult participation in training over the four weeks prior to the survey) [1.7].

4

INNOVATION AND RESEARCH

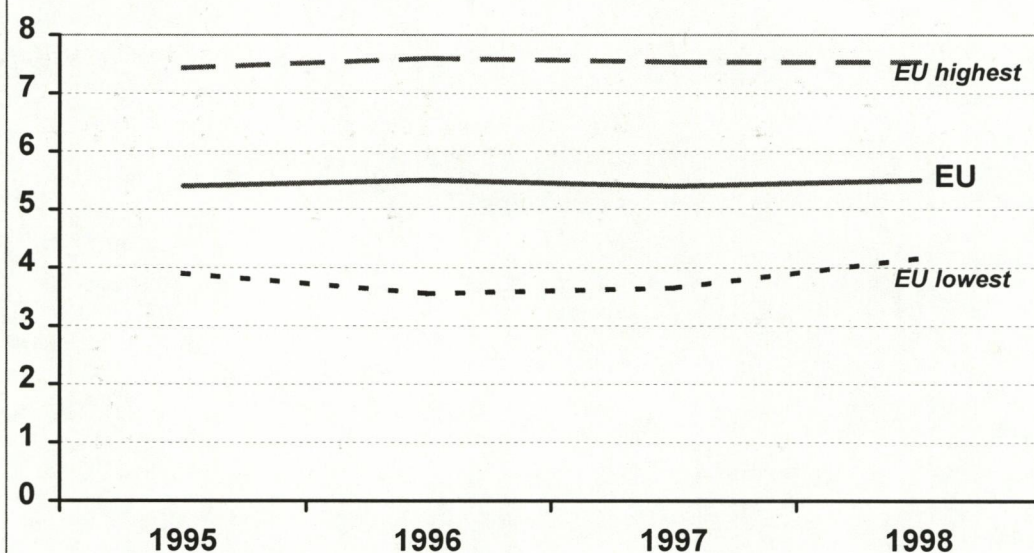
- **Public expenditure on education** has remained roughly constant in the EU.
- The number of **EPO patents** registered by EU Member States have shown an upward trend.
- **High tech exports** as a share of GDP has risen by almost a third since 1994.
- The last few years have seen a massive increase in **venture capital** in the EU, for both early stage and expansion.

EDUCATION EXPENDITURE

4.1 A knowledge based economy necessitates a strong general education in order to further support labour mobility and lifelong learning, so at Stockholm the Council set **education policies and lifelong learning** as a priority.

4.2 While public spending on education has remained at approximately 5.5 per cent of GDP across the EU in 1998, there are some Member States which have exceptionally high spending of over 8 per cent of GDP. There has been very little change over the last few years, with only a very slight increase of 0.1 percentage points in 2000 but that follows a drop of 0.1 percentage points in 1999.

Chart 3.1: Total public expenditure on education



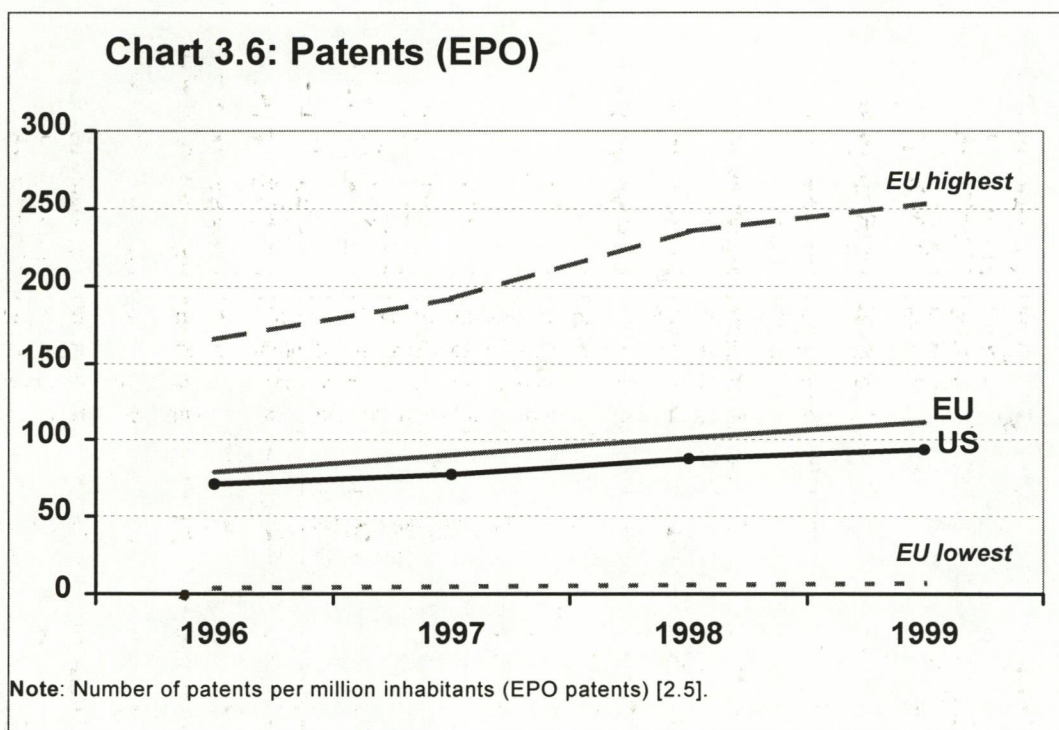
Note: Expressed as a percentage of GDP [2.1].

PATENTS (EPO)

4.3 Successful R&D will normally be translated into **patents**. Between 1996 and 1999 the number of patent registrations in the EU at the European Patent Office (EPO) has shown a strong upward trend, from 79 patents per million population to 111 – a 40 per cent increase in EPO patenting activity by EU Member States as compared to a 30 per cent increase in US patenting activity at the EPO over the same period. This data takes no account of patents that are registered outside of the EPO system so are only a very limited indicator of research and innovation.

4.4 Also, EPO patent numbers will be dependent in some part upon the patenting practices within the EU, meaning that absolute levels are difficult to compare. However, the growth rates should be internally consistent, which suggests that some EU Member States are showing significant increases in patenting.

4.5 Patents by Member States at the EPO rose by 15 per cent in 1998, 12 per cent in 1999 and 10 per cent in 2000, suggesting that while the rate of increase remains high it has been slowing.

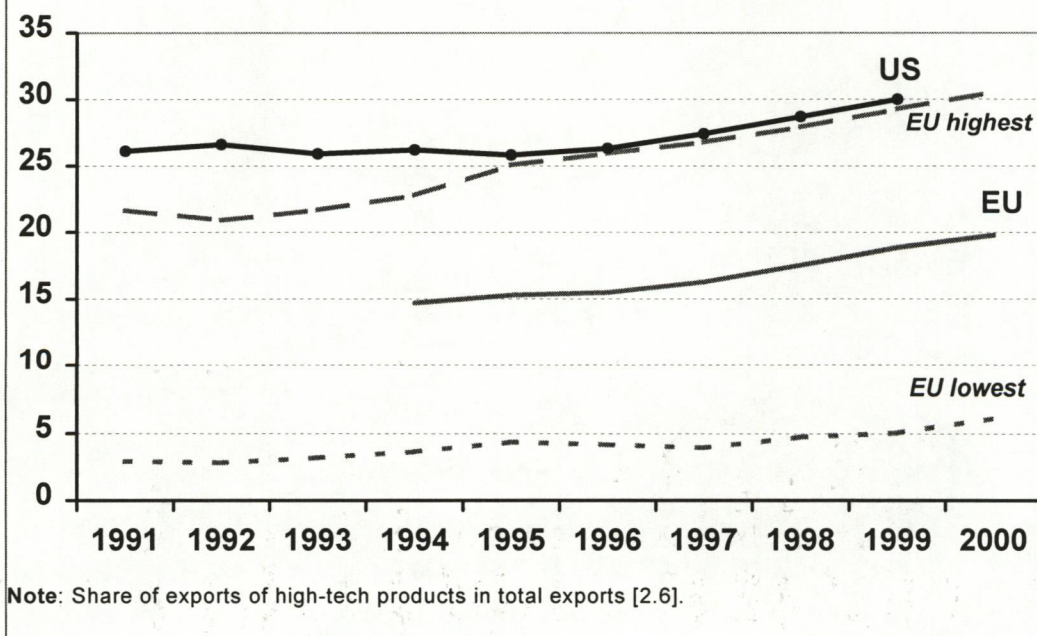


HIGH-TECHNOLOGY EXPORTS

4.6 The share of exports of high technology products within businesses has broadly risen over the last decade, with more notable growth in the latter five years. The pattern of growth is similar in both the EU, the US and the highest-performing EU Member States. However, the lowest-performing EU Member States have shown little increase.

4.7 High tech exports still remain a slightly larger component of US exports than even the highest-performing EU Member States, although the difference is slight. High-tech exports rose by 1.3 percentage points in the EU in 1998 and 1999 and by a further 0.9 percentage points in 2000.

Chart 3.7: Export of high-tech products



VENTURE CAPITAL

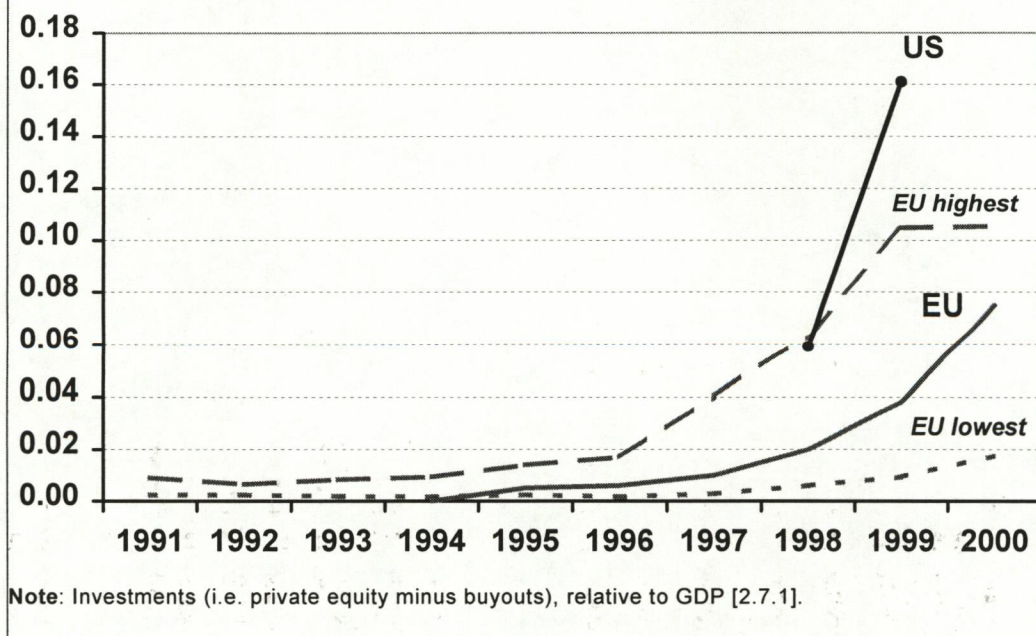
4.8 In venture capital that the most notable increases have been evident. Overall venture capital (as a share of GDP) in the EU has increased by almost half each year between 1996 and 2000, with early stage venture almost doubling each year

Early-Stage Venture Capital

4.9 Nonetheless, growth in venture capital in the EU at 0.16 per cent of GDP remains behind that of the US. In several Member States venture capital has reached almost 0.3 per cent of GDP, while in other states it is almost undeveloped at 0.1 per cent. The sudden increases in venture capital make it difficult to draw out the role of policies, but clearly some Member States have the conditions that have facilitated a much larger increase.

4.10 Early stage venture capital has been increasing geometrically over the last three years in the EU, at 0.01 percentage points in 1998, 0.02 percentage points on 1999 and 0.04 percentage points in 2000 – but is falling further behind the US.

Chart 3.8: Early stage venture capital

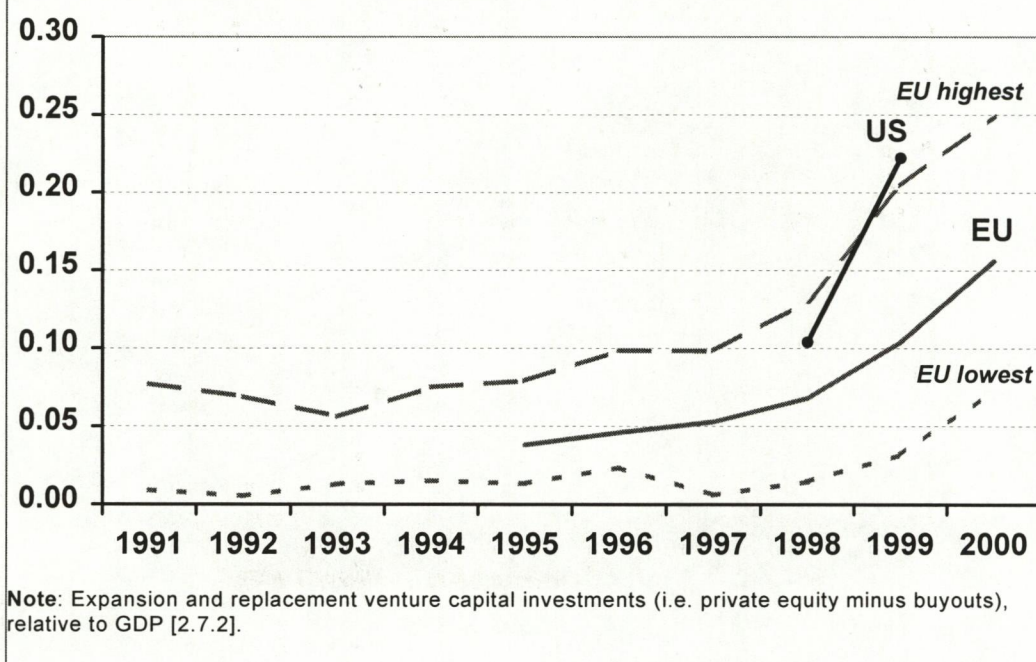


Expansion and replacement Venture Capital

4.11 For venture capital that includes expansion of existing venture capital enterprises and replacement of capital within these enterprises, growth has also been very high within the EU. Although not quite as high, growth has been very fast and the share of EU GDP has increased more than threefold over the last 5 years.

4.12 For the US data is again limited, but there is evidence of a more than doubling of expansion and replacement venture capital in between 1998 and 1999. The highest performing EU member states do produce a comparable performance to the US in 1998, but then fell behind in 1999, but the US is pulling ahead of the EU on average.

Chart 3.9: Expansion venture capital



5

ECONOMIC REFORM

- **Trade integration (goods) within the EU** rose across the EU in the last decade, showing progression of the Single Market.
- A similar positive trend is evident in **total trade integration** across the EU, and the EU is shown to be at least as open as the US up to 1998.
- There has been recent narrowing of the gap between **relative price levels** in the EU.
- **Electricity prices** have continued their downward trend across the EU, but the gap between the cheapest and most expensive remains high.
- There is some evidence of an increase in **openly advertised public procurement** up to 1998.
- **State aid** has fallen as a share of GDP through the 1990s, but more needs to be done to deliver less aid but better aid.

TRADE INTEGRATION

5.1] As the single market develops, trade should increase as economies take advantage of increased opportunities and lower transactions costs. Measures of trade relative to GDP are highly dependent upon the size of the economy – in large countries a trade across 100 km may be internal, whereas in smaller countries this would cross a border. What is most important is therefore the progression of this variable over time.

Intra-EU Trade

Increased trade within the EU

5.2] The level of intra-EU trade has risen as a share of EU GDP from 12 per cent in 1991 on the eve of the single market, up to 17.5 per cent in 2000. The largest increase was 1994 to 1995 with a one year increase of 3.2 percentage points. Growth has been steady since that time at 0.5 percentage points per annum. This suggests that the single market is making progress but recent increases could be cyclical.

5.3] For the Member States with the lowest level of intra-EU trade (generally the largest), intra-EU trade has remained at just above 10 per cent following a slight rise of 2.5 percentage points from 1993 to 1995. For the smaller Member States, by contrast, there was a massive increase from 1994 to 1995 of 11.2 percentage points, although this has since steadied to a 1.8 percentage point increase per annum since then.

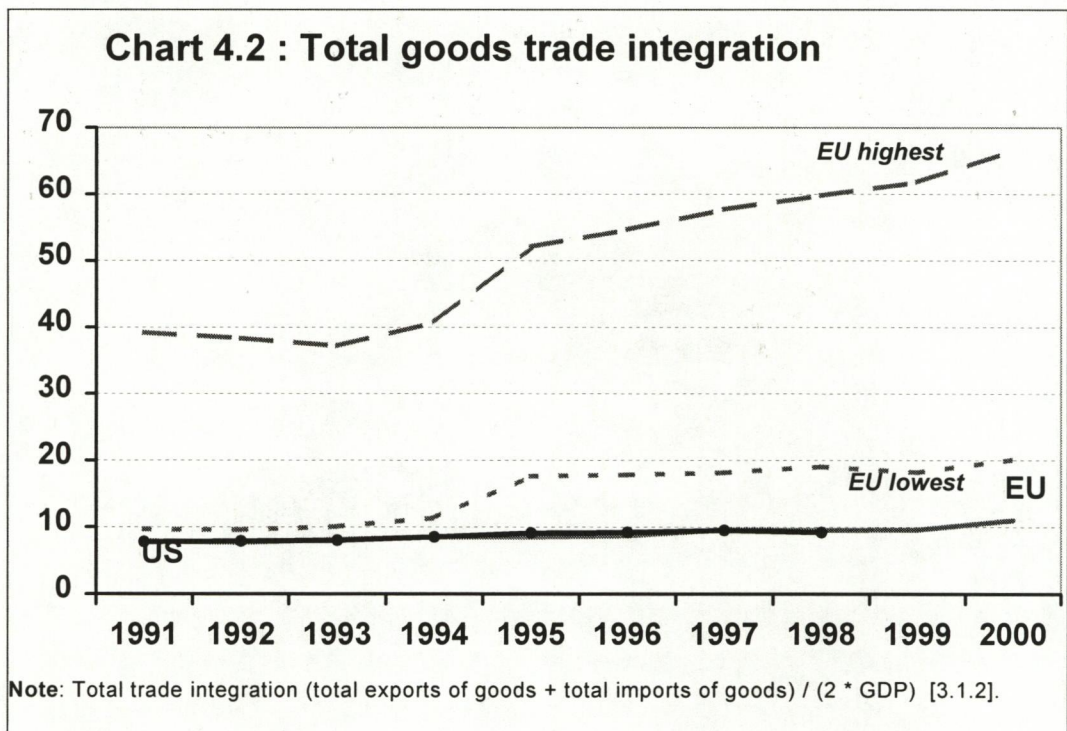
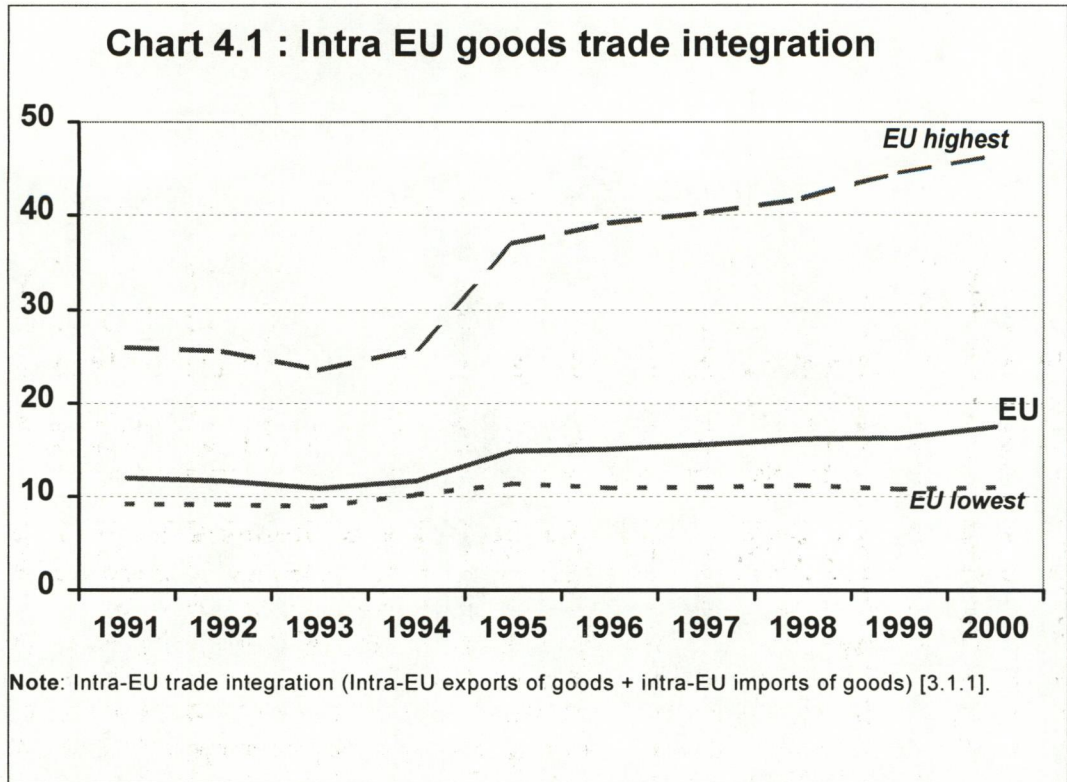
5.4] Intra-EU trade integration in the EU increased by 1.2 percentage points in 2000, as compared to an increase of only 0.1 percentage points in 1999.

Total trade

5.5] The total trade integration for EU Member States, incorporating both intra-EU trade and trade with the rest of the world, shows a similar range of experience across the EU as for intra-EU trade. In other words, those Member States with high levels of intra-EU trade also tend to be those with high levels of total trade integration.

5.6 The figures for the EU are not comparable to figures for Member States, since this figure excludes trade within the EU. However, it is comparable to the US, and reflects the relative openness of those two economies. This shows that for the period where comparable data is available, the EU and US have exhibited almost identical openness.

5.7 There was a 1.4 percentage point increase in external EU trade in 2000, as compared to virtually no change in 1998 and 1999.



PRICES

5.8] As with trade integration, the single market may be expected to bring greater price convergence. In some cases, price levels are subject to fluctuations in exchange rates, and should therefore be dealt with caution.

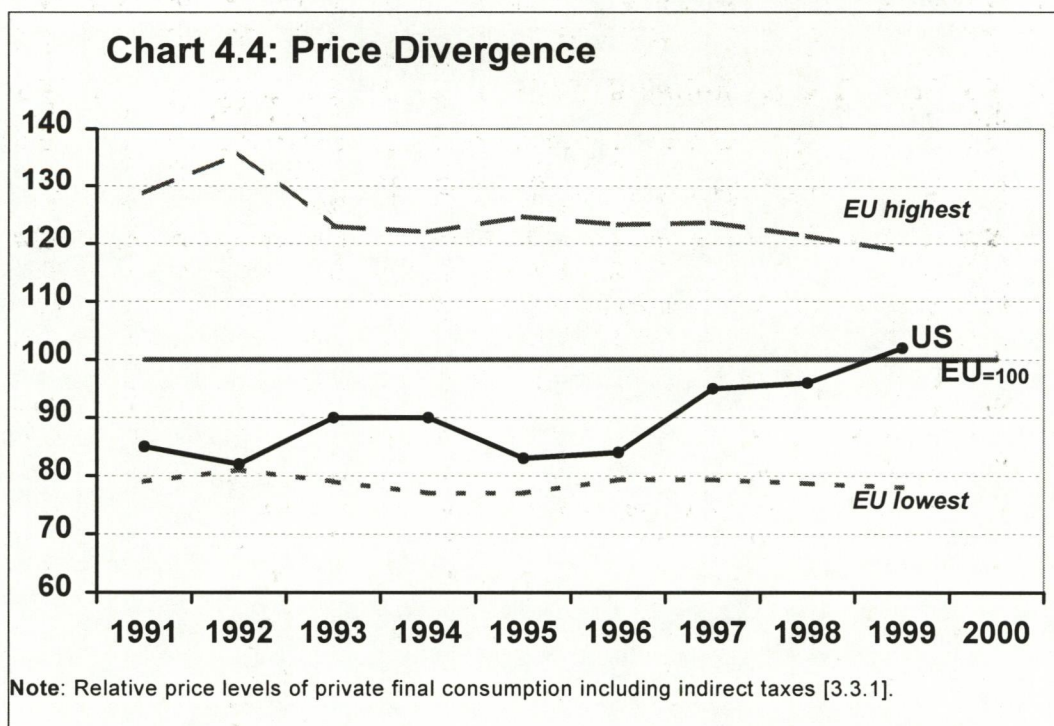
Relative Price Levels

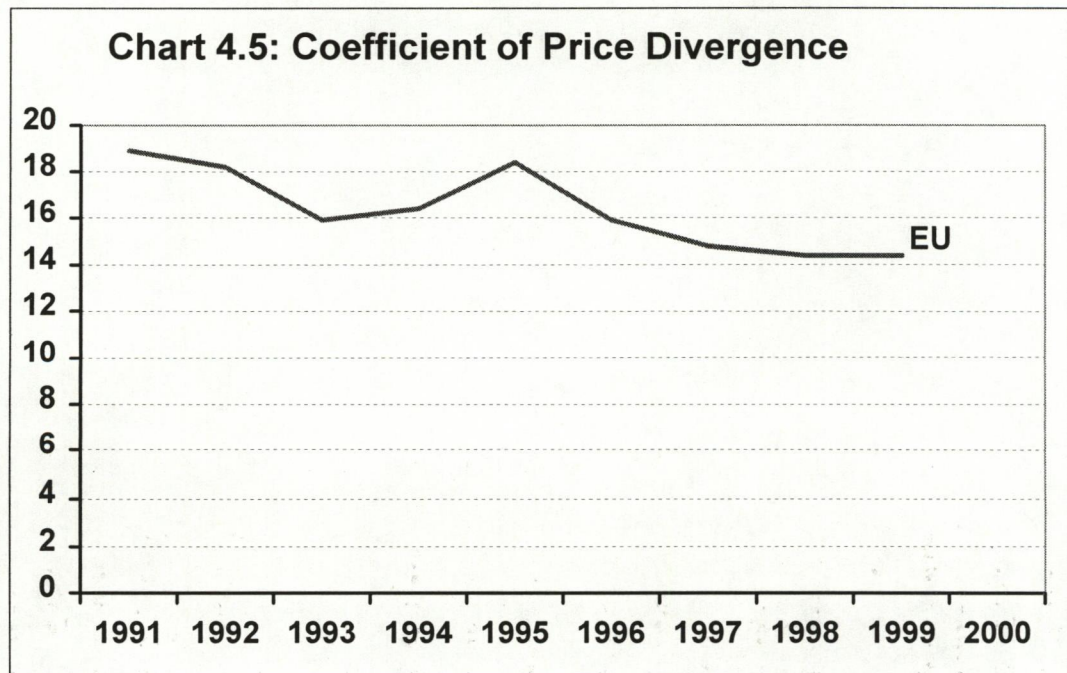
5.9] Through the 1990s the range of relative price levels in the EU has remained relatively constant, with the highest-priced Member States 20–25 per cent above the EU average and the lowest 20–22 per cent below. However, amongst the highest-priced Member States there was a drop in relative price

Price Convergence

Greater price convergence in the EU

5.10] There is evidence of greater price convergence within the EU. Average price dispersion, shown as the coefficient of relative price level variations over time has fallen from 19 in 1991 to 14 in 2000, although there was a small jump in 1995. These figures show that prices are starting to converge across the EU, although some Member States may be significant exceptions to this rule.





PRICE IN NETWORK INDUSTRIES

5.11 Gas And telecoms prices are described in the Headline indicators.

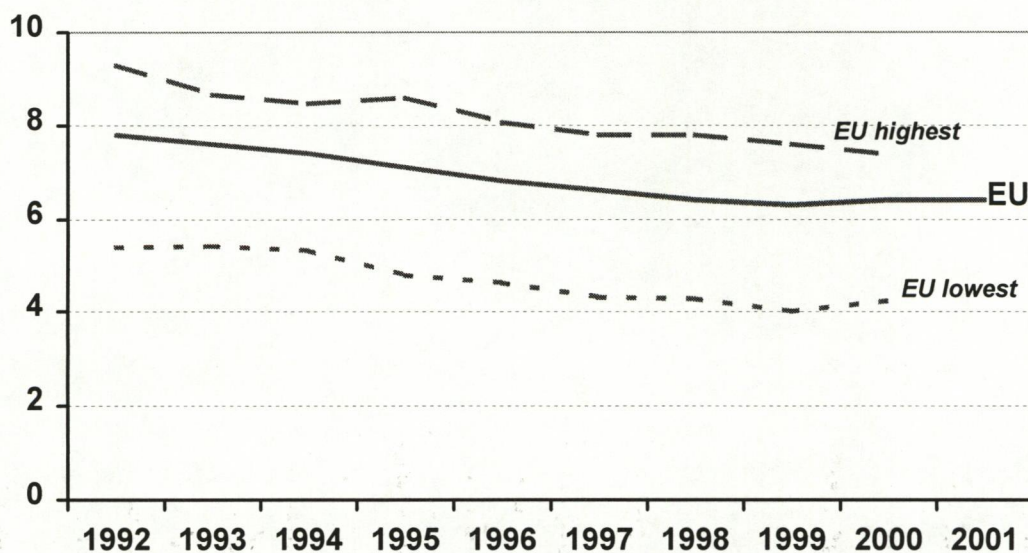
Electricity

Electricity is cheaper but still wide variation across EU

5.12 In the EU, electricity prices for both industrial users and households have fallen since 1996, by 12 per cent and 18 per cent respectively. This suggests that prices are falling, although some of this could be explained by changes in prices of raw materials. However, the variation in prices is still high across the EU with the cheapest Member States remaining at around a third of the most expensive.

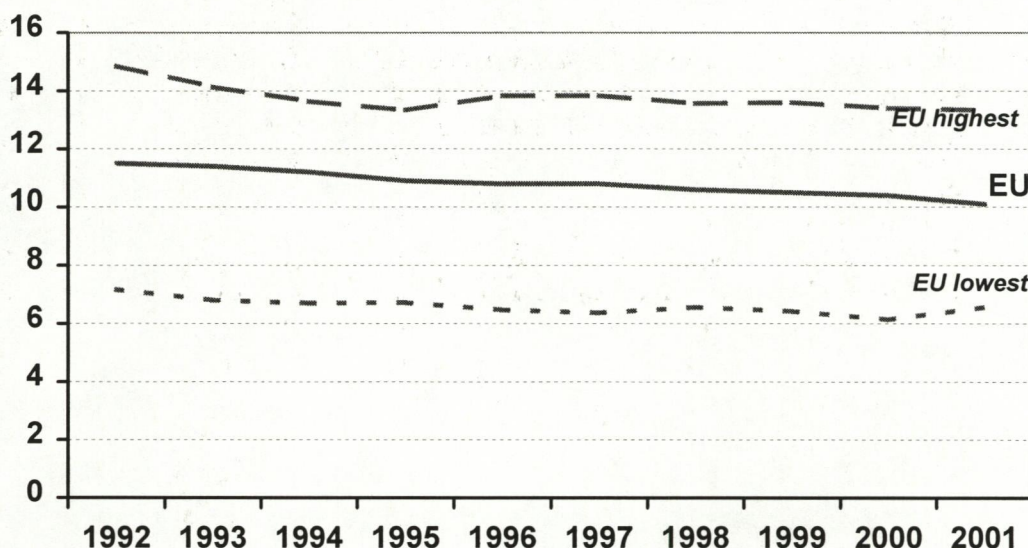
5.13 EU industrial electricity prices have not fallen over the last few years, and there is evidence of increased divergence. For households electricity prices did fall in 1999 and 2000, and there was little evidence of a change in price divergence.

Chart 4.9: Industrial electricity prices



Note: Industrial electricity in euros per 100 kWh [3.4.4].

Chart 4.10: Household electricity prices



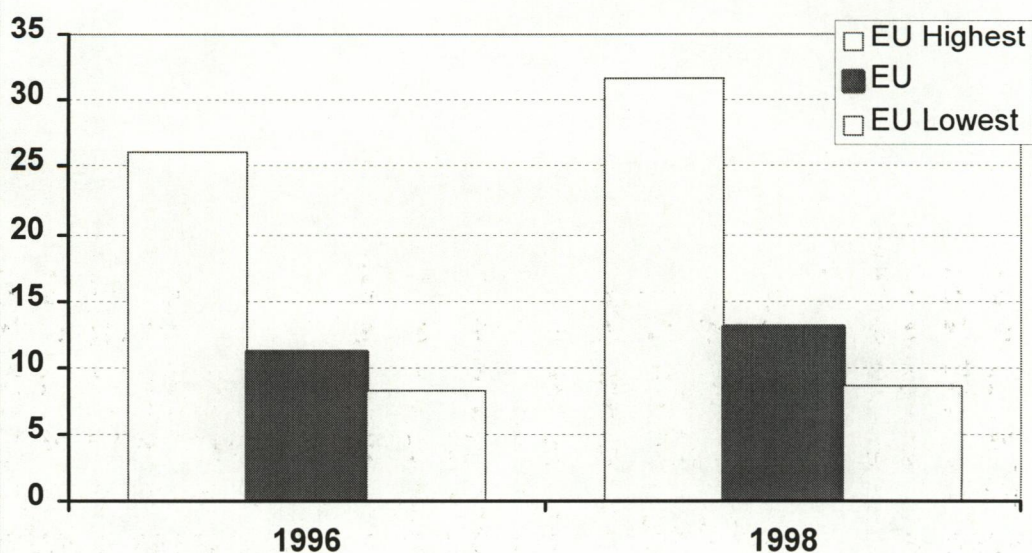
Note: Household electricity in euros per 100 kWh [3.4.5].

PUBLIC PROCUREMENT

5.14⁴ At Stockholm the council updated its commitment to public procurement, in particular to make it more accessible to SMEs. There was a small increase in public procurement as a share of total procurement across the EU, from 11.2 per cent in 1996 to 13.1 per cent in 1998, but the absence of more recent data makes it difficult to assess the effectiveness of more recent policies. However, there are strong differences across the EU, with a highest rate of 44.7 per cent in 1998 and a low of 7.6 per cent. In general, however, most Member States are in the range 10–20 per cent.

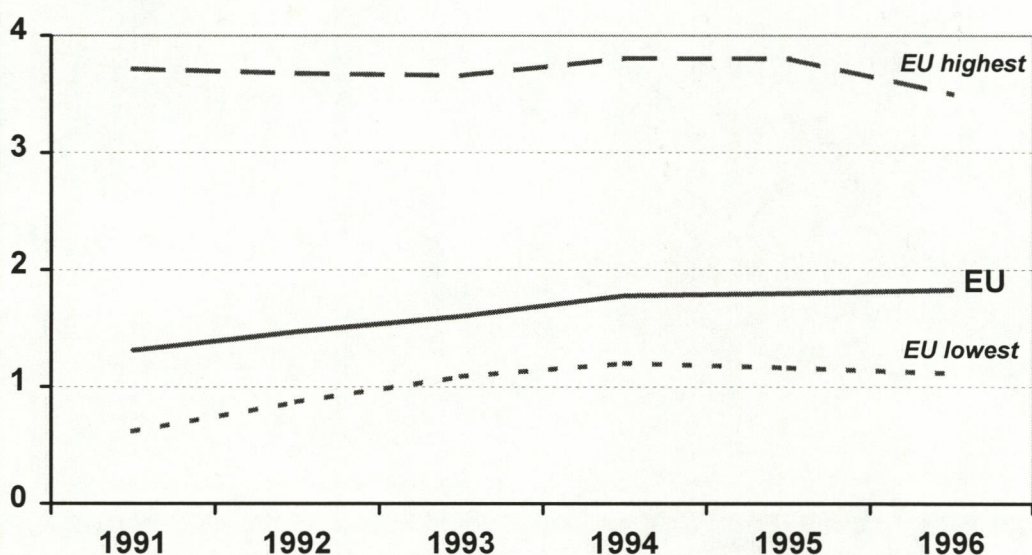
5.15 When translated into public procurement as a share of GDP there has been a steady increase in the EU between 1991 and 1996, and in particular the lowest performing Member States showed the most significant increases. The basic data on which the estimates are based is not yet sufficiently precise, consequently it is not possible to currently draw meaningful conclusions from them

Chart 4.13: Advertised Public Procurement as a percentage of total public procurement



Note: Value of public procurement which is openly advertised as a share of total value of public procurement [3.5.1].

Chart 4.14: Advertised Public Procurement as a percentage of GDP

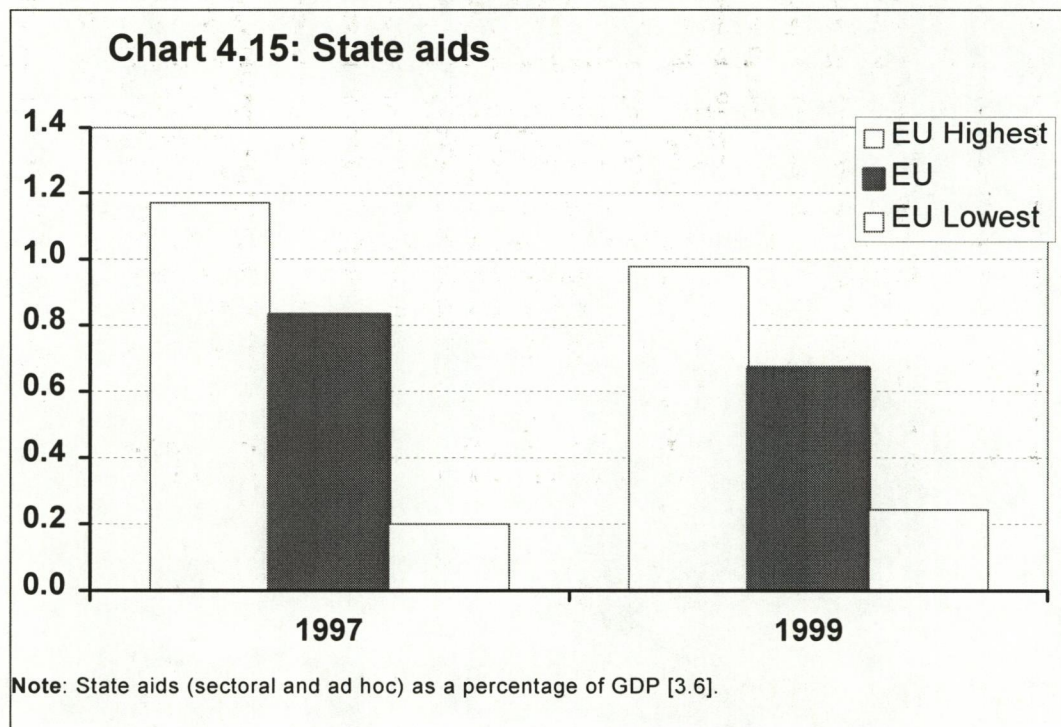


Note: Value of public procurement which is openly advertised as a percentage of GDP [3.5.2].

STATE AIDS

Less aid but better aid 5.16 At Lisbon, the Council agreed that Member States should reduce the general level of State aids, and reorient the state aid that is paid away from supporting individual companies or sectors towards tackling horizontal objectives of Community interest. At Stockholm, this agreement was reiterated, and a specific target was added that Member States **should demonstrate a downward trend in State aid in relation to GDP by 2003**. In total, this is quite a complicated objective – to reduce aid to individual companies or sectors, to increase aid for horizontal objectives, and nevertheless to reduce the overall level of aid – and has been summarised as “less aid, but better aid”.

5.17 Reducing aid to individual companies or sectors is a key part of this strategy: in its own right, and to provide the scope to reorient state aid to horizontal objectives while still reducing overall levels of state aid. The general level of state aid has fallen as a share of GDP through the 1990s, from 1.7 per cent of GDP in 1990 to 1.0 per cent of GDP in 1999 (the most recent year available). Within this, sectoral and ad-hoc aid has fallen from 0.83 per cent of GDP in 1997 to 0.67 per cent of GDP in 1999, and has fallen in 11 out of the 15 Member States. These trends are encouraging but the key challenge, recognised at Lisbon, is the need to maintain and enhance this momentum: to deliver less aid but better aid, by reducing aid that undermines competition and targeting aid to address market failures and horizontal objectives of Community interest.



6

SOCIAL COHESION

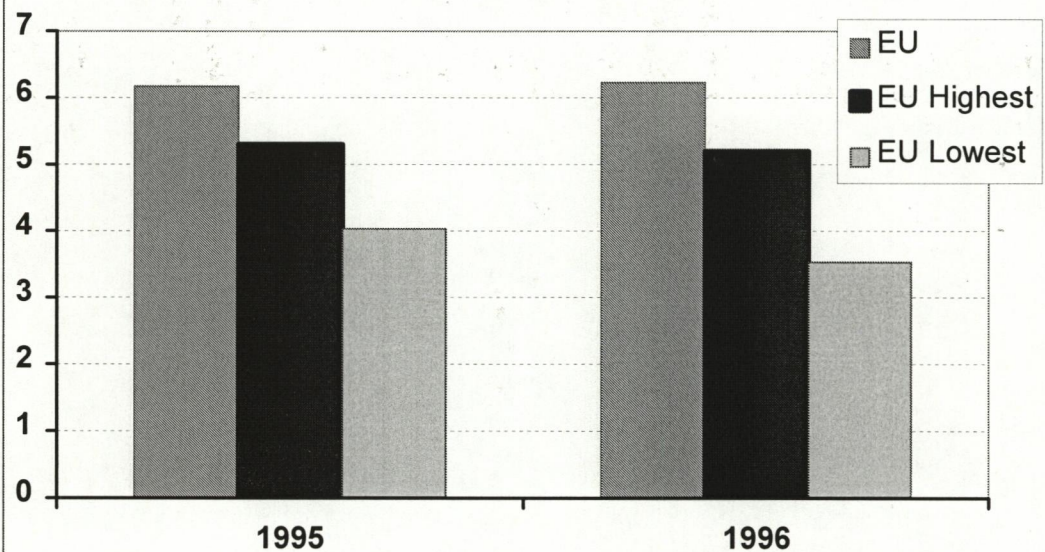
- There is no strong evidence of a change in **distribution of income** across the EU.
- Data for 1995–96 shows little change in **poverty rate**, but does indicate that social transfers have a strong impact on poverty levels.
- Data for 1996 shows a wide range of **persistence of poverty** amongst MS.
- **Jobless households** have been in decline in the EU over recent years.

INCOME DISTRIBUTION

6.1 There is a lack of timely data for income distribution in the EU. This makes it difficult to analyse any trends or progress. The data for 1995 and 1996 show that there is some significant variation in income distribution across EU Member States, with the highest showing a ratio of around 6 between the incomes of the highest and lowest quintiles, and the lowest showing a ratio of 4 or less.

6.2 Without recent data is difficult to draw policy conclusions. The only significant change between 1995 and 1996 was an improvement in income distribution for the Member States with the most equal income distribution, but this could be due to measurement issues.

Chart 5.1: Income distribution ratio of income of top to bottom quintile



Note: Ratio of the total income received by the quintile with the highest income to that received by the quintile with the lowest income. The income distribution is calculated using the equivalised total income [4.1].

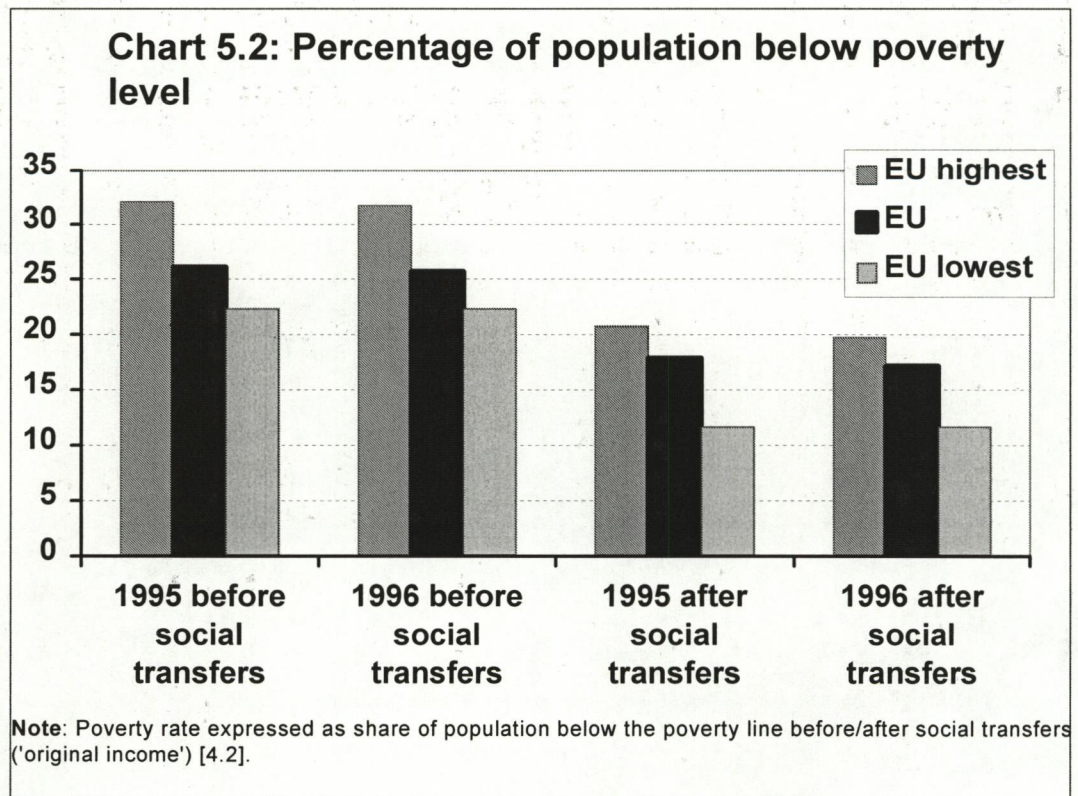
POVERTY RATE

6.3¹ Poverty is acknowledged as an important social issue in the EU. A person is in poverty when their income is below [60 per cent] of the mean personal income. Unfortunately, data is unavailable before 1996 so it is difficult to draw any policy conclusions from the data. The poverty rate used here is relative, rather than absolute.

6.4¹ Before social transfers (such as employment benefits, child support, etc.) the poverty rate in the EU is quite high at 25 per cent. The Member States with the highest levels of poverty had a rate of around 32 per cent, compared to the lowest with a rate around 22 per cent.

6.5¹ After social transfers the poverty rate in the EU drops notably to around 17 per cent, suggesting that policies to alleviate the effects of low income have some impact. The absolute impact of social transfers was greatest in those Member States that showed the highest level of poverty, although the proportional impact was greatest in those countries that showed the lowest levels of poverty.

6.6¹ There was almost no change in poverty rates, before and after social transfers, between 1995 and 1996.

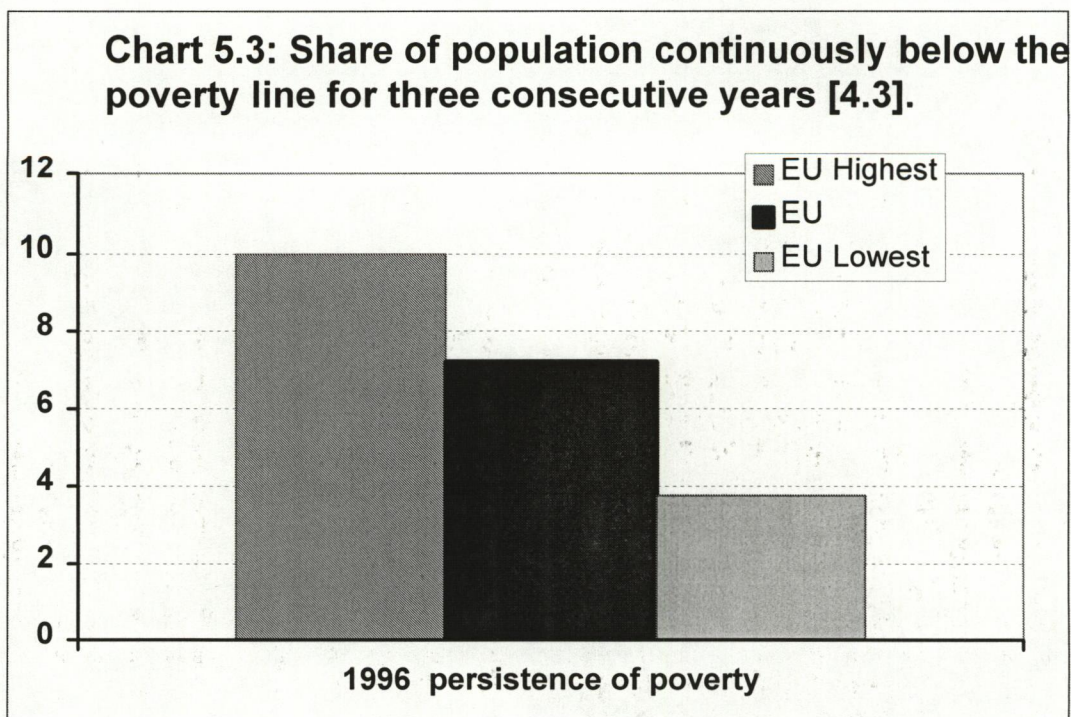


Persistence of Poverty

6.7¹ The persistence of poverty shows the share of the population who have remained in poverty for at least 3 consecutive years. Persistent poverty is seen to have a more detrimental social effect than shorter spells of poverty. [NB: before or after social transfers? NB: Subject to level of mean income, i.e. not absolute.]

6.8 In 1996 in the EU around 7.2 per cent of the population had been in poverty for 3 consecutive years. This compares to [17.2 per cent] of the population who were in poverty in that year, suggesting that 40 per cent of those in poverty were in long-term poverty. The remainder being either the result of cyclical changes (depressed real incomes), at low-income stages in careers, temporarily unemployed or possibly later to enter long-term poverty.

6.9 The range within the EU is quite wide, from only 3.8 per cent of the population in persistent poverty amongst the best-performing Member States up to 7.2 per cent in the worst performing.

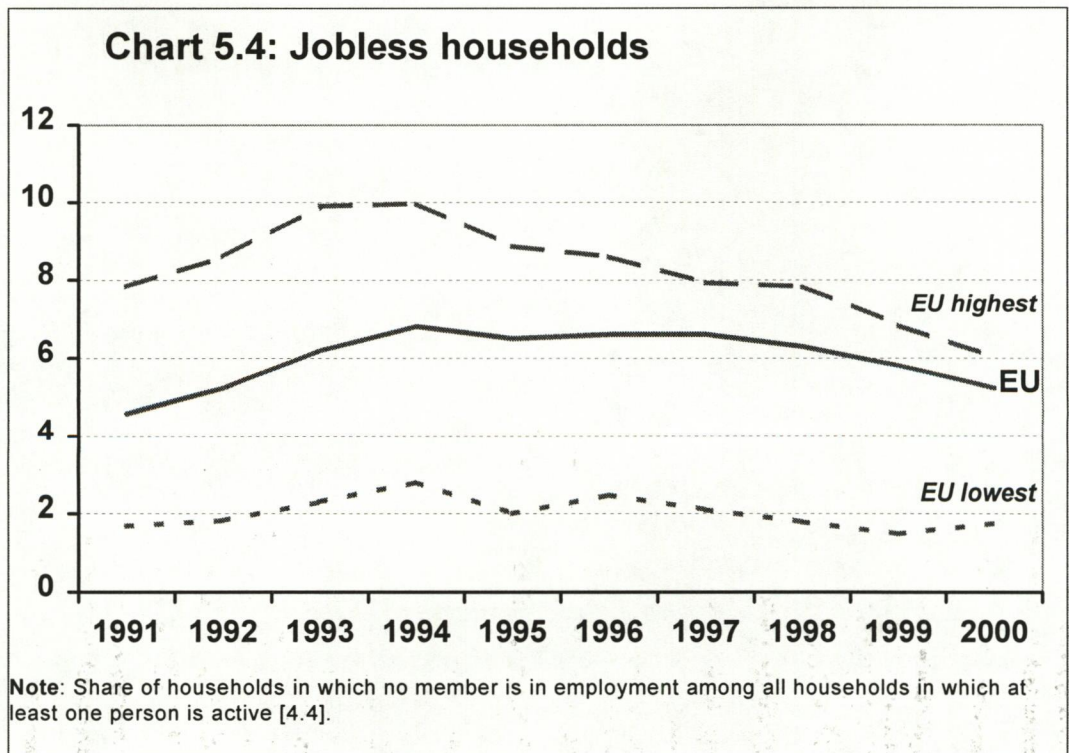


JOBLESS HOUSEHOLDS

6.10 While individual poverty is a social issue, households where no member has a job are likely to be in poverty but are also considered to be poor environments for children to grow [NB: what is standard line on this kind of thing – PBR?]

6.11 The proportion of jobless households in the EU shows a relatively cyclical pattern, with a notable increase from 1991 to 1994 which levels out until a decline from 1998. However, the share of jobless households in the EU was still higher in 2000 than in 1991. This pattern is more marked for the Member States with the highest ratio of jobless households.

6.12 If the recent decline in jobless households in the EU from 1997 is not cyclical but instead reflects a structural downward trend, then there is the possibility that this downward trend may continue. The share of jobless households has been declining at an increasing rate in the EU over the last three years, with declines of 0.3, 0.5 and 0.6 percentage points in 1997, 1998 and 1999 respectively.



7

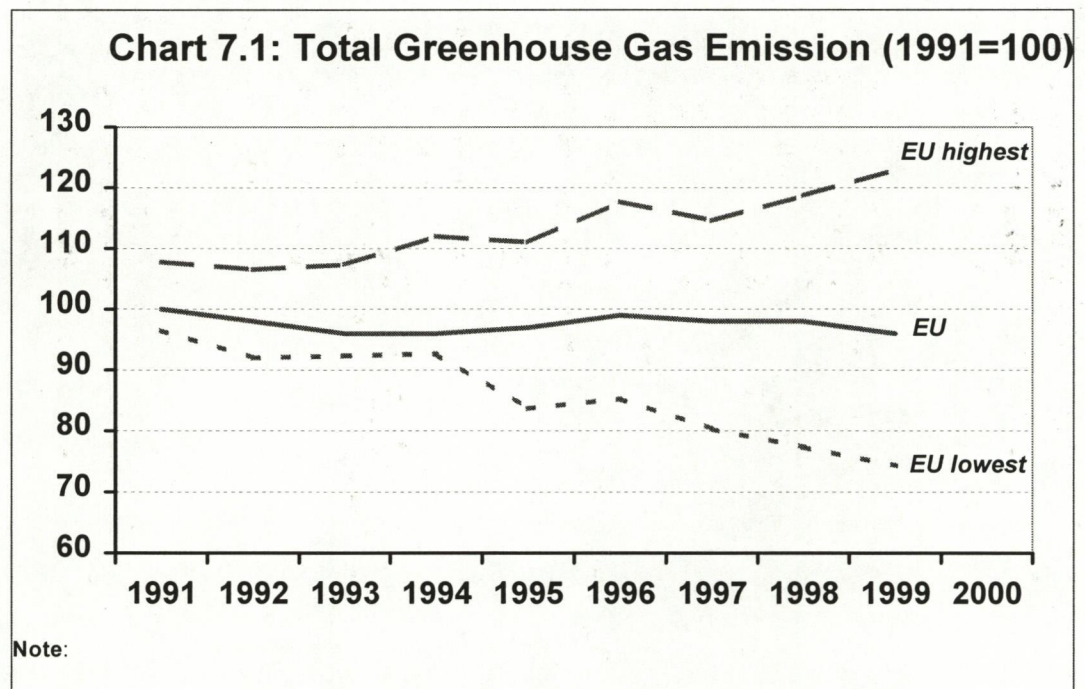
ENVIRONMENT

• xxx
•

GREENHOUSE GAS EMISSIONS

7.1 The EU has pooled its greenhouse gas emissions in the negotiation of the Kyoto Protocol to the Climate Change Framework Agreement, and within this 'EU-bubble' some countries have been set targets to significantly reduce their emissions whilst others are actually permitted to increase their emissions. It is therefore particularly useful to compare EU lowest and EU highest data for the period 1991 to 2000 in addition to changes across the EU as a whole.

7.2 Chart 7.1 includes these data plus the data for US emissions, all indexed to 1991. Changes in EU total emissions have been small, but the value has remained below the index level for the duration of the data run. Conversely, the three countries in both the EU lowest and EU highest groups have diverged dramatically from 1991 emissions levels. Over the same period emissions in the USA have increased from an index level of 98 to 111.

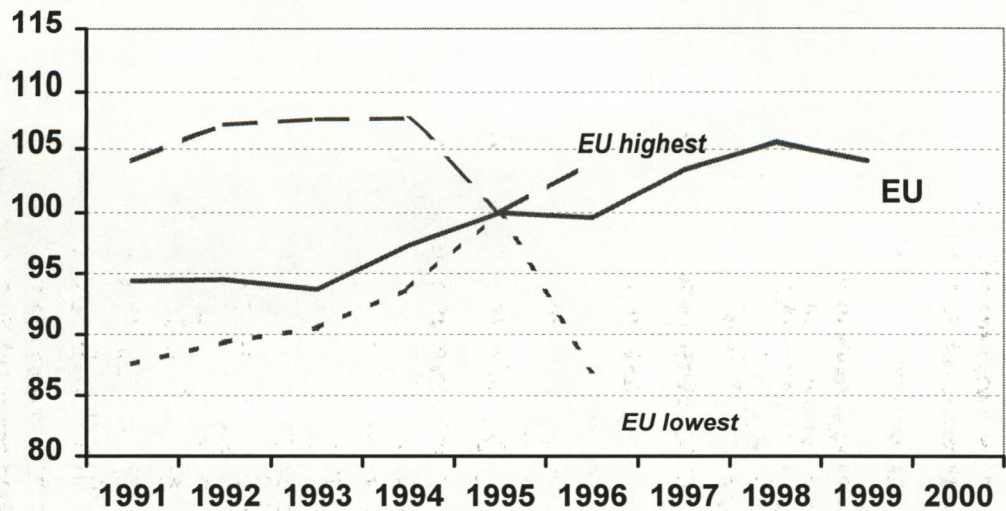


VOLUME OF TRANSPORT

7.3 Intuitively it might be felt that freight transport and GDP would move in the same direction over the course of the cycle. However, the extent to which change in one variable is outstripped by change in the other gives an important indicator of the relationship between transport growth and GDP growth. This in turn has implications for environment and transport policy decisions.

7.4] [there are significant questions about the quality of the data – when indexed to 1991 the EU figure jumps very dramatically in 1998 to 132 from 1997 and 1999 levels of 110. The EU lowest line also drops dramatically between 1995 and 1996 – seemingly due to a very substantial fall in figures for P and L]

Chart 7.2: Volume of freight transport relative to GDP (tkm) (1995=100)

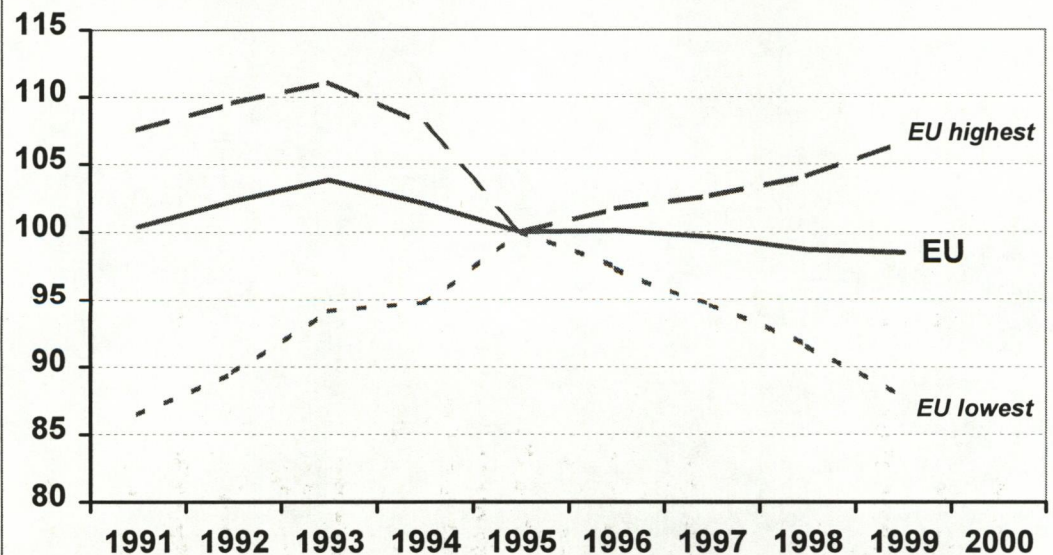


Note: This indicator is defined as the ratio between tonnes-kilometre (all modes), and GDP (in constant 1995 EUR). It is indexed on 1995. The unit used is tonne-kilometre (tkm), which represents the movement of one tonne over a distance of one kilometre.

7.5] There are many factors that influence passenger kilometers within the EU. The level of economic activity is likely to impact both on business travel and leisure travel. However, the indexed values of the passenger kilometers:GDP ratio for the EU do not show the same general upward trend as the freight kilometres:GDP ratio during the 1990s.

7.6] There is a similarly marked divergence between the trends for the indexed values for EU highest and EU lowest in this indicator as that seen in Figure 7.2 for freight kilometres:GDP. However, the slight downturn in passenger kilometers relative to GDP in the second half of the 1990s may demonstrate that the European economy is moving towards a stage when increases in GDP are not matched with equally large increases in passenger travel. This is clearly the case for the EU lowest group.

Chart 7.3: Volume of passenger transport relative to GDP (pKM) (1995=100)



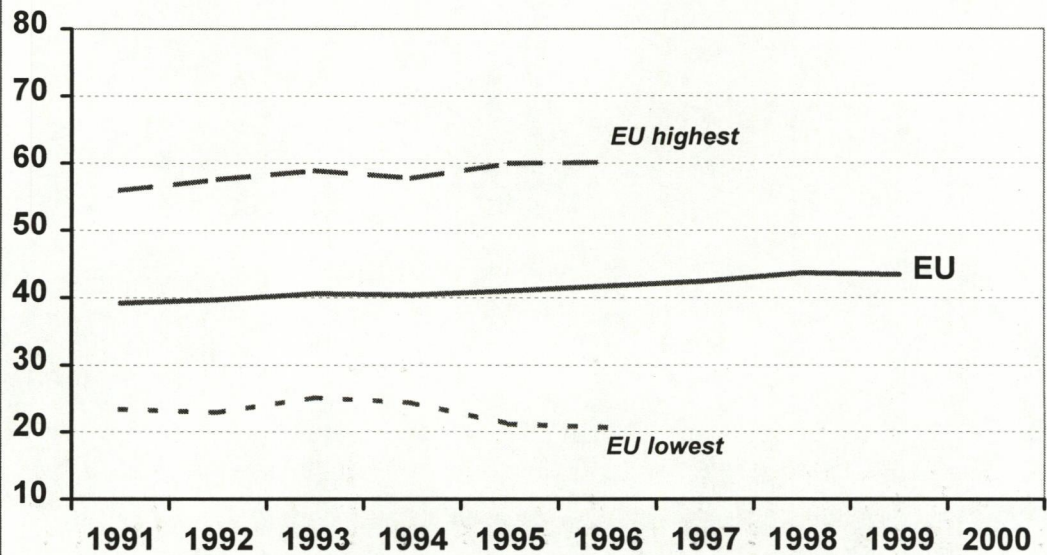
Note: This is defined as the ratio between passenger-km (all modes) and GDP (in constant 1995 EUR). It is indexed on 1995. The unit used is passenger-kilometre (pkm), which refers to one passenger travelling a distance of one kilometre.

MODAL SPLIT OF TRANSPORT

7.7 The division of intra-EU freight and passenger transport by mode (including pipeline) gives an impression of the role played by each sector in the distribution of goods and people within the European Union. It also demonstrates the pressures that are being placed on the various networks involved. This gives policy makers a steer on both the relative importance of different modes and the environmental considerations that an increase in freight and passenger traffic might bring.

7.8 Charts 7.4 and 7.5 show the relative importance of road in freight and passenger transport in Europe. In both cases road transport is a very significant proportion of total transport. For freight transport, circa 40% of all tonne kilometers are on the roads of Europe. This proportion has not changed greatly over the 1990s, although a slight increase might be in evidence for the second half of the data run. However, the difference between the EU average and the three countries in both the EU highest and the EU lowest groups is marked. In 1996 the three countries most reliant upon the roads for transporting freight moved 60% of freight (by tonne kilometer) on their highways, whilst the three least-reliant on this mode moved only just over 20% of tonne kilometers of freight by lorry.

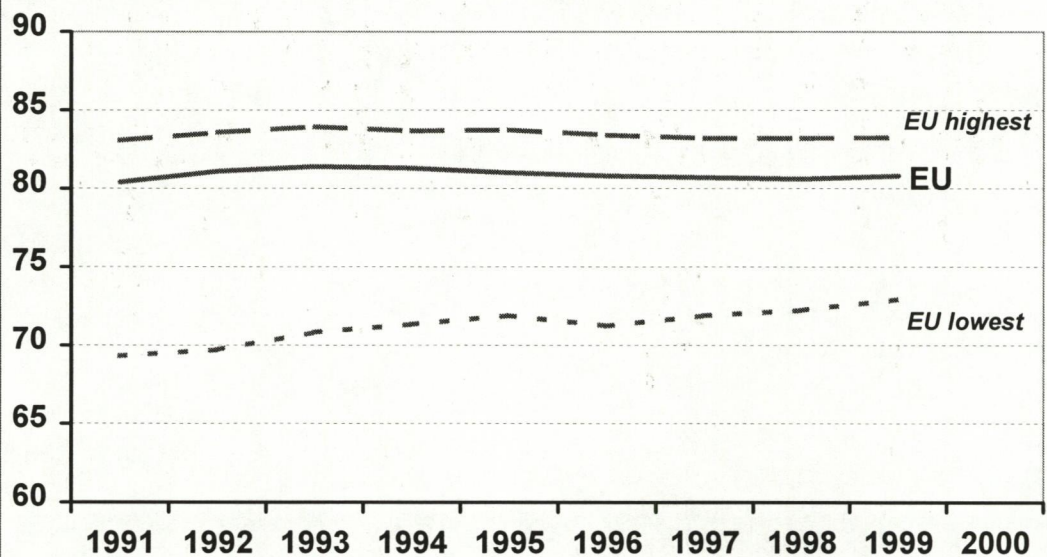
Chart 7.4: Modal split of freight transport



Note: Expressed as the percentage of the share of road in total (road, rail, inland waterways, intra-EU shipping and pipeline) tonnes-km.

7.9] For passenger transport the roads bear circa 81% of all passenger kilometers in the EU, and for the three highest EU countries this rises to 83-84%. These two curves show similar patterns for the 1990s, with little change over the period. On the other hand the EU lowest group shows a steady increase in the proportion of passenger kilometers undertaken by car.

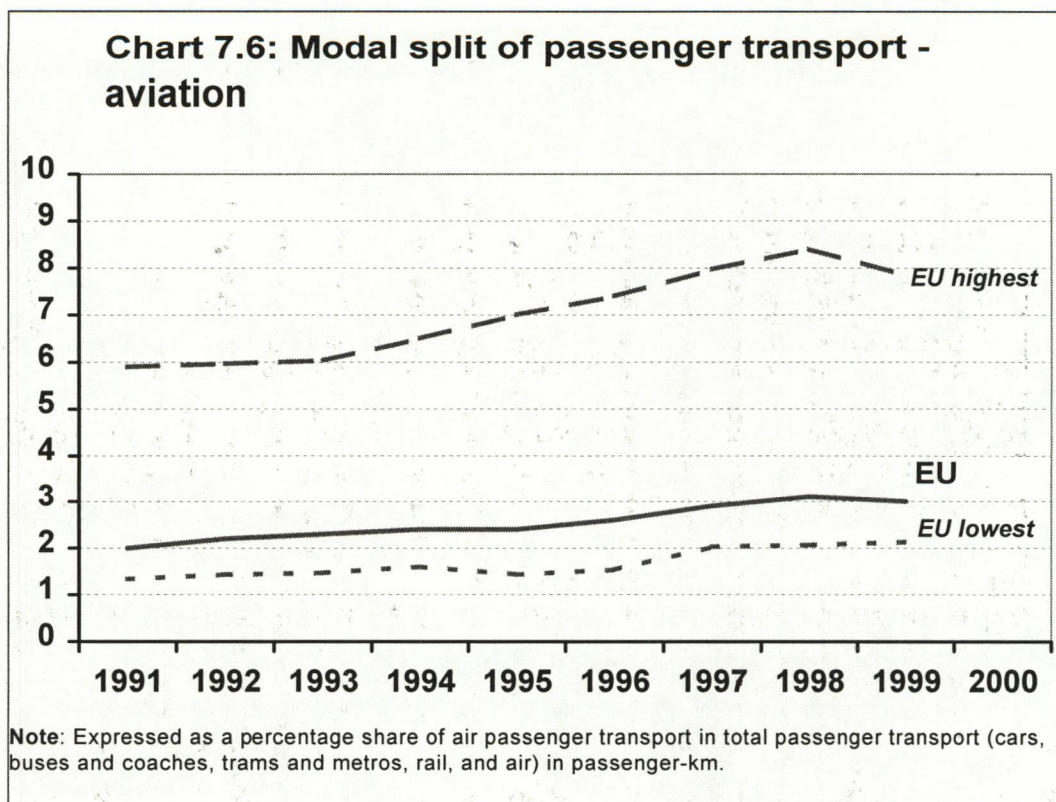
Chart 7.5: Modal split of passenger transport - cars



Note: Expressed as a percentage of the share of cars in total (cars, buses and coaches, trams and metros, rail, and air) passenger-km.

7.10 The use of domestic and intra-EU international flights by passengers during the 1990s shows a 50 percent increase from 2 percent of total passenger kilometres in 1991 to 3 percent in 1999. However, the relative importance of this mode compared to road transport remains low, and even in the three countries with the highest proportions of passenger kilometres undertaken by air, 'plane travel accounts for only circa 8% of all distances traveled.

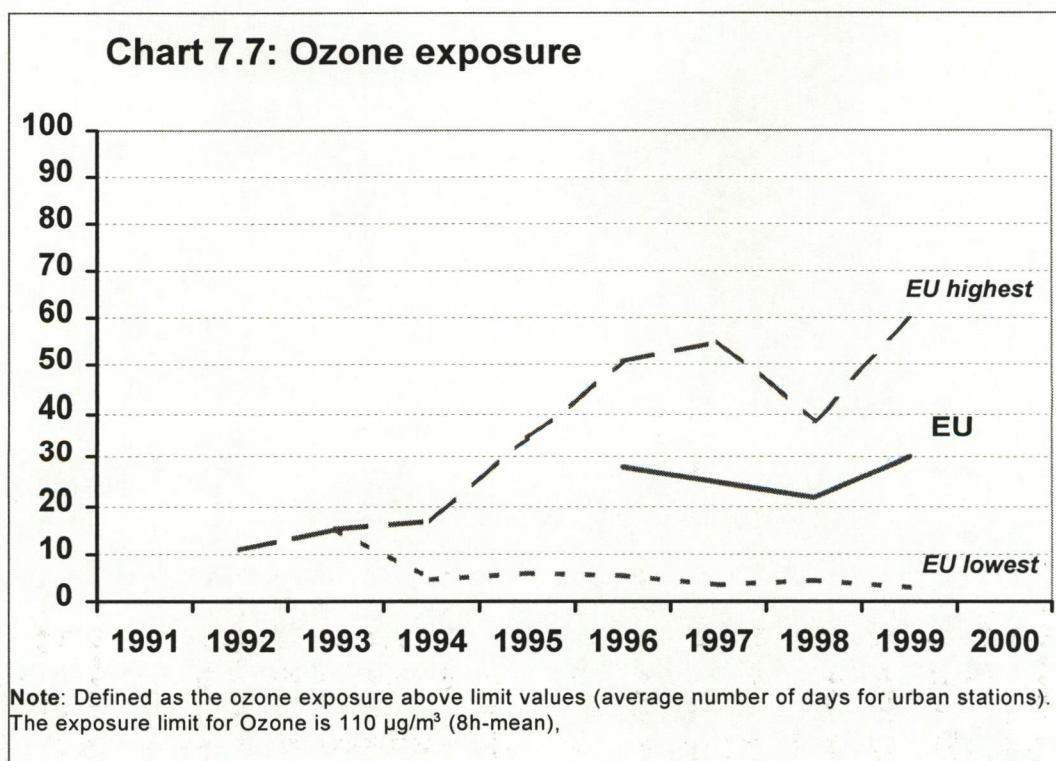
7.11 The indicator suggests that after a period of growth in the period 1993-1998, the relative importance of air travel as a means for people moving within the EU may have reached a plateau. Whether this is a significant, or indeed a real change will have considerable implications for both the aviation industry, other transport modes and for policy makers attempting to optimize the relationship between travel and environmental protection.



URBAN AIR QUALITY INDEX

7.12 In the upper atmosphere ozone (O_3) is a vital screen against incident ultraviolet radiation, and the diminution of this ozone is a matter of common concern that the international community has sought to meet by phasing out the production and use of substances that destroy high level ozone. However, excessive levels of ozone are harmful to respiratory systems and ozone also contributes to photochemical pollution. Therefore the occurrence of anthropogenic ozone at low levels in the atmosphere is measured and an EU exposure limit of $110 \mu\text{g}/\text{m}^3$ (8h-mean) has been established.

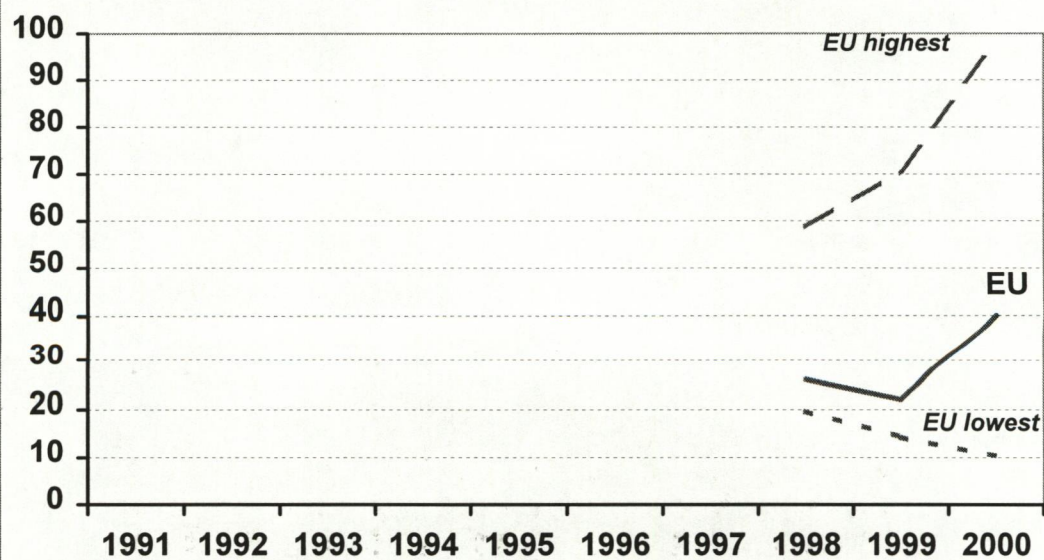
7.13 Chart 7.7 shows that urban stations in the EU record levels above this exposure limit on average 20-30 days per annum. There is a marked contrast between the best and worst performing countries for this indicator. In 1999 the best performing group of countries (EU lowest) suffered only three days per annum of ozone levels above the exposure limit in their urban areas. This compares well against 60 days for the EU highest group of three countries.



7.14¹ Particulates, derived from various natural and anthropogenic sources (including the combustion of fuels) impact on respiratory systems. Finer particulates can reach into the extremities of the lungs and cause significant damage to human health, especially those that are carcinogenic. Levels of exposure to particulates

7.15¹ EU levels of exposure have taken a significant upturn in recent years, with exposure at levels over the EU limit nearly doubling from 1999 to 2000. However, the data run for this indicator is short (three years) and it is not possible to deduce a long term trend at this stage. Further, background levels of particulates are very variable (across space and through time), making it impossible to generalize from these data. Within this EU average there is a relatively large range of national exposure levels, as witnessed by the EU highest and EU lowest curves. In 2000n this amounted to nearly an order of magnitude difference between the number of days of exposure over the EU limit in these two groups of countries.

Chart 7.8: Particulate exposure

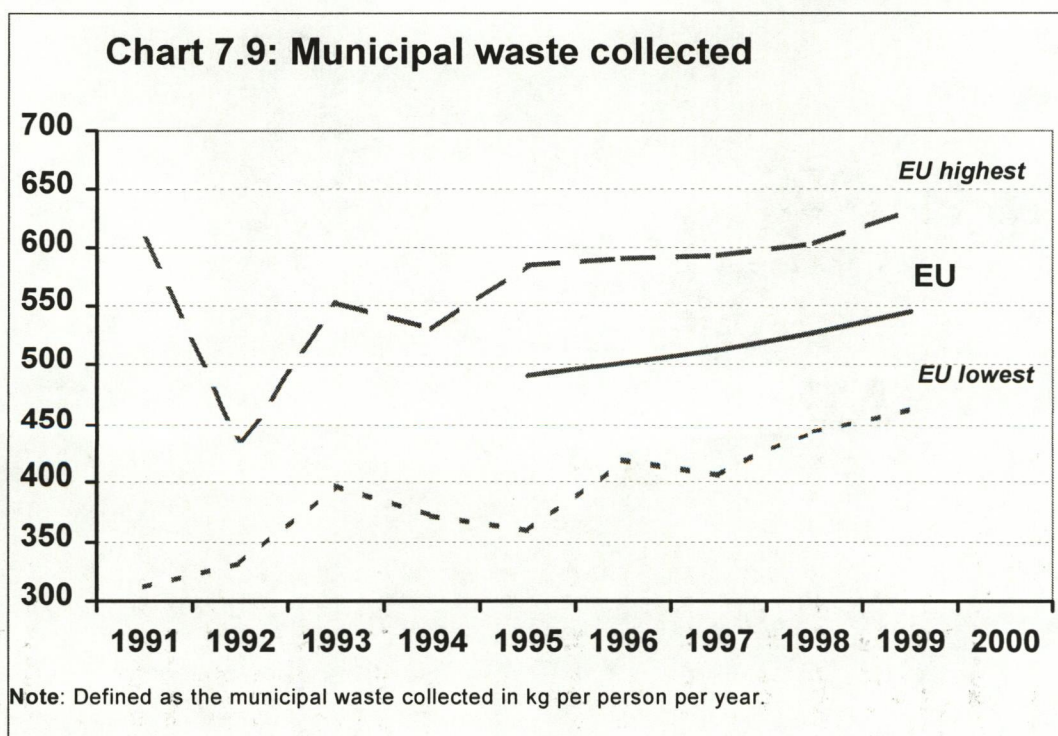


Note: Defined as the average number of days for urban stations where particulate matter exposure above limit values.

MUNICIPAL WASTE

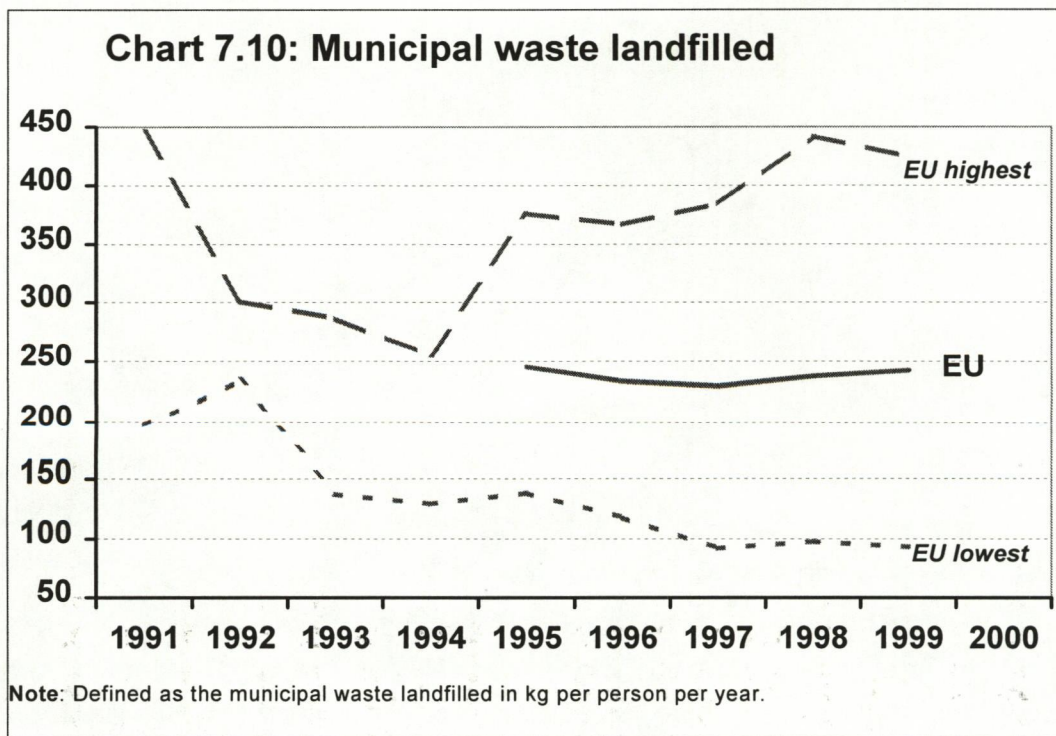
7.16 The production, handling and disposal of waste is a significant problem for European countries. There are issues related to public health, utilization of natural resources and environmental protection within this subject, and so three indicators have been developed which focus on the per capita quantities of waste collected, and the quantities sent to land fill or incinerated.

7.17 The EU average for kilograms per capita of municipal waste collected has shown a steady rise from 1995 to 1999, amounting to 10% over this period. The data run for the three lowest EU countries is longer, but shows a 50% increase over the period 1991 to 1999. The trend of the EU highest curve is harder to reconcile against this general picture, especially over 1991 to 1993. This may reflect a problem in the data, or a dramatic fall in waste production as economic growth slowed in the early 1990s. However, if the period 1993 to 1999 is looked at in isolation it is possible to see a steady upward trend in this curve, which would appear to support the other data.

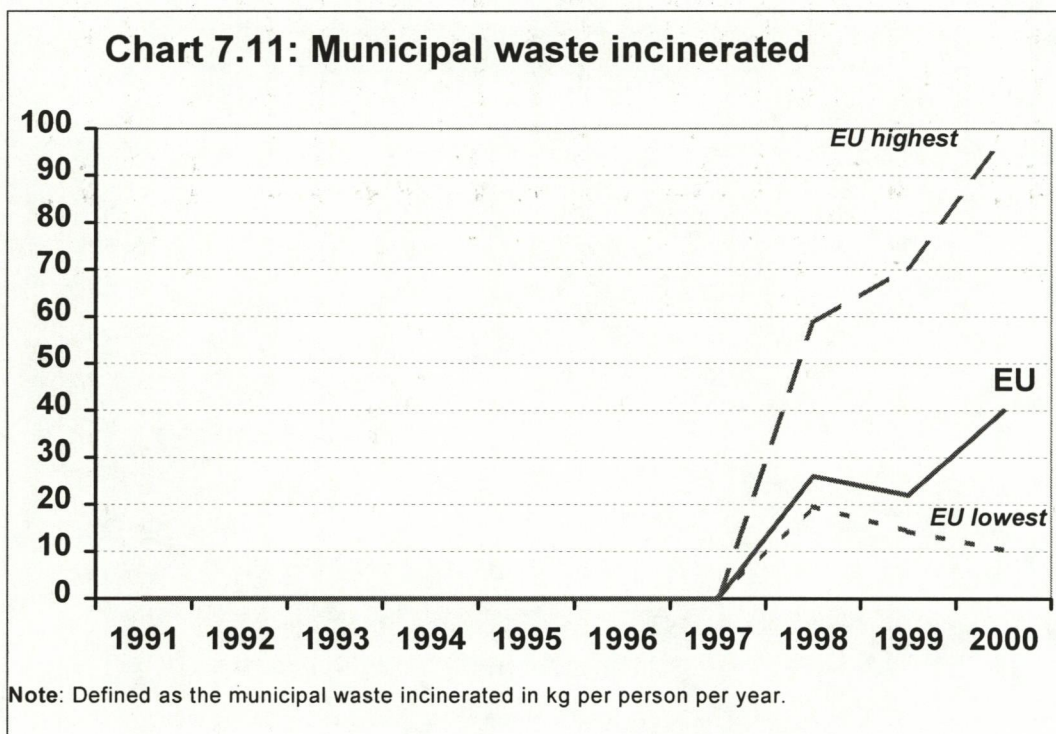


7.18 Landfill sites, typically former aggregate or mineral extraction sites, accommodate circa 50% of municipal waste in the EU, but the change in kilograms per capita that are landfilled between 1995 and 1999 is minimal whilst over the same period the weight of waste collected per capita has risen by circa 10%. Therefore the proportion of collected waste going to landfill sites across the EU has decreased during the 1990s.

7.19 Within the period covered by the data for the EU average there are quite different trends for the EU highest and EU lowest groups. The lowest group appear to be on a downward trend, and this is reinforced when looking across the full period of the data run. On the other hand the data suggest that the countries which send a large amount of waste to landfill per capita have witnessed a change from a downward trend in the early 1990s back to a level in 1999 that is nearly as high as at the beginning of the decade. This may be real, or it may reflect the same concerns with the data for 1991-1993 as identified in Chart 7.9 above. The actual per capita quantities sent to landfill in EU countries vary considerably, which may reflect policy decisions, availability of appropriate landfill sites and the relative costs of alternatives in Member States.



7.20 Data for kilograms per capita of waste that was incinerated in the EU are only available for the period 1998-2001, but there appears to be a divergence between the trends for those countries who send the least amount of waste per capita for incineration and those that send the most. The EU lowest curve appears to indicate that those countries which send only a few tens of kilograms per capita of waste to incinerators are sending even less over time, whilst the EU highest curve shows a circa 70 per cent increase in kilograms per capita incinerated over the same period.



8

THE USE OF INDICATORS

- At Nice **35 structural indicators** were agreed for use in the Synthesis report and for measuring progress against Lisbon. This paper examines what lessons the indicators can yield for the economic reform agenda in Europe.
- The indicators can be used to :
 - **establish consensus** on statistics;
 - **benchmarking** against the US and other Member States;
 - evaluate progress against Lisbon and Stockholm **targets**;
 - draw out the **dynamics** of change;
 - help to **focus policy-making** on the evidence-base; and
 - **identify strengths and weaknesses** in EU performance.
- Some **limits to the indicators** should be borne in mind, such as measurement differences, cyclical factors and lags in policy impacts.
- Nonetheless, the structural indicators provide a **useful tool to guide policy-makers**

THE EU CONTEXT

8.1] At the Nice European Council in December 2000 the 35 indicators agreed between the Commission and the Council were approved. The indicators were based on those presented in the Commission Communication on Structural Indicators which was published on 27 September 2000.

8.2] [Nice] "The European Council welcomes with satisfaction the list of structural indicators, compatible among the various Member States, drawn up on the basis of the Commission and Council proceedings. These indicators, which also show progress achieved, will be used to draw up the synthesis report. A small number of indicators will be selected by the Council before the European Council meeting in Stockholm."

8.3] The purpose of this paper is to examine how to use the indicators and what lessons for European economic performance can be learned from them.

WAYS TO UTILISE INDICATORS

8.4] The structural indicators provide a useful guide for policy making and contribute to the evidence base that policy-makers use to guide their decisions.

Objectives of the indicators

8.5] The original objectives of the work on structural indicators as set out in the Commission Communication of 2000 are to:

- gain **broad agreement** on a set of indicators that can be used in monitoring progress

on achieving key Lisbon objectives, including progress on structural reform;

- support ECOFIN's role in driving forward economic reforms by providing an **accurate picture of progress** on structural reform, including **strengths and weaknesses**;
- sustain the pressure to reform through **improved monitoring, better-quality policy discussion and more intensive peer pressure**, including making the recommendations in the BEPGs.

The open method of coordination

8.6] Bearing in mind these objectives, it is possible to identify a number of ways in which the indicators can be utilised to further the economic reform agenda. In particular much of the economic reform agendas in Europe are established under the open method of coordination which is dependent upon sharing of information and of best practice, to which the structural indicators are well suited.

Establishing consensus

8.7] There are differences in Member States' methodologies for gathering statistical information. The structural indicators establish a consensus within the EU on how progress should be measured and monitored. Establishing this broad agreement means that policy-makers can **focus time and effort on policy design** rather than issues of measurement and methodology.

Benchmarking

Identifying best practice

8.8] When evaluating policy it is often useful to compare the values of indicators in one country or group of countries with another. Such benchmarking to compare absolute performance can help to **identify best practice**. Additionally, such benchmarking can help to **identify external effects** that are impacting on all Member States. For example, a downturn in the world economy could reduce the growth in world trade, but would do so across all Member States.

Comparison to the USA

8.9] The **United States** has many characteristics that make it a useful benchmark for measuring progress in the EU as a whole. Firstly, it is of a comparable size, with 275 million people and GDP of \$9,250 bn in the US compared to over 300 m people and £8,500 bn GDP in the EU. Secondly, it is the best example of a large single market in the world, making it the best comparison for measuring the progress of the European single market.

8.10] It can also be fruitful to benchmark against other specific Member States. Where there are similarities between Member States; in size, stage of economic development, sectoral composition, etc., comparisons can help to control for the particularities of economies and better identify best practice and areas where Member States need to concentrate their policy efforts.

Targets

Lisbon targets

8.11] The EU has set some targets for achieving reform, particularly in the Lisbon and Stockholm Council conclusions. Many of these targets can be clearly measured against indicators, such as the employment targets. The structural indicators are useful for showing how close the EU is to achieving the targets set at Lisbon and other Councils. Where appropriate, the indicator is shown relating to its target.

8.12] Specifically, a comparison of the current value of an indicator compared to the target implies that there is a target rate of growth needed to reach that target. For example, to move from an employment rate of 55 per cent in 2000 to 70 per cent in 2010 requires an annual increase in employment rate of 1.5 percentage points per annum. Such required growth rates are purely indicative – many policies have a delay in impact or are cyclical so failure to meet that growth in a given year does not mean that a Member State will fail to reach the target. It does mean, however, that the policies in that Member State should be monitored closely.

8.13 Chapter 2 examines the degree to which the EU is on track to achieve the Lisbon and Stockholm targets for economic reform. While indicators cannot establish whether targets have been met, they can show whether progress has been made and can help to identify patterns, and hence problems or opportunities, in the performance of Member States.

Dynamics

8.14 Due to lags in the impact of policy, external factors and the inherent problems and differences in measurement, comparisons of the values of indicators can be limiting. However, the dynamics of the indicators, shown as the growth rates, can often be revealing as to whether Member States are making progress, and whether all Member States are moving in similar directions. This can further help to identify best practice or focus policy-making.

8.15 In some cases, the indicators themselves have been expressed as growth rates, for example, employment level growth. In other cases, it may be necessary to derive the growth rates from the absolute levels. Often dynamics are useful when there are important structural and historical reasons for differences in the underlying level of an indicator, where straightforward comparisons are inappropriate.

Focusing Policy-making

Evidence-based policy-making

8.16 Policies should be made on the basis of a strong foundation of evidence and analysis. On this basis, the headline indicators are too high level to draw specific policy conclusions, but they do provide the first step in evidence-based policy making by assisting policy makers in identifying the areas where policy work is needed. Moreover, the indicators help policy makers at an EU level to focus in on areas where action is needed across Europe, rather than just in specific Member States.

Identifying strengths and weaknesses

8.17 By comparing between Member States and comparing the EU as a whole against the US and other economies, the indicators can highlight the relative strengths and weaknesses of the EU. By doing so, the EU can look to address its weaknesses and play to its strengths.

LIMITS OF INDICATORS

8.18 While the indicators are clearly of great use to policy-makers, there are some limits to the efficacy of the indicators that should be borne in mind when making use of them. This does not reflect a failure of the indicators, but rather an inherent limit in what the indicators hope to achieve.

8.19 All of the issues set out below will not be evident in each indicator, and the list is by no means exhaustive.

Size and proportionality

8.20 Some indicators are strongly dependent upon size – for example total levels of GDP and total levels of employment will be vastly different for large Member States such as Germany and small Member States such as Luxembourg. Hence these and other indicators have been expressed per capita, as ratios or as growth rates.

Cyclical impacts

8.21 Some indicators will be highly dependent upon cyclical changes in the national, European and global economy. For example, measures of trade will be dependent upon the demand in trading partners' economies. None of the indicators have been adjusted for cyclical factors, as there is no clear agreed methodology for making cyclical adjustments.

8.22 In some cases, the cyclical effects may be of note themselves. Economic reform in Europe is also about the ability of economies to handle adverse shocks. The varying impacts of shocks and downturns on different EU economies could well reflect differences in their progress on economic

reform.

Measurement issues

8.23] Data collection can sometimes be difficult, and all data carries with it some risk of error. When data is collected across Member States, this is compounded by the potential for different methodologies to produce slightly differing results. However, Eurostat, working with national statistical bodies, have ensured that the measurement issues have been minimised and that the indicators are of sufficiently high quality to guide policy.

Institutional context

8.24] With some indicators, there may be differences due to long-standing differences in the institutional context between Member States. For example, in some countries it is the practice to patent each stage of an R&D project, whereas in others only the final outcome receives a patent. This makes it difficult to compare patents as they are not measures of like-for-like.

Lags in policy impact

8.25] Very often policy measures will have delayed impacts and active policies may not be registered in the indicators for several years. Hence, an unfavourable trend in an indicator does not necessarily mean that a Member State has not initiated policies.

Performance vs Policy indicators

8.26] Wherever possible the structural indicators were chosen to be measures of performance, rather than of policy. Hence, a measure of employment is preferred to a measure of job-placement schemes. Policy indicators are limited because they cannot take into account alternative policies for achieving the same performance goal. This should be borne in mind when analysing any indicators of policy.

Under-use

8.27] While the structural indicators come with caveats, as with all other measurements used at both an EU and national level, there is a danger that these caveats mean that the indicators are not fully utilised. The risks of [over-confidence] in the indicators can be as limiting as under-use. Although the indicators themselves might not provide the full answer, they can be useful for prompting further questions and analysis which will lead to better policy making and thereby contribute towards the goals of the EU.

APPROACH

8.28] The remainder of this paper examines each of the indicators in the order they were defined in the 2000 Synthesis Report. Each indicator is displayed as a time series, based upon data provided by Eurostat, showing where possible the series for the EU, the US and the highest and lowest EU Member States.

EU highest and lowest

8.29] Time series are given for the highest and lowest EU Member States where this information is available. These values are defined as the **average of the three highest or lowest values for any Member State in a given year**. These values give an idea of the range of values in the EU while partially controlling for particularly exceptional or inappropriate values for specific countries or years. Throughout the text, the terms "highest EU" and "lowest EU" refer to this definition.

8.30] Each indicator is examined to look at the patterns over previous years, the range of experience within the EU and the comparisons to the US.

8.31] The indicators were designed to guide policy-makers, rather than to provide full answers to



policy questions.

FILE

Electronic copy in DCO Inbox



10 DOWNING STREET
LONDON SW1A 2AA

MASTEF

THE PRIME MINISTER

Personal Minute

SECRETARY OF STATE FOR TRADE AND INDUSTRY

EUROPEAN EMPLOYMENT AND SOCIAL AGENDA

Thank you for your helpful minute of 12 November on our approach to European employment relations policy.

I agree that this is an area which presents us with difficult challenges. We need to raise our game – tactically and presentationally. We have to do better at connecting our views on the wider European employment and social affairs agenda with our response to individual legislative proposals, and do more to get our approach across.

This will need a significant level of Ministerial involvement on a continuing basis both in setting policy and selling it to others. I do not currently think that we have sufficiently frequent dealings between Ministers and Commissioners or between Ministers and their opposite numbers in EU capitals. And the task is unevenly shared. We need to get a better grip with the European Parliament and have closer links with our own MEPs, especially those on Committees.

As a first step, I would be very grateful if you would convene an informal Ministerial meeting with Peter Hain, Alistair Darling, the Treasury and Ministers

WS

from other interested Departments. This meeting could usefully look at three areas:

- defining and getting across the Government's core European message on employment and social affairs;
- deciding who will do what in response to the flow of individual legislative dossiers from Brussels;
- planning our strategy for greater Ministerial involvement and improving communication with our key allies, the Commission, European Parliament and social partners.

I would be grateful if you could take this forward, with a view to developing our strategy by the end of January. I am copying this minute to recipients of yours.

Tomy

14 January 2002

020 7238 6465

OJ
cc GN
MH
JS
JJH

Department for
Environment, Food
& Rural Affairs

Nobel House
17 Smith Square
London SW1P 3JR

From the Secretary of State

The Rt Hon Patricia Hewitt MP
Secretary of State for Trade and Industry
1 Victoria Street
London
SW1H 0ET

9 January 2002

Dear Patricia,

REGULATIONS TO IMPLEMENT THE EC DIRECTIVE ON FIXED TERM WORK

You asked for comments on your letter of 21 December to the Deputy Prime Minister.

I can confirm that I am content with your proposals on outstanding issues relating to the transposition of the Directive on Fixed Term Work. I also agree that a further consultation on the new Regulations is desirable.

As I mentioned in my letter of 31 October, we do have some concerns about the possible impact of the legislation on agricultural casual workers and provisions in the Agricultural Wages Order. Officials here are considering these issues and how best any difficulties might be overcome. If it becomes apparent that some minor changes to the draft Regulations would assist, I hope that these can be considered sympathetically during the consultation period.

On a point of detail, I note that agriculture is not referred to in the Regulatory Impact Assessment (RIA). In fact the tables in paragraphs 41 and 42 and Annex 1 imply that there are fewer than 10,000 casual workers in the agricultural sector who would be affected by the Regulations. These data are taken from the Labour Force Survey. However, the 2000 June Agricultural Census put the agricultural casual workforce in the UK at 64,000 (see Table 3.3, *Agriculture in the United Kingdom 2000*). We have been advised previously that casual workers are fixed term workers although my legal advisers are looking at the point again in the light of the draft Regulations. If they confirm casual workers in agriculture are covered by the Regulations it would appear that agriculture will be one of the sectors most affected by the new legislation. This should be acknowledged in the RIA.

I am copying this letter to the Prime Minister, members of DA Committee, the Lord Chancellor and Sir Richard Wilson.

Regards

Margaret

MARGARET BECKETT



European Policy Directorate

Making the UK an effective partner in Europe

Department of Trade and Industry

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Our ref

Your ref

Date 8 January 2002

Post-Net Notices 7639	To: JEREMY HEYWOOD	Telefax
	Fax: 979305520	
	From: JOHN ALTY	Pages: 1
	Date: 10/1/02	

Dear Ivan

I know that it is for those "above our pay grade" as you delicately put it to determine the emphasis and themes of the White Paper.

But, for what it's worth, I will give you my suggestion for a one-line summary, following the helpful meeting with Katy Peters and colleagues just before Christmas.

What the White Paper might usefully do is explain how:

"economic reform can enable the EU to realise the Lisbon goals by combining the productivity levels of France and Germany with the employment levels of the UK and Scandinavians, whilst delivering a European brand of social justice which ensures the benefits go to the many, not the few."

On the social justice language I am with you rather than your critics. If we cannot write a UK paper using the words "social justice" without opening Pandora's box we might as well give up).

Should be easy enough.....

I am copying to Martin Donnelly, Jeremy Heywood and Roger Liddle.

Yours

JOHN ALTY

John