The future of the European Union: UK Government policy

First Report of Session 2013–14

Volume I
The Foreign Affairs Committee

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Contacts

All correspondence should be addressed to the Clerk of the Foreign Affairs Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 6105; the Committee’s email address is FAC@parliament.uk.
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Summary

Our inquiry into Government policy on the future of the European Union was triggered by the Prime Minister’s veto of EU Treaty change at the December 2011 meeting of the European Council. We felt that the episode might mark a defining moment in the UK’s EU policy and place in the EU. Our Report examines the key overarching principles of Government policy for the UK’s place in the EU, for as long as the UK may remain a Member State. It also starts to explore some of the implications of the Prime Minister’s major EU speech of January 2013, in which he committed any Conservative Government elected in the 2015 General Election to holding an ‘in/out’ referendum on the UK’s continued EU membership by the end of 2017. Our Report is not an examination of whether the UK should remain in the EU or withdraw. As a Committee we have expressed no view on the ‘in/out’ question as part of our inquiry. We intend our Report to help inform the public debate on the UK’s EU policy in coming years.

We commend the Prime Minister for launching an ambitious agenda for EU reform. There is support for some of Mr Cameron’s reform ideas around the EU, and there is significant scope for further progress on some of them. Beyond this, given that the Prime Minister has not spelled out in any detail the content of the “new settlement” that a Conservative Government elected in the 2015 General Election might seek for the UK in the EU, and given that it is over a year, at least, before any major EU Treaty reform process seems likely to get underway, it is impossible to assess the likelihood of him securing the kind of “new settlement” for the UK in the EU that he might seek. However, we are clear that UK proposals for pan-EU reforms are likely to find a more favourable reception than requests for further ‘special treatment’ for the UK. We are sceptical that other Member States would renegotiate existing EU law so as to allow the UK alone to reduce its degree of integration, particularly where this could be seen as undermining the integrity of the Single Market. The Government must reckon with the fact that the body of existing EU law is a collective product in which 27 countries have invested. Our sense is that other Member States want the UK to remain an EU Member. However, we do not think that a UK Government could successfully demand ‘any price’ from other Member States for promising to try to keep the UK in the Union.

In Europe’s current institutional architecture, any UK decision as to whether the country should remain in the EU would to a significant extent be a decision about whether it should remain in the Single Market. We agree with the Government that the current arrangements for relations with the Single Market and the EU that are maintained by Norway or Switzerland would not be appropriate for the UK if it were to leave the EU. If it is in the UK’s interest to remain in the Single Market, the UK should either remain in the EU, or launch an effort for radical institutional change in Europe to give decision-making rights in the Single Market to all its participating states.

Inside the EU, in the face of more far-reaching Eurozone integration, it could be difficult for the UK and other non-Eurozone Member States to preserve their capacity to shape decisions affecting the Single Market. The Government is correct to have identified this risk for the UK and to have adopted a strategy of seeking to mitigate it by protecting the
rights of non-Eurozone states. However, tighter integration in the Eurozone is far from rendering the UK’s position in the EU impossible or worthless. The Eurozone is not a homogenous bloc, and Member State alliances around the EU continue to vary from issue to issue and to straddle the boundary between the Eurozone and the rest.

We have not found that, by itself, the Prime Minister’s veto of EU Treaty change at the December 2011 European Council has so far had a decisive overall effect, either way, on the UK’s ability to exercise influence in day-to-day policy-making in the EU. However, when the issue comes onto the agenda, the UK Government should support the incorporation of the provisions of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG) (the ‘fiscal compact’ treaty) into the EU legal framework, including through EU Treaty change if necessary, assuming that this could be achieved as part of an overall Treaty amendment package that includes appropriate safeguards for the UK. Among other possible benefits, supporting the incorporation of the TSCG might open the way to an EU Treaty renegotiation process.

Arguments about the extent of UK influence in the EU, and how it might best be maintained and strengthened, ran throughout our inquiry. The Government’s tone, language and overall approach can have a major impact in sustaining UK influence in the EU. The Government should frame its approach and language in pan-EU rather than UK-only terms, and should remain constructive, positive and engaged.
Conclusions and recommendations

Introduction

1. Our Report examines the key overarching principles of Government policy for the UK’s place in the EU, for as long as the UK may remain a Member State. It also starts to explore some of the implications of the Prime Minister’s major EU speech of January 2013, in which he outlined policy to be pursued by any Conservative Government elected in the 2015 General Election. Our Report is not an examination of whether the UK should remain in the EU or withdraw. We did not include the ‘in/out’ question in our terms of reference, which we agreed well before the Prime Minister’s speech, and as a Committee we have expressed no view on the ‘in/out’ question as part of our inquiry. We intend our Report to help inform the public debate on the UK’s EU policy in coming years. (Paragraph 13)

2. Before the first reports arising from the Balance of Competences Review are published in summer 2013, it is too soon to assess the usefulness of the exercise. However, as long as the Review is conducted transparently, impartially and on a wide evidence base, we feel that it has the potential to help improve understanding in the UK of the nature of the country’s EU membership and possible future EU policy choices. (Paragraph 19)

UK influence in the EU and the December 2011 European Council

3. Differing assessments of the extent of the UK’s influence in the EU are likely to feature heavily in the arguments both for and against the UK’s continued EU membership in coming years. There is no readily available objective measure of a Member State’s overall influence in the Union. However, the point of a Member State having influence in the EU is to achieve EU policy outcomes that realise its interests and objectives. Policy outcomes are thus a useful indicator in the debate. We therefore recommend that, in the reports which the Government will publish arising from the Balance of Competences Review, it should indicate, in each policy area, the extent to which UK policy preferences have or have not been fulfilled. This could help to inform public debate. (Paragraph 32)

4. At the December 2011 European Council, concerns in principle about the possible implications for the UK of closer Eurozone integration led the Government to request safeguards in return for agreeing to EU Treaty change. We regard the Government’s concerns as legitimate. Furthermore, the haste with which Member State governments—including that of the UK—were obliged to react to proposals for EU Treaty change in December 2011 posed significant diplomatic challenges. However, some of the specific requests which the Government put forward at the December 2011 European Council appear to have been misjudged for the circumstances. In some respects, the UK Government ‘got ahead’ of its EU partners and was seeking to mitigate risks for the UK which had not yet arisen, at a time when other Member States were more immediately focused on shoring up the Eurozone.
The Government’s diplomatic preparation for the December 2011 European Council, in terms of finding allies, appears to have fallen short. (Paragraph 42)

5. We conclude that the longer-term significance of the December 2011 European Council was twofold:

- First, other Member States are willing politically to move to further integration without the UK when they are legally able to do so; and avenues may be available for them to do so under certain circumstances. In December 2011, for Eurozone states, meeting the perceived needs of the Eurozone took priority over negotiating EU Treaty change among all 27 Member States. For its part, the UK Government was prepared to see EU Treaty change fail at the negotiating stage—for the first time since the UK joined the then-European Economic Community in 1973—and other Member States move to a negotiation without the UK.

- Second, given the prospect of closer integration within the Eurozone, the UK Government now considers that protecting the UK’s interests in the Single Market may no longer be possible under qualified majority voting, and that tougher decision-making thresholds may be required. This represents a significant shift in the position which the UK has held on the Single Market since the Single European Act of 1986. (Paragraph 47)

6. We have not found that, by itself, the Prime Minister’s veto of EU Treaty change at the December 2011 European Council has so far had a decisive overall effect, either way, on the UK’s ability to exercise influence in day-to-day policy-making in the EU. Although broader factors also carry weight, it is necessary—and may be sufficient—for a Member State to construct such influence on a case-by-case basis, by developing well-prepared positions and alliances. (Paragraph 52)

The Eurozone and the EU

7. Against the background of a history in which the UK has often appeared to underestimate the political determination of continental European states to move ahead with integration, we judge the Government’s expectation of further integration in the Eurozone to be a correct assessment of the longer-term direction of travel. We commend the Government for its realism in this respect. (Paragraph 57)

8. The issues facing the Eurozone states as they contemplate closer integration are technically and politically very difficult. As yet, the Eurozone has no ‘grand plan’ towards a desired or necessary end point. Rather, there are serious differences of approach among its members, and serious strains arising between and within them as a result of the steps being taken to tackle the crisis. We expect further Eurozone integration to take place incrementally to a great extent, and over a considerable number of years. The Government must reckon with the fact that reforming the Eurozone in coming years will take up much of the time and political resources of its EU partners. (Paragraph 61)
9. Assuming that it remains in the EU, the UK is likely to be part of a sizeable group of Member States outside the Eurozone for at least another decade. However, most other non-Eurozone states are under a Treaty obligation to adopt the Euro at some point, and appear to wish and expect to do so. The assumption that they will one day be in the Eurozone does not at all rule such states out as allies for the UK in particular EU policy areas. However, it is likely to push their longer-term orientation in the EU away from the UK and towards the Eurozone ‘core’. (Paragraph 66)

10. In the face of more far-reaching Eurozone integration, it could be difficult for the UK and other non-Eurozone Member States to preserve their capacity to shape decisions affecting the Single Market. The Government is correct to have identified this risk for the UK and to have adopted a strategy of seeking to mitigate it by protecting the rights of non-Eurozone states. However, tighter integration in the Eurozone is far from rendering the UK’s position in the EU impossible or worthless. The Eurozone is not a homogenous bloc, and Member State alliances around the EU continue to vary from issue to issue and to straddle the boundary between the Eurozone and the rest. (Paragraph 78)

11. The Government’s stance towards greater Eurozone integration requires it to tread a very delicate line—both encouraging further Eurozone integration but also preventing the process from damaging UK interests; and distancing the UK from the Eurozone while maintaining that the country has an interest in developments in the single currency area. The Government can minimise the risk of causing aggravation and maximise the prospect of exercising influence by adopting a constructive and cooperative tone and approach. (Paragraph 81)

12. The agreement on the Single Supervisory Mechanism (SSM) which was struck among EU Finance Ministers in December 2012 was significant on several grounds. It shows what the UK can achieve, in terms of protecting its position in the Single Market, through close and constructive engagement and innovative policy solutions. We note that the deal went some way towards entrenching the kind of safeguard against discrimination in the Single Market that the Government failed to secure in the December 2011 negotiations on the ‘fiscal compact’. We also note that the arrangements that were agreed to protect non-Eurozone states—on this occasion, for ‘double majority’ voting in the European Banking Authority—responded directly to a concrete proposal (in this case, one which gave rise directly to a risk of caucusing). Finally, we note that the SSM agreement protected the interests of non-Eurozone states by moving away from qualified majority voting: the deal established a decision-making rule that operates on the basis of the different statuses of two different groups of Member States, those participating in the SSM and those not. (Paragraph 87)

13. We recommend that, when the issue comes onto the agenda, the UK Government should support the incorporation of the provisions of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG) (the ‘fiscal compact’ treaty) into the EU legal framework, including through EU Treaty change if necessary, assuming that this could be achieved as part of an overall Treaty amendment package that includes appropriate safeguards for the UK. With appropriate safeguards, the incorporation of the TSCG into the EU Treaties would,
at the least, not be more damaging to UK interests than the existence of the TSCG outside the EU Treaties; and it would also open the way to an EU Treaty renegotiation process. (Paragraph 92)

**The Prime Minister’s agenda: reform, renegotiation, referendum**

14. We commend the Prime Minister for launching an ambitious agenda for EU reform in his January 2013 speech, and especially for couching his language explicitly in pan-EU rather than UK-only terms. With the Eurozone and several of its Member States in crisis, and popular disaffection with the EU on the rise, it would be hard for others in the EU to argue that change is not required. (Paragraph 101)

15. We conclude that there is support for some of Mr Cameron’s reform ideas around the EU, and that there is significant scope for further progress on deepening the Single Market, pursuing free trade agreements with third countries, and improving the quality of the EU’s regulatory practice. Pursuing reforms may allow the Prime Minister to be seen to be committed to the UK’s EU membership and to build influence. Mr Cameron’s main challenge will be to make the case that some elements of his agenda, namely more differentiated integration in the EU and the repatriation of powers from the EU, are workable and can help the Eurozone states, in particular, to overcome the problems they face. (Paragraph 106)

16. The Balance of Competences Review seems likely to remain a primarily UK rather than pan-EU exercise. As such, it may still provide a substantive basis for a UK contribution to a debate over EU powers and competences. (Paragraph 109)

17. Given that the Prime Minister and Foreign Secretary have not spelled out in any detail the content of the “new settlement” that they might seek for the UK in the EU, and given that it is over a year, at least, before any major EU Treaty reform process seems likely to get underway, it is impossible to assess the likelihood of the Prime Minister securing the kind of “new settlement” that he might seek. However, we are clear that UK proposals for pan-EU reforms are likely to find a more favourable reception than requests for further ‘special treatment’ for the UK. We are sceptical that other Member States would renegotiate existing EU law so as to allow the UK alone to reduce its degree of integration, particularly where this could be seen as undermining the integrity of the Single Market. The Government must reckon with the fact that the body of existing EU law is a collective product in which 27 countries have invested. (Paragraph 113)

18. The nature of some of Mr Cameron’s ideas for a “new settlement” for the UK in the EU, and the general terms in which he is currently setting them out, might leave him room to negotiate a “new settlement” without EU Treaty change. However, some of the “new settlement” ideas which have been floated would clearly require EU Treaty amendment. (Paragraph 116)

19. Many Member States would be reluctant to embark on a major EU Treaty amendment process under current rules, because of the amount of time involved and the risk of any new Treaty failing at the ratification stage, especially if one or more referendums were to be held. There appears to be a growing body of opinion that EU
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Treaty change requiring unanimous agreement and/or ratification by all Member States may no longer be possible. (Paragraph 127)

20. Precedent suggests that the Prime Minister’s envisaged timetable for the negotiation of a “new settlement” between 2015 and 2017 might be achievable: some recent EU Treaties have been negotiated in under two years. However, much would depend on whether the EU Treaty amendment process would involve a Convention: some of the reforms that the Prime Minister might seek as part of a “new settlement” would require the type of amendment process that normally involves a Convention, and we find it difficult to envisage the European Parliament consenting to waive this element of the procedure. The last time that a Convention formed part of an EU Treaty amendment process, on the failed Constitutional Treaty, the process took nearly three years. (Paragraph 132)

21. We agree with the Prime Minister that, in principle, a more flexible and differentiated model of integration might accord better with the demands of diversity and democratic consent in the EU than the traditional homogenising model. However, the demands of a pan-EU Single Market without discrimination would appear to place limits on the degree of flexibility that might be achievable. The institutional implications of more differentiated integration are also complex. (Paragraph 143)

22. Our sense is that other Member States want the UK to remain an EU Member. However, we do not think that a UK Government could successfully demand ‘any price’ from other Member States for promising to try to keep the UK in the Union. (Paragraph 148)

23. We recommend that the Government should conduct and publish an assessment of the impact on business investment in the UK of the Prime Minister’s commitment that a Conservative Government elected in the 2015 General Election would hold an ‘in/out’ referendum on the UK’s continued EU membership by the end of 2017. (Paragraph 151)

The Single Market and the EU: Norwegian and Swiss options

24. In Europe’s current institutional architecture, any decision as to whether the UK should remain in the EU would to a significant extent be a decision about whether the UK should remain in the Single Market—that is, a common area of free movement for goods, services, capital and people. This engages profound questions of economic, social and regulatory policy that were beyond the scope of our inquiry. (Paragraph 163)

25. We agree with the Government that the current arrangements for relations with the EU which are maintained by Norway, as a member of the European Economic Area, or Switzerland, would not be appropriate for the UK if it were to leave the EU. In both cases, the non-EU country is obliged to adopt some or all of the body of EU Single Market law with no effective power to shape it. If it is in the UK’s interest to remain in the Single Market, the UK should either remain in the EU, or launch an
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Effort for radical institutional change in Europe to give decision-making rights in the Single Market to all its participating states. (Paragraph 164)

Conclusions: maintaining UK influence in the EU

26. We recommend that the Government should always bear in mind the extent to which exercising influence effectively in the EU can depend on administrative and diplomatic capability and coordination. (Paragraph 170)

27. We welcome the Government’s recognition of the importance of fostering bilateral relationships widely with other Member States around the EU. We commend the Government for devoting increased resources to this objective, in the form of FCO Ministerial time. We particularly welcome the establishment of a regular meeting between junior UK Ministers and their German counterparts. We recommend that the Foreign Secretary and Europe Minister should encourage ministerial and senior official colleagues from other Departments also to visit EU capitals widely, to help to build alliances in support of key pieces of EU business. (Paragraph 174)

28. In conclusion, we reiterate the importance of the Government’s tone, language and overall approach in retaining influence in the EU. We recommend that the Government should frame its approach and its language in pan-EU rather than UK-only terms; and should remain constructive, positive and engaged. (Paragraph 175)
1 Introduction

Our inquiry

1. In December 2011, the European Council (of EU Heads of State or Government) met to consider the next steps in the EU’s response to the Eurozone crisis. Possible steps included amending the EU Treaties to provide for closer EU surveillance and sanctioning of Eurozone states’ fiscal and economic policies. EU Treaty change requires unanimity among the 27 EU Member States.\(^1\) The Prime Minister, the Rt Hon David Cameron MP, put forward proposals which he made his condition for agreeing to EU Treaty change. Other Member States declined to agree to Mr Cameron’s proposals, so EU Treaty change became impossible. After the failure to agree on EU Treaty change, 25 Member States signed a new treaty (commonly known as the ‘fiscal compact’ treaty), outside the EU Treaty framework, to institute the provisions which had been proposed for the EU Treaties.\(^2\) December 2011 marked the first time since the country joined the then-European Economic Community (EEC) 40 years ago that the UK Government proved willing to end a potential EEC/EC/EU Treaty amendment process.\(^3\) It was also the first time that some Member States reached agreement outside the EU legal framework to integrate further in a policy area which was already part of the EU’s core business. We felt that the December 2011 European Council might mark a defining moment in the UK’s EU policy and place in the EU. We therefore decided that the matter required our scrutiny, in part to try to determine the significance of the events. We questioned the Foreign Secretary, the Rt Hon William Hague MP, about the December meeting at one of our regular evidence sessions with him in March 2012,\(^4\) and launched our inquiry shortly afterwards.\(^5\)

2. We took oral evidence on four occasions in total. We held three sessions in 2012, either side of the summer recess. In July, we heard, first, from Sir Howard Davies, Professor of Practice at the Paris Institute of Political Studies (Sciences Po), and former Director of the London School of Economics (LSE), Chairman of the Financial Services Authority, Deputy Governor of the Bank of England and Director-General of the Confederation of British Industry (CBI). Later that month, we took evidence from Charles Grant, Director of the Centre for European Reform; Mats Persson, Director of Open Europe; and Michiel van Hulten, a Dutch former EU official and MEP and now an independent Brussels-based consultant. In September, we took evidence from Professor Patrick Minford, Professor of Applied Economics at Cardiff Business School.

\(^1\) Throughout this Report, if no other indication is given, references to ‘EU Treaty change’ or to ‘the EU Treaties’ may mean either or both of the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU).

\(^2\) The ‘fiscal compact’ treaty is properly the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG). The Czech Republic is the other non-signatory EU state alongside the UK.

\(^3\) The 1992 Maastricht Treaty re-named the European Economic Community (EEC) the European Community (EC). It also established the European Union (EU), comprising the EC plus two inter-governmental ‘pillars’.

\(^4\) “Developments in UK foreign policy”, oral evidence taken before the Foreign Affairs Committee on 8 March 2012, HC (2010–12) 1879-i

3. During autumn 2012, we made two overseas visits to gather further information. In late October, we visited Berlin and (in two groups) Oslo and Berne; and in late November we visited Brussels and Paris. We provide a list of our meetings on these visits as Annexes 6 and 7. We also held a number of relevant informal meetings in London during our inquiry.

4. We received 42 written submissions, from a wide range of politicians, former EU officials, former UK diplomats, interested organisations, academics and think-tank specialists. We would like to thank all those who provided evidence, spoke to us in connection with our inquiry or otherwise assisted us, and especially the UK’s Ambassadors to Berlin, Berne, Oslo and Paris and Permanent Representative to the EU and their teams for facilitating our visits.

Inquiry terms of reference, scope and timing

5. When we launched our inquiry, in March 2012, we were interested primarily in the longer-term political and institutional implications for the UK in the EU of the December 2011 European Council and the conclusion of the ‘fiscal compact’ treaty. In our terms of reference, we invited evidence which addressed the following questions in particular:

- To what extent should the December 2011 European Council and its outcome be seen as a watershed in the UK’s EU policy and place in the Union?
- Between now and 2020, what institutional architecture and membership should the UK seek for the EU? Should the UK embrace a formalised two (or more)-tier EU and start to develop ideas for multiple forms of EU membership?
- What is the relationship between the new ‘fiscal compact’ treaty and the EU’s acquis? What impact might the conclusion of the ‘fiscal compact’ treaty have on other aspects of the EU and its policies, such as the EU budget, enlargement, or the Common Foreign and Security Policy?
- Should the UK Government support the incorporation of the ‘fiscal compact’ treaty into the EU Treaties? If it should, what demands and safeguards, if any, should it make its condition for doing so?

6. We envisaged originally that we might produce a report around the end of 2012. In the event, we extended our timetable. First, we decided to await the outcome of the December 2012 European Council. On the basis of the European Council’s conclusions in June 2012, the December meeting was for some months expected to take decisions on a “specific and time-bound road map for the achievement of a genuine Economic and Monetary Union”, including the identification of measures which would and would not require EU Treaty change.

7. During the summer of 2012, it was reported that the Prime Minister planned to make a major speech setting out his EU policy. It was reported that Mr Cameron might do so

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7 Conclusions of the European Council, 28-29 June 2012
The future of the European Union: UK Government policy during the autumn, or around the time of the December 2012 European Council. In a second prolongation, we decided that we could not sensibly conclude our inquiry—by taking evidence from the Foreign Secretary—before the Prime Minister had made his speech. In the event, Mr Cameron delivered his speech only on 23 January 2013. We were able to hold our fourth and final evidence session, with the Foreign Secretary, in February.

8. In his 23 January speech, Mr Cameron committed any Conservative Government elected in the 2015 General Election to negotiating a “new settlement” for the UK in the EU, and then holding a referendum on whether the UK should remain an EU member. This placed an ‘in/out’ referendum and the question of the UK’s continued EU membership in the mainstream of policy debate in a way that they had not been when we launched our inquiry. In our terms of reference, we had not invited evidence on the ‘in/out’ question, or on the merits or demerits of an ‘in/out’ referendum.

9. During our extended inquiry, developments in the EU and especially the Eurozone continued to move fast in some respects. Uncertainty over future developments remained high. When we started our work, the survival of the single currency appeared to be an immediate question. Sir Howard Davies told us in July 2012 that he was thinking “more about what is going to happen between now and Friday than [...] about what is going to happen in five years’ time”. After a period of relative calm in the second half of 2012, the crisis flared up again over the Cyprus banking sector as we were preparing this Report in spring 2013.

10. The scale and pace of developments—in the EU, and in the Prime Minister’s EU policy—between the launch of our inquiry in March 2012 and our concluding evidence session with the Foreign Secretary eleven months later presented us with a challenge when we came to consider making a report. Most of our evidence referred to developments in late 2011 and the spring and summer of 2012; and we had taken no evidence on the Prime Minister’s speech of 23 January 2013 other than from the Foreign Secretary and FCO officials. Nevertheless, we decided to report to the House without further delay, and thus without reopening our terms of reference or inviting fresh evidence. We did so because:

- We felt able to focus on longer-term issues concerning the overarching principles and practice of UK policy because other parliamentary committees are undertaking detailed scrutiny of many of the relevant and more fast-moving EU policy areas. For example, the European Scrutiny Committee produced a Report on the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG) (the ‘fiscal compact’ treaty), and is conducting an inquiry into the EU.

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8 “Cameron bid to claw back powers from the EU”, The Times, 1 July 2012; “David Cameron backs Eurozone banking union”, The Independent, 3 July 2012; “PM to reclaim 100 powers from EU”, The Sunday Times, 23 September 2012; “David Cameron to try to avoid major row over Europe at Tory conference”, www.guardian.co.uk, 27 September 2012

9 David Cameron, EU speech at Bloomberg HQ, London, 23 January 2013, www.gov.uk/government/speeches/eu-speech-at-bloomberg. In the rest of this Report, we refer to Mr Cameron’s speech without always repeating this source information, to avoid excessive duplication.

10 Q 9

11 European Scrutiny Committee, Sixty-second Report of Session 2010-12, Treaty on Stability, Coordination and Governance: impact on the eurozone and the rule of law, HC 1817
The future of the European Union: UK Government policy

12 the Environment, Food and Rural Affairs Committee has produced Reports on the Common Agricultural Policy and the Common Fisheries Policy;13 the European Scrutiny Committee, the Treasury Committee and the House of Lords EU Committee have conducted work on the Eurozone crisis, Economic and Monetary Union (EMU) and EU financial sector regulation14 (and the Sub-Committee on Economic and Financial Affairs of the House of Lords EU Committee announced an inquiry into Genuine Economic and Monetary Union in April 2013 as we prepared this Report);15 the House of Lords EU Committee has also carried out an inquiry into the EU’s long-term budget for 2014-2020 (the Multiannual Financial Framework, MFF);16 and the European Scrutiny Committee and the House of Lords EU Committee have both conducted work on the UK’s 2014 ‘opt-out’ decision in the field of EU police and criminal justice policy.17 In our Report, we focus on broader questions which we encountered repeatedly during our inquiry and which we feel are likely to continue to recur as the debate moves ahead—including in any ‘in/out’ referendum campaign over the UK’s continued EU membership.

- Many of the arguments which our witnesses made in connection with Government policy on the December 2011 European Council and the ‘fiscal compact’ were general ones of principle, which seemed to us to be applicable to subsequent and possible future policy.

- The Prime Minister’s desire for a “new settlement” for the UK in a more “flexible” EU, including through the repatriation from the EU of some powers, was not a new announcement in his 23 January speech. Mr Cameron had been speaking of this objective since at least late 2011.18 The Foreign Secretary had also been making

15 House of Lords EU Committee, Sub-Committee A - Economic and Financial Affairs, “Call for Evidence: Genuine Economic and Monetary Union and the Implications for the UK”, 24 April 2013
18 For example, David Cameron, “Foreign policy in the national interest”, speech at the Lord Mayor’s Banquet, Mansion House, 14 November 2011; David Cameron, “We need to be clear about the best way of getting what is best for Britain”, The Sunday Telegraph, 1 July 2012; oral evidence taken before the Liaison Committee on 3 July 2012, HC (2010-12) 468-i, Qq 4-5
similar remarks for some time, and the Conservative Party’s 2010 General Election manifesto similarly contained policies along these lines. Even before Mr Cameron’s January 2013 speech, therefore, we had been able to explore with witnesses and other interlocutors some of the potential ramifications of what is now his stated policy.

Government and Conservative Party EU policy

11. The Prime Minister’s 23 January speech presented our inquiry with a second challenge. Under the House of Commons Standing Orders, our remit is to examine the “expenditure, administration and policy” of the Foreign and Commonwealth Office (FCO). However, in his evidence to us in February 2013, the Foreign Secretary made clear that the parts of the Prime Minister’s speech which referred to policy after 2015 were not Government policy, and were not to be acted on by the FCO before the 2015 General Election. Mr Hague said that, with respect to policy post-2015, Mr Cameron had been speaking as Conservative Party leader, and he, Mr Hague, had contributed to the speech as foreign affairs spokesman for the Conservative Party. With respect to the EU reform agenda which Mr Cameron set out in January, the boundary between current Government policy and the policy of a possible post-2015 Conservative Government is not fully clear (see paragraphs 95-104). However, with respect to the other elements of Mr Cameron’s agenda, the second party in the Coalition, the Liberal Democrats, does not support Mr Cameron’s announcement now of an intention to negotiate after 2015 a “new settlement” for the UK in the EU which includes the repatriation of powers, and to hold by the end of 2017 an ‘in/out’ referendum which is not necessarily tied to EU Treaty change.

12. Despite the status of Mr Cameron’s post-2015 commitments as party pledges rather than Government policy, we decided that we could not credibly publish a report arising from an inquiry into Government policy on the future of the EU without exploring some of their implications. We had extended our inquiry in 2012 precisely in order to await Mr Cameron’s speech. In taking the unusual step of commenting on policy which is party policy not Government policy, we have acted on our sense that Mr Cameron’s speech is already affecting the calculations and responses of other actors around the EU with respect to UK Government positions. We also aim to help inform the public debate on the UK’s EU policy in coming years. In particular, we hope that we have identified some of the issues

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19 For example, William Hague, “Europe at a crossroads: what kind of Europe do we want?”, Berlin, 23 October 2012
20 The Conservative Party, Invitation to join the Government of Britain: The Conservative Manifesto 2010, pp 113-114
21 Standing Order No 152
22 Qq 147, 150, 152
23 “Handbagged! David Cameron’s promise of EU referendum by 2017 provokes storm of controversy; Deputy PM warns of ‘years of uncertainty because of a protracted, ill-defined renegotiation’”, www.independent.co.uk, 23 January 2013; “Nick Clegg: David Cameron is not acting in the national interest over Europe”, www.telegraph.co.uk, 23 January 2013; “EU plebiscite is madness, says Clegg”, www.ft.com, 10 March 2013; “Clegg: ‘Endless navel-gazing over Europe is distracting’”, Independent on Sunday, 12 May 2013. In their 2010 General Election Manifesto, the Liberal Democrats backed an ‘in/out’ referendum on the UK’s continued EU membership “the next time a British Government signs up for fundamental change in the relationship between the UK and the EU”: Liberal Democrat Manifesto 2010, p 67.
24 In May 2013, referring to strategic planning exercises being conducted by other EU governments, the Polish Institute of International Affairs (PISM) said that “the long-term future of the UK’s relationship with the EU features increasingly high on their agendas”; Agata Gostynska, Roderick Parkes, Marta Stormowska, Pawel Tokarski and Patryk Toporowski, “The Renegotiation Delusion? Nine Questions about Britain’s EU Future”, PISM, May 2013, p 8
which we expect—or would like—to see addressed by both sides in any ‘in/out’ referendum campaign.

13. Our Report examines the key overarching principles of Government policy for the UK’s place in the EU, for as long as the UK may remain a Member State. It also starts to explore some of the implications of the Prime Minister’s major EU speech of January 2013, in which he outlined policy to be pursued by any Conservative Government elected in the 2015 General Election. Our Report is not an examination of whether the UK should remain in the EU or withdraw. We did not include the ‘in/out’ question in our terms of reference, which we agreed well before the Prime Minister’s speech, and as a Committee we have expressed no view on the ‘in/out’ question as part of our inquiry. We intend our Report to help inform the public debate on the UK’s EU policy in coming years.

**Government policy**

14. We identified the main elements of agreed Government policy on basic EU institutional questions as being to:

- support the UK’s continued membership of the EU, and not explore options outside;\(^{25}\)
- rule out any transfer of sovereignty or powers from the UK to the EU during the 2010-2015 Parliament;\(^{26}\)
- ratify only if approved in a referendum i) any EU Treaty amendment which would transfer powers or competences from the UK to the EU, or ii) any one of a number of specified integrative steps which are possible under the existing Treaties (such as adopting the Euro). This has been enshrined in the European Union Act 2011;
- require primary legislation to approve any EU Treaty change (also under the EU Act 2011), prior to ratification;
- support closer integration within the Eurozone, but rule out UK adoption of the single currency during the 2010-2015 Parliament;\(^{27}\) and
- support further enlargement of the EU.\(^{28}\)

For reference, we include a timeline of major developments in the Government’s EU policy as Annex 1.

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\(^{25}\) Qq 203-211 [Mr Hague]


15. A further element of Government policy is the commitment to “examine the balance of the EU’s existing competences”. The Foreign Secretary launched this exercise, the Balance of Competences Review, in July 2012, and announced further details in a written statement in October. The exercise uses the notion of “competence” in the sense of authority to act in a particular policy area: in any one policy field, competence might lie with the EU or its Member States or be shared between them. However, for the purposes of its Review, the Government is including within the notion of EU competence “everything deriving from EU law that affects what happens in the UK”. The Review “will look at where competence lies, how the EU’s competences are used, and what that means for our national interest”.

16. The Balance of Competences Review got underway in autumn 2012. It is being managed by the FCO and the Cabinet Office, under the oversight of the European Affairs Cabinet Committee (which the Government established after the 2010 General Election and which is chaired by the Foreign Secretary). In the FCO, the Review is being handled by the Future of Europe Department, which the Government established within the Europe Directorate as part of its reorganisation of the FCO’s structures for handling EU matters after the 2010 General Election. In April 2012, Angus Lapsley was seconded from the FCO to become a Director in the European and Global Issues Secretariat in the Cabinet Office, in large part to manage the Balance of Competences Review there. To implement the Review, the Government has identified 32 policy areas where the EU has some competence, and the lead UK Government Department for each. For each policy area, the relevant Department is to conduct a review of the impact on the UK of the EU’s current competences, by publishing a call for evidence, inviting submissions from individuals and bodies with relevant knowledge and experience, and publishing a report at the end of its work. The European Affairs Cabinet Committee is to approve each report before publication. The whole process is to conclude by the end of 2014. The Government has divided the two-year period into four “semesters” and allocated to each semester the reviews for several of the 32 policy areas. The FCO is conducting or contributing to

30 HC Deb, 12 July 2012, col 468; FCO, Review of the Balance of Competences between the United Kingdom and the European Union, Cm 8415, July 2012
31 HC Deb, 23 October 2012, col 46WS. Mr Hague updated the House in a further written statement in May 2013 as we finalised this Report: HC Deb, 14 May 2013, col 32WS.
32 The EU’s competences, and whether they are exclusive, shared or supporting, are listed in Part One, Title I, of the Treaty on the Functioning of the European Union (TFEU).
33 FCO, Review of the Balance of Competences between the United Kingdom and the European Union, Cm 8415, July 2012, p 13
34 FCO, Review of the Balance of Competences, p 6
36 Ev 93 [FCO]
37 Information on the Balance of Competences Review is taken from the Foreign Secretary’s October 2012 written statement, HC Deb, 23 October 2012, col 46WS, apart from information on the role of the European Affairs Cabinet Committee, which is in a letter and attachments from Rt Hon David Lidington MP, Minister for Europe, to Lord Boswell, Chair, House of Lords EU Committee, 21 January 2013, published by the House of Lords EU Committee on
reviews in either three or four areas: in the first semester, it is conducting the review in the field of foreign policy; and in the final semester, the Government has allocated EU enlargement to the FCO, and some cross-cutting competences to a group of departments including the FCO, but it has indicated both that the review in the field of subsidiarity and proportionality will be an FCO responsibility and that the departmental lead on this issue has yet to be determined.\(^{38}\) Given its conduct of the foreign policy review in the first semester, the FCO is in the first group of departments expected to publish a report arising from a review, in June or July 2013. The Government has yet to decide how to draw all the work together at the end of the exercise in late 2014. However, it has said that the Balance of Competences Review “will not be tasked with producing specific recommendations [...] will not prejudge future policy and [...] will not be asked to look at alternative models for Britain’s overall relationship with the EU”.\(^{39}\)

17. Select committees are among the bodies which the Government is inviting to contribute to the Balance of Competences Review. We responded to Mr Hague’s invitation to contribute to the FCO’s review of EU foreign policy, in the first semester, with a letter summarising relevant conclusions we have reached in recent inquiries. We expect that the FCO will publish our letter as part of the evidence with its report, in June or July 2013.\(^{40}\)

18. One of the Government’s stated aims in conducting the Balance of Competences Review is to improve understanding in the UK of the impact of EU membership on the country, among both policy-makers and the public. According to the Government, this is to “ensure that our national debate is grounded in knowledge of the facts” and thereby help improve policy, whatever a future Government might determine that policy to be. In launching the Review, the Government said that a thorough analysis of the implications of EU membership for the UK was “currently notably absent”.\(^{41}\) Among our witnesses, several criticised what they saw as a poor understanding of EU policies and processes among even the political elite in the UK.\(^{42}\) Maurice Fraser of the London School of Economics (LSE), a former adviser to Sir Geoffrey Howe, Sir John Major and Lord Hurd as Foreign Secretaries, regretted what he saw as a “situation in which one of the two central planks of UK foreign policy”, namely EU membership, “has never been properly explained to British citizens”.\(^{43}\) The former UK diplomat Sir Peter Marshall argued that UK EU policy was at a stage where

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38 The review in the field of subsidiarity and proportionality was allocated to the FCO in the Foreign Secretary’s October 2012 written statement and appeared as such on the Balance of Competences Review website in May 2013 but was left ‘TBC’ in Mr Lidington’s January 2013 letter.

39 FCO, Review of the Balance of Competences between the United Kingdom and the European Union, Cm 8415, July 2012, p 12

40 In his May 2013 statement to the House on the Balance of Competences Review, Mr Hague said that the Government intended to “publish information on who submitted evidence alongside the final reports”: HC Deb, 14 May 2013, col 32WS.

41 FCO, Review of the Balance of Competences between the United Kingdom and the European Union, Cm 8415, July 2012, pp 5, 12

42 Ev 136-137 [Liberal Democrat Parliamentary Party Committee on International Affairs], 162 [Nucleus]

43 Ev 160-161
it would benefit from “expert impartial assessment and advice”, in order to try to forge a broader consensus.44

19. **Before the first reports arising from the Balance of Competences Review are published in summer 2013, it is too soon to assess the usefulness of the exercise.** However, as long as the Review is conducted transparently, impartially and on a wide evidence base, we feel that it has the potential to help improve understanding in the UK of the nature of the country’s EU membership and possible future EU policy choices. We discuss later in our Report (paragraphs 107-109) the potential significance of the Balance of Competences Review more widely across the EU.

**Structure of Report**

20. The extent of the UK’s influence in the EU emerged as a key overarching issue in our inquiry. Against this background, in our Report we consider more specific matters broadly in the order in which they arose. In Chapter 2, we assess the notion of UK ‘influence’ in the EU before turning to the messages about it, and impact on it, of the December 2011 European Council. In Chapter 3, we examine Government policy concerning the broader relationship between the Eurozone and the rest of the EU. In Chapter 4, we consider the agenda set out by the Prime Minister in his January 2013 speech. In Chapter 5, we turn briefly to Norway and Switzerland as possible models for relationships with the EU from outside it. In our concluding Chapter 6, we return to the theme of UK influence in the EU, considering how it might best be maintained in future.
2 UK influence in the EU and the December 2011 European Council

UK influence in the EU

21. In his first major speech in office, in July 2010, the Foreign Secretary, the Rt Hon William Hague MP, declared that he aimed to deliver a foreign policy that “extends [the UK’s] global reach and influence”. The job of the FCO, he said, was to help the UK “exercise maximum influence in the world”. Mr Hague’s focus on UK international influence included the EU, where he suggested that the previous Government had not been “serious about advancing Britain’s influence”. Mr Hague said that the current Government was “determined to put this right”.45

22. In the debate over the UK’s EU policy, the think-tank Open Europe contended that “‘influence’ is a term too often used in a rather lazy and undefined way”. Open Europe argued that the debate on UK influence in the EU should focus on identifying the concrete cases where the UK should exercise influence and had or had not done so.46 However, most witnesses did use the notion of UK ‘influence’ in the EU in general terms:

- On the one hand, witnesses tended to evaluate—or advocate change in—policy in terms of its impact on UK influence in the EU. They tended to take it as read that, if it is in the UK’s interests to be in the EU, the UK’s interests will be better served the more influence the UK has there.47 Such witnesses therefore held that sustaining and expanding UK influence in the EU should be a UK policy objective.

- On the other hand, differing assessments of the extent of the UK’s influence in the EU underpinned judgements about the feasibility or desirability of particular policies—up to and including the Government’s policy of keeping the UK in the EU. Judgements about the feasibility of the Prime Minister’s ‘renegotiation’ agenda rest partly on views about the extent of the influence that the UK could wield with other EU Member States (see paragraphs 145-148).

23. We were presented with two radically divergent pictures of the extent of UK influence in the EU:

- According to some witnesses, the UK’s influence is “small”48 or “minimal”,49 and the UK “must now admit to [...] the fact of [its] impotence and lack of influence”.50

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45 William Hague, “Britain’s foreign policy in a networked world”, FCO, London, 1 July 2010
46 Ev 117
47 For example, Sir Colin Budd at Ev 60
48 Ev 155 [Brendan Donnelly]
49 Ev 120 [Ruth Lea]
50 Ev 103 [Nigel Farage MEP]
According to other witnesses, the UK wields significant influence. For example, Professor Michael Dougan and Dr Michael Gordon of Liverpool Law School contended that the 2007 “Lisbon Treaty was widely seen across Europe as a triumph for the UK’s vision of European integration”\(^\text{51}\). Richard Corbett, an adviser to European Council President Herman Van Rompuy and former MEP (providing evidence in a personal capacity) told us that the UK’s contribution to the EU was “greater than it sometimes seems to realise itself”\(^\text{52}\). Several commentators have also argued recently that UK opinion often under-appreciates the extent to which the UK has shaped EU policies and practices over the past quarter century\(^\text{53}\).

24. These differing assessments of the extent of the UK’s influence in the EU correlated strongly with differing assessments of the value to the UK of remaining an EU Member. Witnesses who perceived the UK to be influential typically urged that it should remain in the EU. Those who saw the UK as having little influence were most likely to favour withdrawal. As Nigel Farage MEP put it: “If we have no influence, then what is the point of our membership?”\(^\text{54}\) (although he said explicitly that having influence in the EU would not of itself warrant being a member).\(^\text{54}\) The smaller the UK’s influence in the EU, the smaller the relative loss of UK influence over the Union that would be involved in withdrawal.

25. Witnesses who perceived the UK’s influence in the EU to be small were of two types: on the one hand, those such as Mr Farage who saw the UK’s low levels of influence as inherent to the EU project; and, on the other, those such as Brendan Donnelly of the Federal Trust, who saw the UK’s weak influence as the self-inflicted consequence of decisions by successive UK governments which, Mr Donnelly suggested, “cannot but undermine the political rationale for British membership” of the EU\(^\text{55}\). Witnesses including Mr Donnelly saw a risk of a self-reinforcing spiral, whereby weak UK influence in the EU increases the perceived likelihood of the UK leaving, which weakens UK influence\(^\text{56}\).

26. There is no readily available objective measure of any Member State’s overall influence in the EU. Studies of EU decision-making suggest that a Member State’s influence can vary from policy to policy, depending on the nature of the policy area, the decision-making procedure involved, and the Member State’s will and capacity to make a difference\(^\text{57}\). However, having posed the question “which states exercise most influence?”, one standard textbook recently stated baldly that “the larger states do”\(^\text{58}\). With respect to Member States’ institutional positions in the Union, the UK is one of the four which have the same largest share of weighted votes in the Council of the EU: France, Germany, Italy and the UK all have 29 of 345 votes, or around 8% (falling marginally to 29 of 352 after Croatia’s expected

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\(^{51}\) Ev 112

\(^{52}\) Ev 186; Professor Schnapper made a similar argument, at Ev 172.


\(^{54}\) Ev 103; see also Ev 120-122 [Ruth Lea].

\(^{55}\) Ev 155

\(^{56}\) Ev 138 [Liberal Democrat Parliamentary Party Committee on International Affairs], 154-155 [Brendan Donnelly]

\(^{57}\) For a recent survey, see Nathaniel Copsey and Karolina Pomorska, “Poland’s power and influence in the European Union: The case of its eastern policy”, Comparative European Politics, Vol. 8 (2010), pp 304-326

accession on 1 July 2013).\(^{59}\) In the European Parliament (EP), the UK has 73 of 754 seats, or around 10%, the third-largest share after Germany and (by one seat) France.\(^{60}\)

27. Several witnesses argued that the UK had an additional asset for influence in the EU, in the shape of the English language. Richard Corbett said that English was now the “lingua franca” of Europe.\(^{61}\) For example, according to a report by the French Senate in 2009, the share of European Commission documents drafted in English rose from 46% in 1996 to 73% in 2008. In the Council, in the period 2003-2008 the shares of documents drafted in English ranged between 60% and 79%, varying partly according to the Member State holding the rotating Council Presidency.\(^{62}\)

28. The former EU Council official and MEP Michiel van Hulten drew our attention to the work of the organisation VoteWatch Europe (of which he is Managing Director) on voting outcomes in the Council of the EU.\(^{63}\) According to data which VoteWatch Europe generated for us, in Council votes between July 2009 and March 2013 the UK was in the minority more often than any other Member State, by some distance. It voted against proposals in the Council on 10.5% of occasions, compared to 5.9% of occasions for the next-most ‘contrary’ Member State, Austria. If only votes where at least one Member State abstained or voted against were counted, the share of occasions on which the UK voted with the minority rose to 35.0%, against 19.2% for Austria.\(^{64}\) These data might suggest that the UK was the least influential Member State, because it was faced most often with a proposal in the Council with which it did not agree. However, Mr van Hulten urged caution in interpreting the data, on two grounds:

- By definition, voting data only capture Member States’ positions on matters that have been put to a vote—and the Council Presidency country only typically puts matters to a vote when it is sure that they will be approved. The voting data do not capture a Member State’s influence in preventing a matter from coming to a vote in the first place.

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\(^{59}\) Council voting weights before Croatia’s accession are as in Protocol 36 to the EU Treaties, on transitional provisions, summarised at www.consilium.europa.eu/council?lang=en. Voting weights following Croatia’s accession are established in Croatia’s Accession Treaty, Article 20: OJ L 112/21, 24 April 2012. The UK has 12.5% of the EU’s population (2013).

\(^{60}\) The UK’s share of EP seats will fall marginally, to 73 of 766, between 1 July 2013 and the end of the 2009-2014 EP term, because Croatia’s incoming twelve MEPs are simply being added temporarily to the total. In the EP to be elected in 2014, the UK’s share of seats is expected to rise again slightly, to 73 of 751, when the maximum EP seat number established in the Lisbon Treaty is expected finally to be achieved. The UK will retain the third-largest complement of MEPs throughout. The post-2014 distribution of seats has been proposed by the EP (subject to the maximum established in the Lisbon Treaty) and awaited the Council’s agreement as we prepared this report in spring 2013: see European Parliament resolution of 13 March 2013 on the composition of the European Parliament with a view to the 2014 elections, TA(2013)0082.

\(^{61}\) Ev 186. Sir Colin Budd used the same phrase, at Ev 62.

\(^{62}\) Sénat, Rapport No. 258 (2008-2009) de M. Jacques Legendre, fait au nom de la commission des affaires culturelles (1) sur la proposition de résolution européenne présentée par M. Hubert Haenel au nom de la commission des affaires européennes (2) en application de l’article 73 bis du Règlement, sur le respect de la diversité linguistique dans le fonctionnement des institutions européennes, 11 March 2009

\(^{63}\) Q 105

The voting data may pick up Member States’ attitudes not only to the measure at issue but also to being seen to be in a minority, in principle. According to Mr van Hulten, “some countries, and the UK in particular, strategically vote ‘no’ to make that point that they are opposed, whereas other countries may vote in favour despite the fact that they are opposed because they want to show that they are good Europeans”.65

29. In EU foreign policy, the think-tank the European Council on Foreign Relations (ECFR) compiles an annual European Foreign Policy Scorecard which rates the EU’s performance on top foreign policy issues from year to year. Since 2012, ECFR has also graded individual Member States by their performance on a number of elements of EU foreign policy. ECFR grades Member States as ‘leaders’ where they took initiatives or supported EU policy in an exemplary way, or as ‘slackers’ where they impeded EU policies or failed to ‘pull their weight’. In both the 2012 and 2013 Scorecards, ECFR classed the UK as a ‘leader’; in both years ECFR placed the UK equal second, with France and behind Germany.66

30. Among witnesses who saw the UK as influential in the EU:

- the Scotch Whisky Association said that “the EU legislation of greatest interest to our sector often bears the hallmark of UK participation”, and that the UK had been influential over EU positions in trade negotiations with third countries and EU entry terms for new Member States;67

- the campaign group Nucleus said that “in a whole variety of areas, from security to climate change, [the UK is] the ‘lead’ nation”;68

- Dr Robin Niblett, the Director of Chatham House, said that UK leadership in the EU had been “instrumental” in the breakthroughs made at the November 2011 UN climate change conference in Durban;69 and

- Mr van Hulten told us that the UK “punched above its weight” in the EU.70

For its part, in its written evidence submitted in May 2012, the FCO listed a number of areas where it considered that the UK had exercised leadership within the EU over the longer term and seen its policy preferences reflected in EU action. These included: the building of an EU coalition for economic growth through reform, EU leadership towards a new international climate change treaty, EU support for new Arab democracies, EU sanctions on Burma and Syria, the ‘twin-track’ approach to Iran, and progress towards EU membership for Croatia and Serbia.71
31. The policy-makers and observers to whom we spoke in other European countries, both inside and outside the EU, mostly saw the UK as influential within the Union. They typically pointed to what they saw as the UK’s significant influence in the EU when explaining why they wished the UK to remain a member, and why they found it difficult to understand the wish of some in the UK to withdraw. Commenting on such views in January 2013, *The Economist* asked rhetorically: “if Britain were so impotent, why would they care?”

32. Differing assessments of the extent of the UK’s influence in the EU are likely to feature heavily in the arguments both for and against the UK’s continued EU membership in coming years. There is no readily available objective measure of a Member State’s overall influence in the Union. However, the point of a Member State having influence in the EU is to achieve EU policy outcomes that realise its interests and objectives. Policy outcomes are thus a useful indicator in the debate. We therefore recommend that, in the reports which the Government will publish arising from the Balance of Competences Review, it should indicate, in each policy area, the extent to which UK policy preferences have or have not been fulfilled. This could help to inform public debate.

**UK influence in the EU: the December 2011 European Council as case study**

33. As we noted at the outset of our Report, our inquiry was triggered by events at the December 2011 meeting of the European Council. Our witnesses largely assessed the December 2011 meeting in terms of its messages about, and impact on, UK influence in the EU.

**UK diplomacy**

34. During 2011, there was a growing consensus among commentators and policy-makers that the longer-term stabilisation of the Eurozone would require further fiscal and economic policy integration among its Member States. In the run-up to the scheduled December 2011 meeting of the European Council, a key question was whether the further Eurozone integration at issue would or should involve EU Treaty change. The Eurozone states had first raised the possibility of EU Treaty change for these purposes in October. According to the account which the Foreign Secretary provided to us at our request in February 2012, with the notable exceptions of Germany and France the preferences of most Member States going into the December European Council were for no EU Treaty change over Treaty change, but for Treaty change over a possible agreement outside the EU Treaties.

35. At the December meeting, European Council President Herman Van Rompuy put forward proposals for EU Treaty change. The Prime Minister made the UK’s agreement to

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72 “Muscles in Brussels”, *The Economist*, 14 January 2013

73 Conclusions of the European Council, 23 October 2011; Euro Summit Statement, 26 October 2011

74 Letter from Rt Hon William Hague MP, Foreign Secretary, to the Chair, 15 February 2012, published with “Developments in UK foreign policy”, oral evidence taken before the Foreign Affairs Committee on 8 March 2012, HC (2010–12) 1879-i, at Ev 18-21; see also Qq 1, 12 in Mr Hague’s evidence on that occasion.
EU Treaty change conditional on the inclusion in the amended EU Treaty of a set of provisions which he put forward at the meeting. Other Member States declined to agree to the Prime Minister’s requests, so EU Treaty change became impossible. Other Member States decided to enshrine in a separate treaty, outside the EU framework, the provisions for greater fiscal and economic policy integration which had been under discussion. At the conclusion of the European Council meeting, it was not clear how many non-Eurozone Member States might join this ‘fiscal compact’ treaty, although the total number of likely signatories from among all 27 Member States was not less than 23.75 In the event, 25 Member States signed up when the ‘fiscal compact’ treaty was ready for signature in March 2012, leaving only the Czech Republic and the UK outside. The UK had had observer status in the Working Group which developed the text of the new treaty after December 2011. The ‘fiscal compact’ treaty, properly the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG), came into force on 1 January 2013 after it had been ratified by the required twelve Eurozone states.76

36. Under the TSCG, among other provisions, Contracting Parties are to enshrine a ‘balanced budget’ rule in national law, and may face a case in the European Court of Justice (ECJ) and possible fine if they fail to do so. The TSCG further provides that, from March 2013, no Eurozone state may receive financial help as part of any new programme with the European Stability Mechanism (ESM, the Eurozone’s permanent bailout facility) unless it has ratified the TSCG. The TSCG also formalises regular meetings of the Eurozone Heads of State or Government. The Eurozone states are to hold at least two Euro Summits a year and appoint a semi-permanent summit president.77 The Euro Summits are to discuss the “specific responsibilities” of Eurozone states with respect to the single currency, “other issues concerning the governance of the Euro area” and “strategic orientations for the conduct of economic policies to increase convergence in the Euro area”. The Heads of State or Government of states which have ratified the TSCG but are outside the Eurozone are to participate in Eurozone summits for discussions of competitiveness for TSCG states and “modification of the global architecture of the Euro area”. Otherwise, the President of the Euro Summit is to keep non-Eurozone TSCG states and non-TSCG EU Member States “closely informed” about Euro Summit meetings.78 We summarise the different groups of Member States belonging to the Eurozone, the TSCG and the EU as part of Annex 3.

37. The Foreign Secretary confirmed to us that the Government’s view would have been that, had the provisions of what became the TSCG been incorporated into the EU Treaties, UK ratification of the resulting EU Treaty change would not have required approval in a referendum under the terms of the European Union Act 2011. The Government would have regarded the EU Treaty changes as exempt from the ‘referendum lock’ instituted by the Act because they would have affected only Eurozone states. As a result, in the

75 Statement by the Euro Area Heads of State or Government, 9 December 2011
76 By mid-May 2013, the number of Eurozone states to have ratified the TSCG had risen to 14, and five non-Eurozone Member States had also ratified the Treaty; see Annex 3.
77 The Eurozone states appointed European Council President Herman Van Rompuy as the Euro Summit President in March 2012, for a two-and-a-half-year term. They agreed formal “Rules for the organisation of the proceedings of the Euro Summits” in March 2013. The European Scrutiny Committee summarised the provisions of the TSCG after para 12 of its Report Treaty on Stability, Coordination and Governance: impact on the eurozone and the rule of law, Sixty-second Report of Session 2010–12, HC 1817.
78 Title V TSCG
Government’s view, the Treaty changes would not have implied any transfer of power or competence from the UK to the EU. 79 Professor Michael Dougan and Dr Michael Gordon of Liverpool Law School told us that this was their reading too. 80 However, Mr Hague appeared to acknowledge that the Government’s view might have been challenged in Parliament and/or via judicial review. 81 Under the European Union Act 2011, UK ratification of EU Treaty change—of any sort—requires primary legislation. 82

38. Beyond the bare outline of events set out above, media reports at the time made clear that there were widely differing accounts of the December 2011 European Council. These assigned to different parties prime responsibility for the failure to reach agreement among all 27 Member States. 83 Our witnesses similarly presented differing accounts:

- According to the FCO, the Government had legitimate concerns about closer fiscal and economic policy integration in the Eurozone ‘spilling over’ into Single Market matters; and about the risk, more specifically, that instituting such closer Eurozone integration through the EU Treaties (rather than without Treaty change) would have made it easier for the EU institutions to act in Single Market matters in the interests of the Eurozone. According to the FCO, the Government indicated to its EU partners throughout autumn 2011 that if the Eurozone states sought EU Treaty change to provide for their greater integration, it would require Treaty-level safeguards to mitigate this risk. 84 The Government seemed to perceive this risk to rise significantly with the circulation, only one day before the European Council, of a letter to President Van Rompuy from German Chancellor Merkel and then-French President Sarkozy in which the two leaders called for “a strong economic pillar” to the Eurozone, to be instituted through Treaty change. This “pillar” was to “foster [...] stronger growth and enhanced competitiveness” in the Eurozone as well as fiscal discipline, and would possibly encompass financial and labour market regulation and some tax issues. 85 However, at the European Council meeting, President Sarkozy in particular indicated that he would not accept the UK’s proposals under any circumstances. 86 At the time, the Foreign Secretary referred to

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79 Q 168. The relevant provision of the EU Act (2011) is Article 4(4)(b).
80 Ev 112
81 Q 168
82 At the December 2011 European Council, European Council President Van Rompuy put forward two possible procedures for implementing the EU Treaty changes that were sought: the simplified revision procedure under Article 48(6) TEU; or use of the ‘passerelle’ mechanism which is possible under Article 126(14) TFEU. Before passage of the European Union Act 2011, under the European Union (Amendment) Act 2008 the UK could have ratified EU Treaty change implemented through a ‘passerelle’ mechanism without primary legislation. The European Union Act 2011 provided that EU Treaty change of any sort, including that implemented through a ‘passerelle’, requires primary legislation.
83 See, for example, “The moment, behind closed doors, that David Cameron lost his EU argument last night”, Bagehot’s Notebook, www.economist.com, 9 December 2011
84 Letter from Rt Hon William Hague MP, Foreign Secretary, to the Chair, 15 February 2012, published with “Developments in UK foreign policy”, oral evidence taken before the Foreign Affairs Committee on 8 March 2012, HC (2010–12) 1879-i, at Ev 18-21; see also Qq 3, 12 in Mr Hague’s evidence on that occasion. See also the letter from Rt Hon George Osborne MP, Chancellor of the Exchequer, to Andrew Tyrie MP, Chair, Treasury Committee, 27 February 2012, published by the Treasury Committee on its website at www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/other-committee-work-/parliament-2010/correspondence-session-2010-12.
85 “Text: Sarkozy and Merkel’s letter to Van Rompuy”, Reuters, 7 December 2011
86 HL Deb, 10 January 2012, col 7 [Lord Howell, then-FCO Minister of State]
the “detail” of the Government’s requests, saying that the Government could not finalise its proposals until after it had seen the letter from Chancellor Merkel and President Sarkozy, in order to ensure that they were “calibrated to the precise Treaty changes proposed”.87 However, according to a further letter from the Foreign Secretary in February 2013, a year after his original account to us, at the December 2011 meeting the Government had sought other Member States’ agreement only to the “principle that safeguards were needed to protect the Single Market as greater integration took place” (emphasis added).88

- Other witnesses put the failure to agree EU Treaty change more squarely at the Government’s door. They criticised either the substance of the Government’s position, or what they saw as poor UK diplomatic work in the run-up to the December 2011 meeting, or both. Brendan Donnelly, of the Federal Trust, saw the December 2011 European Council as “a simple failure of British negotiating tactics”. He thought that the Prime Minister might have found a more sympathetic hearing for his proposals “with better preparation and presentation”.89 The former senior European Commission official Graham Avery reported a view he had heard that, professionally, the negotiation had fallen below the UK’s usual standards;90 and the think-tank Open Europe said similarly that any future requests for safeguards that the UK Government might make needed to be “better thought-through, prepared and communicated” than those put forward in December 2011.91 The campaign organisation Nucleus and the former diplomat Sir Colin Budd suggested that the Government’s position failed in December 2011 because it presented its requests only at the last minute and had not secured allies among other Member States.92

39. The Government has declined to publish the document containing the proposals that the Prime Minister put forward in December 2011 as the Government’s condition for Treaty change, on the grounds that it does not publish draft documents circulated as part of international negotiations. However, in response to a request from the Treasury Committee, the Chancellor, the Rt Hon George Osborne MP, outlined the UK’s proposals in a letter.93 Mr Osborne’s letter largely accorded with a document which was published in the media and claimed there to be the document which the Prime Minister put forward at the December meeting.94 According to Mr Osborne’s letter, the Government had requested the inclusion in any amended EU Treaty of seven items. Our understanding of the relevant
legal provisions is that three of the Government’s requested provisions would have established a requirement for unanimous EU decision-making on financial regulatory matters which, under the current EU Treaties, require only a qualified majority because they are part of the Single Market. A further UK proposal would have established that all EU levies with fiscal impacts, including levies on the financial sector, would be treated as fiscal matters (and would thus be subject to unanimity) rather than as regulatory matters in the Single Market (which require only a qualified majority).

40. Sir Howard Davies judged some of the safeguards which the Government requested in December 2011 to be “useful” and “important”. However, he told us that few of the UK’s EU partners “saw the logic” of the Government’s requests for safeguards concerning the financial sector in response to proposed Treaty changes that were to do with fiscal policy. (The Prime Minister appeared to acknowledge this point to the Liaison Committee in July 2012.) Sir Howard suggested that the Government’s requests might have been more appropriate as part of the subsequent discussion of EU banking union (see paragraphs 82-87). Graham Avery and Richard Corbett saw the problem as having been that the UK appeared to request ‘compensation’ for Treaty changes “that imposed no new obligations on it”.

41. Mr Corbett also stressed the significance for other Member States of the UK wishing to introduce unanimous decision-making for Single Market matters. He reminded us that majority voting in the Single Market has been “the norm since the Single European Act signed by Mrs Thatcher”. According to Mr Corbett, in December 2011 the UK’s position in this respect was “quite a surprise” to other Member States and raised fundamental questions about the possibility of other EU members wishing to revert to unanimous decision-making for matters of particular concern to them.

42. At the December 2011 European Council, concerns in principle about the possible implications for the UK of closer Eurozone integration led the Government to request safeguards in return for agreeing to EU Treaty change. We regard the Government’s concerns as legitimate. Furthermore, the haste with which Member State governments—including that of the UK—were obliged to react to proposals for EU Treaty change in December 2011 posed significant diplomatic challenges. However, some of the specific requests which the Government put forward at the December 2011 European Council appear to have been misjudged for the circumstances. In some respects, the UK Government ‘got ahead’ of its EU partners and was seeking to mitigate risks for the UK which had not yet arisen, at a time when other Member States were more immediately focused on shoring up the Eurozone. The Government’s diplomatic preparation for the December 2011 European Council, in terms of finding allies, appears to have fallen short.

95 The matters in question were: transfer of powers relating to the prudential supervision of credit institutions, other financial institutions or financial market participants; decisions establishing maximum harmonised standards in the financial sector; and decisions on the relocation of the headquarters of any of the European Supervisory Authorities.

96 Q 17

97 Q 2

98 Ev 77 [Graham Avery], 186 [Dr Corbett]

99 Ev 186; see also Ev 154 [Brendan Donnelly].
The significance of December 2011: differing interpretations

43. We asked our witnesses to assess the extent to which the December 2011 European Council was a watershed in the UK’s EU policy and place in the Union. They were split:

- Some felt that the episode represented continuity. The campaign organisation Nucleus saw the meeting as part of a pattern of self-imposed marginalisation by the Government.\(^{100}\) Nigel Farage MEP argued partly for a ‘continuity’ interpretation, in that, in his view, the episode barely diverted the EU from “getting on with the business of integration as fast as possible”.\(^{101}\) The former civil servant and EU official Sir Michael Franklin thought that both the EU and the UK had been able to proceed with business despite the failure to agree in December 2011.\(^{102}\) The FCO saw the December 2011 European Council as one episode among many which demonstrated “how strongly [the Government is] prepared to defend our national interests”.\(^ {103}\)

- The economist Ruth Lea, on the one hand, and Liberal Democrat MEPs, on the other, argued that December 2011 should (or might well in future) be seen as a watershed—because, for Ms Lea, it exposed the UK’s isolation in the EU, and, for Liberal Democrat MEPs, it marked the first time that other Member States had “decided that they could not work with the UK”.\(^{104}\) Dr Niblett also thought that the divergence within the EU which was manifest in December 2011 warranted the ‘watershed’ label.\(^{105}\) The think-tank Open Europe agreed that December 2011 might be a watershed and was positive about the idea, inasmuch as the episode “could signal the start of a new political settlement” in the EU.\(^ {106}\)

44. For Liberal Democrat MEPs and the Liberal Democrat Parliamentary Party Committee on International Affairs, the significance of December 2011 lay in what they identified as a reversal of the UK’s traditional approach to EU negotiations. Whereas they saw the UK as previously having sought to exercise influence by remaining always at the negotiating table, they saw the Government’s stance in December 2011 as having allowed other Member States to move to negotiations among themselves, without the UK.\(^ {107}\) According to the Liberal Democrat Parliamentary Party Committee on International Affairs, “this broke the number one rule that has guided British policy on Europe for decades”.\(^ {108}\)

\(^{100}\) Ev 163
\(^{101}\) Ev 103
\(^{102}\) Ev 66
\(^{103}\) Ev 81
\(^{104}\) Ev 120-121 [Ruth Lea], 138 [Liberal Democrat European Parliamentary Party]; see also Nigel Farage MEP at Ev 103, who took a similar view to Ms Lea.
\(^{105}\) Ev 150
\(^{106}\) Ev 114
\(^{107}\) Ev 107 [Liberal Democrat European Parliamentary Party], 138 [Liberal Democrat Parliamentary Party Committee on International Affairs]; Professor Schnapper took a similar view, at Ev 172.
\(^{108}\) Ev 138
45. In its Report on the TSCG in April 2012, the European Scrutiny Committee focused on the legal significance of the new Treaty. The European Scrutiny Committee was interested in two points in particular:

i) Whether it was lawful for some Member States to establish a new treaty outside the EU framework to pursue their objectives when EU Treaty change could not be agreed. The European Scrutiny Committee saw this as circumventing the EU’s established decision-making rules and, as such, as a “dangerous precedent”. However, Professor Dougan and Dr Gordon told us that it was a “remarkable proposition” to suggest that “recourse to an international treaty is somehow improper [...] whenever a Member State(s) tries and fails to persuade its partners to amend the EU Treaties”.

ii) Whether it was lawful for Member States to provide in a non-EU treaty for the use of the EU institutions—in the case of the TSCG, for the European Commission and ECJ to have a role in the enforcement of the treaty’s provisions. Media reports at the time suggested that the UK Government might have believed that it would be unlawful for other Member States to provide for the use of the EU institutions in this way, and that other Member States would therefore be obliged to agree to its conditions for EU Treaty change. However, at the December 2011 European Council, the legal service of the Council of the EU reportedly gave advice that the use of the EU institutions in a non-EU framework could be permissible. The European Scrutiny Committee concluded that this aspect of the TSCG was “legally unsound”.

46. Concerns about the use of the EU institutions under the TSCG led the Government formally to “reserve its position” on the TSCG, as set out in a letter in February 2012 from UK Permanent Representative to the EU Sir Jon Cunliffe to the Secretary-General of the Council of the EU, Uwe Corsepius. In his letter, Sir Jon said that the Government understood the need for the Eurozone to have “proper fiscal discipline, properly policed”. However, he noted that “the EU institutions must only be used outside the EU Treaties with the consent of all Member States, and must respect the EU Treaties”. He stated that the Government considered it “important to ensure that no objectionable precedents are set”. In its response to the European Scrutiny Committee Report in June 2012, the FCO used even stronger language. It said that if, following the entry into force of the TSCG, “the participating Member States were to act in a manner prejudicial to the operation of the Single Market or the operation of the EU Treaties the Government would wish to consider all possible avenues of action available to it including possible recourse to the European Court of Justice”. The FCO said that if it ever decided to take any action on the TSCG, it

109 European Scrutiny Committee, Sixty-second Report of Session 2010-12, Treaty on Stability, Coordination and Governance: impact on the eurozone and the rule of law, HC 1817, para 67

110 Ev 111


112 European Scrutiny Committee, Sixty-second Report of Session 2010-12, Treaty on Stability, Coordination and Governance: impact on the eurozone and the rule of law, HC 1817, para 68

113 Published by the European Scrutiny Committee, Sixty-second Report of Session 2010-12, Treaty on Stability, Coordination and Governance: impact on the eurozone and the rule of law, HC 1817, Ev 74
would inform Parliament. Professor Dougan and Dr Gordon acknowledged that there were “solid legal arguments” on both sides as to whether the use of the EU institutions in a non-EU framework required the consent of all Member States, or only some. However, they drew our attention to the ECJ’s ruling in the case of Pringle v Government of Ireland in November 2012, which they said offered a “clear affirmation” of the possibility under EU law of Member States requesting an EU institution to undertake some non-EU functions on their behalf.

47. We conclude that the longer-term significance of the December 2011 European Council was twofold:

- First, other Member States are willing politically to move to further integration without the UK when they are legally able to do so; and avenues may be available for them to do so under certain circumstances. In December 2011, for Eurozone states, meeting the perceived needs of the Eurozone took priority over negotiating EU Treaty change among all 27 Member States. For its part, the UK Government was prepared to see EU Treaty change fail at the negotiating stage—for the first time since the UK joined the then-European Economic Community in 1973—and other Member States move to a negotiation without the UK.

- Second, given the prospect of closer integration within the Eurozone, the UK Government now considers that protecting the UK’s interests in the Single Market may no longer be possible under qualified majority voting, and that tougher decision-making thresholds may be required. This represents a significant shift in the position which the UK has held on the Single Market since the Single European Act of 1986.

The impact of the December 2011 veto on UK influence in the EU

48. In his statement to the House following the December 2011 European Council, the Prime Minister implied that, by proving himself willing to veto EU Treaty change, he had strengthened the UK’s position in the Union. “If you are not prepared to say ‘no’ from time to time, you do not have any influence or power”, he claimed. Professor Patrick Minford of Cardiff Business School saw the Prime Minister’s stance as having communicated, both in the UK and in other Member States, that the UK had interests at stake in Eurozone developments and was “not necessarily going to go along with things that would be against” them.

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115 Ev 111, 113-114. Professor Whitman and Thomas Raines suggested that the TSCG might set a precedent under which “sub-27” groups of Member States might task EU institutions, including the External Action Service, with carrying out aspects of their foreign, security or consular policies; Ev 127-128.

116 HC Deb, 12 December 2012, col 528

117 Q 109
49. Over the longer term, several witnesses felt that the Prime Minister’s December 2011 veto would weaken the UK’s overall influence in the EU. They suggested, variously, that the December 2011 European Council and its outcome:

- raised fundamental doubts about whether further Eurozone integration and the UK’s position could be reconciled, and constituted the latest episode to reinforce a sense that the UK was probably on a trajectory different from that of the rest of the EU;\(^{118}\)
- furnished other Member States with what could be an important experience of engaging in further integration without the UK;
- formalised structures in which the UK would not be represented, in the shape of the Euro Summit;\(^{119}\) and
- perhaps made other Member States less inclined to try to accommodate UK concerns. Charles Grant, Director of the Centre for European Reform, spoke of the Prime Minister’s veto creating “upset”, annoyance and “ill will”.\(^{120}\)

For these reasons, several witnesses suggested that the outcome of the December 2011 European Council increased the risk of other Member States ‘caucusing’—that is, holding key discussions, reaching understandings and doing deals—without the UK.\(^{121}\) Sir Colin Budd warned of “the incremental effect of the widespread and increasing assumption in the rest of the EU that the UK perspective, when it comes to considering the future of Europe, is of less and less importance”.\(^{122}\) Michiel van Hulten said that the UK had lost influence “in the atmospherics” and noted “a feeling that [...] people are no longer willing to listen to the UK in the same way as before”.\(^{123}\)

50. In the shorter term, with respect to specific EU policy issues since December 2011, Sir Colin Budd said that there was “accumulating evidence that [agreement on the TSCG] has reduced [the UK’s] capacity to influence future EU legislation in the areas it covered”.\(^{124}\) Sir Howard Davies said that the financial sector was “nervous” lest the UK lost influence over forthcoming pieces of EU financial sector regulation as a result of the December 2011 meeting.\(^{125}\) At the least, witnesses did not identify any concrete immediate benefit to the UK from the December 2011 episode.\(^{126}\) However, over spring-summer 2012, when they were providing evidence, witnesses also could not identify a concrete case in which the UK had lost out as a result of the Government’s December 2011 stance.\(^{127}\) Such witnesses

\(^{118}\) For example, Ev 154 [Brendan Donnelly]
\(^{119}\) Ev 109 [Liberal Democrat European Parliamentary Party], 163 [Nucleus]
\(^{120}\) Q 33
\(^{121}\) For example, Ev 138 [Liberal Democrat Parliamentary Party Committee on International Affairs]
\(^{122}\) Ev 61
\(^{123}\) Qq 96, 104
\(^{124}\) Ev 61
\(^{125}\) Q 7
\(^{126}\) Qq 8 [Sir Howard Davies], 109 [Professor Minford], Ev 108 [Liberal Democrat European Parliamentary Party]
\(^{127}\) Q 8 [Sir Howard Davies]; see also Q 104 [Michiel van Hulten], Ev 114 [Open Europe].
included Charles Grant, who immediately after the event had assessed the December 2011 European Council as a “disaster” for the UK. By June, he said that this assessment needed to be “downgraded”, at least as it applied to the short term. In July 2012, Sir Howard Davies told us that there was so much going on in the Eurozone, “that fuss in the middle of the night in December has almost vanished—receded into the mists”.

51. Since December 2011, the Government has posted both ‘wins’ and ‘losses’ in terms of securing its policy preferences in major pieces of EU business. For example:

- In February 2012, eleven other Heads of State or Government joined the Prime Minister in writing an open letter to European Council President Van Rompuy and European Commission President Barroso pushing for liberalising EU reforms to stimulate growth. The FCO told us that the letter “effectively became the agenda for the [March 2012] European Council and our proposals on free trade, deregulation and completion of the Single Market were included in the final communiqué from the summit”.

- At the June 2012 European Council, the Member States agreed that London would host one of two satellite courts of the new EU patent court, after Germany and France had initially appeared to agree to split the sites between only the two of them.

- In December 2012, the Member States reached an agreement on the proposed Single Supervisory Mechanism (SSM) which incorporated several UK objectives. The SSM is the first element in the EU’s proposed banking union. The Chancellor declared the deal to be a “good agreement for the Eurozone and the wider European Union, including the UK”. (We discuss the SSM deal further in paragraphs 82-87.)

- At the European Council in February 2013, the Member States reached agreement on the overall ceilings for the EU’s next long-term budget, the Multiannual Financial Framework (MFF), for 2014-2020. Going further than a call for a real-terms freeze that the Prime Minister had first made with three other Member State leaders in December 2010, the Member States agreed on a real-terms cut in the budget—the first time in the EU’s history that such a cut has been agreed.

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128 Qq 33-34, 37; see Charles Grant, “Britain on the edge of Europe”, CER, 9 December 2011.

129 Q 8

130 Ev 80; see “David Cameron and EU leaders call for growth plan in Europe: full letter”, Daily Telegraph, 20 February 2012; Conclusions of the European Council, 1-2 March 2012.


132 HC Deb, 19 December 2012, col 103WS

133 “Cameron wins rare victory in Europe”, www.ft.com, 9 February 2013. The agreed ceilings for 2014-2020 are, in 2011 prices, €960 billion for commitments (1% of EU GNI), down by 3.4% and from 1.12% of EU GNI in 2007-2013; and €908 billion for payments (0.95% of EU GNI), down by 3.7% and from 1.06% of GNI in 2007-2013: see “Summary of the European Council agreement” on the Council website, at www.consilium.europa.eu/special-reports/mff/summary-of-the-european-council-agreement, and House of Commons Library, “EU Multiannual Financial Framework (MFF) 2014-2020”, Standard Note SNPE 6455, last updated 22 March 2013. The European Parliament must approve the MFF; as we finalised this Report in May 2013, the EP was expected to vote on the issue before the 2013 summer break.
• In late February 2013, Ministers in the Agriculture and Fisheries Council reached agreement on elements of a reform of the Common Fisheries Policy, including a ban on fish discards. The Fisheries Minister, Richard Benyon MP, called the deal “a historic moment in reforming the broken Common Fisheries Policy”.134

• In March 2013, the UK was defeated in its attempt to resist the establishment of an EU cap on bankers’ bonuses, as part of amended EU legislation on banks’ capital requirements (the ‘CRD IV’ package). 135 Charles Grant had noted in July 2012 that the UK had never been outvoted on a financial services matter, even when—under qualified majority voting—technically it could have been. He warned then that this ‘gentlemen’s agreement’ was the sort of arrangement that might break down if goodwill towards the UK weakened too far.136 However, the bonus cap was effectively added by the European Parliament as its ‘price’ for agreeing to the wider package,137 in which the Government had earlier in 2012 won agreement to one of its key objectives, namely flexibility to implement higher capital requirements than those set at EU level.138 We note that a request to revert to a unanimity requirement for decisions on maximum harmonised standards in the financial sector was among those to which the Prime Minister failed to win agreement at the December 2011 European Council (see paragraphs 38-42).

For his part, Mr Hague told us in March 2012 that the disagreement at the December 2011 European Council had “not spilled over into other areas”. He did not believe, he said, that “anything that [had] happened so far [had] reduced [the UK’s] clout, leverage or ability to lead on all the other issues with which the EU is concerned […] It has not made any difference to those things at all”.139 Several witnesses commended the Government for proceeding constructively with ‘business as usual’ in the EU following the December 2011 meeting.140

52. We have not found that, by itself, the Prime Minister’s veto of EU Treaty change at the December 2011 European Council has so far had a decisive overall effect, either way, on the UK’s ability to exercise influence in day-to-day policy-making in the EU. Although broader factors also carry weight, it is necessary—and may be sufficient—for a Member State to construct such influence on a case-by-case basis, by developing well-prepared positions and alliances.

53. Our evidence suggested a number of lessons that the Government might draw from the December 2011 European Council in order to exercise influence in the EU more effectively. Since we found that they were applicable beyond the circumstances of December 2011, we set them out in paragraphs 80-81.

134 “EU fish discards deal welcomed by UK”, www.guardian.co.uk, 27 February 2013
136 Q 37
137 “Battle rages on bank bonus clampdown”, www.ft.com, 19 February 2013
139 “Developments in UK foreign policy”, oral evidence taken before the Foreign Affairs Committee on 8 March 2012, HC (2010–12) 1879-i, Qq 15, 30
140 For example, Ev 66 [Sir Michael Franklin]
3 The Eurozone and the EU

Government policy

54. The arguments surrounding the December 2011 European Council exemplified in microcosm many broader arguments about Government policy concerning the UK’s place in the EU in an era of closer Eurozone integration. The Government’s policy rests centrally on the claim that, as a long-term proposition, UK interests can and should be served by the UK remaining in the EU but outside the Eurozone, even as the Eurozone integrates more closely. The overarching direction of stated Government policy since mid-2011 has been to support closer integration in the Eurozone, while continuing to distance the UK from the single currency area. The Government’s position breaks down into several more specific propositions, namely:

- the UK’s economic interest will be best served if the Eurozone survives;
- greater financial sector, fiscal and economic policy integration in the Eurozone will support the long-term stability of the single currency area and is therefore desirable;
- greater financial sector, fiscal and economic policy integration in the Eurozone is inevitable, because it is demanded by the “remorseless logic” involved in creating and sustaining a single currency;\(^\text{141}\)
- the UK’s economic interest is best served by remaining outside the Eurozone. The FCO told us that “the UK’s decision to remain outside the Euro area has been proved correct”;\(^\text{142}\) and in its Programme for Government, the Coalition committed itself to ensuring that the UK “does not join or prepare to join the Euro in this Parliament”.\(^\text{143}\) Under the European Union Act 2011, UK adoption of the Euro would require approval in a referendum.
- the interests of non-Eurozone states in the EU—with respect to the Single Market, above all—can and should be protected.\(^\text{144}\)

55. The Government’s positions on several more specific issues have been manifestations of this overall stance:

- With respect to the ‘fiscal compact’ treaty (the TSCG), the Government is allowing other Member States to use the EU institutions to enforce greater fiscal and economic policy integration in the Eurozone, despite its doubts about the

\(^\text{141}\) It became commonplace to refer to the “remorseless logic” of Economic and Monetary Union (EMU) after the Chancellor used the phrase in his landmark interview with the Financial Times in July 2011: “Osborne urges eurozone to ‘get a grip’”, www.ft.com, 20 July 2011. Mr Osborne and other Ministers have used the phrase repeatedly since.

\(^\text{142}\) Ev 79

\(^\text{143}\) Cabinet Office, The Coalition: our programme for government, May 2010, p 19

\(^\text{144}\) Ev 79-80 [FCO]
lawfulness of this procedure (see paragraphs 45-46), while standing aside from the
new treaty itself.

- In 2011, the Government agreed to EU Treaty amendment to allow the Eurozone
to create its own permanent bailout facility—the European Stability Mechanism
(ESM)—via a separate treaty, so that the pan-EU liability for Eurozone rescues
which was created under the EU Treaties (in the form of the European Financial
Stabilisation Mechanism, EFSM) could be wound down, and the UK thereby
divested of liability for new Eurozone bailouts.¹⁴⁵

- The first stage in the proposed Eurozone banking union required a unanimous
decision among all Member States,¹⁴⁶ but the Government negotiated an agreement
with the rest of the 27 which allowed the banking union plan to proceed, while
making clear that the UK would not be participating itself (see paragraphs 82-87).

**Assumptions about Eurozone integration**

56. Sir Colin Budd quoted the view of the late Sir Percy Cradock, foreign policy adviser to
Margaret Thatcher as Prime Minister, that UK EU policy had historically been one of
“mistaken assessments [...] [and] delayed awakening to reality”.¹⁴⁷ By contrast, most
witnesses felt that the Government was correct to judge that the Eurozone was likely to
integrate more tightly, as a result of the determination of its Member States—and above all,
of Germany—to preserve the single currency. Sir Howard Davies told us that establishing a
common currency “creates a mindset [...] [in participating countries] that they will do
whatever is necessary to defend [it]”.¹⁴⁸ We formed a sense of this determination from our
own visits to Berlin and other European capitals. Dr Niblett argued that the political logic
that had led to the creation of the single currency in the first place, and to its creation with
a larger rather than smaller number of participating states, remained intact.¹⁴⁹

57. Against the background of a history in which the UK has often appeared to
underestimate the political determination of continental European states to move
ahead with integration, we judge the Government’s expectation of further integration
in the Eurozone to be a correct assessment of the longer-term direction of travel. We
commend the Government for its realism in this respect.

58. Maurice Fraser cautioned against any expectation that movement towards fiscal—let
alone political—union in the Eurozone would be rapid or radical. He argued:

> there is little support for [...] ambitious ideas such as fiscal federalism [...] or [...] the
> mutualisation of existing debt [...] We are still in an EU of nation states and, for as
> long as this remains the case, it would seem unlikely that the Member States would

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¹⁴⁵ Ev 83 [FCO] ¹⁴⁶ Under Article 127(6) TFEU, governing the conferral on the ECB of tasks relating to the prudential supervision of
credit institutions and other financial institutions; see Ev 84 [FCO]. ¹⁴⁷ Ev 60; the quote is from Percy Cradock, In Pursuit of British Interests: Reflections on Foreign Policy Under Margaret
No.1, February/March 2012, p 45.
fail to draw from the Eurozone crisis the obvious conclusion that countries should in future avoid moral hazard and take full responsibility for their own economic management. As for the more radical ideas for European economic governance intermittently advanced by France, [...] these have attracted little support across Eurozone members, given their potential to undermine the comparative advantage of many Member States. Nor, crucially, are such ideas likely to be acceptable to Germany.\textsuperscript{150}

Ruth Lea also saw “few signs” that the Eurozone was moving to fiscal union.\textsuperscript{151}

59. In light of such considerations, witnesses expected movement towards a more tightly integrated Eurozone to be a matter of many years. Professor Minford reckoned that instituting the required new Eurozone measures could take up to a decade.\textsuperscript{152} In June 2012, the European Council tasked its President, Herman Van Rompuy, with presenting by the end of the year “a specific and time-bound road map for the achievement of a genuine Economic and Monetary Union”.\textsuperscript{153} For some months, it was expected that the December 2012 European Council might agree a plan for major steps towards closer Eurozone integration in coming years, including possible EU Treaty amendment. In the event, in its December 2012 conclusions, the European Council focused on shorter-term steps being taken within the current Treaties, and asked President Van Rompuy to come back to its June 2013 meeting with a “roadmap” on a more limited range of issues.\textsuperscript{154} The Financial Times commented on the meeting that “on fiscal and economic issues, the path ahead remains as vague as it was”.\textsuperscript{155} Sir Jon Cunliffe stressed to us that:

if you look at the outcome of the European Councils, it is very uncertain how far and how fast [the Eurozone states] will go and in what order; there is still a lot of agreement to be worked out between the euro countries themselves. It is not as if there is a joint picture, plan or road map at the moment. Those details are being worked out, which is what makes the future so uncertain.\textsuperscript{156}

60. However long it might take to establish a more stable policy and governance framework for the Eurozone, witnesses stressed that, in Dr Niblett’s words, this was likely to be “the overriding objective of most EU Member States for the next few years”.\textsuperscript{157} Dr Niblett suggested that this would affect the UK’s relations with traditional EU allies both inside the Eurozone (such as the Netherlands) and outside (such as Poland).\textsuperscript{158}

61. The issues facing the Eurozone states as they contemplate closer integration are technically and politically very difficult. As yet, the Eurozone has no ‘grand plan’

\begin{itemize}
  \item[150] Ev 159
  \item[151] Ev 121
  \item[152] Q 107
  \item[153] Conclusions of the European Council, 28-29 June 2012
  \item[154] Conclusions of the European Council, 13-14 December 2012
  \item[155] “Ambitions deflated as EU delays decisions”, www.ft.com, 14 December 2012
  \item[156] Q 212
  \item[157] Ev 151
\end{itemize}
towards a desired or necessary end point. Rather, there are serious differences of approach among its members, and serious strains arising between and within them as a result of the steps being taken to tackle the crisis. We expect further Eurozone integration to take place incrementally to a great extent, and over a considerable number of years. The Government must reckon with the fact that reforming the Eurozone in coming years will take up much of the time and political resources of its EU partners.

**Eurozone enlargement**

62. The Government has appeared to wish to position itself as the leader of the ‘non-Eurozone’ in the EU, grounded in the Single Market. However, one of the notable features of the TSCG is that, although its prime purpose is to strengthen fiscal discipline in the Eurozone, it has been signed by all except two of the non-Eurozone states (the UK and the Czech Republic) (see Annex 3). Charles Grant told us that UK officials were “quite surprised” that more non-Eurozone states did not align themselves with the UK outside the TSCG.

63. All states joining the EU since the 1992 Maastricht Treaty have had to accept, as part of their Accession Treaties, an obligation in principle to adopt the Euro. This is because the Maastricht Treaty made Economic and Monetary Union (EMU) part of the EU’s *acquis*; and, under the EU’s established enlargement practice, all states acceding to the EU are obliged to accept all of the *acquis* (with the exception of limited transition periods on some issues which may be negotiated as part of their Accession Treaties). A Member State adopts the Euro, at an unspecified time after its accession to the EU, when the Council decides (on the basis of reporting by the European Commission and European Central Bank, ECB) that the Member State concerned has met the necessary criteria (the ‘Maastricht criteria’). Only the UK and Denmark have Euro opt-outs which may be permanent if these states never wish to adopt the single currency. However, the EU cannot *enforce* other Member States’ Treaty obligation to adopt the Euro. Member States which do not wish to join the Eurozone may simply ensure that they do not meet the criteria required to do so, as Sweden has done since its accession to the EU in 1995. Currently, ten of the 27 EU Member States are outside the Eurozone. The figures will shift to eleven of 28 when Croatia joins the EU on 1 July 2013. In March 2013, Latvia initiated the process for accession to the Eurozone, aiming to adopt the single currency in January 2014. The following table shows the development of the balance between Eurozone and non-Eurozone states in the EU since the Euro was established in 1999:

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159 “Cameron heralds non-eurozone power”, www.euractiv.com, 28 October 2011
160 Q 39
162 “Latvia launches bid to join euro”, www.ft.com, 4 March 2013
Table 1: Eurozone and non-Eurozone states in the EU, 1999-2013

<table>
<thead>
<tr>
<th>Year</th>
<th>Eurozone</th>
<th>Non-Eurozone</th>
<th>EU</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>11</td>
<td>4</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>(Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain)</td>
<td>(Denmark, Greece, Sweden, UK)</td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>12 (+ Greece)</td>
<td>3 (- Greece)</td>
<td>15</td>
</tr>
<tr>
<td>2004</td>
<td>12 (+ Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia)</td>
<td>13</td>
<td>25</td>
</tr>
<tr>
<td>2007</td>
<td>13 (+ Slovenia)</td>
<td>14 (- Slovenia, Bulgaria and Romania)</td>
<td>27</td>
</tr>
<tr>
<td>2008</td>
<td>15 (+ Cyprus and Malta)</td>
<td>12 (- Cyprus and Malta)</td>
<td>27</td>
</tr>
<tr>
<td>2009</td>
<td>16 (+ Slovakia)</td>
<td>11 (- Slovakia)</td>
<td>27</td>
</tr>
<tr>
<td>2011</td>
<td>17 (+ Estonia)</td>
<td>10 (- Estonia)</td>
<td>27</td>
</tr>
<tr>
<td>2013</td>
<td>17 (+ Croatia)</td>
<td>11</td>
<td>28</td>
</tr>
</tbody>
</table>

Source: www.eurozone.europa.eu/euro-area/euro-area-member-states

The current balance between Eurozone and non-Eurozone states is also shown as part of the broader picture of differentiated integration in and around the EU in Annex 3.

64. Some witnesses did not regard the Government’s apparent aspirations to lead a non-Eurozone group in the EU as credible, because of the obligation of most other non-Eurozone states to join the single currency, and the steadily-growing group of states doing so. For example, Graham Avery said that the UK was in a “diminishing minority in the ‘outer circle’”. However, the Foreign Secretary told us that, as a result of the Eurozone crisis, “the assumption that those outside the Eurozone are just reduced to a very small number may now be [...] rather out-of-date”. Owing to the way in which the Eurozone

163 Ev 69 [Church of England], 139 [Liberal Democrat Parliamentary Party Committee on International Affairs], 155 [Brendan Donnelly]
164 Ev 77-78
165 Q 223
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65. Charles Grant warned that most countries outside the Eurozone wished to join it, even though the process might be a long one, and that this tended to trigger a political dynamic that posed difficulties for the UK. Such countries “think that Germany is the power that matters in Europe. They don’t want to annoy Germany too much; they think they need to be in Germany’s camp; and the British are seen as increasingly marginal”, he said.167

66. Assuming that it remains in the EU, the UK is likely to be part of a sizeable group of Member States outside the Eurozone for at least another decade. However, most other non-Eurozone states are under a Treaty obligation to adopt the Euro at some point, and appear to wish and expect to do so. The assumption that they will one day be in the Eurozone does not at all rule such states out as allies for the UK in particular EU policy areas. However, it is likely to push their longer-term orientation in the EU away from the UK and towards the Eurozone ‘core’.

Eurozone integration: a risk for the UK?

67. The central dilemma facing the Government with respect to further Eurozone integration was summed up by one witness as follows:

The success or failure of the Eurozone is a matter of central economic importance to the United Kingdom [...] There is a more than plausible case [...] that the success of the Eurozone can only be achieved by greater political and economic integration among its members. Yet when the current British Government calls upon its neighbours to pursue more vigorously such integration, it is spectacularly reversing centuries of British foreign and European policy, central to which was the avoidance of united European structures potentially hostile to the United Kingdom.168

68. Witnesses who were concerned about the Government’s stance towards Eurozone integration saw a prospect essentially of a ‘two-tier’ EU, in which the EU would increasingly become synonymous with the Eurozone, and the UK would be left outside. Such witnesses tended to assume that a ‘two-tier’ Union would necessarily be inimical to UK interests. Dr Niblett acknowledged that there were previous instances of the UK declining to participate in areas of integration. However, he suggested that a position outside the Eurozone under current circumstances might be qualitatively different from such past experiences of differentiated integration, because “close and regular cooperation between EU members on an issue as fundamental as fiscal policy will change the dynamics of EU integration and the UK’s place in Europe in ways that are hard to predict”.169 At the

166 Qq 20, 28
167 Q 39
168 Ev 154 [Brendan Donnelly]
169 Ev 152
least, several witnesses including Graham Avery, Sir Colin Budd and Brendan Donnelly felt that the increasing dominance of Eurozone matters in the EU would inevitably leave the UK marginalised from the defining debates of coming years.170

69. For some witnesses, tighter Eurozone integration—and what they saw as the UK’s increasing isolation—represented the delayed workings-out of the original decisions in 1992 to participate in the currency union or not. Some witnesses implied that the logic of developments was that the UK should either countenance joining the Eurozone, or leave the EU.171 The argument is essentially that a country must either be ‘fully in’ the EU, or out. For example, the campaign organisation Nucleus suggested that the Eurozone now might be seen as akin to the then-EEC in the 1960s, when UK policy-makers came to the view that the UK’s influence would be limited as long as it remained outside.172 However, Dr Niblett explicitly examined and rejected the argument that the UK ‘might as well leave’ if it were not going to join the Euro. This was despite the fact that he was among the witnesses who saw the consequences of the “logic of EMU” as being the most profound, for the UK and Eurozone states alike. Dr Niblett argued that, closer Eurozone integration notwithstanding, the UK could still find partners in the EU to pursue its objectives across a range of policy fields (see paragraphs 75-78).173

70. According to the Financial Times, when the Chancellor first announced the Government’s support for further Eurozone integration in July 2011 he recognised explicitly that his position “turned British policy on its head, since it end[ed] the Government’s long-standing desire to frustrate the creation of a two-speed Europe”.174 For the Government, therefore, it appears that the consequences of remaining in the EU but outside a more tightly integrating Eurozone may not be as uncomfortable as some observers believe, or at least are ‘less bad’ than any of the alternatives. This is part of the Government’s broader enthusiasm for ‘flexible integration’, which we consider in paragraphs 133-143.

**The Eurozone and the Single Market**

71. The Government has been concerned above all about the risk that further integration in the Eurozone might ‘spill over’ into the Single Market and jeopardise the UK’s ability to participate meaningfully in Single Market decision-making. The risk arises when Eurozone states, in order to try to put the single currency area onto a more stable footing, take steps which affect policy areas which are part of the Single Market, such as financial services regulation. Charles Grant argued that Eurozone integration would only be a risk for the UK if the Eurozone started to operate as a bloc on Single Market issues.175 Professor Minford saw the risk to the UK of ‘spillover’ as especially large because he considered that, in the face of the economic crisis and the need to support recovery in the periphery

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170 Ev 77-78 [Graham Avery], 61 [Sir Colin Budd], 154-155 [Brendan Donnelly]
171 Ev 68 [Church of England], 78 [Graham Avery], 154 [Brendan Donnelly]
172 Ev 163-164
173 Ev 152-153. Charles Grant made a similar argument in “Britain could reshape Europe if it would only try”, www.ft.com, 14 May 2013.
174 “Osborne urges eurozone to ‘get a grip’”, www.ft.com, 20 July 2011
175 Q 32
countries, the Eurozone acting alone was likely to adopt protectionist policies which it would then be able to transfer to the Single Market.  

72. Regardless of the additional dynamics triggered by the Eurozone crisis, Open Europe reminded us that from 2014 the Eurozone states will command sufficient weighted votes in the Council of the EU to muster the qualified majority required to take Single Market decisions alone. This is owing to a change made by the 2007 Lisbon Treaty to the threshold for qualified majority decision-making. Professor Minford argued that qualified majority voting made it “very hard to keep what will happen in the Eurozone apart from what is going to happen in the European Union”.  

73. Witnesses identified two possible mechanisms which might reinforce any tendency for the Eurozone to come to dominate Single Market decision-making:

i) EU institutional ‘capture’ or ‘colonisation’. In the arguments surrounding the TSCG, the Government was concerned above all to prevent the EU institutions from being used to pursue further Eurozone integration in ways that might undermine their role in the governance of the Single Market for all Member States. We were warned about this risk by TheCityUK, the representative organisation for UK-based financial and related professional services businesses, which predicted that “fiscal integration within the Eurozone is likely to lead to […] an EU policymaker presumption that the needs of the Eurozone and of the Single Market are the same”. Mats Persson, the Director of Open Europe, told us in July 2012 that the risk was “difficult to substantiate” at that stage, but that it remained a risk nevertheless.  

ii) Separate Eurozone institutions, especially outside the existing EU legal framework. Nucleus argued that the holding of Eurozone summits had “dramatically shifted the centre of power within the EU to an organ in which the UK has no place and no voice”. Liberal Democrat MEPs also felt that the Eurozone summits would exclude the UK from the discussion of important matters.  

74. Overall, witnesses felt that the Government was correct to identify the risk that more far-reaching integration in the Eurozone might lead to Eurozone ‘caucusing’ on Single Market matters—that is, to the UK effectively being presented with ‘done deals’ reached in its absence. In these circumstances, witnesses largely judged the Government’s broad
strategy, of seeking to protect the decision-making position of non-Eurozone states in the Single Market, to be correct.

**The Eurozone and other EU policy areas**

75. Witnesses who were inclined to endorse the Government’s broad position tended to see a less stark and all-encompassing divide in the EU between the Eurozone and the rest than did observers who were more critical of the Government’s approach. Maurice Fraser and Dr Niblett both stressed the diversity that exists among even Eurozone countries, and even on Single Market issues, and the potential that this offered the UK to be able to find allies. Sir Howard Davies also argued that the picture was more complicated—and more promising for the UK—than an ‘us and them’ standoff with the Eurozone. He argued that, rather than a ‘two-tier’ EU, the prospect was for an EU of “variable geometry”.

76. Mr Hague told us that the Eurozone states were not caucusing across a broad range of EU policy areas, and that Member State alliances continued to vary widely from issue to issue. He spoke in particular about his experiences in the Foreign Affairs Council, where he contended that an observer would be unable to tell which Member States were in the Eurozone and which not. Sir Jon Cunliffe echoed this portrayal, saying that alliances were “dossier-specific”. He also noted that, inasmuch as there was a “northern economic liberal alliance” in the EU, it contained both Eurozone and non-Eurozone states. Similarly, the FCO pointed out that leaders from both Eurozone and non-Eurozone countries signed the Prime Minister’s letter to European Council President Van Rompuy and European Commission President Barroso in March 2012, which pushed for liberalising EU reforms aimed at generating growth.

77. The FCO supplied us with a table comparing the voting records of other Member States in the Council of the EU in relation to the UK’s positions. The table was based on VoteWatch Europe data for 2009-2012. The data showed that the percentage of votes in the Council in which any given Member State voted with the UK ranged only between 85% and 90%. In other words, there was no large split between one group of Member States consistently voting with the UK and another group consistently voting differently. Moreover, there was no correlation between Member States’ tendencies to vote with the UK and their membership or not of the Eurozone: the country that ‘only’ voted with the UK on 85% of occasions was a Eurozone state (Germany), as were six of the nine states that voted with the UK 90% of the time.

78. In the face of more far-reaching Eurozone integration, it could be difficult for the UK and other non-Eurozone Member States to preserve their capacity to shape...

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183 Ev 159 [Maurice Fraser], 152-153 [Dr Niblett]
184 Q 21. On ‘variable geometry’, see paragraphs 133-143.
185 Q 212
186 Q 212
187 Ev 80. Mr Cameron’s eleven co-signatories were the leaders of Estonia, Finland, Ireland, Italy, the Netherlands, Slovakia and Spain from the Eurozone, and the Czech Republic, Latvia, Poland and Sweden from outside it; “Cameron spearheads liberal agenda for growth”, www.euractiv.com, 21 February 2012
188 Ev 84-85. The nine states which voted with the UK on 90% of occasions were Belgium, Cyprus, France, Greece, Malta and Slovenia from the Eurozone, and Hungary, Lithuania and Sweden from outside it.
decisions affecting the Single Market. The Government is correct to have identified this risk for the UK and to have adopted a strategy of seeking to mitigate it by protecting the rights of non-Eurozone states. However, tighter integration in the Eurozone is far from rendering the UK’s position in the EU impossible or worthless. The Eurozone is not a homogenous bloc, and Member State alliances around the EU continue to vary from issue to issue and to straddle the boundary between the Eurozone and the rest.

Government stance towards an integrating Eurozone

79. Our inquiry brought home to us the extent to which the Government’s stance towards further Eurozone integration involves it in a delicate balancing act:

- The Government wants the Eurozone to move ahead with further integrative measures that will stabilise the single currency area and help it return to growth; but, where they might impinge on the Single Market, the Government also sees such measures as a potential threat to UK interests that requires mitigation or compensation.

- The Government seeks to stress the extent to which it is distancing the UK from the Eurozone, but also that the UK has an interest in Eurozone developments. The Prime Minister, at least, sometimes appears to argue that his wish for a “new settlement” for the UK in the EU is warranted by the scale of the effect of closer Eurozone integration on the UK’s position.189

80. Our evidence suggested that the Government has not always got this difficult balance quite right—for example, in connection with the December 2011 European Council, when the Government was seen by some other Member States to have requested ‘more’ than was warranted by the impact on the UK of the proposed Eurozone measures, which the Government in any case said that it supported (see paragraphs 38-42). Witnesses made a number of suggestions which they felt would enable the Government to exercise influence more effectively with respect to further Eurozone integration. These were:

- The Government should not allow itself to be perceived as obstructing measures that the Eurozone states feel that they need to take in the interests of strengthening the single currency area. According to some witnesses, such a perception risks undermining the credibility of the Government’s stated support for the Eurozone.190 (Sir Howard Davies warned that any perceived UK obstructionism was likely to be especially aggravating given the perception in many parts of the EU that the financial crisis was of ‘Anglo-Saxon’ origin in the first place.)191

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189 For example, Mr Cameron told the BBC’s Andrew Marr Show on 6 January 2013 that the Eurozone states were “changing the nature of the organisation to which we belong. And thus we are perfectly entitled [...] to ask for some changes ourselves”; “Britain ‘perfectly entitled’ to demand new EU terms – Cameron”, www.euobserver.com, 7 January 2013

190 Ev 67 [Church of England], 77 [Graham Avery]

191 Q 22
• The Government should beware of the UK being seen as an unnecessary additional distraction or problem, at a time when the Eurozone is under intense pressure and facing formidable challenges already.

• The Government should try to avoid any risk of being seen to be ‘lecturing from the sidelines’. A number of witnesses suggested that the Government should seek to speak and act in a spirit of ‘solidarity’ with the Eurozone.

Overall, witnesses including Sir Howard Davies and Maurice Fraser argued that the Government could achieve much simply by adopting a constructive approach. Charles Grant also stressed the importance of tone and language, saying that they made “a huge difference as to whether [the UK is] seen to be a trusted and desirable partner or a pain in the neck”.

81. The Government’s stance towards greater Eurozone integration requires it to tread a very delicate line—both encouraging further Eurozone integration but also preventing the process from damaging UK interests; and distancing the UK from the Eurozone while maintaining that the country has an interest in developments in the single currency area. The Government can minimise the risk of causing aggravation and maximise the prospect of exercising influence by adopting a constructive and cooperative tone and approach.

**A case study: the Single Supervisory Mechanism**

82. Giving evidence in July 2012, Sir Howard Davies noted that the proposed EU banking union would be the first concrete case to engage a number of the broader questions about the relationship between the Eurozone and the Single Market which lie at the heart of Government policy. The Government has indicated that the UK will not participate in the proposed banking union. Sir Howard told us that, from outside the banking union, it would “require considerable skill” for the UK to maintain a position in the Single Market in which it did not face discrimination against it.

83. The first step towards the prospective banking union is the proposed establishment of a Single Supervisory Mechanism (SSM) for the banks of Eurozone countries and other participating states. The European Commission published proposals in September 2012 under which the ECB would be instituted as the Single Supervisor. Only Eurozone states have decision-making powers in the ECB. The SSM proposals raised questions about the rights of non-Eurozone states in the European Banking Authority (EBA), the pan-EU body which was established in 2010 to coordinate national banking supervisors in the operation of a ‘single rulebook’ of banking standards. The EBA Board of Supervisors takes decisions

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192 Q 37 [Charles Grant], Ev 163 [Nucleus]
193 Ev 67 [Church of England], 110 [Professor Dougan and Dr Gordon]
194 Q 17, Ev 160; Dr Martyn Bond argued similarly at Ev 58.
195 Q 50
196 Q 30
197 HC Deb, 22 Oct 2012, col 699 [Prime Minister]
198 Q 1
on regulatory matters by qualified majority vote. However, the Commission’s SSM proposal provided that in the EBA Board the ECB would “coordinate and express a common position” of states participating in the SSM—those who have the qualified majority of votes required to take decisions in the EBA Board. The Government told the House of Lords EU Committee’s inquiry into the issue that this would “effectively require participating Member States to caucus in adopting positions and voting in the EBA”. Sir Jon Cunliffe told us that the risk of “caucusing arose by virtue of the nature of the proposal”.199

84. In December 2012, EU Finance Ministers agreed that—once the SSM comes into operation—instead of a qualified majority, decision-making in the EBA would require a double majority: a simple majority of Member States participating in the SSM, and a simple majority of Member States not participating in the SSM. The system is to be used until there are only four non-SSM states.201 Ministers also agreed on a clause in the new legislation on the ECB which states that “no action, proposal or policy of the ECB shall, directly or indirectly, discriminate against any Member State or group of Member States as a venue for the provision of banking or financial services in any currency”.202 The Financial Secretary to the Treasury, the Rt Hon Greg Clark MP, told the European Scrutiny Committee that UK Ministers had been “very closely involved” in the SSM negotiations. He hailed the ‘double majority’ deal as a “landmark agreement” which “protect[ed] against the risk that participating Member States [in the SSM] will systematically impose a common view on other Member States”. Mr Clark further said that the ECB ‘non-discrimination’ clause was a “significant achievement” that “guard[ed] against any restriction of the UK’s role as a financial centre in the Single Market”.203

85. The Foreign Secretary told us that the SSM deal was an “important precedent”.204 The FCO also told us that, in future negotiations on EU financial services legislation, the Government would “strive for targeted protections based on the specific proposals that are under negotiation”.205

86. We note that a provision “entrenching the principle of non-discrimination within the Single Market”, in particular with respect to the Member State in which a firm is located,
was one of the legal safeguards which the Government requested as part of the failed negotiation on EU Treaty change in December 2011.206

87. The agreement on the Single Supervisory Mechanism (SSM) which was struck among EU Finance Ministers in December 2012 was significant on several grounds. It shows what the UK can achieve, in terms of protecting its position in the Single Market, through close and constructive engagement and innovative policy solutions. We note that the deal went some way towards entrenching the kind of safeguard against discrimination in the Single Market that the Government failed to secure in the December 2011 negotiations on the ‘fiscal compact’. We also note that the arrangements that were agreed to protect non-Eurozone states—on this occasion, for ‘double majority’ voting in the European Banking Authority—responded directly to a concrete proposal (in this case, one which gave rise directly to a risk of caucusing). Finally, we note that the SSM agreement protected the interests of non-Eurozone states by moving away from qualified majority voting: the deal established a decision-making rule that operates on the basis of the different statuses of two different groups of Member States, those participating in the SSM and those not.

Eurozone integration and the TSCG: inside or outside the EU?

88. The Government’s case against agreeing to EU Treaty change in December 2011 rested to a great extent on an argument about the relative risks to the UK of two alternative institutional formats for further Eurozone integration: inside the EU legal and institutional framework, or outside? We noted in paragraph 73 that witnesses identified both as potential risks to the UK’s position. Addressing the House after other Member States had agreed to conclude the TSCG outside the EU framework, the Prime Minister stated explicitly that, without the safeguards that he had requested, “a treaty within a treaty would have been far more dangerous [for the UK] than a treaty outside the EU”.207 The Government’s view was that, in the absence of relevant safeguards, it was better to keep the provisions of the TSCG away from the EU, where they would not have the force of EU law and would, presumably, be less capable of being pursued through the EU institutions. The European Scrutiny Committee endorsed the Government’s position. It concluded that, in the event that the Government felt obliged to mount a legal challenge to the ‘fiscal compact’ on the grounds that it was infringing the EU Treaties, it would be easier to do so if the ‘fiscal compact’ were not itself incorporated into those Treaties.208

89. The alternative view which we heard was that Eurozone integration outside the EU framework posed more of a risk to the UK than such integration inside. This was because, if Eurozone integration proceeded outside the EU, the UK had no locus over it. Inside the EU framework, the UK would be more able to rely on its own Treaty-based rights and the Treaty obligations of the EU institutions towards all Member States.209 There were also

206 Letter from Rt Hon George Osborne MP, Chancellor of the Exchequer, to Andrew Tyrie MP, Chair, Treasury Committee, 27 February 2012, published by the Treasury Committee on its website at www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/other-committee-work-/parliament-2010/correspondence-session-2010-12

207 HC Deb, 12 December 2011, col 526

208 European Scrutiny Committee, Sixty-second Report of Session 2010-12, Treaty on Stability, Coordination and Governance: impact on the eurozone and the rule of law, HC 1817, para 64

209 Q 32 [Charles Grant]
concerns that Eurozone integration outside the EU framework would make decision-making and accountability even more complex and less transparent than otherwise, and would risk creating new parallel institutions.

90. Jean-Claude Piris, the legal adviser to the European Council and Council of the EU until 2010, advocated the formalisation of a ‘two-tier’ structure, based around the Eurozone and the rest. He argued that unanimous agreement on the degree of further integration required in the Eurozone would be impossible to achieve among all the EU Member States, not least because of what he saw as the stance of the UK Government, and that further Eurozone integration would have to proceed on an inter-governmental basis, on the model of the TSCG. However, M. Piris argued that this should not involve the creation of new institutions, “in order not to make the picture of Europe more complex than it is already”. He argued that a more tightly integrating Eurozone could and should use the EU institutions (although he acknowledged that precise arrangements for the European Commission and Parliament could be problematic), and that it would be advisable for the UK and other non-Eurozone Member States to “accept that these institutions work for the Eurozone as well as for the EU”. M. Piris said that any new inter-governmental arrangement for the Eurozone could be made subject to the jurisdiction of the ECJ, to “guarantee the group’s strict compliance with the letter and spirit of the EU Treaties”.

91. Article 16 of the TSCG provides that “within five years, at most” of that treaty entering into force, steps should be taken to incorporate it into the EU legal framework. This would probably require EU Treaty change. In that case, the process would represent a potential means of opening the EU Treaties to renegotiation and thus of giving the UK leverage (see paragraphs 117-127). We asked our witnesses whether the Government should support EU Treaty change to incorporate the TSCG into the EU legal framework when the time comes. Only Nigel Farage MEP and Ruth Lea were opposed, on the grounds that it would reinforce what they saw as the tendency towards the accretion and centralisation of EU powers, and would make it more difficult for the UK to maintain its distance from further integration. Other witnesses felt that the UK would have little to lose, and potentially something to gain, by supporting the incorporation of the TSCG into the EU Treaties.

92. We recommend that, when the issue comes onto the agenda, the UK Government should support the incorporation of the provisions of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG) (the ‘fiscal compact’ treaty) into the EU legal framework, including through EU Treaty change if necessary, assuming that this could be achieved as part of an overall Treaty amendment package that includes appropriate safeguards for the UK. With

210 European Scrutiny Committee, Sixty-second Report of Session 2010-12, Treaty on Stability, Coordination and Governance: impact on the eurozone and the rule of law, HC 1817, para 26
211 Ev 65 [Jean-Claude Piris]
213 Ev 101-102 [Nigel Farage MEP], 123 [Ruth Lea]
214 Ev 58 [Dr Bond], 61 [Sir Colin Budd], 63-64 [Jean-Claude Piris], 66-67 [Sir Michael Franklin], 70 [Church of England], 109 [Liberal Democrat European Parliamentary Party], 118-119 [Open Europe], 139 [Liberal Democrat Parliamentary Party Committee on International Affairs], 165 [Nucleus]
appropriate safeguards, the incorporation of the TSCG into the EU Treaties would, at the least, not be more damaging to UK interests than the existence of the TSCG outside the EU Treaties; and it would also open the way to an EU Treaty renegotiation process.
The Prime Minister’s agenda: reform, renegotiation, referendum

93. The Prime Minister set out his response to the challenges facing the UK and the rest of the EU as a result of closer Eurozone integration, as well as other factors, in his long-trailed EU policy speech of 23 January 2013, which he delivered at the London headquarters of the US media organisation Bloomberg. In his speech, the Prime Minister set out three linked elements of policy: reform of the EU; securing a “new settlement” for the UK in the EU; and holding an ‘in/out’ referendum on the UK’s continued EU membership. The boundary between the EU reform that the Coalition Government is pursuing now and the content of the Prime Minister’s desired “new settlement” for the UK is not fully clear, because the Prime Minister in his speech did not define in any detail the “new settlement” that he seeks (see paragraphs 95-104). However, the Foreign Secretary made clear in his evidence to us that any formal negotiations with EU partners on a “new settlement”, and the holding of an ‘in/out’ referendum, were matters for any Conservative Government elected in the 2015 General Election, not for the current Coalition. Apart from any other factors shaping this plan, the Prime Minister would seek to base any “new settlement” negotiations on the findings of the Balance of Competences Review, which is due to conclude only in late 2014 (see paragraphs 15-19). The Prime Minister then plans in the Conservative Party Manifesto for the May 2015 General Election to “ask for a mandate from the British people for a Conservative Government to negotiate a new settlement with our European partners in the next Parliament”. Mr Cameron would plan to negotiate such a “new settlement” in time to put it to the electorate in an ‘in/out’ referendum by the end of 2017. We provide a timeline of selected scheduled events in the EU between now and then as Annex 2.

94. The Prime Minister’s policy appears to flow from the view that an ‘in/out’ referendum on the UK’s continued EU membership will be held at some stage. In his speech, Mr Cameron argued that it would be “wrong to ask people whether to stay or go before we have had a chance to put the relationship right”, and he has repeated this view subsequently. This position triggers the wish for a “new settlement” for the UK in the EU. In his speech, Mr Cameron said that, if the UK could negotiate the kind of “new settlement” that he seeks, he would campaign “with all [his] heart and soul” in his planned ‘in/out’ referendum for the UK to remain in the EU. For the Prime Minister, reform of the EU, in turn, would be both part of this “new settlement” and an enabler of it.

215 David Cameron, EU speech at Bloomberg HQ, London, 23 January 2013, www.gov.uk/government/speeches/eu-speech-at-bloomberg. Unless otherwise stated, all references in this chapter to the Prime Minister’s views or policy are based on the Bloomberg speech.

216 Qq 150-152

217 For example, during his visit to the US in May 2013: “Obama urges UK: Fix EU problems before ‘breaking’ relationship”, BBC News online, 13 May 2013
EU reform

Pre-Bloomberg speech

95. In its 2010 Programme for Government, the Coalition committed itself to pursuing two specific EU reform measures: “limit[ing] the application of the Working Time Directive in the UK”; and establishing a single seat for the European Parliament, in Brussels. In its Mid-Term Review and updated Programme for Government, published in January 2013 before the Prime Minister’s EU speech, the Government reiterated its support for a single EP seat; but this would require EU Treaty change. The Coalition also highlighted its positions on the EU’s long-term budget for 2014-2020 (the Multiannual Financial Framework, MFF), banking union, the EU growth agenda and the Balance of Competences Review. There was more emphasis than in the 2010 document on completing the Single Market and reducing EU regulation.

96. Before the Prime Minister’s January 2013 speech, several witnesses said that the Government appeared to lack an overall vision or strategy for the EU. They called on the Government to develop one, or at least to put forward some specific EU reform proposals to enable it to demonstrate commitment and exercise influence. The most striking contribution we received was from Lord Howell, immediately after he left the Government in September 2012 having been an FCO Minister of State. Lord Howell argued bluntly that the EU’s traditional integration model was no longer ‘fit for purpose’. He called for the unravelling of the existing EU acquis and the establishment of a different EU model, based on the principles of “decentralisation, diversity and flexibility”. Lord Howell called on the Government to pursue a major process of “intellectual conversion” across the EU, akin to that which took place in association with the Single Market programme in the 1980s, in order to find allies and move thinking in the EU from the old model to the new. Lord Howell explicitly distinguished the kind of positive, UK-driven but pan-EU reform process that he wanted the Government to pursue from a “defensive” policy focused on the UK-only repatriation of powers and an ‘in/out’ referendum.

219 Protocol 6 to the EU Treaties specifies that “The European Parliament shall have its seat in Strasbourg” and that the EP shall hold its twelve monthly plenary sessions each year in Strasbourg and additional plenary sessions in Brussels. After the EP voted most recently on the issue, in autumn 2012, in favour of the Member States addressing the question as part of the next EU Treaty amendment process, the French Government reaffirmed its commitment to the EP’s Strasbourg seat: “La France réaffirme son attachement au siège strasbourgeois du Parlement européen - Communiqué de Bernard Cazeneuve”, 25 October 2012, via www.diplomatie.gouv.fr
221 For example, Open Europe at Ev 117
222 Q 50 [Charles Grant], Ev 78 [Graham Avery], 153 [Dr Niblett]
223 Ev 177-180
Post-Bloomberg speech

97. In his January 2013 speech, Mr Cameron described himself as a “British Prime Minister with a positive vision for the future of the European Union”. He identified three challenges facing the EU, namely: establishing “the right governance and structures” for the Eurozone; increasing competitiveness, to respond to the shift eastwards and southwards in global economic power; and increasing democratic accountability and consent. Mr Cameron argued that if the EU did not address these challenges successfully, there was a risk that it would fail; and that, under those circumstances, the UK would be more likely to leave. Mr Cameron thus argued that the EU should reform along the lines that he was advocating both in its own direct interest and in order to make a UK exit less likely.

98. Mr Cameron set out five principles underpinning the kind of EU that he would like to see:

i) Competitiveness—to be achieved mainly by completing the Single Market (primarily in services, energy and the digital economy), signing free trade agreements with third countries, and exempting small firms from EU regulation. Mr Cameron suggested that reducing EU bureaucracy and unwarranted spending, streamlining EU decision-making, and perhaps establishing a “Single Market” configuration of the Council of the EU,224 should also contribute to the competitiveness agenda.

ii) Flexibility, to enhance the EU’s competitiveness and speed of response, and—most importantly—to allow for different levels of integration between the Member States (see paragraphs 133-143).

iii) The principle that power must be able to flow back from the EU to Member States.

iv) Democratic accountability, which Mr Cameron associated exclusively with establishing a more significant role in the EU for national parliaments; and

v) Fairness, which Mr Cameron defined as ensuring that new arrangements for the Eurozone worked fairly also for non-Eurozone Member States.

99. In many respects, the EU reform agenda that Mr Cameron set out in January 2013 included themes that had been longstanding ones for him, and to some extent for the Government as a whole. For example, to describe the kind of EU that they would like to see, the Prime Minister and the FCO have used close variants of the phrase “with the flexibility of a network, not the rigidity of a bloc” on at least five occasions since autumn

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224 Among the configurations of the Council of the EU which have been established since 2009, the closest to a Single Market Council is probably the Competitiveness Council, which covers the Single Market, industry, research and space, and on which the UK is represented by ministers from the Department for Business, Innovation and Skills. Many Single Market or Single Market-relevant matters are handled by other configurations of the Council, however, such as the Councils for Economic and Financial Affairs; Justice and Home Affairs; Employment, Social Policy, Health and Consumer Affairs; Environment; or Transport, Telecommunications and Energy. The EU Treaties specify that there must be a General Affairs Council and a Foreign Affairs Council. The other configurations of the Council of the EU may be established by the European Council by qualified majority or, in the absence of a European Council decision, by the General Affairs Council by simple majority (Article 16(6) TEU, Article 236 TFEU and Article 4 of Protocol 36 to the Treaties, on transitional provisions). The General Affairs Council established the current set of Council configurations by Decision 2009/878/EU, OJ L 315, 2 December 2009.
In his speech, to try to parry doubts about the degree of influence that the UK might wield, the Prime Minister cited measures which the Coalition has already secured in the EU to try to show that the UK could achieve further reform there in future.

100. In other respects, Mr Cameron’s vision appeared to us to be strikingly ambitious. He cast himself in the role of an “heretic” challenging EU orthodoxies. This applied most strongly to his calls for power to flow back from the EU to Member States, and for the EU Treaties to say that the totemic objective of “ever closer union” is not shared by all Member States. Mr Cameron explicitly cast his preferred vision of the EU as an alternative to that of “ever closer political union”. His preferred conception was of the EU as a “flexible union of free Member States who share treaties and institutions and pursue together the ideal of cooperation”.

101. We commend the Prime Minister for launching an ambitious agenda for EU reform in his January 2013 speech, and especially for couching his language explicitly in pan-EU rather than UK-only terms. With the Eurozone and several of its Member States in crisis, and popular disaffection with the EU on the rise, it would be hard for others in the EU to argue that change is not required.

“New settlement” for the UK?

102. In his January 2013 speech, Mr Cameron did not clearly distinguish the “new settlement” which he seeks for the UK in the EU from the reform vision that he set out for the EU as a whole. Mr Cameron defined the “new settlement” that he wants to put to UK voters as one in which the UK is:

- “protected by fair safeguards” in the Single Market; and
- “at the forefront of collective action on issues like foreign policy and trade”;

and one which is:

- “free of spurious regulation”; and
- “subject to the democratic legitimacy and accountability of national parliaments”; and in which:

- the door is “firmly open to new members”; 
- “Member States combine in flexible cooperation, respecting national differences not always trying to eliminate them”; and
- it has been “proved that some powers can […] be returned to Member States”.

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225 Prime Minister’s Mansion House speech, 14 November 2011; David Cameron, “Yes to treaty change — but only on our terms”, The Times, 7 December 2011; the Prime Minister’s statement to the House following the December 2011 European Council, HC Deb, 12 December 2011, col S21; the FCO’s May 2012 written submission to our inquiry, Ev 81; and the FCO’s July 2012 Command Paper launching the Balance of Competences Review, Cm 8415

226 See also Mr Hague at Q 222 and on the floor of the House on 30 January 2013, when he said that the Prime Minister’s vision was “an explicit contrast” to “ever-closer union”; HC Deb, 30 January 2013, col 916.
Of these criteria, the last appears to be the most demanding, because there is the least scope for argument as to whether or not it has been achieved (although there is some such scope—see paragraph 104).

103. The Prime Minister’s speech was notable as much for what it did not say as for what it did. Mr Cameron did not use the words “renegotiate” or “repatriate”. Apart from an implied reference to the Working Time Directive, Mr Cameron did not outline any specific reforms or proposals that he wished to pursue. This was the case even with respect to measures that he had previously suggested that he supported, such as the repatriation of powers in social and employment matters. In his January speech, Mr Cameron thus left a large degree of leeway as to the content of the “new settlement” that he might seek. The prominent US academic and commentator Professor Andrew Moravcsik suggested that “more Europe but less Europe pretty much lets a future government call anything a success”. When we asked the Foreign Secretary how he would determine whether the Government had secured a “new settlement” that was acceptable, Mr Hague said that he would be prepared to put a deal to the electorate when he could say that:

the European Union of the future will be more democratically accountable; that power will be able to flow to nation states in some instances, not just towards the centre; that it is being operated fairly to all concerned, including those outside certain structures such as the Eurozone; and that we have won the ability to do what we need to do to allow us to compete in the most intensively competitive global economic environment; and that there is the flexibility for the EU to be able to evolve properly in the future.

During his evidence session in February, Mr Hague told us four times that the Prime Minister was not at the stage of going beyond principles and setting out detailed negotiating positions or ‘red lines’.

104. On occasions other than his January 2013 speech, the Prime Minister has referred somewhat more specifically to changes that he would like to see as part of any “new settlement” for the UK in the EU. For example, in July 2012 he said that “whole swathes of [EU] legislation covering social issues, working time and home affairs should [...] be scrapped”. Mr Cameron told the Liaison Committee the same month that he would like to see powers returned from the EU, and he reaffirmed his commitment to the Conservative Party’s 2010 General Election manifesto, which sought a mandate to negotiate the return of powers on criminal justice and social and employment legislation. Detailed proposals have also been put forward by the Fresh Start group of Conservative

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227 Oral evidence taken before the Liaison Committee on 3 July 2012, HC (2010-12) 468-i, Q 55
229 Q 244
230 Qq 188, 217, 225, 243
231 David Cameron, “We need to be clear about the best way of getting what is best for Britain”, The Sunday Telegraph, 1 July 2012
232 Oral evidence taken before the Liaison Committee on 3 July 2012, HC (2010-12) 468-i, Q 4; The Conservative Party, Invitation to join the Government of Britain: The Conservative Manifesto 2010, p 114
The future of the European Union: UK Government policy

backbench MPs. The Foreign Secretary wrote the foreword to Fresh Start’s “Manifesto for Change” in January 2013, where he said that “many of the proposals are already Government policy, some could well become future Government or Conservative party policy and some may require further thought”. Ideas for possible UK “new settlement” proposals that have been floated in the debate have a range of different statuses in EU law, including:

i) matters that are purely for the UK, such as arrangements for transposing EU Directives into UK law, or for national parliamentary scrutiny in the UK of EU business;

ii) repeal or amendment of secondary EU legislation for the whole of the EU (examples might include the Working Time Directive, or the Free Movement Directive, or legislation on the Common Agricultural Policy, Common Fisheries Policy or regional policy);

iii) EU Treaty amendment affecting all Member States (such as to repatriate a competence from the EU to the national level, institute more ‘emergency brakes’, establish a general Single Market safeguard at Treaty level, or require the European Parliament to have only one seat); and

iv) EU Treaty amendment to institute one or several further UK opt-out(s), such as from EU social and employment law.

‘Repatriation’ might take place through any one of ii), iii) or iv), depending on whether repatriation meant, respectively, devolving greater control to Member States within a given piece of EU policy, returning competence for a whole policy area from the EU to the Member States, or securing a UK opt-out from an area of EU law. As regards repatriation through option iii), the Lisbon Treaty inserted into the EU Treaty revision clause the explicit possibility of enacting EU Treaty change to reduce the competences conferred on the EU, but the provision has never been invoked.

**EU responses**

105. The Dutch former EU official and MEP Michiel van Hulten told us that the Prime Minister might have “a lot of allies in many Member States, including the Netherlands, in the sense of people who think that the EU at the moment is broken and needs to be fixed”. Mr van Hulten thought that “If the UK can become a leader of those countries, of those people, [...] a lot can be achieved”. Lord Howell said similarly that “lots of quality support

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233 The Fresh Start group has drawn heavily on the work of the think-tank Open Europe, which provided evidence to our inquiry; see Mats Persson at Qq 57-59.


235 The relevant Treaty provision is Article 48(2) TEU; see House of Commons Library, “Repatriating EU powers to Member States”, Standard Note SN/IAR6153, last updated 7 December 2011. For possible avenues to repatriation, see also Agata Gostynska, Roderick Parkes, Marta Stormowska, Pawel Tokarski and Patryk Toporowski, “The Renegotiation Delusion? Nine Questions about Britain’s EU Future”, PISM, May 2013, pp 20-21

236 Q 98
exists for a radical overhaul of the EU” in a number of Member States. On the issue specifically of reducing EU regulation, Richard Corbett told us that there was “much sympathy in many other EU countries, and even in the European Commission”. In April, Mr Cameron embarked on a series of visits to EU capitals aimed at explaining and building support for his ideas.

106. We conclude that there is support for some of Mr Cameron’s reform ideas around the EU, and that there is significant scope for further progress on deepening the Single Market, pursuing free trade agreements with third countries, and improving the quality of the EU’s regulatory practice. Pursuing reforms may allow the Prime Minister to be seen to be committed to the UK’s EU membership and to build influence. Mr Cameron’s main challenge will be to make the case that some elements of his agenda, namely more differentiated integration in the EU and the repatriation of powers from the EU, are workable and can help the Eurozone states, in particular, to overcome the problems they face.

107. In his speech, Mr Cameron referred to the Balance of Competences Review as an exercise which would provide the UK with an “informed and objective analysis of where the EU helps and where it hampers”. Mr Cameron suggested that this could be part of a pan-EU process to “examine thoroughly what the EU as a whole should do and should stop doing”, in areas including the environment, social affairs and crime. The Government has invited other Member States to contribute to the Review. In April, it was reported that France and Germany had declined to participate (along with most other Member States), because they saw the Review as a domestic political exercise, but that Italy and Sweden had responded to the invitation.

108. In January 2013, it was reported that the Dutch Government planned to convene a commission to review what tasks might be repatriated from the EU to the Member States. The Dutch Ambassador to London, HE Laetitia van den Assum, told us that Dutch ministries were being required to “identify aspects of EU policy that could possibly be addressed more effectively on the national or local [rather than EU] level”—in other words, to identify areas of EU competence or policy that fail a “subsidiarity and proportionality test”. The Dutch Government plans to prepare a report arising from the exercise by September 2013 and submit it to the European Commission, as part of the EU’s ‘better regulation’ agenda. No other countries are being invited to contribute to the

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238 Ev 186

239 “Cameron snubbed over Brussels review”, www.ft.com, 1 April 2013. In the update on the Balance of Competences Review which he provided to Parliament in May 2013, Mr Hague said that responses to the calls for evidence in the first semester of the process had been received “mainly from interested parties in the UK reflecting the focus on the national interest” but that the Government had “also received some evidence from foreign partners and international organisations”; HC Deb, 14 May 2013, col 32WWS.

240 “Cameron wagers on Dutch support”, www.ft.com, 14 January 2013
process. Writing in April 2013, Ambassador van den Assum said that the exercise had not yet identified any areas of EU competence or EU legislation in force that failed the test.\footnote{Ev 189. The 1997 Treaty of Amsterdam introduced a Protocol on the application of the principles of subsidiarity and proportionality which was strengthened by the Lisbon Treaty a decade later. With each EU legislative proposal, the European Commission must now include a statement of the proposal’s compatibility with the principle of subsidiarity. National parliaments gained a role in enforcing the principle. See the European Scrutiny Committee’s guide “European Union Institutions and Legislation” and the record of its work under the Protocol, via www.parliament.uk/business/committees/committees-a-z/commons-select/european-scrutiny-committee.}

109. The Balance of Competences Review seems likely to remain a primarily UK rather than pan-EU exercise. As such, it may still provide a substantive basis for a UK contribution to a debate over EU powers and competences.

110. Our witnesses and interlocutors stressed that, in any negotiation on a “new settlement” for the UK in the EU, two inter-related points would be of particular consequence for other Member States:

- First, whether the UK sought EU provisions which would apply to all Member States, or further ‘special treatment’ for itself. Richard Corbett noted that there have been instances in which powers have been devolved from the EU back to Member States, but that “they [were] all collective devolutions, not specific to one country”.\footnote{Ev 185. Dr Corbett mentioned certain competition policy decisions and recent reforms of the Common Fisheries Policy as examples of such “collective devolutions”.} Our interlocutors stressed that many Member States felt that they had already accommodated UK demands for ‘special treatment’ through a variety of tailored arrangements, in Treaty negotiations stretching back twenty years. Interlocutors pointed out to us that the UK already had opt-outs from two of the most high-profile and far-reaching areas of EU integration, the single currency and Justice and Home Affairs (JHA), and that in some respects some non-Member States such as Norway were more integrated with the EU than was the UK. Our interlocutors appeared to be struck in particular by the prospect of the UK opting-out in 2014 from around 130 EU police and criminal justice measures.\footnote{On the UK’s JHA opt-out, see House of Lords EU Committee, Thirteenth Report of Session 2012–13, EU police and criminal justice measures: The UK’s 2014 opt-out decision, HL Paper 159; House of Commons Library, “UK Government opt-in decisions in the Area of Freedom, Security and Justice”, Standard Note SN/IA/6087, last updated 19 October 2011.}

- Second, whether the UK sought only to stand aside from new integrative measures, or to renegotiate existing ones. The UK’s current opt-outs have arisen when other

\footnote{Ev 85-87}

\footnote{Ev 149}
Member States have sought to provide in the EU Treaties for new integrationist steps. Renegotiating existing provisions would involve reopening what Professor Phinnemore called “a carefully negotiated balance between rights and obligations in which all Member States have had to compromise”. The main concern about renegotiation would be the ‘unravelling’ of the acquis—that is, the prospect that if one Member State sought to resile from one commitment, other Member States would seek to do likewise from others. If the UK were to ask to renegotiate a measure to which it had previously signed up, it might also raise doubts about its reliability as a negotiating partner in future.

111. We found that concerns about a possible UK renegotiation effort arose in connection with the Single Market, in particular. Some of the policy areas which have been mentioned as possible UK targets for renegotiation are regarded in some other Member States as integral parts of the Single Market. Mr Hague told us that he did not believe that a Single Market required uniform social and employment laws; but Richard Corbett said that legislation under the EU’s social chapter was “regarded by most—notwithstanding a willingness to re-examine individual pieces of legislation—to be part and parcel of the common rules for the common market”. Other Member States may see UK attempts to opt out of or repatriate such legislation as threatening to give the UK an unfair advantage in the Single Market—that is, the same kind of risk as the Government sees arising for the UK from closer integration in the Eurozone. Michiel van Hulten warned that it was “not realistic” to expect other Member States to agree to UK requests of this kind.

112. Overall, Charles Grant thought that a UK Government might expect to secure “crumbs” from a renegotiation effort, rather than anything more substantial. Richard Corbett told us bluntly that UK requests for “unilateral opt-outs (or requests to reinstate unanimity where qualified majority voting currently applies) will certainly be resisted”, and Lord Howell described “another attempt at unilateral British recapture of EU competences” as a “dead end”.

113. Given that the Prime Minister and Foreign Secretary have not spelled out in any detail the content of the “new settlement” that they might seek for the UK in the EU, and given that it is over a year, at least, before any major EU Treaty reform process seems likely to get underway, it is impossible to assess the likelihood of the Prime Minister securing the kind of “new settlement” that he might seek. However, we are clear that UK proposals for pan-EU reforms are likely to find a more favourable reception than requests for further ‘special treatment’ for the UK. We are sceptical that other Member States would renegotiate existing EU law so as to allow the UK alone to reduce its degree of integration, particularly where this could be seen as undermining

246 Ev 150
247 Q 32 [Charles Grant]
248 Q 221
249 Ev 186
250 Q 97
251 Q 46
252 Ev 186
253 Ev 180
the integrity of the Single Market. The Government must reckon with the fact that the body of existing EU law is a collective product in which 27 countries have invested.

**Questions: process and timings**

**Would a “new settlement” for the UK require EU Treaty change?**

114. In his January 2013 speech, the Prime Minister said explicitly that he wanted to see EU Treaty change in the next few years. This reverses the position which the Government had when it took office in 2010, when it held that the Lisbon Treaty—which took effect in December 2009—would render further EU Treaty reform unnecessary in the foreseeable future. Since the Lisbon Treaty came into force, the EU Treaties have been amended three times.

115. The Prime Minister said in his January 2013 speech that EU Treaty change was necessary both to institute necessary measures in the Eurozone and “to entrench the diverse, competitive, democratically acceptable Europe” that he seeks. However, he also said that some of his desired reforms would not need Treaty amendment. In our understanding, the ‘in/out’ referendum on the UK’s continued EU membership which the Prime Minister proposes to hold by the end of 2017 would also not necessarily need to be tied to a new EU Treaty. In his speech, Mr Cameron said that “if there is no appetite for a new Treaty for us all [...] Britain should be ready to address the changes we need in a negotiation with our European partners”. The ‘in/out’ referendum bill published by the Conservative Party on 14 May made no mention of EU Treaty change, and specified simply that the referendum question would be, “Do you think that the United Kingdom should remain a member of the European Union?” With respect to some of the ideas that have been floated as possible elements in a UK “new settlement”, we set out in Annex 4 the understanding that we have been able to establish at this stage as to whether they would require EU Treaty change.

116. The nature of some of Mr Cameron’s ideas for a “new settlement” for the UK in the EU, and the general terms in which he is currently setting them out, might leave him room to negotiate a “new settlement” without EU Treaty change. However, some of the “new settlement” ideas which have been floated would clearly require EU Treaty amendment.

**Is an EU Treaty amendment process likely in coming years?**

117. Whether or not the Prime Minister might need EU Treaty change to secure the substance of his desired “new settlement”, he has suggested that he would like to see an EU Treaty change process because it would provide an occasion for the UK to pursue its preferences in the EU. He and the Foreign Secretary have implied that by putting the UK in a potential veto position, an EU Treaty amendment process would give it leverage to secure

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254 In December 2007, the European Council said that the Lisbon Treaty provided the EU with “a stable and lasting institutional framework” to which it expected “no change in the foreseeable future”; Conclusions of the European Council, 14 December 2007


256 [http://news.bbc.co.uk/1/shared/bsp/hl/pdfs/14_05_13_draft_referendum.pdf](http://news.bbc.co.uk/1/shared/bsp/hl/pdfs/14_05_13_draft_referendum.pdf)
its proposals. When he gave evidence to us in February 2013, the Foreign Secretary appeared to suggest that a post-2015 Conservative Government would initiate EU Treaty change if the process had not arisen already.

118. During 2012, European Council President Van Rompuy and Commission President Barroso floated a number of possible proposals, primarily concerning the Eurozone, that would involve EU Treaty amendment over coming years; and in his January 2013 speech the Prime Minister endorsed President Barroso’s call for EU Treaty change. However, speaking in London in February, President Van Rompuy said that he saw “no impending need to open the EU Treaties” and did not “feel much appetite for it around the leaders’ table”. As we prepared this Report in spring 2013, a debate was underway as to whether the envisaged next stage in the proposed banking union, a single resolution authority, required EU Treaty change or not.

119. Much might depend on the type of EU Treaty change that might be required. Since the Lisbon Treaty came into force in 2009, EU Treaty change may take place through three mechanisms:

- so-called ‘passerelle’ provisions, under which the Member States simply agree by unanimity to amend the Treaties. ‘Passerelles’ can only be used to amend a limited number of specified EU Treaty provisions.

- the simplified revision procedure (under Article 48(6) TEU), under which the Member States agree by unanimity on Treaty changes. This procedure can only be used to amend Treaty provisions concerning the EU’s internal policies (Part Three of the Treaty on the Functioning of the EU, TFEU), and cannot be used to increase the competences conferred on the EU.

- the ordinary revision procedure (under Article 48(2)-(5) TEU). Under this mechanism, a simple majority of Member States must agree to examine proposed Treaty amendments. Then, a Convention is convened, comprising representatives of Member State governments and parliaments and the European Parliament and Commission. The Convention adopts recommendations on the proposed Treaty amendments, which are then considered by an Inter-Governmental Conference (IGC) of the Member States. The Member States must agree the Treaty amendments by unanimity. A Convention can be omitted from the ordinary Treaty revision process if the Member States so decide by simple majority, with the consent of the European Parliament. The ordinary revision procedure may be used to amend any aspect of the EU Treaties.

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257 For example, Mr Hague at Q 195
258 Q 249
259 For President Van Rompuy’s and President Barroso’s ideas in 2012, see the texts cited in Annex 4.
260 “Van Rompuy hits at Cameron on treaty change”, www.ft.com, 28 February 2013
Some of what the Prime Minister might seek in any “new settlement” would require EU Treaty changes that could only take place under the ordinary revision procedure (because they fall outside the parts of the Treaties that may be amended through “passerelles” or the simplified revision procedure). The ordinary revision procedure would be required, for example, to amend the Treaty reference to “ever-closer union”, or the list of EU competences; to terminate the EP’s Strasbourg seat; or to amend or add to one of the protocols that set out the UK’s various opt-outs. In a resolution in November 2012, the European Parliament appeared to commit itself to future EU Treaty change via the ordinary revision procedure. It said that preparations for a Convention should start before the June 2014 European Parliament elections, although the Convention itself should not be convened until after those polls.262

120. Recent experiences of major EU Treaty reform have been time-consuming and politically scarring for several Member States, because of the rejection of new EU Treaties in national referendums. National electorates have rejected EU Treaties in Denmark (Maastricht, 1992), Ireland (Nice, 2001, and Lisbon, 2008), the Netherlands (Constitutional Treaty, 2005) and France (Constitutional Treaty, 2005). Our sense in Paris, in particular, when we visited in November 2012, was that—following France’s rejection of the Constitutional Treaty—France would like to avoid another major EU Treaty amendment process if possible.

121. Article 16 of the TSCG provides that “within five years, at most” of that treaty entering into force (that is, by 1 January 2018), steps should be taken to incorporate its provisions into the EU legal framework. The European Commission has said that it is working with the Council and European Parliament to integrate some elements of the TSCG into EU secondary law263 but the FCO told us that, in its view, full incorporation of the TSCG into the EU legal framework would require EU Treaty change.264 However, Brendan Donnelly and Professor Minford doubted whether a wish to incorporate the TSCG into the EU Treaties would alone be sufficient to trigger an EU Treaty amendment process, if one were not going to take place for other reasons.265

122. Several witnesses appeared to believe that the UK’s European Union Act 2011 effectively rendered EU Treaty change impossible.266 The Act requires primary legislation for UK approval of any EU Treaty change, and a referendum on any EU Treaty amendment which would transfer powers or competences from the UK to the EU. It appeared that witnesses might doubt that major EU Treaty change would win even parliamentary approval in the UK; or that they might anticipate that a referendum on any major EU Treaty change would be unavoidable, even if technically the change in question

262 European Parliament resolution of 20 November 2012 with recommendations to the Commission on the report of the Presidents of the European Council, the European Commission, the European Central Bank and the Eurogroup “Towards a genuine Economic and Monetary Union”, TA(2012)0430

263 European Commission, “A blueprint for a deep and genuine economic and monetary union: Launching a European debate”, 28 November 2012

264 Ev 84-85. See paragraphs 88-92 for our support for integrating the TSCG into the EU legal framework, including through EU Treaty change.

265 Q 142, Ev 155

266 Ev 63, 64-65 [Jean-Claude Piris], 107-108 [Liberal Democrat European Parliamentary Party]
did not trigger the ‘referendum lock’ instituted by the 2011 Act. Providing evidence before the Prime Minister’s January 2013 speech, Professor Phinnemore suggested that:

it is extremely difficult to envisage a future government being able to resist popular and parliamentary calls for a referendum even if it can provide a completely water-tight legal case for ratification of a treaty change being exempted from [the] referendum requirement under the EU Act (2011). Irrespective of the formal focus of the referendum, the vote would be treated by many campaigners and voters as a question of whether the United Kingdom should remain in or alter its relationship with the EU.267

Professor Dougan and Dr Gordon contended that, rather than the December 2011 European Council, passage of the European Union Act earlier that year constituted the real watershed in the UK’s recent EU policy.268

123. Mr Hague made clear that the Government planned to keep the EU Act 2011—and its provisions for EU Treaty approval referendums—on the Statute Book, separately from the Prime Minister’s commitment to an ‘in/out’ referendum and continuing after any such poll (assuming that the result in any ‘in/out’ vote was in favour of the UK’s continued EU membership).269 In January 2013, the Labour Party announced that if it were returned to government after the 2015 General Election it would also retain the 2011 Act.270 Mr Hague therefore suggested that the EU Act 2011 had “entered into the unwritten constitution of the United Kingdom”.271

124. Given the potential obstacles to a renegotiation as part of an EU Treaty amendment process under Article 48 TEU, at least one commentator has argued that the only way for the UK to oblige the other Member States to renegotiate to reduce its level of integration would be to give notice that it intended to withdraw from the EU.272 Under Article 50 TEU, which governs the withdrawal process, if a Member State were to give notice of its intention to withdraw, the EU (defined as the remaining Member States) would be required to negotiate with it an agreement governing its withdrawal and possibly its future relations with the Union.273 However, in these circumstances, there would appear to be no procedural mechanism by which the UK could oblige other Member States to allow it to have any representation or decision-making rights in the EU or participate in any integrated EU policies at all: the starting point in any such negotiation would presumably be that, post-withdrawal, the relevant state would have no such rights and participate in no EU policies; any such rights and participation would be a matter of political and economic interests and negotiation on both sides.

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267 Ev 148
268 Ev 112
269 Qq 173-175
270 “Ed Miliband ‘backs return of EU powers’ but warns PM over strategy”, BBC News online, 18 January 2013
271 Q 173
272 Christopher Booker, “The only way we can ‘renegotiate’ is by asking to leave the EU”, www.telegraph.co.uk, 24 November 2012
273 See paragraphs 152-153.
125. The Prime Minister already deployed at the European Council in December 2011 what appears to be his strategy for any future EU Treaty amendment process—namely, to try to secure agreement to UK proposals in return for his consent to EU Treaty change. In December 2011, the strategy contributed to an inability to agree EU Treaty change among all Member States. In this context, we note that recent Eurozone-based Treaties outside the EU framework have moved away from the principle that still applies in the EU, namely that they will come into effect only if ratified by all Contracting Parties:

- The ESM Treaty provided that it would come into force when ratified by Contracting Parties subscribing 90% of the ESM’s authorised capital stock.
- The TSCG provided that it would come into force when ratified by twelve Eurozone states.274

Professor Richard Rose of the University of Strathclyde proposed that all future agreements on the expansion of EU powers should include provisions allowing some countries to proceed and others to opt out if the relevant agreement were not ratified by all Contracting Parties. He linked this to the greater use of national referendums on EU Treaty change: he supported this, while acknowledging that “all referendums raise the possibility of defeat”. Professor Rose argued that having provisions in place in advance to allow some states to proceed and others to opt out would avoid the situation in which “a single EU country can veto the adoption of an important measure supported by a preponderant majority of countries”.275 Without such provisions, Professor Rose suggested, the possibility of ‘losing’ a new EU Treaty in a national referendum was prompting the EU to “expand its powers by adopting ‘treaty-like’ agreements through novel procedures”, such as the TSCG.276 As we noted in paragraph 90, Jean-Claude Piris made a similar argument.

126. The EU Treaties currently state that, if four-fifths of Member States have ratified a treaty amending the Treaties but at least one has “encountered difficulties” in doing so, “the matter shall be referred to the European Council” (Article 48(5) TEU). The Liberal Democrat MEP Andrew Duff, a prominent EU institutional specialist, has proposed that the EU Treaties be amended to provide that future Treaty amendments would come into force when ratified by four-fifths of Member States. Explicitly, Mr Duff made his proposal in response to the UK’s EU Act 2011, which he said would “severely delay and complicate all future treaty revision”.277

127. Many Member States would be reluctant to embark on a major EU Treaty amendment process under current rules, because of the amount of time involved and

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274 Rather than all 17 Eurozone states. The Liberal Democrat European Parliamentary Party identified the fact that the TSCG would come into force before it had been ratified by all its signatories as one of its “notable” features; Ev 109

275 Ev 144. See also Richard Rose, “Facing up to Britain’s Europe Problems”, Studies in Public Policy 496, University of Strathclyde, 2012, partially reprinted from Europe’s World, Autumn 2012 and incorporating evidence submitted by Professor Rose to our Committee and the European Scrutiny Committee; and Richard Rose, Representing Europeans: A Pragmatic Approach (OUP, 2013)

276 Ev 144. As we agreed this Report in May 2013, it was reported that Germany favoured a limited new treaty outside the framework of a full-scale EU Treaty renegotiation, and on the model of the TSCG or ESM Treaty; “Berlin plans to streamline EU but avoid wholesale treaty change”, www.ft.com, 20 May 2013

the risk of any new Treaty failing at the ratification stage, especially if one or more referendums were to be held. There appears to be a growing body of opinion that EU Treaty change requiring unanimous agreement and/or ratification by all Member States may no longer be possible.

**Could a “new settlement” be negotiated by 2017?**

128. The Foreign Secretary told us that the Prime Minister had set a deadline of November 2017 (half-way through the 2015 Parliament) for holding his planned ‘in/out’ referendum mainly so that there would be “some time scale” in place before the 2015 General Election, as opposed to “endless uncertainty”. Mr Hague also suggested that there was a “window” for EU Treaty change between the June 2014 European Parliament elections and the French and German national elections in spring-autumn 2017 (see Annex 2). The ‘in/out’ referendum bill published by the Conservative Party on 14 May specified that the poll must be held before 31 December 2017.

129. Mr Hague did not appear to believe that the possible timetable for the Prime Minister’s proposed ‘in/out’ referendum need be affected by a further factor, namely the fact that the UK will hold the rotating Presidency of the Council of the EU between 1 July and 31 December 2017. Mr Hague said that the timing of the possible referendum would “depend [...] on when negotiations are completed”; and that, while the vote could take place earlier than the second half of 2017, he “would not exclude a referendum being held during the presidency”. Mr Hague suggested that this would “make for a particularly memorable presidency”.

130. Mr Hague said that the precedents of recent EU Treaty change processes suggested that “less than a year and a half or so” was the “normal time scale for Treaty change”. The following table sets out the length of recent EU Treaty amendment processes:

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279 Qq 191-193

280 Q 188
Table 2: Length of major EU Treaty change processes, 1995-2009

<table>
<thead>
<tr>
<th>Treaty</th>
<th>Treaty decides to launch Treaty change</th>
<th>Convention opens</th>
<th>Convention concludes</th>
<th>IGC opens</th>
<th>IGC concludes</th>
<th>Treaty signed</th>
<th>Treaty into force</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amsterdam</td>
<td>Dec 1995</td>
<td>N/A</td>
<td>N/A</td>
<td>March 1996</td>
<td>June 1997</td>
<td>Oct 1997</td>
<td>May 1999</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>22 months</td>
</tr>
<tr>
<td>Nice</td>
<td>June 1999</td>
<td>N/A</td>
<td>N/A</td>
<td>Feb 2000</td>
<td>Dec 2000</td>
<td>Feb 2001</td>
<td>Feb 2003</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>20 months</td>
</tr>
<tr>
<td>Treaty</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>34 months</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>6 months</td>
</tr>
</tbody>
</table>

IGC=Inter-Governmental Conference

The processes that led to the Amsterdam, Nice and Constitutional Treaties were all based on provisions for the holding of further IGCs that were included in the preceding Treaty reform round (the Maastricht and Amsterdam Treaties and the Declaration on the Future of the European Union attached to the Nice Treaty, respectively).


In his evidence, Mr Hague implied that the Amsterdam, Nice and Lisbon Treaty processes were the relevant precedents in terms of length. From the table, it can be seen that the Constitutional Treaty process was, indeed, an outlier, because it involved a Convention.

131. It is possible that other Member States and/or the European Parliament might wish to launch an EU Treaty amendment process in autumn 2014, as soon as the new European Parliament and European Commission are expected to be in place. This would be before the Balance of Competences Review is due to conclude, and before the UK General Election scheduled for May 2015 (see Annex 2).

132. Precedent suggests that the Prime Minister’s envisaged timetable for the negotiation of a “new settlement” between 2015 and 2017 might be achievable: some recent EU Treaties have been negotiated in under two years. However, much would depend on whether the EU Treaty amendment process would involve a Convention: some of the reforms that the Prime Minister might seek as part of a “new settlement” would require the type of amendment process that normally involves a Convention, and we find it difficult to envisage the European Parliament consenting to waive this element of the procedure. The last time that a Convention formed part of an EU Treaty amendment process, on the failed Constitutional Treaty, the process took nearly three years.
Flexible integration: the EU’s West Lothian question?

133. The wish for integration in the EU to be more “flexible” has been one of the most prominent themes in the Government’s EU policy. By ‘flexible integration’, we understand the Government to mean a model in which not all Member States participate in all integrated policies; and in which different groups of Member States might participate in different integrated policies. ‘Flexible integration’ is also referred to as ‘differentiated integration’ or ‘variable geometry’. Although the two have important common elements, ‘flexible integration’ may be distinguished from ‘two-tier’ models because, in the latter, two distinct groups of states participate in two more-or-less fixed collections of policies, one group engaging in more integration and the other in less (see paragraphs 67-74, 88-92 and 162-163).

134. Maurice Fraser set out the central dilemma posed by ‘flexible integration’ to UK governments:

While the flexible, decentralised and non-coercive character of variable geometry most closely reflects traditional UK concerns about sovereignty, concerns about marginalisation, loss of influence or potential vulnerability to caucusing by other Member States has often impelled British governments to caution against fragmentation and the idea of a ‘hard core’ Europe.281

This debate ran throughout our inquiry:

- Witnesses such as Graham Avery and Sir Colin Budd were wary of differentiated integration. They argued consistently that the UK should be ‘at the table’ in all policy areas, in order to exert influence and avoid marginalisation.282 The Church of England outlined the potential broader risks to the EU arising from flexible integration, namely: possible fragmentation and incoherence; institutional complexity; and a loss of a sense of common purpose.283

- The Prime Minister and Foreign Secretary have consistently been relaxed about the idea of some Member States engaging in some integrated policies without the UK.284 The Foreign Secretary told us that “the flexibility for some countries to participate in some arrangements while others do not [...] is a positively desirable thing”.285 Open Europe argued that the UK’s economic and political weight meant that it could not be without influence, even if it were not participating in some areas of integration.286 Against the argument that flexibility might threaten to ‘unravel’ the EU, the Prime Minister contended in his January 2013 speech that, on the contrary, it would “bind its Members more closely because [...] flexible, willing cooperation is a much stronger glue than compulsion from the centre”. Lord

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281 Ev 159
282 Ev 60-61 [Sir Colin Budd], 77-78 [Graham Avery]
283 Ev 69
284 See, for example, the Prime Minister at Q 31 in his oral evidence to the Liaison Committee on 3 July 2012, HC (2010-12) 468-i.
285 Q 241
286 Ev 117
Howell, Frank Vibert of the LSE and Professor Rose urged the Government to pursue flexible integration and a more differentiated EU as a means of accommodating diversity, allowing the trialling of policies among only some Member States, and making the Union more responsive and democratic.287

135. A number of witnesses pointed out that the EU already accommodates considerable differentiation. For example, only some Member States participate in the Eurozone or the Schengen zone of travel without border checks. Frank Vibert identified seven different types of differentiation that already exist in the EU.288 Witnesses highlighted, in particular, the ‘enhanced cooperation’ procedure, under which, in some policy areas and under certain circumstances, nine Member States may proceed with an integrated policy when there is no agreement to do so at the level of the EU as a whole. The ‘enhanced cooperation’ procedure was established in the Amsterdam Treaty (which came into force in 1999) and has now been used three times, all since 2010 (on cross-border divorce proceedings, the EU’s new unitary patent, and the proposed Financial Transaction Tax, FTT). Enhanced cooperation is not permitted to undermine the Single Market, or create trade barriers or discrimination or distort competition between Member States.289 Several witnesses urged the Government to exploit the potential of the ‘enhanced cooperation’ procedure to demonstrate the advantages of flexible integration and show leadership.290 We summarise the picture of ‘flexible integration’ in and around the EU in Annex 3.

136. Witnesses also said that, despite the amount of ‘flexible integration’ which exists in practice in the EU, the phenomenon tended to be regarded, in Frank Vibert’s words, as a “largely undesirable exception to the preferred norm of a uniform approach to power sharing around common policy objectives and the uniform application of the Treaties”.291 Arguably, this approach is seen in the EU’s enlargement policy, under which acceding Member States are obliged to sign up to the full EU acquis as it exists at the time of their accession, without the flexibility that may be available to states which are already EU members when a new integrated policy is launched. (Measures agreed under the enhanced cooperation procedure, however, do not count as part of the EU acquis for the purposes of enlargement.)

137. So far, the EU has accommodated ‘flexible integration’ essentially within a single institutional framework, with only low-profile adjustments and ‘add-ons’:

- Non-Eurozone states do not participate in meetings of the Eurogroup (Eurozone finance ministers) or the Euro Summit (Eurozone Heads of State or Government),292 and they have no representation on the Governing Council of the ECB. In the Council of the EU, non-Eurozone states cannot vote on some measures taken under specified Treaty articles relating exclusively to the single currency.

287 Ev 143-145 [Professor Rose], 178-179 [Lord Howell], 180-183 [Frank Vibert]
288 Ev 180-181
289 Under Articles 20 TEU and 326-334 TFEU
290 Ev 67, 69 [Church of England], 143-144 [Professor Rose]
291 Ev 181
292 As we noted in paragraph 36, under the TSCG, non-Eurozone EU states which have acceded to the TSCG are to participate in Euro Summits for the discussion of certain specified matters only.
The UK is present at discussions of, but cannot vote on, Justice and Home Affairs (JHA) and Schengen measures in which it is not participating. 293

All MEPs may vote on everything in the European Parliament—thus, for example, MEPs from non-Eurozone states continue to vote on all Eurozone matters.

138. In its written submission, the FCO explicitly declined to “speculate” on possible or desirable institutional formats for the EU, despite the question being included in our terms of reference. 294 However, the Prime Minister and Foreign Secretary appear to believe that the kind of flexible integration that they seek could be accommodated within the EU’s current, essentially unitary, institutional framework. 295 Maurice Fraser argued that this framework could and should be retained. 296

139. Professor Phinnemore suggested that there could come a point where the content of the UK’s EU membership deviated sufficiently far from the ‘norm’ as to raise questions about its continued enjoyment of more-or-less equal representation and decision-making rights. He described this as the EU’s own ‘West Lothian question’. 297 Michiel van Hulten suggested similarly that, if the UK were to seek a significant repatriation of powers, other Member States might no longer be “prepared to give the UK the membership rights of the EU on lesser or easier terms than the rest of the European Union”. 298 In these circumstances, the prospect might be of formalising different types of membership or other forms of association with the EU.

140. Professor Phinnemore identified five reasons for what he called a “widespread reluctance” in the EU to formalise tiers of membership, namely:

i) the difficulty of securing agreement on the “content” of different tiers of membership;

ii) the difficulty of resolving issues of differentiated representation and decision-making rights;

iii) Member States’ wish to avoid identification as ‘second class’ members;

iv) the implications of the creation of formalised tiers of membership for the EU’s enlargement practice; and

v) the possibility that a clearer association between a state’s assumption of particular obligations, and its enjoyment of particular institutional representation and decision-making rights, would trigger demands for the latter from non-Member States which fulfil the relevant obligations. 299

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293 Ev 85-87 [FCO]
294 Ev 81
295 Q 241 [Mr Hague]
296 Ev 159
297 Ev 150
298 Q 97. Dr Corbett noted that debate had started about the rights of non-Eurozone MEPs to participate in the EP’s work on Eurozone matters; Ev 187.
299 Ev 149
141. With respect to the difficult institutional questions involved, we note that Open Europe called for a “formalised EU structure based on different modes of membership” but did not suggest any concrete institutional arrangements.300 Similarly, Frank Vibert presented us with the most radical ideas about reorganising integrated policies into multiple ‘clusters’, as an alternative to the current unitary acquis; but he did not appear fully to spell out any accompanying pan-EU institutional arrangements. He proposed that decisions in the Council of the EU should be made subject to approval by national parliaments, apparently alongside a continuing role for the EP.301

142. With respect to the “content” of different tiers of membership, we note that in April 2013 the Government announced that it was launching an ECJ case against the planned Financial Transaction Tax, on the grounds that it would have extra-territorial effects beyond the eleven participating Member States.302 This suggests to us the potential difficulties involved in reconciling flexible integration in some policy areas with the demands of a pan-EU Single Market.

143. We agree with the Prime Minister that, in principle, a more flexible and differentiated model of integration might accord better with the demands of diversity and democratic consent in the EU than the traditional homogenising model. However, the demands of a pan-EU Single Market without discrimination would appear to place limits on the degree of flexibility that might be achievable. The institutional implications of more differentiated integration are also complex.

‘In/out’ referendum

144. After EU reform and the negotiation of a “new settlement” for the UK, the third element of the agenda that Mr Cameron set out in his January 2013 speech was an ‘in/out’ referendum on the UK’s continued EU membership. In his speech, Mr Cameron said that the legislation enabling the planned referendum would be drafted before the 2015 General Election and enacted by the end of that year if a Conservative Government were elected. The Conservative Party published a draft ‘in/out’ referendum bill on 14 May 2013.303 In January 2013, explaining his decision to offer an ‘in/out’ referendum, the Prime Minister stated that the question of remaining in the EU or withdrawing “at some stage will have to be put” to the UK electorate. Under these circumstances, Mr Cameron said that he believed in “confronting this issue—shaping it [and] leading the debate”. Mr Cameron offered two further reasons for holding an ‘in/out’ referendum:

- it would offer the opportunity “to settle [the] European question in British politics”; and
- committing to hold an ‘in/out’ referendum would help to stem popular disaffection with the EU in the UK, since, in the Prime Minister’s view, such disaffection is being driven partly by frustration about the lack of a popular vote on the EU.

300  Ev 117
301  Ev 183
302  “Britain challenges EU over ‘Tobin tax’”, www.ft.com, 19 April 2013
303  http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/14_05_13_draft_referendum.pdf
145. The Prime Minister and Foreign Secretary have also implied that holding an ‘in/out’ referendum would increase the UK’s leverage in any future negotiations with its EU partners on a “new settlement”. Arguably, the Government can be seen to have ‘raised the stakes’ successively as regards UK agreement to EU Treaty change—from requiring primary legislation or possibly approval in a referendum for UK ratification (under the EU Act 2011), to requiring agreement to UK proposals at the negotiating stage (at the December 2011 European Council), to raising the prospect of UK withdrawal from the EU. Providing evidence after the December 2011 European Council but before the Prime Minister’s ‘in/out’ referendum commitment, Nigel Farage MEP, Ruth Lea and Professor Minford had all argued that the idea of a substantially different “new settlement” for the UK in the EU was, in Ms Lea’s term, a “chimera”, because they did not see the UK as having sufficient leverage with its EU partners to bring it about.

146. Supporters of the Prime Minister’s commitment to an ‘in/out’ referendum typically argue that raising the prospect of the UK leaving the EU will significantly increase the prospects of a UK Government securing the kind of “new settlement” with its EU partners that it might seek. They argue that other Member States will wish to keep the UK in the EU because of the UK’s:

- large economy, which provides a significant market for the rest of the EU and adds considerably to the EU’s international economic weight;
- net contribution to the EU budget;
- international presence and influence, including its veto-wielding seat on the UN Security Council;
- decisive contribution to the EU’s security and defence policy;
- liberal influence on Single Market, trade, regulatory and other economic policies (for some Member States); and
- balancing presence with respect to the Franco-German tandem—providing a ‘third party’ for those two Member States and, for others, mitigating against Franco-German dominance.

A UK exit would also be likely to damage the EU’s international standing and ‘soft power’, as a successful international organisation to which countries wish to belong. Against this background, Mats Persson argued that the UK Government could simply spell out to its EU partners what it thought it needed to keep the UK in the EU.

147. Other policy-makers and observers have suggested that raising the prospect of exit might not weigh negotiations in the EU decisively in the UK Government’s favour, and might instead reduce its influence. For example, Sir Howard Davies was concerned lest the

304 Qq 201-202; HC Deb, 30 Jan 2013, col 922
305 Q 120 [Professor Minford], Ev 102 [Nigel Farage], 120 [Ruth Lea]
306 Ev 70 [Church of England]
307 Qq 61, 75
prospect of a UK exit “result[ed] in a long, sad farewell where quite a lot of British economic interests fall by the wayside”. Nucleus thought that an ongoing debate about the UK’s fundamental relationship with the EU undermined the Government’s efforts to enhance the UK’s influence in it. Speaking in London in February 2013 about the Prime Minister’s position, European Council President Van Rompuy asked rhetorically: “How do you convince a room full of people, when you keep your hand on the door handle? How to encourage a friend to change, if your eyes are searching for your coat?” However, the Foreign Secretary told us the same month that he did not think that the Prime Minister’s speech had diminished the UK’s influence in the EU. Although it was probably too soon for any effect to have become evident, the VoteWatch Europe data show that the proportion of votes in the Council of the EU in which the UK was in a minority was only slightly higher in the period to March 2013 than in the period to July 2012. Several of the EU policy ‘wins’ for the Government that we outlined in paragraph 51, such as the agreement on the 2014-2020 Multiannual Financial Framework, took place after the Prime Minister’s speech.

148. Our sense is that other Member States want the UK to remain an EU Member. However, we do not think that a UK Government could successfully demand ‘any price’ from other Member States for promising to try to keep the UK in the Union.

Uncertainty impact?

149. Some business leaders have expressed support for the Prime Minister’s ambitions to negotiate a “new settlement” for the UK in the EU. However, some in the business community have distinguished Mr Cameron’s ‘renegotiation’ agenda from his ‘in/out’ referendum plans, and have expressed concern about the possible impact of uncertainty about the UK’s continued EU membership on the UK investment climate, especially given that there may be up to four years before the possible poll. For example, Sir Martin Sorrell, Chief Executive of the advertising group WPP, has said that potentially holding an ‘in/out’ referendum “adds to uncertainty” and “can’t be positive” for the UK investment climate. Other business voices have disputed the importance of the UK’s EU policy alone in determining investment decisions.

150. The Prime Minister and Foreign Secretary have argued that uncertainty over the UK’s place in the EU exists in any case, regardless of the Prime Minister’s commitment to an ‘in/out’ referendum. The Foreign Secretary further argued that the Prime Minister’s policy

308 Q 19
309 Ev 162
310 “Speech by President of the European Council Herman Van Rompuy at the Annual Conference of Policy Network”, European Council press release, 28 February 2013
311 Q 102
314 “Britain’s exit from the EU is a fifth ‘grey swan’ threat to business investment, warns Sir Martin Sorrell”, www.telegraph.co.uk, 23 January 2013; see also the letter from business leaders published in the Financial Times, www.ft.com, 8 January 2013.
potentially reduced uncertainty, by establishing a potential timeframe for holding a referendum. Mr Hague told us in February that he did not consider that the Prime Minister’s position risked causing ‘investment blight’ for the UK.\footnote{Qq 176, 187}

151. \textbf{We recommend that the Government should conduct and publish an assessment of the impact on business investment in the UK of the Prime Minister’s commitment that a Conservative Government elected in the 2015 General Election would hold an ‘in/out’ referendum on the UK’s continued EU membership by the end of 2017.}

\textit{What would ‘out’ mean?}

152. The EU Treaties provide for two distinct processes for:

\begin{itemize}
    \item renegotiating the EU Treaties among all Member States, on the assumption that all wish to remain members and to reach a new EU Treaty settlement to which all can sign up (Article 48 TEU); and
    \item negotiating a withdrawal agreement between a departing Member State and the ‘rump’ EU (Article 50 TEU).
\end{itemize}

Under Article 50 TEU, the negotiation of a withdrawal agreement is triggered when the Member State concerned gives notice to the European Council that it has decided to leave the EU. Under these circumstances, Article 50 obliges the EU (defined as the remaining Member States) to negotiate with the departing state an agreement governing its withdrawal, “taking account of the framework for its future relationship with the Union”. During the negotiation, the withdrawing Member State could continue to participate in EU business as normal on all other matters, but it would not participate in Council discussions or decisions on its own withdrawal.\footnote{It would appear that the withdrawing state’s MEPs would be able to participate in EP business concerning the withdrawal, including the EP vote on any withdrawal agreement, although Gostynska et al have suggested that this might prove too controversial: “The Renegotiation Delusion? Nine Questions about Britain’s EU Future”, PISM, May 2013, p 22.}

In the EU, the withdrawal agreement would require the support of a qualified majority in the Council and the consent of the European Parliament. If no withdrawal agreement could be concluded, the Member State’s exit from the EU would take effect in any case two years after it gave notice of its intention to leave, unless the European Council (by unanimity) and the departing Member State decided on an extension of this period.\footnote{In addition to negotiating the withdrawal agreement with the departing state, the remaining Member States would probably also be obliged to renegotiate the EU Treaties among themselves, to readjust institutional provisions such as Council voting weights; Adam Lazowski, “How to withdraw from the European Union? Confronting hard reality”, Centre for European Policy Studies Commentary, 16 January 2013}

153. In our understanding, under the Article 50 withdrawal process a state leaving the EU would not negotiate the terms of its post-exit relationship with the Union until after it had given notice that it wished to leave and triggered the Article 50 process. This would apply to matters including trade. We asked the Foreign Secretary whether it was the Prime Minister’s policy to negotiate what would be the terms of the UK’s trade with the EU as a non-Member State before any ‘in/out’ referendum were to take place. Mr Hague replied:
No. [...] In the event of the majority of British voters deciding that the United Kingdom should leave the EU in a referendum the terms of the UK’s trade with the EU would be resolved under the process set out in Article 50 of the Treaty of the European Union.318
5 The Single Market and the EU: Norwegian and Swiss options

154. In his January 2013 speech, the Prime Minister explicitly rejected the idea that, if it were to leave the EU, the UK should "turn itself into Norway or Switzerland—with access to the Single Market but outside the EU".319

155. It is worth remembering that the Single Market is much more than a traditional free trade area. Traditional free trade areas concern only goods, and the removal of tariff and quota barriers to their trade. The then-EEC had achieved an internal free trade area of this sort by 1968, and had signed a free trade agreement of this type with the European Free Trade Association (EFTA) by 1972 (as the UK left the latter for the former). From the original Treaty of Rome in 1957, the Single Market was always intended to encompass the freedom of movement of not only goods but also services, capital and people; and to be a 'single market' in the sense also of eliminating non-tariff barriers. This involves the EU in far-reaching regulatory harmonisation and—owing especially to the free movement of people—in politically sensitive fields. In legal terms, the Single Market comprises the body of relevant legislation and ECJ case-law in force at any time. The Single Market is thus a constantly developing rather than a fixed entity, and remains a project rather than a completed regime. As well as a Single Market, the EU is also a Customs Union: it operates a common external tariff and a common external trade policy. It is possible for a country to be inside the EU Customs Union but outside the EU and the full Single Market: this is the position of Turkey. In this case, broadly, the non-EU country has access to the Single Market for some goods but must adopt the EU’s external trade policy. It is also possible to be in the Single Market but outside the Customs Union: this is the position of Norway, Liechtenstein and Iceland as the non-EU members of the European Economic Area (EEA). In this case, the non-EU states operate their own external trade policy, but face rules-of-origin rules for exports into the EU.320 We summarise this variety as part of Annex 3.

156. Of the two countries mentioned by the Prime Minister in his January 2013 speech, our inquiry highlighted for us the differences between the positions of Norway and Switzerland with respect to the EU:

- Norway is a member of the European Economic Area (EEA). The EEA was established in 1992 via an agreement, the EEA Agreement, between the EU on the one hand, and three members of the European Free Trade Association (EFTA) on the other. Apart from Norway, the EFTA members of the EEA are Liechtenstein and Iceland. As non-EU members of the EEA, Norway, Liechtenstein and Iceland are part of the EU Single Market, encompassing all 'four freedoms' of goods, people, services and capital. As such, these states must adopt all the EU’s Single

319 David Cameron, EU speech at Bloomberg HQ, London, 23 January 2013, www.gov.uk/government/speeches/eu-speech-at-bloomberg. Unless otherwise stated, all references in this chapter to the Prime Minister’s views or policy are based on the Bloomberg speech.

Market legislation as it develops. The compliance of the non-EU EEA members with the EEA Agreement is subject to an EFTA Surveillance Authority and Court, which play a role for these states analogous to that played by the European Commission and ECJ for EU Member States.

- Switzerland is not a member of the EEA and is thus also not automatically part of the Single Market as it develops. Switzerland participates in specific parts of the Single Market on the basis of bilateral agreements with the EU; Switzerland gains access to the relevant part of the Single Market in return for accepting the relevant part of the Single Market acquis. There is no automaticity or dynamic element in the Swiss-EU bilateral agreements: when the EU amends or adds to Single Market legislation in an area covered by a bilateral agreement with Switzerland, the bilateral agreement continues to cover only the previous legislation. There is no overarching authority or institutional framework to police the bilateral agreements.321

157. Our witnesses and interlocutors also brought home to us the essential similarity between the positions of Norway and Switzerland: namely, that both are in practice obliged to adopt EU legislation over which they have had no effective say. In 2010, the Norwegian Government commissioned an independent review of Norway’s agreements with the EU which reported in 2012 that “the most problematic aspect of Norway’s form of association with the EU is the fact that Norway is in practice bound to adopt EU policies and rules [...] without being a member and without voting rights”.322 Authors of the report have said that the ‘Norwegian model’ effectively involves “integration without representation”.323 Dr Jóhanna Jónsdóttir of the EFTA Secretariat, providing evidence in a personal capacity, argued that the provisions of the EEA Agreement which were intended to maintain its non-EU members’ formal sovereignty were ineffective, and that the EEA “function[ed] as a supranational agreement in practice”.324 Professor René Schwok of the University of Geneva similarly called the ability of the EEA’s non-EU states to opt out of EU legislation “politically unusable” in practice.325 Switzerland has greater autonomy than the non-EU EEA states, but Professor Clive Church and colleagues from the University of Kent still said that “an arrangement meant to protect Switzerland’s autonomy is actually eroding it”, because Berne “finds itself directly or indirectly compelled to adopt much of EU law without having any say in the process of making such law”.326 On our visits to Oslo and Berne, we gained the impression that both Norway and Switzerland were prepared to accept what they acknowledge to be a ‘democratic deficit’, as the price for remaining

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322 Outside and Inside: Norway’s agreements with the European Union, Official Norwegian Reports NOU 2012:2, p 7

323 Fredrik Sejersted and Ulf Sverdrup, “Euro sceptics be warned - the ‘half in, half out’ EU integration model option is best left to Norway”, www.independent.co.uk, 5 October 2012

324 Ev 51

325 Ev 131

326 Ev 72
outside some aspects of the EU, such as the Common Agricultural Policy or Common Fisheries Policy. Non-EU states also do not make general contributions to the EU budget, although—as the ‘price’ for their continued access to (parts of) the Single Market—the EU effectively obliges the non-EU EEA states and Switzerland to contribute to some EU funds, and Norway contributes towards the cost of EU programmes in which it participates.\(^{327}\) However, our interlocutors in both Berne and Oslo largely advised the UK to remain inside the EU, as a way of retaining influence over the legislation that it would be obliged to adopt if it remained part of the Single Market. Our Swiss and Norwegian interlocutors also often told us that they wanted the UK to remain in the EU because they regarded the country as something of a voice for the EFTA states within the Union.

158. Professor Minford contended that it was “odd” to argue that the Norwegian and Swiss models were unsatisfactory because they involved a lack of influence over Single Market regulations. He argued that:

for any country you export to you have no influence over their regulations or the particular things that they want you to embody in your product if you sell it to them. That would be true of any market we sold to. If we left the European Union, we would have to sell to them on their terms, but it would be something that we routinely do.\(^{328}\)

However, having little influence over an export market’s regulations might be normal, but it can also be undesirable and costly. UK companies seeking to export outside the EU often face significant restrictions, involving, for example, technical regulations, burdensome customs procedures and weak enforcement of intellectual property rights. The 26 (soon to be 27) other countries that comprise the EU make it a larger market than any individual country to which the UK might export, raising the premium on the UK being able to shape Single Market regulations. Furthermore, as we noted in paragraph 155, the Single Market involves the free movement of people, as well as goods, capital and services, where the relevant legal regime can be highly politically and socially sensitive.

159. We learned on our visits to Berne and Oslo that, even if it were attracted to the Swiss or EEA arrangements, the UK could not assume that either would be available to it if it were to leave the EU:

- It was stressed to us in Berne that the EU did not wish to continue with the current system of EU-Swiss bilateral agreements. For the EU, they are too complex and time-consuming to administer. More importantly, the EU considers that, without any provision for Switzerland’s automatic adoption of new legislation in areas covered by its bilateral agreements, and without any dispute settlement mechanism, the current system creates “legal uncertainty”.\(^{329}\) In December 2012, the EU said that “the approach taken by Switzerland to participate in EU policies and programmes through sectoral agreements in more and more areas [...] has reached its limits and needs to be reconsidered. Any further development of the


\(^{328}\) Q 117

\(^{329}\) Council conclusions on EU relations with EFTA countries, 14 December 2010, para 6
complex system of agreements would put at stake the homogeneity of the Internal Market”. Since December 2010 the EU has been refusing to move forward on any further bilateral agreements that Switzerland might seek until the Swiss Government agrees to establish an overarching institutional framework that would ensure the homogenous interpretation and application between the EU and Switzerland of the relevant Single Market rules. Professor Schwok suggested that the “Swiss model no longer exists because the EU wants its relationship with Switzerland to move closer to the EEA benchmark.”

- Access to the EEA is via the EEA Agreement. The EEA Agreement specifies that it is between the EU on the one hand, and members of EFTA on the other. To become a non-EU member of the EEA, therefore, the UK would appear to have two options: i) accede to EFTA and then the EEA; or ii) see the EEA Agreement amended so that a state which was a member of neither the EU nor EFTA could accede to it. The micro-states of Andorra, Monaco and San Marino would like greater access to the Single Market, and the European Commission has recently suggested that they could only join the EEA by first becoming members of EFTA. However, accession to EFTA requires the unanimous agreement of all the current EFTA states (Iceland, Liechtenstein, Norway and Switzerland). Our impressions in Norway tended to confirm the suggestion made to us by Professor Schwok, namely that the accession to EFTA of a state of the UK’s size might be regarded by the EFTA countries as a disruptive and not wholly welcome prospect.

160. The shortcomings involved in both the Norwegian and Swiss ‘models’ lay behind the Prime Minister’s rejection of both as possibilities for the UK. The Prime Minister argued that, if the UK wished to continue to participate in the Single Market, it should remain a member of the EU. Indeed, Mr Cameron argued that the UK’s “participation in the Single Market, and [...] ability to help set its rules is the principal reason for [its] membership of the EU” (emphasis added).

161. We did not examine fully the arguments for and against the UK’s participation in the Single Market. These engage complex economic, social and regulatory issues, outside the scope of our inquiry. We look forward to the findings of the Balance of Competences Review, which is conducting an overall examination of the Single Market as part of its first semester of work before covering each of the ‘four freedoms’—free movement of goods, people, services and capital—in separate reviews later in the process. Overall, the evidence that we received—from Sir Howard Davies, Charles Grant, Dr Niblett, Business for New Europe, TheCityUK and the Scotch Whisky Association—supported the Government’s
position that it is better for the UK to be in the Single Market than not. Sir Patrick Minford favoured withdrawal from the Single Market—and, partly as a consequence, from the EU.

‘Two-tier’ models

162. A number of policy-makers and observers have recently made proposals for formalised ‘two-tier’ arrangements in Europe. These would keep the UK in the Single Market but would be alternatives to the Prime Minister’s preference for continued full EU membership. Compared to the types of ‘two-tier’ structures that might arise within the EU as a result of closer Eurozone integration (that we considered in Chapter 3), these types of ‘two-tier’ proposals might not only allow the Eurozone to engage in more integration than at present but also allow non-Eurozone EU Member States to engage in less. These kinds of models thus respond to the Prime Minister’s wish to reduce the UK’s level of integration (for example through the repatriation of powers), and to the view that a “new settlement” along those lines will be unavailable to the UK within the current EU:

• In November 2011, Michiel van Hulten proposed the creation of an outer European Area of Freedom, Security and Prosperity, and an inner European Political and Economic Union. The outer tier would be based on the Single Market but would also involve a common foreign and security policy, and would come to incorporate or take over from the Council of Europe and the Organisation for Security and Cooperation in Europe (OSCE). Decision-making would be by unanimity. Democratic control would be exercised by national parliaments, not the European Parliament. The inner tier would involve full political and fiscal union and would take all decisions by qualified majority.

• In June 2012, Lord Owen, the former Foreign Secretary, proposed the establishment of an outer European Community and an inner European Union. The European Community would comprise the Single Market operating under qualified majority decision-making, with coordinated foreign and security policies. The inner European Union, based on the Eurozone, would involve common fiscal and monetary policies.

• The Liberal Democrat MEP Andrew Duff has proposed the creation of an EU associate membership status, as part of the EU Treaty amendment process that he expects after 2014. Associate member states would participate in the Single Market but would not sign up to all the EU’s political objectives and would not have all the representation and decision-making rights of full EU members.
• The French scholars Thierry Chopin and Jean-François Jamet have proposed a two-tier model in which the EU effectively becomes the Eurozone and the states wishing to join it, and the EEA Agreement is revised to give the EEA’s non-EU Member States voting rights over the Single Market and other relevant common policies.340

In all four proposals, the ‘outer tier’ might include countries which are not current EU Member States—not only the EFTA countries, but also potential EU members such as Turkey.

163. In Europe’s current institutional architecture, any decision as to whether the UK should remain in the EU would to a significant extent be a decision about whether the UK should remain in the Single Market—that is, a common area of free movement for goods, services, capital and people. This engages profound questions of economic, social and regulatory policy that were beyond the scope of our inquiry.

164. We agree with the Government that the current arrangements for relations with the EU which are maintained by Norway, as a member of the European Economic Area, or Switzerland, would not be appropriate for the UK if it were to leave the EU. In both cases, the non-EU country is obliged to adopt some or all of the body of EU Single Market law with no effective power to shape it. If it is in the UK’s interest to remain in the Single Market, the UK should either remain in the EU, or launch an effort for radical institutional change in Europe to give decision-making rights in the Single Market to all its participating states.

6 Conclusions: maintaining UK influence in the EU

165. The debate over the future of the EU and the UK’s place in it now engages the most fundamental questions. Given that we intend our Report to help inform and guide public debate, in conclusion we simply set some of them out. We find the questions to include:

- Is the central element of the EU the Single Market or the Eurozone? Effectively: whose EU is it, anyway?

- What is the minimum level of integration to which a state must commit in return for the rights that come with EU membership? Or, what is the minimum level of integration to which a state must commit in return for the rights that come with full EU membership?

- What is the Single Market to be understood to be? Where, if anywhere, can the boundaries be drawn between the Single Market and other policy areas?

166. We are struck by the extent to which the Single Market may be coming under strain: from closer Eurozone integration, and the pressures which that is causing for moves away from majoritarian to more unanimous decision-making; perhaps from the Prime Minister’s wish for the repatriation of powers to Member States; and from the possible prospect of a greater degree of differentiated integration more generally.

167. Our discussions with interlocutors from around Europe have also made clear to us that each state’s stance towards the EU is intimately bound up with its wider view of the way in which it wishes to approach its international challenges and place in the world. In Paris and Berlin, despite the two countries’ policy differences we gained the impression that both France and Germany have decided that they are not large or powerful enough to be successful alone, and must proceed as part of the EU. In this context, we note the recent concern of the Joint Committee on the National Security Strategy that the National Security Committee does not seem to be engaging with the national security implications of the UK’s relationship with the EU.341

168. We have found two arguments about UK influence running throughout our inquiry:

- whether the UK should participate in all integrated measures and policy areas in order to avoid being marginalised, or may still exert influence effectively without doing so; and

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• whether ‘raising the price’ of UK cooperation, such as by vetoing EU Treaty change or raising the prospect of UK withdrawal from the EU, increases the UK’s influence in the EU or weakens it.

We expect these two arguments to continue to feature prominently in the debate on the UK’s EU policy in coming years.

**Maintaining UK influence in the EU**

169. A number of witnesses said that, apart from the politics of a Member State’s EU policy, a Member State also exercised influence in the EU by virtue of the quality of its personnel and administrative capacity. Michiel van Hulten told us that the UK wielded influence in the EU partly because it “has always had the best civil servants and [...] been the best prepared at meetings”,342 while Sir Colin Budd said that the UK’s EU policy coordination system was “the envy of our European partners”. Sir Colin said that the system required “optimal coordination” between the Cabinet Office, the FCO, and the UK’s Permanent Representation to the EU; effective EU sections in other Whitehall Departments; and the full use of UK Embassies in other EU Member States.343 The FCO is maintaining a full complement of Embassies around other EU capitals, and told us that it was protecting policy jobs in them (although some were being filled by locally-engaged rather than UK-based staff).344

170. **We recommend that the Government should always bear in mind the extent to which exercising influence effectively in the EU can depend on administrative and diplomatic capability and coordination.**

171. The nationals of a Member State who are on the staff of the EU institutions are widely acknowledged, including by the Government, to be important informal channels of Member State influence in the EU.345 We have taken a consistent interest in the presence of UK nationals on the staff of the EU institutions, not least because the Government has declared increasing their number to be an important objective.346 We gathered significant data on this as part of our present inquiry, and decided to publish it as a short separate report in order to draw greater attention to the issue.347

172. Sir Colin Budd told us that, in the EU, “The race tends to go to the proactive, well organised alliance-builders, who maintain effective networks”. Sir Colin said that all UK Ministers with EU business needed to “nurture constantly” bilateral links to all the other Member States;348 but Charles Grant said that UK governments had not always been good

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342 Q 96
343 Ev 62
344 Ev 88
345 For example, “Discover EU Careers - A message from the Foreign Secretary, William Hague“, FCO press release, 1 March 2012
346 William Hague, “Britain’s foreign policy in a networked world“, FCO, London, 1 July 2010
347 We expect to publish our short report on UK nationals on the staff of the EU institutions shortly after publication of our present report, before the 2013 summer recess.
348 Ev 62
at cultivating relationships with Member States beyond France and Germany. However, in his first major speech in office, in July 2010, the Foreign Secretary said that it was “no longer sensible or indeed possible just to focus our effort on the largest countries at the expense of smaller [EU] members [...] For the UK to exert influence and generate creative new approaches to foreign policy we need to look further and wider”. The FCO told us that the Rt Hon David Lidington MP, Minister of State for Europe, was the first UK Europe Minister since the EU’s major 2004 enlargement to have visited all the Member States while in office.

173. When we visited Berlin in October 2012, we heard that the UK and Germany had established regular meetings between the Cabinet EU Affairs Sub-Committee (which comprises largely Ministers of State) and German State Secretaries dealing with EU affairs. In April 2013, the FCO told us that the body had held three meetings and that it expected to meet again late in 2013, after Germany’s federal parliamentary elections. The UK has no equivalent arrangement with any other EU Member State.

174. We welcome the Government’s recognition of the importance of fostering bilateral relationships widely with other Member States around the EU. We commend the Government for devoting increased resources to this objective, in the form of FCO Ministerial time. We particularly welcome the establishment of a regular meeting between junior UK Ministers and their German counterparts. We recommend that the Foreign Secretary and Europe Minister should encourage ministerial and senior official colleagues from other Departments also to visit EU capitals widely, to help to build alliances in support of key pieces of EU business.

175. In conclusion, we reiterate the importance of the Government’s tone, language and overall approach in retaining influence in the EU. We recommend that the Government should frame its approach and its language in pan-EU rather than UK-only terms; and should remain constructive, positive and engaged.

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349 Q 40. Dr Bond argued that the UK should prioritise relations with the other large Member States, but “not neglect” its relations with medium-sized and small ones; Ev 59.

350 William Hague, “Britain’s foreign policy in a networked world”, FCO, London, 1 July 2010

351 Ev 87

352 Ev 88
Annexes

Annex 1: Selected developments in Government EU policy, 2010-2013

2010
May
The Coalition’s Programme for Government commits it to
Ensuring that it is a “positive participant” in the EU, that there is no
transfer of sovereignty or powers from the UK to the EU during the
2010-2015 Parliament, and to examining the balance of EU
competences

Dec
In a letter to European Commission President Barroso, the Prime
Minister and his Dutch, Finnish, French and German counterparts
call for a real-terms freeze in the EU’s seven-year budget for
2014-2020 (the Multiannual Financial Framework)

2011
March
The European Council agrees EU Treaty change to allow the
creation of a permanent Eurozone bailout facility, the European
Stability Mechanism (ESM)
The Prime Minister and eight other Heads of State or Government
write to European Council President Van Rompuy and European
Commission President Barroso pushing for liberalising EU reforms
to stimulate growth

June
Sir Jon Cunliffe announced as the UK’s new Permanent
Representative to the EU (took up post January 2012)

July
The Chancellor tells the Financial Times that the Government sees
greater Eurozone integration as desirable and unavoidable
Parliament passes the European Union Act 2011. The Act requires
primary legislation for any EU Treaty change, and approval in a
referendum for any EU Treaty change that passes powers or
competences from the UK to the EU

Oct
The House of Commons votes 483-111 against a backbench motion
calling on the Government to legislate for a referendum on whether
the UK should stay in the EU on current terms, leave, or negotiate a
new relationship

Dec
At the European Council, the Prime Minister puts forward
proposals as his condition for agreeing to EU Treaty change aimed
at addressing the Eurozone crisis. Other Member States decline to
agree them, so EU Treaty change becomes impossible. Other
Member States agree to establish a separate Treaty, outside the EU
framework

2012
Feb
The Prime Minister and eleven other Heads of State or Government
write to European Council President Van Rompuy and European
Commission President Barroso pushing for liberalising EU reforms
to stimulate growth
<table>
<thead>
<tr>
<th>Month</th>
<th>Event</th>
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<tr>
<td>June</td>
<td>Over 90 Conservative MPs write to the Prime Minister calling on him to place on the Statute Book before the 2015 General Election a commitment to hold an ‘in/out’ referendum on the UK’s EU membership after the 2015 General Election.</td>
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<td>July</td>
<td>The Government launches the Balance of Competences Review. In media and parliamentary statements, the Prime Minister says that he would like a new settlement for the UK in the EU involving less integration, and that “the words ‘Europe’ and ‘referendum’ can go together.”</td>
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<td>Oct</td>
<td>The Home Secretary announces that the Government’s “current thinking” is to exercise its right to opt out of all pre-Lisbon Treaty police and criminal justice measures when the deadline to do so expires in May 2014. The House of Commons votes 307-294 in favour of a motion calling on the Government to see the 2014-2020 EU budget reduced in real terms.</td>
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<td>Nov</td>
<td>The European Council fails to agree the 2014-2020 EU budget.</td>
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<td>2013 Jan</td>
<td>The Prime Minister announces that a Conservative Government elected in the 2015 General Election would hold an ‘in/out’ referendum on the UK’s continued EU membership by the end of 2017.</td>
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<td>Feb</td>
<td>The European Council agrees the 2014-2020 EU budget, including a real-terms cut.</td>
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<td>April</td>
<td>Over 100 Conservative MPs write to the Prime Minister calling on him to place on the Statute Book before the 2015 General Election a commitment to hold an ‘in/out’ referendum on the UK’s EU membership after the 2015 General Election.</td>
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<td>May</td>
<td>The Conservative Party publishes a draft bill providing for an ‘in/out’ referendum on the UK’s continued EU membership by the end of 2017. The House of Commons votes 277-130 against a backbench amendment “regretting” that the Government did not include an ‘in/out’ referendum bill in its 2013-2014 legislative programme.</td>
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Annex 2: Selected scheduled events in the EU, 2013-2018

Events in the UK in italics

2013

June 27-28 European Council: President Van Rompuy due to present proposals on further EU involvement in national economic reforms

July 1 Lithuania EU Council Presidency

Croatia joins EU

Sep 22 Germany federal parliamentary elections

Oct 24-25 European Council

Dec 19-20 European Council: focus on EU defence and security policy

2014

Jan 1 Greece EU Council Presidency

Start of new 7-year EU budget period (Multiannual Financial Framework)

May 22-25 European Parliament elections (dates awaiting confirmation)

July 1 Italy EU Council Presidency

Sep 14 Scotland independence referendum

Oct Current European Commission’s term ends

Nov Current European Council President Van Rompuy’s final term ends

End-year UK Balance of Competences Review concludes

2015

Jan 1 Latvia EU Council Presidency

May 7 UK General Election

July 1 Luxembourg EU Council Presidency

End-year Deadline by which a Conservative Government would pass enabling legislation for an ‘in-out’ EU referendum

2016

Jan 1 Netherlands EU Council Presidency

July 1 Slovakia EU Council Presidency

2017

Jan 1 Malta EU Council Presidency

April-June France presidential and parliamentary elections

July 1 UK EU Council Presidency

Sep Germany federal parliamentary elections

Dec Deadline by which a Conservative Government would hold an ‘in/out’ referendum on the UK’s continued EU membership

2018

Jan 1 Estonia EU Council Presidency

Deadline by which, under the TSCG (the ‘fiscal compact’ treaty), “the necessary steps shall be taken [...] with the aim of incorporating the substance of [the TSCG] into the legal framework of the European Union”
Annex 3: Flexible integration in and around the EU, 2013

Shading indicates states participating in selected EU policies, policy areas and agreements where the group of participating states does not always coincide with the group of EU Member States. Croatia (due to accede 1 July 2013) is treated as an EU Member State.

<table>
<thead>
<tr>
<th>Representation and decision-making rights in EU institutions</th>
<th>Single Market</th>
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<td>Customs Union</td>
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| Spain | | | | | | ***
| Sweden | | | | | | ***
| UK | | | | | | 
| **EEA** | | | | | | 
| Iceland** | | | | | | 
| Liechtenstein | | | | | | 
| Norway | | | | | | 
| **EFTA** | | | | | | 
| Switzerland | | Partial | ***** | Partial | | 
| Turkey** | | Partial | | | | 

TSCG= Treaty on Stability, Coordination & Governance in the Economic & Monetary Union; JHA = Justice & Home Affairs; CSDP = Common Security & Defence Policy; EEA = European Economic Area; EFTA = European Free Trade Association
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<th>Proposed Financial Transaction Tax</th>
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* Participation in any individual CSDP mission is voluntary and open to non-EU states. Norway and (to a lesser extent) Switzerland participate in some of the work of the European Defence Agency

** EU applicant state
*** Accession Treaty obligation to adopt Euro/join Schengen at some point, when criteria met
**** Ratification pending (as of 15 May 2013)
***** Switzerland is in dispute with the EU over its right to limit the free movement of people from post-2004 EU Member States
Annex 4: Possible future steps in the EU: do they require EU Treaty amendment?

We prepared the following table as a ‘working document’ in early 2013 to assist our inquiry, and publish it as such. The assessments of whether a particular measure would require EU Treaty change rest partly on information on this point in the document concerned and partly on our understanding of the relevant legal provisions and the nature of the possible proposal, as far as is possible at this stage.

<table>
<thead>
<tr>
<th>Proposal</th>
<th>Source</th>
<th>EU Treaty change required? (assuming measure was to be taken within the EU, rather than in a separate legal framework outside)</th>
</tr>
</thead>
<tbody>
<tr>
<td>For Eurozone, with voluntary participation by non-Eurozone states in some cases</td>
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<tr>
<td>1. Banking union</td>
<td></td>
<td></td>
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<tr>
<td>ESM ability to recapitalise banks directly</td>
<td>Interim Report, Commission Blueprint, Van Rompuy Report, Dec. Conclusions</td>
<td>No</td>
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<tr>
<td>Single Resolution Mechanism (with a backstop, possibly the ESM)*</td>
<td>Interim Report, Commission Blueprint, Van Rompuy Report, Dec. Conclusions</td>
<td>No</td>
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<tr>
<td>2. Fiscal union</td>
<td></td>
<td></td>
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<tr>
<td>Eurozone budget separate from EU budget (possibly with tax-raising powers, and possibly subject to co-decision by EP or MEPs of participating states)</td>
<td>Interim Report, Commission Blueprint, Future of Europe Report</td>
<td>Yes</td>
</tr>
<tr>
<td>Eurozone economic stabilisation capacity (counter-cyclical/shock absorbing net transfers)</td>
<td>Commission Blueprint, Van Rompuy Report</td>
<td>Yes</td>
</tr>
<tr>
<td>Eurozone debt issuance and Treasury function</td>
<td>Interim Report, Commission Blueprint, Barroso SoU</td>
<td>Yes</td>
</tr>
<tr>
<td>Eurozone debt redemption fund</td>
<td>Commission Blueprint, Barroso SoU</td>
<td>Yes</td>
</tr>
<tr>
<td>3. Economic policy union</td>
<td></td>
<td></td>
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<tr>
<td>Making the Euro Plus Pact binding</td>
<td>Future of Europe Report</td>
<td>Yes</td>
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<tr>
<td>Making receipt of funds from existing EU funding instruments conditional on national reforms</td>
<td>Commission Blueprint</td>
<td>No</td>
</tr>
<tr>
<td>New funding instrument in EU budget to support economic adjustment, conditional on national reforms**</td>
<td>Interim Report, Commission Blueprint, Merkel speech</td>
<td>No</td>
</tr>
<tr>
<td>ECJ jurisdiction over excessive deficit procedure</td>
<td>Commission Blueprint</td>
<td>Yes</td>
</tr>
<tr>
<td>EU right to require amendments to national budgets, and/or EU competence to harmonise national budget laws (possibly with co-decision for EP and/or veto rights for national parliaments of participating states)</td>
<td>Commission Blueprint, Merkel speech, Future of Europe Report</td>
<td>Yes</td>
</tr>
<tr>
<td>Merging, and making subject to EP co-decision, the Broad Economic Policy Guidelines and the Employment Guidelines</td>
<td>Commission Blueprint</td>
<td>Yes</td>
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<tr>
<td>Deeper tax and labour market policy coordination</td>
<td>Commission Blueprint, Merkel speech</td>
<td>Yes</td>
</tr>
<tr>
<td>4. Institutional change</td>
<td></td>
<td></td>
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<tr>
<td>Eurozone Committee in EP</td>
<td>Commission Blueprint</td>
<td>No (EP Rules of Procedure only)</td>
</tr>
<tr>
<td>On Eurozone matters, voting in EP by Eurozone MEPs only</td>
<td>Merkel speech</td>
<td>No (EP Rules of Procedure only)</td>
</tr>
<tr>
<td>For Eurozone matters, permanent joint committee between EP and Eurozone national parliaments</td>
<td>Future of Europe Report</td>
<td>No (already possible under Protocol 1 to Treaties plus EP Rules of Procedure)</td>
</tr>
</tbody>
</table>
Allowing further decision-making in EU Council by some (rather than all) Member States
Commission Blueprint
Yes

Unified international representation of Eurozone in relevant bodies
Commission Blueprint, Van Rompuy Report
No

Further privileged powers for Commissioner for Economic and Monetary Affairs
Commission Blueprint
Would depend on powers envisaged, but possibly Yes

Decision-making rights in ECB banking supervisory decisions for non-Eurozone states participating in banking union
Commission Blueprint
Yes

EP budgetary authority over ECB in respect of latter’s banking supervisory role
Commission Blueprint
Yes

Eurozone Parliament
Van Rompuy issues paper
Yes

UK ideas

Repatriation to UK of powers under the Charter of Fundamental Rights
Conservative manifesto 2010
If this meant a complete UK opt-out from the Charter, Yes

Repatriation to UK of powers in criminal justice
Conservative manifesto 2010
If this meant a UK ability to opt-out of post-Lisbon criminal justice legislation to which it has previously opted-in, Yes

Repatriation to UK of powers in social and employment legislation
Conservative manifesto 2010
Yes

Amend and/or limit the application of the Working Time Directive
Coalition Programme, Coalition Mid-Term Review
No

Limit free movement of people to UK/ability of EU immigrants to claim benefits in UK
PM Marr Show
If the UK sought to amend relevant secondary legislation, No. If the UK sought to amend the free movement principles in the Treaties, Yes

Establish a single EP seat
Coalition Programme
Yes
(Protocol 6 to EU Treaties)

Remove reference to ‘ever-closer union’ from EU Treaties
PM Bloomberg speech
Yes
(Preamble and Article 1 TEU, Preamble TFEU)

* In spring 2013, as we prepared this Report, whether a single resolution authority would require EU Treaty change was the subject of debate.
** In a communication in March 2013 (COM(2013) 165 final), the European Commission outlined options for a possible Convergence and Competitiveness Instrument, involving contractual arrangements between the EU and a Member State on the undertaking of structural economic reforms in return for dedicated financial support. The communication did not mention EU Treaty change.

Key:
Barroso SoU = European Commission President José Manuel Barroso, State of the Union Address, 12 September 2012
Coalition Programme = “The Coalition: our programme for government”, Cabinet Office, May 2010
Coalition Mid-Term Review = “The Coalition: together in the national interest”, Cabinet Office, January 2013
Commission Blueprint = European Commission, “A blueprint for a deep and genuine economic and monetary union: Launching a European debate”, 28 November 2012
Future of Europe Report = Final Report of the Future of Europe Group of the Foreign Ministers of Austria, Belgium, Denmark, France, Italy, Germany, Luxembourg, the Netherlands, Poland, Portugal and Spain, 17 September 2012
Merkel speech = German Chancellor Angela Merkel, speech to the European Parliament, 7 November 2012
PM Bloomberg speech = Prime Minister David Cameron, speech at Bloomberg London HQ, 23 January 2013
PM Marr Show = Prime Minister David Cameron, interview on Andrew Marr Show, BBC 1, 6 January 2013
Van Rompuy Issues Paper = European Council President Van Rompuy, “Issues paper on completing the Economic and Monetary Union”, 12 September 2012
Van Rompuy Report = European Council President Van Rompuy, “Towards a Genuine Economic and Monetary Union”, 5 December 2012
Annex 5: Abbreviations and glossary

**CFSP**  
(EU) Common Foreign and Security Policy

**Council of the EU**  
EU decision-making body comprising Member State Ministers (also referred to as ‘EU Council’)

**CSDP**  
(EU) Common Security and Defence Policy

**EBA**  
European Banking Authority

**EC**  
European Community (originally European Economic Community)

**ECB**  
European Central Bank

**ECJ**  
European Court of Justice

**EEA**  
European Economic Area (EU + EFTA states except Switzerland)

**EEC**  
European Economic Community (1992: renamed European Community)

**EFSF**  
European Financial Stability Facility (Eurozone bailout facility; winding down from 2013)

**EFSM**  
European Financial Stabilisation Mechanism (EU bailout facility; winding down from 2013)

**EFTA**  
European Free Trade Association (Iceland, Liechtenstein, Norway, Switzerland)

**EMU**  
Economic and Monetary Union (EU policy area)

**EP**  
European Parliament

**ESM**  
European Stability Mechanism (Eurozone’s permanent bailout facility)

**European Council**  
EU body comprising Member State Heads of State or Government

**FTT**  
(Proposed EU) Financial Transaction Tax

**IGC**  
(EU) Inter-Governmental Conference

**JHA**  
Justice and Home Affairs (EU policy area)

**MFF**  
Multiannual Financial Framework (EU seven-year budget)

**QMV**  
Qualified Majority Voting (in the Council of the EU)

**SSM**  
(EU) Single Supervisory Mechanism (for banks)

**TEU**  
Treaty on European Union

**TFEU**  
Treaty on the Functioning of the European Union

**TSCG**  
Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (‘fiscal compact’ treaty)
Annex 6: Foreign Affairs Committee visit to Berlin, Oslo and Berne, October 2012

Participating Members: Richard Ottaway (Chairman), John Baron, Mark Hendrick and Andrew Rosindell (Berlin and Berne); Mike Gapes, Frank Roy and Sir John Stanley (Berlin and Oslo)

Berlin

Monday 22 October

Embassy briefing with HMA Simon McDonald

Dinner with parliamentarians and officials hosted by HMA Simon McDonald

Tuesday 23 October

Meetings with:
- European Affairs Committee, Bundestag
- Michael Link, State Minister for European Affairs
- Patrick Döring MdB, FDP General Secretary and Deputy Chairman, FDP parliamentary group
- Stefan Mair, Association of German Industries (BDI)

Lunch with think-tank representatives

Meetings with:
- Wolfgang Lutterbach, Association of German Trades Unions (DGB)
- Journalists of Axel Springer Publishers

Oslo

Wednesday 24 October

Embassy briefing led by HMA Jane Owen

Meetings with:
- Secretary of State Torgeir Larsen, Europe Minister
- Professor Fredrik Sejersted and Professor Ulf Sverdrup, Norwegian Institute for International Affairs (NUPI)
- Members of the Foreign Affairs Committee, Norwegian Parliament
- Heming Olaussen, ‘No to the EU’ Campaign

Dinner with government representatives, academics and commentators hosted by HMA Jane Owen
Thursday 25 October
Meetings with:

- Petter Haas Brubakk, Confederation of Norwegian Enterprise (NHO)
- Janos Herman, Head, EU Delegation to Norway
- Erna Solberg, Conservative Party leader (Høyre)

Berne

Wednesday 24 October
Embassy briefing led by HMA Sarah Gillett
Meetings with:

- Dr Jan Atteslander, Economie Suisse, and Dr Daniel Müller-Jentsch, Avenir Suisse
- Foreign Affairs Committee, Federal Assembly
- Professor Jean-Pierre Danthine, Vice-Chairman, Swiss National Bank (SNB)

Dinner with parliamentarians, officials, think-tank representatives and academics, hosted by HMA Sarah Gillett

Thursday 25 October
Meetings with:

- Professor René Schwok, University of Geneva
- Yves Rossier, State Secretary for Foreign Affairs
- Luzi Stamm MP, Vice-President, Swiss People’s Party (SVP)

Lunch with Richard Jones, Head, EU Delegation to Switzerland, and colleagues, hosted by HMA Sarah Gillett
Annex 7: Foreign Affairs Committee visit to Brussels and Paris, November 2012

Participating Members: Richard Ottaway (Chairman), Bob Ainsworth, John Baron, Mike Gapes, Mark Hendrick, Andrew Rosindell, Frank Roy, Sir John Stanley, Rory Stewart

Brussels

Tuesday 27 November

Briefing with Sir Jon Cunliffe, UK Permanent Representative to the EU

Lunch with Member State representatives, a European Commissioner, MEPs and EU officials, hosted by Sir Jon Cunliffe, UK Permanent Representative to the EU

Meeting with Uwe Corsepius, Secretary General, Council of the EU

Paris

Tuesday 27 November

Meeting with Xavier Sticker, Head of Cabinet for the Minister for Europe

Embassy briefing with HMA Sir Peter Ricketts

Dinner with academics and think-tank representatives hosted by HMA Sir Peter Ricketts

Wednesday 28 November

Meetings with:

- Foreign Affairs Committee, National Assembly
- French Young Europeans

Lunch with the EU Committee, National Assembly, hosted by HMA Sir Peter Ricketts
Tuesday 21 May 2013

Members present:

Richard Ottaway, in the Chair

Mr John Baron       Mark Hendrick
Sir Menzies Campbell  Mr Frank Roy
Mike Gapes          Sir John Stanley

Draft Report (The future of the European Union: UK Government policy), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 114 read and agreed to.

Paragraph 115 read, amended and agreed to.

Paragraphs 116 to 175 read and agreed to.

Summary read and agreed to.

Annex 1 read, amended and agreed to.

Annex 2 agreed to.

Annex 3 read, amended and agreed to.

Annex 4 read, amended and agreed to.

Annex 5 agreed to.

Annex 6 read, amended and agreed to.

Annex 7 read, amended and agreed to.

Resolved, That the Report, as amended, be the First Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report, together with written evidence reported and ordered to be published on 12 June and 16 July 2012, and 29 January 2013.

[Adjourned till Tuesday 11 June at 1.45 pm.]
Witnesses

Tuesday 26 June 2012
Sir Howard Davies, Professor of Practice, Paris Institute of Political Studies Ev 1

Tuesday 10 July 2012
Charles Grant, Director, Centre for European Reform Ev 10
Mats Persson, Director, Open Europe Ev 15
Michiel van Hulten, Independent consultant and former MEP Ev 20

Tuesday 11 September 2012
Professor Patrick Minford CBE, Professor of Applied Economics, Cardiff Business School Ev 26

Wednesday 6 February 2013
Rt Hon William Hague MP, First Secretary of State and Secretary of State for Foreign and Commonwealth Affairs, Simon Manley CMG, Director, Europe, Foreign and Commonwealth Office, and Sir Jon Cunliffe CB, UK Permanent Representative to the EU Ev 34
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<td>Mrs Anne Palmer, JP (retired)</td>
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<td>Dr Martyn Bond, Royal Holloway University of London</td>
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<td>Jean-Claude Piris</td>
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