

## **Britain's legal power to opt-out of continued EU economic and political integration**

By Ian Milne

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Ian Milne investigates Britain's legal ability to opt out of continued political and economic integration in Europe. The flexibility already built in to the existing EU Treaties can allow the UK to negotiate a new, looser relationship with Europe in future Treaty renegotiations. If the UK were unable to come to an agreement with the other Member States, there are no legal obstacles that would prevent complete withdrawal, a fact recently confirmed by the European Parliament and even stated in the draft EU Constitution, although Global Vision advocates this as a last resort. Indeed current EU Treaties require the EU to nurture relationships with its neighbours, as it currently does with Switzerland and Norway.

## Renegotiating EU Membership

The draft EU Constitution, signed by the Heads of Government of all twenty-seven of the current EU member-states on 29th October 2004, is only the latest in a twenty-year series of major renegotiations of the EU treaties: those resulting in the Treaty of Nice (2001); the Treaty of Amsterdam; (1997); the Treaty of Maastricht (1992) and the Single European Act (1986). Each renegotiation has radically altered the nature of the EU. There is no legal reason why future EU renegotiations should not provide some or all member-states with a looser relationship with "Brussels" and with each other than hitherto.

Flexibility is already built in to the existing EU treaties. Fewer than half (thirteen out of twenty-seven) of the current member-states have adopted its principal economic and political project, the "single" currency. The EU has long-standing free trade arrangements with its near-neighbors in Europe: for example, Turkey (a member of the EU customs union), Switzerland, Iceland and Norway (not members of the EU customs union). Outside Europe, the EU has a free trade agreement with a NAFTA-member, Mexico, and, once current negotiations are completed, will have free trade agreements with approximately 90 other countries - around half of all the countries in the world.

Thus, neither on the grounds of precedent, nor of EU or international law, is there any impediment to a country like the United Kingdom negotiating with the EU an arrangement which suits it best.

## Leaving the EU altogether

While Global Vision is arguing that we should negotiate a new relationship rather than simply withdraw, we **clearly** need to understand whether, as a last resort, we do have the option of changing our relationship unilaterally.

It is clear there would be no legal impediment to the UK leaving the EU altogether. So confirmed the British Government, in the House of Lords, on 8th February 2007, in the following written answer to a written question:

*Q: Whether, under international treaties presently in force, the United Kingdom would have the legal power to withdraw from the European*

*Union if Her Majesty's Government or Parliament so resolved. (HL 1863)*

*A: Parliament may amend or repeal any existing Act of Parliament, including the European Communities Act 1972. There is no formal procedure for withdrawal in the EU treaties, nor are there any provisions in the treaties or any other international treaties which affect the ultimate ability of the UK to withdraw from the EU.*

This formal statement of the position is consistent with the understanding of the government of the day in 1975, when, in its referendum on continuing UK membership of the EU, withdrawal would have ensued had the result gone the other way.

Greenland, then a province of Denmark, withdrew from the EU in 1985. The Swiss Federal Government, in its Europe 2006 Report on relations between Switzerland and the EU, concluded that EU members had, and will continue to have, an unequivocal right to withdraw.

Finally, the draft EU Constitution, signed by the heads of government of all 27 current member-states of the EU on 29th October 2004, but not in force, provides that any member-state may withdraw:-

*Article I-60: Voluntary withdrawal from the Union*

*Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements...*

## **The EU & its neighbours**

The current EU treaties (at Article 300 TEC) and the draft Constitution (at Article I-57) require the EU to "develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on co-operation....the Union may conclude specific agreements with the countries concerned..."

These provisions would apply to the EU's relations with the UK in the event that the latter withdrew from the EU altogether, placing the UK on a legal footing vis-à-vis the EU no-less-favourable than that of Switzerland or Norway.

**Notes on the author:**

Ian Milne has been the Director of the cross-party think-tank Global Britain since 1999. He was the founder-editor (in 1993) of *The European Journal*, and the co-founder (in 1995) and first editor of *eurofacts*. He is the translator of *Europe's Road to War*, by Paul-Marie Coûteaux, (published by The June Press), and the author of numerous pamphlets, articles and book reviews, mainly about the relationship between the UK and the European Union. His most recent publications are *A Cost Too Far?* (Civitas, July 2004), an analysis of the net economic costs and benefits for the UK of EU membership, and *Backing the Wrong Horse* (Centre for Policy Studies, December 2004), a review of the UK's trading arrangements and options for the future.

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Global Vision is a new campaign group backed by economists and business leaders that argues for a looser British relationship with the EU, based on free trade and mutually beneficial cooperation, whilst opting out of economic and political union. Global Vision believes that this is the right relationship for Britain in the 21<sup>st</sup> century's rapidly changing world. For more details on Global Vision please visit our website: [www.global-vision.net](http://www.global-vision.net).