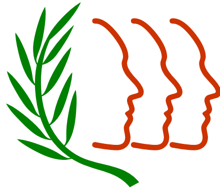

PEOPLE’S NEWS

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Commission pressures Portugal to lower its 2016 budget deficit and growth forecasts

The new Socialist-led minority government in Portugal, allied with the radical left, has cut its projected budget deficit to 2.4 per cent of GDP, from 2.6 per cent announced two weeks ago. It also lowered its growth forecast to 1.9 per cent, from 2.1 per cent, after the EU Commission said the draft budget was too optimistic.

The Commission demanded that the Portuguese government rework its draft budget—which was delayed by Portugal’s inconclusive elections in October—because it fell short of commitments to reduce public spending.

Since taking office in November, António Costa has sought to pull off a tricky balancing act, both satisfying Brussels and placating the domestic discontent over the years of cut-backs that helped bring the Socialist Party to power. “This is a challenging budget,” he said, which “turns the page on austerity while staying within the rules of the euro zone.” Indeed!

One stumbling-block is the Commission’s recommendation that Portugal cut public spending by the equivalent of 0.6 per cent of annual economic output—far more than the 0.2 per cent the government originally had in mind.

According to Portuguese media, the government was now prepared to cut spending by 0.4 per cent, otably by increasing a special levy on banks and the energy industry and raising taxes on fuel and vehicles.

Even after years of TTIP talks, a new study is still unable to point to any major benefits

The previous EU commissioner responsible for trade, Karel de Gucht, claimed that the proposed Transatlantic Trade and Investment Partnership would be “the cheapest stimulus package you can imagine,” while a study published in 2013 by the Centre for Economic Policy Research in London on behalf of the EU Commission predicted that the EU’s economy would be boosted by €119 billion and that of the United States by €95 billion.

However, it soon emerged that those figures were for an “ambitious” outcome—in effect the best possible case; they also referred to 2027, after TTIP had been in operation for ten years. The predicted additional 0.5 per cent boost for the EU’s economy worked out at only an additional 0.05 per cent in GDP growth per year—a figure so small that it’s likely to be swamped not just by the vagaries of econometric modelling but also by major unforeseen events in the global

economy.

Once it became clear that the CEPR study offered no clear justification for pursuing TTIP, the Commission quietly stopped using it and moved on to purely anecdotal accounts about how great the agreement would be for EU companies in an attempt to drum up political support for the deal.

What's difficult to understand, given the wide-ranging effect that TTIP would have on half the world's economic activity and some 800 million humans, is why there have been relatively few detailed studies since the CEPR report in 2013.

That makes a new report—*TTIP and the EU Member States: An Assessment of the Economic Impact of an Ambitious Transatlantic Trade and Investment Partnership at the EU Member State Level*—particularly welcome. Sponsored by the American Chamber of Commerce in the EU, it "brings together the expertise of prominent academics from across Europe," as the foreword puts it.

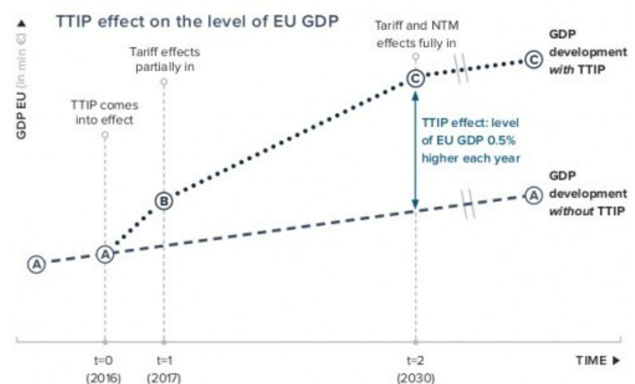
The report consists of two main strands: a country-by-country guide to "the current situation and expected benefits" for each of the EU's 28 member-states, together with chapters that look at central aspects of TTIP as a whole.

The introduction to the main findings provides the following information about how the modelling was carried out:

To calculate our findings, we use a methodology that extends and enhances the most reliable approach to date: Computable General Equilibrium (CGE) modelling. Utilising the ambitious scenario from the CEPR study … we assume a 100 per cent mutual reduction in tariff rates between the EU and US, a 25 per cent reduction (on average) in regulatory divergences and behind-the-border non-tariff measures (NTMs) (i.e. assuming that over a period of 10–15 years the US could move one quarter towards the level of the EU Internal Market), as well as a 50 per cent reduction in barriers to procurement.

As this explains, the new American Chamber report amazingly uses the same assumptions and the same model as the 2013 CEPR report, even though it has been widely criticised and has been counterposed to the much less optimistic work of Capaldo. So it comes as no real surprise that the predicted boosts to the EU and American economies are exactly the same: €119 billion for the former, €95 billion for the latter.

The percentage boost to the EU's GDP is, naturally, also exactly the same as the CEPR's figure: 0.5 per cent. That's in 2030; so the time-scale has now lengthened from CEPR's ten years to fourteen years. This means that the average additional GDP per year is now even less—about 0.035 per cent annual boost—as a result of TTIP. The report shows this graphically as follows:



The American Chamber of Commerce to the EU includes a misleading representation of projected growth. *This is not how you show extra growth of 0.5 per cent in 2030.*

As you may have noticed, the diagram is rather misleading, as it plainly suggests that GDP in 2030, with TTIP, would be about double

what it would have been without TTIP, whereas it would actually be only 1.05 times greater—somewhat different, though this mistake is often made also by campaigners against TTIP.

The report then goes on to discuss exports: "One constant is that for all Member States, exports are expected to increase. The range of estimated export increases ranges from Slovakia's +116% and Austria's +64%, to Croatia's +9% and Cyprus' +5%." For Britain it would be +17 per cent.

Ireland's projected performance is broken down by sector, and all the major ones are forecast to increase significantly, except that the production of electrical machinery, motor vehicles and agriculture may decline.

There's just one little problem with these figures. One of the core assumptions of the CGE ("computable general equilibrium") modelling employed by both the earlier CEPR paper and this new American Chamber report is that any increase in exports is exactly matched by a corresponding increase in imports. So while it may be great news that exports are predicted to surge throughout the EU as a result of TTIP, it's important to remember that there is a corresponding surge in imports too. Strangely, the American Chamber report doesn't discuss imports.

That's not the only peculiarity of the CGE approach. As well as assuming that exports and imports balance out, it also assumes that there will be no change in total employment as a result of TTIP. That seems slightly unrealistic, to say the least; but it does explain why the new study is also silent about the effects of TTIP on employment levels.

So far the American Chamber report has mirrored CEPR's work, both in its results and its problems—one of which is that neither report considers the costs of TTIP, only the benefits.

But things have changed since 2013, when CEPR's report was released. We now know that there are elements of TTIP that present considerable risks, both economic and social. The authors of the latest study are naturally aware of this fact and therefore have put together several chapters seeking to address those concerns.

Here, for example, is how it describes the consultation that the EU Commission held in 2014 on the subject of investor-state dispute settlement (ISDS)—the mechanism that allows companies to sue governments over regulations and laws that they feel may diminish their future profits:

Reactions from the public were overwhelming; the Commission received around 150,000 replies. Although around 97 per cent of the replies were submitted through automatic on-line platforms of interest groups, containing pre-defined negative answers, the European Commission was able to identify the following four topics on which further discussion was necessary …

Here the "negative answers" are portrayed as little more than some tiresome nuisance that the Commission bravely dealt with as it struggled to come up with those four topics, all of which completely ignored the essential point: that 145,000 people said they did not want ISDS in any form. But there is no discussion of that fact in the new study.

Moreover, it's striking that the report's chapter on ISDS does not offer a single reason why ISDS is needed in an agreement between two economic blocs with advanced legal systems. Indeed, in its endeavour to emphasise the fact that the EU and the United States are already tightly linked economically, the report itself demonstrates that transatlantic businesses are already investing on a massive scale even without ISDS:

The EU-US relationship is particularly strong in terms of investments. The EU and US are by far each other's main investment markets … Finland, Sweden and Germany send over 40 per cent of their investments to the US. Meanwhile,

over half of investments into Luxembourg and the UK come from the US. These services and investment links form a core strength of the transatlantic economy.

And for those companies that might still want some protection before investing across the Atlantic, they can simply take out investment insurance, just as members of the public are expected to do if they want to cover possible losses. However, there is no mention of this important alternative to ISDS in the American Chamber report.

The other significant area of concern in TTIP is over regulatory co-operation. Fully 80 per cent of the already small boost in GDP is assumed to come from the removal of "non-tariff barriers"—the different ways of doing things that make it hard for a company to sell exactly the same product on both sides of the Atlantic. But these "barriers" also include such things as regulations that protect the environment and the on-line privacy of Europeans. A failure to remove enough barriers—possibly including those that protect the public—would mean that the gains from TTIP would be even smaller than the annual 0.035 per cent predicted in the best possible outcome.

The report's suggestions for facilitating removal include "a supporting body … sufficiently resourced to support co-operation, to compare regulatory work programmes and identify new areas of co-operation, set the agenda, steer the process, share best practices, and solve issues as they arise," and "transparency and opportunities for stake-holders to give useful and robust input."

It is precisely these kinds of corporate-friendly approaches, at present conducted on an informal basis, that have already delayed regulatory action or led to weak laws. Formalising them in TTIP would only exacer-bate these serious problems, and further undermine national sovereignty.

Despite these faults, the new study is valuable for confirming that even in the most optimistic of assessments an "ambitious" agreement will still produce vanishingly small economic gains for both the EU and the United States.

Finally, it's striking how the results of the American Chamber's report are identical to those of the 2013 CEPR study. It's almost as if, despite two-and-a-half years of discussions, TTIP has gone nowhere. If nothing else, the new study exposes the awkward fact that repeated rounds of negotiations between the EU and the United States have failed to achieve any breakthrough in turning TTIP into an endeavour with clear and quantifiable benefits, rather than one chiefly characterised by its serious and open-ended risks.

Court of Justice of the European Union—hungry for power or for justice?

The relationship between the EU Court of Justice and the European Court of Human Rights is an issue in EU law and human rights law. The ECJ rules on EU law, while the European Court of Human Rights rules on the Convention for the Protection of Human Rights and Fundamental Freedoms (commonly called the European Convention on Human Rights), which covers the 47 member-states of the Council of Europe.

The EU is not a member of the Council of

Europe, and accordingly it is not bound by the rulings of the European Court of Human Rights. Cases cannot be brought in the ECHR against the EU.

The ECHR in Strasbourg – in ECJ's sights?

The Treaty of Lisbon, in force since 1 December 2009, requires the EU to accede to the Convention in article 6 of the consolidated Treaty on European Union: *"The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties."* This means the EU as a whole signing up to the convention, alongside its 28 member-states and 19 other European countries, including Russia, Turkey, and Ukraine, for example.

The EU would thus technically have been subject to ECHR human rights law and external monitoring, as its member-states now are.

It was further envisaged that the EU would join the Council of Europe—as it had attained a single legal personality in the Lisbon Treaty—thereby making it a powerful force in that body.

On 18 December 2014 the ECJ issued a negative opinion on the EU's accession to the European Convention on Human Rights, warning that such a move would give an external body the power to review the application of EU law. This brought the accession process to a halt, and it has lain in limbo ever since.

At present, individuals cannot challenge EU laws and practices at the European Court of Human Rights in the same way that they can challenge national laws and practices. However, individual EU member-states can be—and have been—held accountable in the European Court of Human Rights for putting into practice decisions agreed at the EU level.

The Lisbon Treaty also provided the EU with its own Charter of Fundamental Rights, overseen by the ECJ.

The EU's accession to the European Convention on Human Rights was seen as a step towards a single, comprehensive human-rights legal framework that could ultimately be brought under the hegemony of the ECJ.

All 28 members of the EU are already members of the 47-member Council of Europe and therefore are bound by its European Convention on Human Rights.

The ECJ observed that, as a result of the accession of the EU to the European Convention on Human Rights, the latter, like any other international agreement concluded by the EU, would be binding on the institutions of the EU and on its member-states, and would therefore form an integral part of EU law. This was considered to be unacceptable.

The EU's concern was that it would be subject to external control to ensure the observance of the rights and freedoms provided for by the European Convention on Human Rights. The EU and its institutions would thus be subject to the control mechanisms provided for by the Convention and, in particular, to the decisions and judgements of the European Court of Human Rights, which is not an EU institution.

The ECJ noted that it is inherent in the concept of external control that on the one hand the interpretation of the Convention provided by the European Court of Human Rights would be binding on the EU and all its institutions, and on the other hand that the interpretation by the ECJ of a right recognised by the Convention would not be binding on the European Court of Human Rights—again

something that was considered to be unacceptable.

In so far as the Convention gives the contracting parties the power to lay down higher standards of protection than those guaranteed by the Convention, it should be co-ordinated with the Charter. Where the rights recognised by the Charter correspond to those guaranteed by the Convention, the power granted to member-states by the Convention must be limited to what is necessary to ensure that the level of protection provided for by the Charter and the primacy, unity and effectiveness of EU law are not compromised.

The ECJ noted that the accession protocol permits the highest courts and tribunals of the member-states to request the European Court of Human Rights to give advisory opinions on questions relating to the interpretation or application of the rights and freedoms guaranteed by the European Convention on Human Rights.

Another concern was that, in the event of accession, the Convention would form an integral part of EU law, and the mechanism established by that protocol could affect the autonomy and effectiveness of the preliminary ruling procedure provided for by the Treaty on the Functioning of the European Union, notably where rights guaranteed by the Charter correspond to rights secured by the Convention.

At its core, the EU Charter has always been an instrument for colonising the European human rights agenda; so we can expect further efforts to weaken the European Court of Human Rights and advance the ECJ.

German press reaction to British draft deal: "Cameron is putting into action what other EU states want!"

The German daily *Bild* says that "Germany can be thankful for British Prime Minister David Cameron's push to reform the rules on EU migrants' access to social benefits."

It adds: "Germany cannot afford a Brexit! … The EU would miss a self-confident sceptical country whose democracy is much older than European bureaucracy. An EU without Great Britain would be poorer geopolitically, economically and, above all, spiritually."

Meanwhile the Brussels editor of the German financial daily *Handelsblatt* writes that "Cameron is putting into action what other EU states want" on reforming access to national welfare systems. "Cameron is running into welcoming arms in other capitals, including Berlin," she writes. "It's true that an increasing number of migrants from the EU's poorer member-states … find loopholes for cashing in on social benefits." All in all, it doesn't look good for refugees!

Stefan Kornelius, foreign editor of the *Süddeutsche Zeitung,* writes: "The reform proposal of Brussels is moderate. It might throw some unshakable EU enthusiasts off their feet, but it very realistically reflects the state of the community. Internal migration: in moderation and not to be abused; euro zone: if you please, but not to the detriment of others; the participation of national parliaments: of course, but under a mechanism that's barely used; and ever more Europe: a symbolic goal, which is just unrealistic."

Empire Loyalists

In David Cameron's planned referendum on Britain's membership of the European Union, Ireland's political elite will be on the same side as the British government, the United States government, the German government, all the other EU governments, the EU Commission, and all kinds of elite interests throughout Europe. They will be united *against* those ordinary British citizens who want to win back their democracy and the power to make their own laws, which has been surrendered by successive British governments to Brussels.

The former Taoiseach John Bruton has even declared that a British withdrawal would be an "unfriendly act."

Irish democrats who have a vote in the referendum will stand with their counterparts in England, Scotland and Wales and cast their votes for leaving the EU. Undoubtedly the progressive outcome of Cameron’s referendum would be that the advocates of withdrawal carry the day.

That would be a mighty blow to the reactionary EU integration project. It would open up the possibility of the Republic re-establishing its independence at the same time that Britain did, thereby striking a blow for the cause of national democracy in Ireland, Britain, and throughout the EU. Northern Ireland voters should vote and work for that result as long as they continue to be part of the United Kingdom.

John Bruton has form as a vocal defender of empire. Remember his pronunciamento that 1916 was a “mistake”? His preference was the Government of Ireland Bill, which became law in 1914 and was immediately put into indefinite suspension. This law contained serious limitations on the sovereignty of the Home Rule institutions in the form of a long list of “reserved powers” retained by London.

This did not deter the Nationalist Party leader John Redmond from immediately taking up the role of recruiting sergeant for the British war effort. More than 200,000 Irishmen fought in the war, and some 30,000 were killed.

So Bruton is wide of the mark when he claims that the Empire Loyalist road was “without casualties,” just as he is wide of the mark when he declares that a British withdrawal would be an “unfriendly act”—or, to put it another way, “unfriendly to whom?”

EU privacy based on a handshake!

It has emerged that the EU Commission is merely relying on promises from the US authorities that they will protect the fundamental rights of citizens of member-states on a data transfer deal that has no legal text.

Details of how the new “EU-US Privacy Shield” will work in practice remain vague as threats emerge of a possible legal challenge in the EU Court of Justice in Luxembourg.

The deal, announced after two years of talks, replaces the flawed “Safe Harbour” agreement, which was declared invalid by the EJC last October following revelations of a US-led global digital dragnet. Some four thousand American firms had relied on Safe Harbour for fifteen years, with hundreds having made false claims that they adhered to the pact.

It will take weeks before the new deal is launched, meaning that the companies will now have to sign up to other transfer regimes or face possible fines.

The chairperson of the EU’s main privacy regulatory body, the Article 29 Working Party, told reporters in Brussels last Wednesday that she was unable to give any preliminary assessment of Privacy Shield, saying that she did not know “exactly what it covers and what the legal ‘bindingness’ is.” This simply suggests

that the United States calls the shots.

What is clear is that while both sides announced the pact on Tuesday, it remains—incredibly—based on an “exchange of letters” akin to a handshake. EU data regulators say it must respond to the wider concerns on the international transfer of personal data raised by the ECJ judgement.

Past agreements often saw EU negotiators cave in to American demands on such things as granting the United States access to data on financial transactions and allowing them to store airline passenger records for fifteen years. But the ECJ’s decision gave the Commission’s negotiators a boost in talks and increased the hope among privacy campaigners that it would seal a deal that better protected privacy rights.

Despite moves by the US government to prevent mass surveillance and boost privacy rules, its existing laws remain substandard for EU data regulators. “We still have concerns of the US legal framework,” said Isabelle Falque-Pierrotin, the EU regulator. One of the remaining issues is how to establish clear rules on data-processing; another is how to determine whether access by US intelligence agencies to personal data is necessary and proportionate.

She called for independent supervision of US intelligence and the ability of EU citizens to defend their rights. “These four essential guarantees constitute a kind of European standard,” she said.

Why bother with the unions?

Back in 2015 the research department of the International Monetary Fund made the case for trade unions and collective bargaining as a powerful tool for keeping inequalities in check, pointing out that trade unions and collective bargaining not only tend to reduce inequality, by pushing up wages at the lower end of the pay scale, but also limit the share of income captured by the top 10 per cent of earners.

The research found that high union membership also influences the extent to which the tax system and the welfare state redistribute revenue in a more equal way.

Now the OECD has waded in, with two recent working papers on the theme of inequality, in ways that one would not necessarily expect.

The first paper recognises that measures of inequality based on household surveys are not suited to capturing top incomes. This is due to higher than average non-response rates and the unwillingness of top earners to provide accurate data or to disclose sensitive information, as well as the censoring of income amounts above a certain threshold in published data.

The OECD developed a method that combines the incomes of the bottom 90 per cent (as derived from the usual household surveys) with statistics for the richest 10 per cent adjusted for the missing top incomes (the “1 per cent”) and based on tax data. The results were rather shocking: inequalities turn out to be a lot higher than previously thought.

When data based on household surveys is adjusted for the top incomes, the Gini coefficient (a measure of the extent of inequality: the higher the coefficient the higher the inequality) jumps from 0.31 to 0.37 on average for OECD countries.

An even clearer measure is the ratio of the mean income of the richest to the poorest 10 per cent, which increases from 10 to 15. In other words, the richest 10 per cent in the OECD do not earn 10 times more than the

poorest 10 per cent but actually 15 times more.

In Europe, Spain's ratio is striking (20 times more), though inequality in the United States (almost 30 times more) still beats the Spanish figure. Unfortunately, Ireland was not included.

A second OECD paper (it's well worth having a look at the first few pages) confirms the findings of the IMF: that higher rates of collective bargaining in Europe go hand in hand with a lower share of wage income that is captured by the top earners in a country. Britain, along with central and eastern European countries, has the highest 1 per cent labour income earners (mostly CEOs, males between 40 and 60, working in finance and industry, getting high bonuses, etc.), who are able to capture from 4 per cent up to almost 9 per cent of all labour income shares for the top 1 per cent.

And that's where the unions come in. Through the process of collective bargaining, trade unions are able to get a better deal for low-wage and middle-wage workers and to secure fair levels of wages by resisting the imposition of an assumed managerial prerogative to decide unilaterally on wages and working conditions.

This in turn makes it more difficult for owners of capital and senior executives to seize an important or disproportionate share of the total value added by the company. On top of this, strong trade unions are likely to increase workers' influence on corporate policy, thereby affecting decisions on senior executives' pay and dividends.

The principle of "countervailing power" exceeds the level of the individual work-places and also functions at the macro level. Indeed trade unions also take up the role of a broad political force that is jointly shaping tax and benefits systems. By their influence on the political process, unions can prevent already powerful "insiders" from rigging the redistributive design of the system in their favour as well.

These findings are very far from the neo-classical theory according to which inequalities simply reflect the unequal distribution of marginal productivity. In other words, if wages are unequal it is because workers at the bottom end of the pay scale are not productive enough, while workers at the other end are "incredibly" productive.

And where does this fit in to the scheme for a "social Europe"? Unions are being hampered and their freedom to act is being continually circumvented by new legislation, while their members are being battered by austerity measures enforced by the Commission and the ECB. The carrot of "social Europe," successfully dangled before union leaderships for more than twenty years, has fallen off the stick. And yet the only hope of addressing these glaring inequalities in the short term is strong unions.

In Ireland the last generation of union leaders, wedded to national agreements and "social partnership," will soon pass on, and opportunities will arise for fashioning new policies that will attract those workers and activists who want change in our society.

But this will not happen automatically. Those who wish for such change must join and become active in the unions and have their say in the formulation of policy. This is only the first step; and tedious though much union activity can be, it remains the only available bulwark at the moment against the depredations of the 1 per cent.

But the EU and ECB are not reining in the 1

per cent, simply because the elite in Brussels represent the interests of capital. You may look no further than the thousands of lobbyists installed in Brussels, who in many instances virtually write EU laws. As for the ECB, we all remember how it sided with the bondholders and how we will continue to pay for a long time to come.

It is increasingly accepted that "social Europe" is dead and will not be revived through the undemocratic EU institutions, so there are few options left in the short term. The unions would seem to provide one.

Building the TISA gallows

The EU Parliament has given the Commission the green light to proceed with negotiations on the Trade in Services Agreement. This treaty will mean the opening of the market in services to companies from fifty countries around the world, including the United States, Taiwan, and Pakistan.

This will lead to the undermining of democracy and of social achievements. Although the Parliament supported an amendment to make the eight core conventions of the International Labour Organisation—dealing with such matters as child labour, forced labour, the right to unite in a trade union, and the right to conclude collective labour agreements—conditions in the negotiations, the commissioner for trade, Cecilia Malmström, has made it clear that this will not be her priority.

But she did declare that she is determined to hold on to a "no turning back" clause. This ensures that new rules, once established, cannot be turned back, even if they mean a diminution in standards.

The treaty has been described as a noose, which we would stick our heads into at great social peril and cost.

Neutrality me arse!

The recent invocation by the president of France, François Hollande, of article 42.7 of the Lisbon Treaty called on all EU member-states to aid and assist France by all means in their power. This is the first time since the treaty's formal adoption in 2009 that the so-called mutual defence clause has been activated—meaning we're all wading deep into uncharted waters.

Hollande's request came with a further wrinkle: the French army is already thinly stretched across much of sub-Saharan Africa, from Djibouti along the Gulf of Aden to Sénégal on the Atlantic.

Ryan McCarrel of UCD writes that Hollande and his government have apparently made it plain that they want other EU member-states to send their military support to either Mali or Lebanon, essentially to act as stand-ins for France's overstretched forces, so they can be redeployed in order to beef up security at home and redirect their attention towards fighting ISIS in Syria.

It is entirely unclear, and indeed debatable, whether this is what the authors of the treaty had in mind when they drafted the mutual

defence provision in the first place.

What is clear, however, is that increasing the number of Irish soldiers deployed on overseas missions to approximately 850 was already on the Government's agenda long before the attacks in Paris—even if relatively few bothered to pay attention.

So it should have come as no surprise when the minister for defence, Simon Coveney, fell over himself in his haste to responded favourably to the French request for more soldiers after attacks in Mali left twenty-one people dead, many of whom were foreign nationals, at the Radisson Blu hotel in Bamako.

At the same time he charged that those who have openly questioned the wisdom of sending more Irish soldiers to France's deeply fractured former colonies were "trying to create a story that is unfair," insisting that any request to send more soldiers would come through the United Nations, adding a further assurance that if such a request were received it would conform to the "triple lock" principle and therefore would not violate Irish neutrality.

Firstly, it must be said that if anything ought to be considered "unfair" here it is Coveney's framing of deploying Irish soldiers as Ireland's moral and legal responsibility explicitly in response to the attacks in Paris, given that the Government had already decided to send an additional 180 soldiers to Lebanon beforehand.

There's little reason to excuse this politicking, considering that raising the net number deployed has long been part of a ten-year defence strategy that the minister himself oversees.

Secondly, when we take a closer look at the history of Irish foreign policy, including past deployments, it becomes increasingly clear that the idea of the so-called triple lock—and with it Irish neutrality—is as much myth as it is reality.

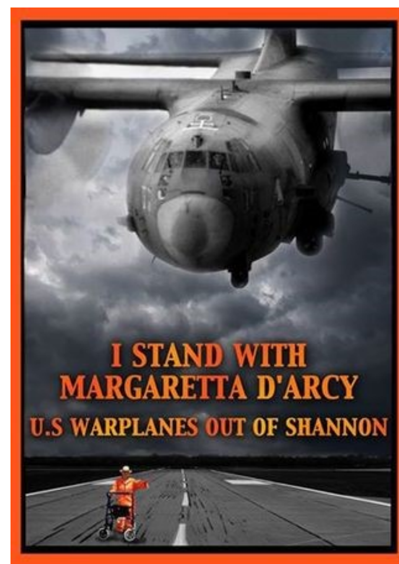
The triple-lock principle is a rhetorical trope invented by then Tánaiste, Mary Harney, in 2001 that essentially refers to the political process that ought to take place before the overseas deployment of Irish soldiers.

It was clarified in 2002 by the then Taoiseach, Bertie Ahern, when he said that any deployment of Irish soldiers abroad must first be approved (*a*) by the Dáil and (*b*) by the Government and (*c*) must be endorsed by the United Nations—even if only loosely.

Much has changed since then.

Writing in 2013, Prof. Ben Tonra of UCD noted that the triple lock "appears nowhere in Irish legislation," and that "in truth, the only 'lock' that exists … is the self-imposed legal requirement for some class of UN authorisation."

Yet even this self-imposed requirement for UN authorisation is no longer a guarantor of neutrality—in part because what constitutes UN authorisation has, for the Irish Government at least, slowly eroded over the last decade.



Authorisation used to mean a UN resolution explicitly establishing a peace-keeping force. This is no longer the case. In fact since the Dáil passed the Defence Act (2006) what counts as UN authorisation has grown into a "laundry list" of terms, including "supported, endorsed, approved, or otherwise sanctioned."

The slow erosion of what constitutes UN authorisation was, and continues to be, an intentional manoeuvre to circumvent the Security Council, in particular in response to growing weariness on the part of some politicians, who are tired of countries such as China using their position on the Security Council to veto international missions that the Government would otherwise support.

Of course if we take that last point seriously, what it really means is that by 2006 the Government was looking for ways to sidestep what was increasingly regarded as too restrictive a definition of neutrality.

This, then, is the non-legally binding triple lock mechanism that supposedly safeguards Irish neutrality and that Simon Coveney refers to when offering his assurances: a weakly worded commitment to take part only in missions that have some level of UN support.

Perhaps this slow erosion helps to explain why Irish soldiers are at present serving in thirteen countries. It would be unfair to group all these overseas deployments together, of course. The use of the Defence Forces to help with the Ebola epidemic has little to do with their deployment in Afghanistan, for example. And yet grouping these missions under the same UN banner is exactly what looser definitions of "UN endorsement" allows the Government to do.

It's this grouping that allows the minister to so casually discuss deployments to Mali and Lebanon as if they are interchangeable, even though they vary widely. Each conflict has its own context, specific dynamics, and potential risks and consequences for Ireland's national security and the safety of Irish soldiers, which must be taken into account, regardless of UN endorsement.

With regard to Mali, the growing possibility that the peace accord will fall apart—or that it was never fully implemented in the first place—means that there may be no peace to keep, while extremists there have made a habit of targeting peacekeepers and aid workers. These, in addition to France's colonial legacy and its particular set of national security and regional economic interests, were only some of the contextual factors that Coveney wanted to so quickly write off as an "unfair story."

Yet falling back on rehearsed rhetorical tropes that boil down to the UN's tacit approval of some interventions and not others does not of itself provide an indicator of a mission's legitimacy or moral standing; much less does doing so provide detailed reasons for why Irish bodies in particular ought to be expected to fill in for French soldiers were they to be sent to bolster security at home or to "bring the fight to ISIS," so to speak.

The UN's chequered past, of powerful states manipulating resolutions to their benefit, and continuing scandals involving UN peace-keepers, including allegations of sexual abuse, can attest to the first part.

As for the second, Ireland needs to seriously consider the implications of sending more soldiers abroad at a time when the very safeguard protecting Irish neutrality, the so-called triple lock, continues to suffer from legislative erosion *and* when interlocking security arrangements between the EU, NATO and the UN muddle what would otherwise be a fairly clear picture of what we could safely

consider "neutral" peace-keeping missions.

Indeed the unprecedented invocation of article 42.7 by Hollande, in addition to the French government's further clarification that this "aid and assistance" ought to take the form of military support for EU-led, "UN-endorsed" "peace-keeping" missions in their former colonies—so they can redirect their soldiers to fight in yet another conflict beset with its own geopolitical intrigues—just goes to show how muddled this picture has already become.

EU's common fisheries policy cannot be reformed

On 25 March 1957 the signing of the Treaty of Rome laid the foundations for the European Economic Community, which formally came into being on 1 January 1958. The six signatory states were Belgium, France, Italy, Luxembourg, the Netherlands, and West Germany. Its objective was to unite the countries of Europe under a new supranational government—in other words, piece by piece to create a new country called Europe.

The preamble to the treaty included a declaration by the signatory states that they were "determined to lay the foundations of an ever closer union among the peoples of Europe." The member-states therefore specifically affirmed that the European project had a political objective: it was not just a trading arrangement, in spite of it being popularly called the Common Market.

A new pamphlet by John Ashworth, produced as a contribution to the cause of British withdrawal from the EU, argues that the British fishing industry has been destroyed by the EU's common fisheries policy.

Ashworth argues that "the UK had not wished to be part of this project, in spite of considerable pressure from the Americans. We were not keen to share or 'pool' our sovereignty with other countries. Back in 1950, the response of the Prime Minister Clement Attlee to the Schuman Plan—the blueprint for the EEC—was pretty blunt: "[There's no way Britain could accept that] the most vital economic forces of this country should be handed over to an authority that is utterly undemocratic and is responsible to nobody."

But things changed in the 1960s, with the Conservative leader Edward Heath being a particularly keen advocate of Britain joining the EEC. However, President de Gaulle of France was less than enthusiastic about British membership, and only in 1970, a year after his resignation, did serious accession talks begin.

Denmark, Norway and Ireland also sought to join the EEC. It was this potential enlargement, which was to bring in countries blessed with especially rich fishing-grounds off their coasts, which inspired the six members of the EEC to create Fisheries Regulation 2140/70. They signed the regulation only hours before the applications for membership from the four were handed in. Particularly significant was the following article 2:

Rules applied by each Member State in respect of fishing in the maritime waters coming under its sovereignty or within its jurisdiction shall not lead to differences in treatment of other Member States.

Member States shall ensure in particular equal conditions of access to and use of the fishing grounds situated in the waters referred to in the preceding subparagraph for all fishing vessels flying the flag of a Member State and registered in Community territory.

A few phrases in the Fisheries Regulation, some of which featured in article 2 above, are worth emphasising, as they are crucial to

understanding the history of the common fisheries policy, and it is easy to overlook their significance:

Equal access: All waters of the member-states, up to the shore (base) line, are shared equally with every other member-state. Apart from a brief period during the early 1970s, you never heard the principle of equal access mentioned, even though it was created at the very start of the common fisheries project, as far back as 1970.

to a common resource: All living marine life is a common resource, which, as far as the Fisheries Regulation was concerned, meant that all marine living life within EEC waters was a common resource for all member-states. This did not include "dead" marine resources, such as oil, gas, or coal.

without discrimination: This is one of the main principles of membership of the EEC (now EU) that the British prime minister does not want to understand. It means that no preference may be given to national fishing fleets within what were once national waters. In principle, all the people from each member-state are equal and so can't be discriminated against, as all are, first and foremost, EU citizens.

without increasing fishing effort: If a new member-state has large capacity and little resource, that capacity has to be absorbed with no increase in the total catch, which means that the catches of existing member-states have to be reduced to compensate.

To summarise the effects of the Fisheries Regulation in lay person's language, it says that on becoming a member of the EEC (now the EU) the fishery limits bestowed on a state by international law are handed over to EU control. They become Community waters, shared equally and without discrimination with every other member-state.

This meant that Britain, in signing the Accession Treaty, would be entering into an obligation to share it with every other member. The result of joining the EEC was not apparent at the time but was sadly inevitable sooner or later. Naturally, the British people were not told these facts—in fact were told the very opposite.

Ashworth makes it clear that undoing the damage that the Fisheries Regulation has done to the British fishing industry "requires us to withdraw from the EU."

The extremely limited degree of beneficial reform—at least as far as British fishermen are concerned—that is possible from within the EU becomes readily apparent by considering the nature of an EU regulation.

When a regulation is created, at the top of the document it recites the articles within the treaty from which the regulation takes its authority; and as soon as a regulation comes into force it in turn becomes what is known as the *acquis communautaire.* This term literally means "acquired material of the Community" and refers to all EEC (EU) treaties, EU legislation (including regulations), international agreements, standards, court verdicts, fundamental rights provisions, and horizontal principles in the treaties, such as equality and non-discrimination.

In short, it means all EU law, and the word *acquis* emphasises that once the EU has "acquired" responsibility for certain areas from the member-states it does not intend to give that responsibility back—ever.

It is through the *acquis* that the EU project advances, progressively emasculating the authority of national governments and thus building the "ever closer union."

When Britain finally joined the EEC in January 1973 the *acquis communautaire* amounted to about 5,000 pages. Today, according to the think tank Open Europe, it is estimated to be 170,000 pages, and is still growing.

When a country joins what is now the EU it has to accept, and comply with, the *acquis*

communautaire in full. No exceptions are permitted, other than with transitional derogations—a short-term exemption from a given item of legislation to allow time to achieve the accession terms smoothly.

In addition, all the existing members have to agree to the applicant-state joining under those terms, which in effect means that every time a new country joins, the existing members give a further endorsement to their allegiance to—and compliance with—the *acquis communautaire.* So when Croatia joined the EU in July 2013 the British prime minister, David Cameron, agreed by treaty to the accession terms and thus to Britain's compliance with the *acquis,* even though at the same time he had been saying he wants to change it!

Given the irreversible nature of the *acquis,* when a politician states that they will "reform" or "renegotiate" something, one has to ask what they actually wish to change. If their target is the reform of anything covered by the *acquis communautaire,* it requires a unanimous agreement among all the member-states.

Ashworth's conclusion: "As David Cameron has proved with his so-called renegotiations, the commitment to the European project by the leaders of the other member states means that no reform allowing a substantive return of power from the EU to national control will be permitted. He has had to whittle down his wish list to minor issues and even these have had to be wrapped up in spin and deceit to appear substantive. In other words, Cameron is following in the footsteps of his predecessors."

Brexit and the "peace process"

The Northern Ireland "peace process" has nothing to do with the EU and is a matter solely for the British and Irish governments and the leaders of the unionist and nationalist communities. Yet Paul Brannen, a British Labour Party member of the EU Parliament for the North-East of England, has issued a dire warning that a British withdrawal "could well undermine 17 years of peace in a region that previously suffered decades of violence, civil strife and political failure."

He fails to mention the fact that, insofar as the EU gives money towards various North–South schemes that are notionally linked to the "peace process," this is mostly British money that taxpayers have already paid to Brussels that is being recycled. The British government should have more money available for such purposes outside the EU than within it, for it would no longer be the major net contributor to the EU budget that it is at present.

There is no reason, therefore, why Northern Ireland should suffer from any diminution in funding as a result of changes to the single farm payment, rural development fund, structural funds, or peace funding. Outside the EU the British Exchequer should have more money, not less, with which to finance the objectives of those schemes.

Brannen warns: "Following UK exit from the EU, the nature of the border between the UK and the Republic of Ireland would fundamentally change. Instead of it being a porous border between two fellow EU member states it will become a 'hard' border, raising a whole host of questions regarding customs controls and trade tariffs, cross-border institutional co-operation, and freedom of movement."

Looked at rationally, it should be recognised that even if the Republic remains in the EU when Britain leaves, it is completely open to both governments to maintain the common British-Irish travel area, something that long antedates the establishment of the EU and is in

no way dependent on it. Scaremongering about passport controls being established along the North–South border in Ireland or for people travelling between the two regions is just that: scaremongering.

Brannen also refers to "a development which is feared will run parallel to UK withdrawal from the EU—that of the repeal of the Human Rights Act by the UK government and a subsequent UK withdrawal from the European Convention on Human Rights." Such a development would cause legitimate concern; but British withdrawal from the EU and defence of the Human Rights Act are two separate issues. The act incorporates in British law most of the rights and liberties guaranteed by the European Convention on Human Rights.

Before incorporation, Britain was merely a signatory of the convention. British citizens had a right to complain of unlawful interference with Convention rights only by lodging a petition in Strasbourg. This process, which a number of people who suffered as a consequence of the Northern "troubles" availed of, took on average five years from the lodging of the complaint to the publication of the court's judgement. From the coming into force of the Human Rights Act in 2000 the rights and liberties enshrined in the Convention are to be enforced by British national courts, eliminating the necessity for individuals to challenge the alleged breaches of Convention rights only in Strasbourg, thereby saving time and money.

It should be noted that the European Convention on Human Rights has no direct connection with the EU. To suggest otherwise to try to bolster a case either for or against withdrawal is dishonest.

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