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Is the European Union in the Interests of the United States?

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Is the European Union in the Interests of the United States?

June 28, 2005

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Margaret Thatcher

June 2005

There could not be a better time to open a debate in Washington DC on the impact on the United States of developments within the European Union.

The current saga of the European Constitution provides a fascinating glimpse into the workings of the minds of the European political and bureaucratic elites. The Constitution which these elites designed takes the continent in a fundamentally new direction. It requires the full endorsement of every Member State. Yet how have the elites reacted when first the French, and then the Dutch, peoples rejected the proposals in nationwide votes? Have they accepted that the Constitution cannot now be ratified? Not at all. They argue that ratification must continue in all Member States no matter what the cost or the waste of resources. With such a blatant disregard of democratic will is it any surprise that people so distrust the direction in which the European Union is heading?

Just as the people of Europe must now ask searching questions, it is equally right that decision makers in the United States assess the consequences of a more bureaucratic, more centralised Europe, where issues such as foreign policy and defence are increasingly decided in Brussels rather than by national governments. What will be the effect on the NATO Alliance? Or for American/ EU cooperation on issues such as fighting international terrorism, on stemming nuclear proliferation, or on managing the transition of China towards growing political, economic and military power? Let alone on wider questions of free trade?

So this conference is timely and I hope that it will focus greater attention on the need to strengthen our Atlantic ties rather than weaken them as we face a more uncertain world.

Margaret Thatcher

Welcome and Keynote Address

JOHN HILBOLDT: At The Heritage Foundation, limited government, individual freedom, free enterprise, traditional American values, and strong national defense are fundamental and guiding principles. We are pleased today to co-host an all day conference on the future direction, and indeed the wisdom of a European Union and its place in advancing the fundamentals of freedom, opportunity, prosperity and civil society that we at Heritage envision, not just for America, but for all the nations around the world. Hosting this morning's first address is Becky Norton Dunlop. Mrs. Dunlop is Vice President for External Relations here at The Heritage Foundation. Prior to joining the Foundation she was Secretary of Natural Resources for the Commonwealth of Virginia in the Cabinet of Governor (and now Senator) George Allen. In addition to serving in the Reagan Administration as a Deputy Assistant to the President for Presidential Personnel, Special Assistant to the President and Director of his Cabinet office, and a Senior Special Assistant to the Attorney General, Edwin Meese, Mrs. Dunlop was Deputy Undersecretary at the Department of the Interior and Assistant Secretary for Fish, Wildlife, and Parks. She currently serves as a board member for numerous public policy organizations and associations, and directs Heritage's national and international outreach to conservative movement organizations and policy leaders. Ladies and gentlemen, please welcome my colleague, Becky Norton Dunlop.

BECKY NORTON DUNLOP: Thank you very much, John, and let me add my words of welcome on behalf of my colleagues at The Heritage Foundation, Dr. Edwin Feulner, our President, and all of the rest of us here who so much appreciate our friends coming across the Atlantic Ocean to visit with us. I'm also delighted to tell you this morning that The Heritage Foundation is going to be establishing a Margaret Thatcher Freedom Center. And the purpose of this Margaret Thatcher Freedom Center will be to house and promote and advance the ideas of liberty that Prime Minister Thatcher—and now Baroness Thatcher—has championed throughout her life.

This program that we are hosting today is really the first program that we are able to hold under the auspices of the Margaret Thatcher Freedom Center, and I would like to share with you what Baroness Thatcher wrote in a letter to us today. I just want to read briefly from it:

There could not be a better time to open a debate in Washington D.C. on the impact on the United States of developments within the European Union.

Then she talks about the current state of the European Constitution, and she goes on to say

Just as the people of Europe must now ask searching questions, it is equally right that decision makers in the United States assess the consequences of a more bureaucratic, more centralised Europe, where issues such as foreign policy and defence are increasingly decided in Brussels rather than by national governments. What will be the effect on the NATO Alliance? Or for American/EU cooperation on issues such as fighting international terrorism, on stemming nuclear proliferation, or on managing the transition of China towards growing political, economic and military power? Let alone on wider questions of free trade?

So this conference is timely, and I hope that it will focus greater attention on the need to strengthen our Atlantic ties rather than weaken them, as we face a more uncertain world. So I'm delighted to share that letter and make that announcement about the Margaret Thatcher Freedom Center.

As John mentioned, I did serve in the Reagan Administration where we talked a lot about federalism—the concept of federalism as it was discussed by our founders. And, in fact, I always like to pull out my little copy of the U.S. Constitution, and remind everyone that the Tenth Amendment is still there. And the Tenth Amendment of the Constitution of the United States—which, as you can see, is very brief—says, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

Now, ladies and gentlemen, if, in a Constitution of this size, we have this very explicit language, and yet even today the balance of power in the United States has shifted tremendously from the states to the central government in Washington D.C. I think it is right that all of us, those in Europe, in the nation states of Europe, ask themselves how can the rights of the nations and the rights of the free people in Europe be protected in a Constitution which

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is so voluminous that most people have not even read it. Fortunately, I think we can say that the people of France and the Dutch people made a wise decision in their rejection of that Constitution.

We are very fortunate this morning to be able to kick off the conference with a very learned, interested and great leader of our country, Senator Gordon Smith of Oregon. Senator Gordon Smith is from the west of the United States of America, but he has long had a personal interest in European history. He studied European history in college, and during his time in the Senate, he has served as chairman of the Europe Sub-Committee of the Senate Foreign Relations Committee. He did that for six years and now he has moved on to other assignments, which are many. He serves on four major Senate committees: Commerce, Science and Transportation, Energy and Natural Resources, Indian Affairs, and the Finance Committee. However, he continues to have a very strong interest and concern about the situation in Europe. He is now the Chairman of the Senate Delegation to the NATO Panel Assembly. And he makes two trips to Europe annually, taking a number of his fellow Senators to learn more about the challenges facing the people of Europe, the people of the several nations of Europe. We are delighted that he has taken time from his busy schedule to come and join us today. Senator Gordon Smith.

SENATOR GORDON SMITH: Thank you, ladies and gentlemen. Often I'm introduced as the last Senator on the left coast, not just the west coast, but Ed Meese is from California and I from Oregon. It is a pleasure to be here with Heritage, and I'm grateful to my friend Malcolm Pearson, probably more properly referred to as Lord Pearson of Rannoch, the organizer of this conference, to be able to participate with you this morning.

We're here today and at this time to talk about the European Union and its relationship with the United States. In the wake of the French and Dutch referenda rejecting the EU Constitution, it is certainly the right time for us to be having this discussion. Whether or not the EU is in a crisis right now is the subject of considerable debate. Those that support further integration maintain that the collapse of the constitutional process is merely temporary, that it can be resurrected in some time and form, when cooler heads have prevailed. The opposition to the Constitution in this view, was not directed at the EU *per se*, but against unpopular national leaders who supported the Constitution. I disagree with this contention, perhaps because I do have faith in the European people and their democratic rights to express themselves. But I believe that those voters in France and the Netherlands who had the opportunity to express their views on this subject represented millions of Europeans who did not, whose governments or parliaments made the decisions for them, about this Constitution.

The EU needs to face the fact that the people of France and Holland have spoken, and for it to proceed with further integration as if the referenda were successful, is not appropriate, at least not as to this last constitutional document. I, for one, have read it—or at least as much as I could get through. It was the size of a phone book, and I frankly agreed with the *Wall Street Journal*, which editorialized that to read it is to bounce between the human emotions of hilarity and stupification. In fact, the EU needs to reconsider its future—some would say its very existence—given the French and Dutch votes. These voters understood inherently that a more centralized European Union was not in their interests, that as the EU claimed the right to evolve into a superstate-type structure, their freedoms would be limited in proportion. That by empowering an EU bureaucracy that has little accountability to its constituents, their ability to escape the economic malaise which has engulfed much of the continent would be further diminished. And these voters displayed the basic mistrust in their leaders that many people throughout the European Union feel. Given their experiences, they do not trust their leaders to be fully honest about the impact of the continued EU integration.

But what is the EU today? At a time when the United States has sought to implement policies so that businesses can create wealth, create jobs and expand the economy, EU regulations have multiplied dramatically. Why does the EU need to regulate the manner in which Italians package mozzarella, or the way Hungarians produce foie gras? Why does the EU need to issue regulations on see-saws, under a Directive on Playground Equipment for Outside Use? And I find it astonishing that the EU requires a banana to meet at least 18 specific conditions before it's allowed to be sold. As the EU continues to assume more and more responsibility for matters once under the control of national governments, its bureaucracy and its budget grows as well. I have to admit the fact that member states have agreed to this centralization of power, and that it is surprising to me.

When I first arrived in the U.S. Senate in 1997, I began my role on the Foreign Relations Committee, and in that capacity often asked officials from Central and Eastern Europe why they wanted to join the EU. Of course, their

answers revolved around how the EU could help their economies as they made the transition to free market principles after years of central planning. I pressed them further: After struggling so valiantly to regain their sovereignty, why would they be willing to cede so much of it now back to Brussels? They responded that they felt they had no choice. To compete in the world's economy, they said, they needed the EU imprimatur.

Yet the EU's economic philosophy emerged from the same Cold War which enslaved Central and Eastern Europeans under Communism. Because the United States devoted the resources to combat the Soviet threat on the European continent, EU states felt secure enough to dedicate themselves to establishing a generous social welfare state that today threatens their economies. Convergence as it is called is not conducive to growth. Excessive regulations, enormous bureaucracy, high taxes and over-generous entitlements will keep the EU economy well behind that of the United States for decades to come. Yet, a weak European economy is not just bad for Europeans, it is bad for the United States. When the EU imposed its will on much of the economic activity of its member states, its economy slowed, unemployment increased, and the economic dynamism necessary to pull it out of the doldrums disappeared. Britain is an exception, of course, because of the prescience of Margaret Thatcher, who inherently understood that the European model was a recipe for economic stagnation, and the social ills that follow.

In addition, when discussing the current state of the European Union, I must say that as an American, the characteristic that is particularly troubling to me is the virulent anti-Americanism that I experience every time I visit the continent. From an intellectual standpoint, I know that the words of Gerhard Schroeder or Jacques Chirac do not represent the view points of all Europeans. Yet it is disturbing to me that much of the European media have adopted the anti-American attitude. Its gross anti-American reporting, its demonization of President Bush, its frenzied coverage of the Abu Ghraib Prison scandal, and the alleged abuse in Guantanamo, all have contributed to a dramatic shift in attitudes towards America in Europe.

As the World War II generation fades away, the feelings of gratitude for the U.S. role in saving the European continent from the evils of Nazism, Fascism and Communism seems to be dissipating and a rapid rate. Eternal gratitude, however, is not what Americans seek. We acted to defeat these murderous ideologies for our own interests as well as our friends in Europe. But the vitriolic anti-American rhetoric that seems to be growing more common is deeply disappointing and often distressing.

Despite this trend, I think we must be clear about what is happening in Europe. The French and Dutch votes served as an important reminder that it is the self-interested elite that are driving the EU's aspirations and not the peoples of Europe. The EU Constitution overstated what the EU was and claimed rights for Brussels that should have remained with the people. This principle is fundamental to the American constitutional system, and it is enshrined by the Bill of Rights, the tenth article thereof, which states that the powers not specifically delegated to the United States are reserved to the States or to the people. Expressing the limitations on government's power is as important as enumerating them—a lesson that I am not confident that the EU has learned.

And finally I must mention a critical issue that has enormous implications for the United States. The effort that began in December 1998 to create a separate European defense identity is of great concern to many of us in Congress, who are still committed to maintaining a transatlantic relationship. For over fifty-five years, NATO has served as the institution through which the United States and Europe cooperate to ensure our collective defense. It is, remember, a defense alliance—or that's what it was. I believe it is the most successful military alliance in history. But it is no secret that most EU states which are also NATO members have not met their commitments to the continuance of this alliance. Defense spending is shamefully low and still falling, and military budgets, such as they are, are spent in ways inconsistent with the priorities that NATO laid out and to which members agreed. Everyone is well aware that this is not a new phenomenon; what amazes me though is the rush to create a new structure that will allow the EU to act militarily, even as European countries fail to meet their NATO obligations. It is clear that this project is designed to enhance the EU's standing in international affairs, and I suppose that EU leaders see no danger in proceeding full speed ahead. I do, however, see danger ahead. Whether or not these EU military units are effective in addressing the tasks assigned them, we must remember that their tasks are highly limited in nature: humanitarian and rescue, peacekeeping and crisis management. This is not war-fighting. And it is disingenuous for the EU to claim that creating a defense identity, independent from NATO, will actually contribute to their NATO commitments. As troubling as this is, however, perpetuating the current situation within NATO, where we have war-fighters, the

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Americans, the British, and several other nations, and peace-keepers, comprised of the rest, is not the worst outcome of the EU effort. The real danger is that the EU's independent defense identity risks alienating Americans, who may believe that the European Union is capable of addressing the security problems on the European continent without the United States. And it is not equal to that task, but many members of Congress would like that as the basis for withdrawing the United States presence. And without a greater commitment to spend adequate resources on defense, it will never be adequate to the tasks which they set forward, and the worst thing that could happen would be to create on paper, but not in budgets and bullets, a defense that actually lived up to the security needs of the Europeans. If this feeling takes hold, the United States may decide that its priorities lie elsewhere, and pull back from Europe. It is in no one's interests to destroy the transatlantic link which has proven to be so critical in providing security to Europe and America. Yet, I fear the EU defense policies, as well as its anti-democratic, regulatory and social welfare identity, may lead us in that very direction. This is an outcome that we must all work to avoid, and I thank you very much, and invite your questions.

PAUL RUBIG: Yes, I'm Paul Rubig from the European Parliament. Thank you for your speech. What I wanted to know from you is if the people of the United States will have the chance to have a referendum on your Constitution, and do you see a chance you could give them the right to do the same as the Europeans did?

SENATOR GORDON SMITH: The answer is that we did have a referendum as required by the Constitution when it was drafted by Hamilton, Madison, and Mason. It required the ratification of the thirteen states, and they all ratified. Those members of those legislatures were democratically elected, and this was fiercely debated for a period of years and ultimately came into effect. On top of that, we had a civil war which cost a million Americans their lives, to determine the full meaning of that Constitution, and so I think clearly the Americans have had a referendum going for two hundred and more years.

ANA GOMES: I'm Ana Gomes, also a Member of the European Parliament, from Portugal, and I would like to ask you how do you conciliate what you have said about the contradictions between Europe building its capabilities in defense, and the NATO commitments in the light of the fact that European forces are now in Bosnia with the Mission Altea, seven thousand people replacing SFOR—a NATO led mission—at the request of the United States. This was handed over from NATO to European forces, EUFOR, because of course the United States wanted to withdraw the bulk of its troops from Bosnia. Yesterday we had a number of European parliamentarians who are members of the delegation for relations with the United States, we've been having a meeting with the U.S. Congress, and we were asked by members of the Congress, when indeed Europeans were able to take up their responsibilities behind Bosnia, in Kosovo, in other places, so that the West could withdraw their troops. Isn't there a contradiction, for those on the one hand like you, yourself, Sir, who want to request Europeans to build up their capabilities to meet their commitments in NATO and beyond, where NATO is not prepared to stay or to act, with the kind of negative comments you have made about the efforts of Europe to build up its capabilities in defense?

SENATOR GORDON SMITH: The problem is not in creating a European defense identity, it's whether you have a command structure outside of NATO. And underlying the commentary or the question from members of Congress is frankly a very genuine hope that Europe can take over, so America can go home. And I think that the question that Europeans need to ask is, do they want that to happen? And if the answer is yes, I think it's very important for America to say we respect the wishes of our European friends one way or the other, we support democracies. And we obviously will respond to the democratic will of the European peoples, whether they want to go to another Constitution, whether they want a defense relationship different than NATO, but candidly, if a different command center is set up, it will be very undermining of NATO. Europe does need to have more military, it does need to spend more wisely, it needs to spend more, so that it can do more. But the question then becomes: do you do it in NATO, or do you do it outside of NATO, and that's where it becomes very complicated for Europe and America to keep NATO together.

SARAH LUDFORD: I'm sorry to add to the trio, but I'm Sarah Ludford, I'm also a Member of the European Parliament, and I'm afraid that if I say that I'm a Liberal Democrat I'll no doubt get some hackles raised in this room, and I'll look forward to the next panel, some of the contributors whom I know. Isn't it a fact that the results of the French—particularly the French—as well as the Dutch referendum vote are hugely inconvenient for your thesis, because far from showing that this was anti-federalist or anti-integrated EU, I'm afraid there was a large streak of

xenophobia, of insularity, of anti-free trade, anti-enlargement, anti-globalization. Indeed, one could even argue it was in favor of a tight core-Europe with a protectionist social model. So it does not meet the thesis that this was in favor of a free-trading, open Europe—and indeed, I think this is acknowledged as such in this rather interesting background, because during the French vote, farmers, heretofore strong supporters of President Chirac, voted “no” in large numbers, fearful that the EU might chip away at their protectionist trough. So, the EU was seen as a free trade guarantor against protectionism, so to interpret the vote in the way that I think some Conservatives are doing, simply doesn’t bare that weight, and it’s hugely inconvenient. And secondly . . .

BECKY NORTON DUNLOP: Is there a question here?

SARAH LUDFORD: Yes: *Do you agree?* I trained in the British House of Lords, as Malcolm knows! But secondly, as I think you’ve just acknowledged on the defense front, isn’t it fundamentally in the interests of the United States to have a competent EU, politically, economically and militarily?

SENATOR GORDON SMITH: Well, I think, obviously in any vote, lots of analysis goes on, and the reasons for people voting one way or another are very complex. I don’t deny the legitimacy of many of the motivations of European voters who voted against globalization, for protectionism, or against a European leader—all of those things play into the outcomes of votes. But I do think it is significant that two of the founding members have now, in what in American politics would be landslide numbers, said “no”, and resoundingly “no”. And what their internal reasons are for doing that. I can’t fully explain, except that I do know that as it is currently written, this Constitution is in very, very deep trouble, and I don’t think it should be put forward again as it is.

In terms of American defense commitments to Europe, I think that we must acknowledge America’s in Europe, because it is in America’s interests. We have fought Communism, Nazism, and all those things because that was in our interests as well. But I think Europe, if it wants to be a military player, it needs to make that decision not in some vacuum, it needs to consider the American implications. A lot of Americans would like to go home, and a lot of Americans would like to see the relationship chipped away at. But I also think adults need to stick around and say, there is a community of interests still that we should be interested in preserving. I think Europe’s biggest problems long-term are the economic structures that have been created, the social promises that have been made, with diminishing populations. And so I think the worst of all things to do is to create a military structure that presents itself as more than it is. So if you create it, you have to budget for it, you have to buy the bullets and go to the lengths that are necessary to have a credible military. And that is a part of having a credible foreign policy, obviously, and I think that that underlies some of the motives in Europe to create a military, to have an independent foreign policy, and frankly to speak for the continent in a way that some say openly should be hostile to the United States. And that is what I think concerns many in America.

BECKY NORTON DUNLOP: Thank you Senator Smith. Not only did you turn out a roomful of interested people, but people from Europe—that’s terrific. I think we’ve had more MEPs here this morning than ever before at Heritage.

While the next panel makes its way to the platform, I would like to take this opportunity to acknowledge the partners that really brought this conference together. Of course, The Heritage Foundation is delighted that we’re located so close to Capitol Hill, and have facilities to host the conference today, but our partner organizations who came together to organize this include Global Britain, the Discovery Institute, which is located in Washington State, and yet is very interested, and concerned and active on this question, and The Hudson Institute, a sister organization based here in Washington D.C. And throughout today, you’ll see various leaders from these organizations participating in the discussions, so we want to acknowledge them and thank them for their willingness to serve together to present this program.

And now we’ll move on to our first panel discussion, which will be led by Lord Pearson of Rannoch. Malcolm Pearson founded the PWS Group of Reinsurance Brokers in 1964, of which he is still chairman. He has been active in a number of enterprises that have resulted in significant reforms in the business community. He also has been very active supporting dissident groups to promote freedom in the old Soviet Union. He was in 1990 created a Conservative peer by Margaret Thatcher, and he served on the House of Lords Select Committee on the European Union from 1992 to 1996. He has been an active leader, not only in the United States and in Great Britain, but even in Europe on this question, and he comes today to make remarks and to chair this panel discussion on the European Union—What is the Nature of the Beast? Lord Pearson.

Panel One

The European Union: “The Nature of the Beast”

LORD PEARSON OF RANNOCH: The *Aquis Communautaire*, additionality, co-decision, comitology, competence, Coreper, corpus juris, the democratic deficit, Erasmus, Socrates and Galileo, engrenage, peripherality, the pillars, proportionality, QMV, subsidiarity, variable geometry and xenophobia.

Welcome, ladies and gentlemen, to “Europe.”

That is just some of the language used by the strange creatures who inhabit and drive forward the project of the European Union. And if you want to know what they’re up to, I’m afraid you have to understand what those and dozens of other expressions mean. But don’t worry, my UK colleagues and I have come here today to make it easy for you. We thought we’d talk to you in English, and invite you to learn more about the EU as painlessly as possible.

I start of course by thanking The Heritage Foundation and all those who’ve made this conference possible. But our thanks go deeper than that. We also want to place on record the heartfelt thanks of millions of our compatriots for all that you the people of America have done for us and for Europe—the real Europe, the Europe not in quotes, the Europe of democratic nation states—over the last hundred years or so. Having got that off my chest, I emphasize that we have not come out here to ask for your help, yet again. We have come to try to explain what the project of European integration is really all about, and to show you why it is not in your interest. When you’ve got that point, we rather hope it will become obvious that you should collaborate more in future with the British Eurosceptic movement, and with growing Euroscepticism elsewhere in Europe. But of course, that will be your call, as you say.

I should also emphasize that we speak to you as good Europeans. We Eurosceptics love the real Europe, the Europe of different democratic nations, each with its own glorious culture and history. What we dislike and fear intensely is the project of the European Union, and pretty well everything which emerges from Brussels and the Treaty of Nice. Christopher Booker will be going into more detail about the EU’s history and *raison d’être*. But I want to flag up the basic idea that set the project in motion, so that it has time to sink in before he speaks. That basic idea behind the project of European integration was that the nation states of Europe were responsible for the carnage of two world wars. They must therefore be emasculated and diluted into a new form of supranational government, run by a Commission of wise and honest technocrats. It is that genesis of the project, ladies and gentlemen, which allows the Eurocrats to claim—even today, as they seriously do—that the EU has been responsible for peace in Europe since 1945, and that it is essential to maintain it in future. In doing so, they blithely overlook the fact that NATO was entirely responsible for fending off the evil Soviet Empire, until Ronald Reagan and Margaret Thatcher brought the wall down in 1989. They don’t like being asked which European country would have gone to war with another in the absence of the EU. In fact, they get very vicious with anyone who dares to challenge them at all about their precious project, which of course pays them all so well. In this respect, I recommend you read Bernard Conolly’s letter to me today, which is in your packs, and which makes chilling reading. Bernard is one of only five top whistleblowers who has been silenced and sidelined by the EU in the last five years.

But, ladies and gentlemen, if we are so presumptuous as to examine their claim that the EU brings peace, we see that not only does it not stand up historically, it doesn’t work in theory either. If you stand back and scratch your head a bit and take a calm look at the EU, you see it as a well-tried model for discord, not peace. First, it is a top-down amalgamation of different peoples, put together without their informed consent, and such arrangements usually end in conflict. You’ve only got to look at Northern Ireland, Yugoslavia, the Transcaucasus, Kashmir and most of Africa to see that. Second, as I shall show, the EU is institutionally undemocratic. It is also corrupt—which is another ingredient for trouble. Its own internal auditors have refused to sign off its accounts for the past ten years. Think what would happen to the board of a company in those circumstances: they’d be locked up. But above all, from your point of view, the main purpose of the EU has become to stand up to and undermine you, the United States of America, and to counterbalance your famous hegemony. In fact, this was always part of the project, inspired

Panel One: The European Union: “The Nature of the Beast”

by France’s deep psychotic need to bite the hand that freed her in two world wars. Luckily, there is little prospect that the EU will be able to raise the defense budget necessary to fulfill this ambition, but it will continue to poison the transatlantic alliance for the foreseeable future. We’ll be taking a deeper look at defense issues later.

I suppose I should give you the briefest outline as to why the EU project is so institutionally and hopelessly undemocratic. Four points. First: the unelected bureaucracy, the European Commission has the monopoly of proposing all new laws, which it hatches in secret. Second: the Commission’s legal proposals are then negotiated, still in secret, by the shadowy committee of permanent representatives, or bureaucrats from the nation states, known as “COREPER.” Decisions are then taken in the Council of National Ministers, again by secret vote. National Parliaments are precluded from knowing how their bureaucrats and ministers negotiate and vote, and no details of the continuous horse-trading leak out to the general public. Third: once an area of national life has been ceded to control from Brussels, it can never be returned to national Parliaments. This is known in Euro-speak as the *Aquis Communautaire*, or powers acquired by the community; in plain English this translates as “the ratchet,” which the Treaties ordain can only grind in one direction, towards “*the ever closer union of the peoples of Europe.*” Fourth: no changes can be made to the Treaties, unless they are agreed unanimously in the Council of Ministers, and ratified by every member state. So renegotiation for the return of powers to member states is not really realistic—the only way out is the door. That is why the proposed Constitution is technically dead, after the French and the Dutch “no” votes. Politically, it remains to be seen how the Eurocrats proceed. I’ll come back to that, and we could cover it in questions.

So, ladies and gentlemen, those are some of the basics of how the project works. How far has it got? How much of our sovereignty have we already handed over to the corrupt octopus in Brussels? And I’m not talking about how much more we would have handed over if proposed Constitution had become a reality; I’m talking about where we are now, under the present Treaties, the Treaty of Nice in fact. Few people realize, even in the United Kingdom, what huge areas of our national life have already been handed over to control by Brussels. Put simply, these include all of our commerce and industry, our social and labor policy, our environment, agriculture, fish and foreign aid. And what do we mean by control from Brussels? How does it work? Well in all those areas of our national life, which used to be entirely controlled by Parliament, our government can be outvoted in the Council of Ministers, where it has some 8.4 per cent of the vote—and you need about twenty-five per cent to block a new law. That is the system known as qualified majority voting, or QMV. If our government or executive agrees, or is outvoted on any new law on all those areas, then Parliament—being the House of Commons and the Lords—must put it into British law. If we don’t, the country faces unlimited fines in the Luxembourg Court of Justice. So Parliament has already become a rubber stamp in all those areas.

In addition, laws affecting our justice and home affairs and our foreign and security policy must also be rubber-stamped by Parliament, if they have been agreed by our executive and all the other member states’ governments in Brussels. Our executive can still veto new laws in these areas, but if they don’t we have to enact them. If Parliament were to reject an EU law thus agreed unanimously in Brussels in these areas, we would not be subject to unlimited fines in the Luxembourg Court, but we would be in breach of our treaty obligations. That is of course an even more horrifying prospect than a fine to our political classes in their diplomatic cocktail parties and so on. A fine, after all, is paid by the people.

Ladies and gentlemen, there is no appeal against the Luxembourg Court of Justice. This is not really a court of law as you would understand that expression, but rather it is the engine of the Treaties. It must find in favor of the “*ever-closer union of the peoples of Europe,*” and it indulges in generous judicial activism in order to do so. I think we may come back to that later.

Our government now admits that over half our major laws, and eighty per cent of all legislation, now originate in Brussels under the system I described. No law passed in Brussels has ever been successfully overturned by Parliament. So that’s how much of our democracy has already been devoured by the corrupt octopus. And of course it applies not just to us—what I’ve said so far goes for every member state in the European Union.

Perhaps I should say a word about the proposed new Constitution, about which you may have heard because the French and Dutch people have just voted it down. So, technically it should be dead, but the Eurocrats will certainly try to introduce its worst provisions in other ways, and are already proceeding with several of its most power-grabbing initiatives, as though the French and the Dutch people had not even spoken.

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I suppose the Constitution's worst provision was that the EU would have acquired its own legal personality, superior to that of all the member states. There was no longer even the pretence that the EU was an arrangement between Sovereign Nations. The EU, the Brussels system, became sovereign, and not only over the areas I've described, but pretty much over everything else as well. The EU flag, which, at the moment, is flown as mere advertising, would have become real. The EU anthem, purloined from Beethoven's Ninth Symphony, would have become real. All that is technically on hold. But of course, the Eurocrats won't let the ignorant French and Dutch people stop the project; they are pressing on with several initiatives which appear to rely on the moribund Constitution for their legitimacy. For instance, they are pressing on with their string of embassies and ambassadors all over the planet. I believe Ireland's Mr. John Bruton is already posing as the EU's ambassador here in Washington—although the legal base for his presence is not entirely clear. They continue to develop their Fundamental Rights Agency in Vienna, so they can impose their political correctness on vast areas of what remains of our individual freedoms. Last Thursday, the 16th, the European Court decided that the Community now has power to dictate on the judicial procedures to be followed by member states. On the military front, they're going ahead with their independent command center in Brussels, and EU troops are already in the Congo under the EU flag. Above all they are carrying on with their ten billion dollar a year Galileo space program, clearly designed to undermine your own Global Positioning System, with which you have been so generous.

We pressed the British government in three debates last week in the Lords on these and other initiatives. But all we were told is that the EU is undergoing a "process of reflection," and that we don't understand the ratification process. What I fear is that they will try to root at least the military initiatives in the wording of the existing treaties, the Treaty of Nice, which contains the wording that their emerging foreign and security policy, inserted at Maastricht, and I quote: "*could in time lead to a common defence.*"

So perhaps they plan to go to the Court, if necessary and get it to agree that all their military initiatives are justified by these and other cunning clauses in the existing Treaties. We now have a string of written questions down in the Lords, and we shall have to wait and see how the Eurocrats react. One thing is clear, ladies and gentlemen, from your point of view: if the Constitution had been in place, we could not have joined you in Iraq.

Ladies and gentlemen, it isn't easy to kill an octopus. You have to bite it between the eyes, or turn it inside out. There are, of course, other unfortunate features of this misconceived creature which we shall be looking at today. It is hugely expensive to the British tax payer, and it is almost certainly in terminal economic decline. This will not be good for your investment interests across the pond, which will do less badly if the project disintegrates sooner rather than later. Nor is the project in the interests of the people of the new European democracies, although, of course, their political elites love it, and the way of life it brings them. We'll be looking at that later today in more detail.

Finally, your Supreme Court is perhaps taking too much note of European Court judgments, and it is a great honor that Judge Bork will address us later today on that and related subjects. So, ladies and gentlemen, it only remains for me to thank you again for giving my colleagues and me the chance to open this debate, in such elevated surroundings here in Washington. Let us hope we can stay in touch as the saga unfolds, and that we can work together towards the restoration of democracy in Europe, in which lies our common interest, and indeed that of the wider world. Thank you.

Now, ladies and gentlemen, I've started off, but I'm still supposed to be the moderator, so I'm going to ask Christopher Booker to speak next. Christopher will be very well known to you all, I hope, as a regular columnist in the *Sunday Telegraph*. And if you want to know what's going on week by week in the European Union, and this whole process of advancing bureaucracy and frightfulness, here's your man.

CHRISTOPHER BOOKER: I want to begin today by just saying I'm probably the only person in this room who's old enough to remember what it was like to live in Southern England in 1943 and 1944. I looked up every day as a small boy, at the Flying Fortresses and the Liberators returning from daylight raids on Hitler's Germany. The country lanes round our Devon home were full of GIs preparing for the assault on the Normandy beaches. I can never forget those days when your country and mine stood side by side, in defense of freedom and democratic values, at a time when every other country of the twenty-five now making up the European Union was either under Nazi occupation, or was neutral, not unsympathetic to the Fascist cause. The memory of that time has remained with me as the foundation of my political view of the world ever since, and has certainly colored the way in which I look at the subject which we are discussing here today.

Panel One: The European Union: “The Nature of the Beast”

This political construct called the European Union, what is known to those who have been assembling it over many years as “the project” has been so wreathed in mystery that if you guys over here think you don’t really understand it, let me assure you that very few people in Europe do either. But it is hugely important that we do all try to understand it better, because it is a reality in our lives, and potentially a very dangerous reality. So I want this morning to address three questions: How and why did this European project come about in the first place? How did it get to where it is today? And why should this be of concern to the United States?

What we see today as the European Union did not begin, as the history books will tell you, as an idealistic project, born in response to the horrors of the Second World War. The key to understanding its real nature lies in knowing that the original blueprint for it was conceived in the 1920s, after the First World War, by two senior officials of the old League of Nations. In the mid ‘20s, there was a lot of utopian talk in Europe about setting up a United States of Europe as a cooperative alliance of sovereign governments. But these two men, a young Frenchman called Jean Monnet and his friend Arthur Salter, who was a British civil servant, would have none of it. They were adamant that the way to unite Europe politically was to use the League of Nations as a model, but with one vital difference: the League was so useless, they believed, because it was intergovernmental—each nation had a veto. The only way to overcome what they saw as the poison of nationalism was to set up an entirely new type of government, one which was above national governments and was therefore supranational. It should be structured, they argued, like the League, with a secretariat, a council of ministers, a parliament and a court, but its central institution should be the secretariat, run by a class of technocrats, who—like Plato’s guardians—were above national loyalties, with the power to overrule the individual nation states in the common interest. Now, all this may seem like ancient history, but I assure you that that central idea, conceived by Monnet and Salter back in the 1920s, is still the key to understanding what is happening in the European Union today, nearly eighty years later.

After a temporary delay while America and Britain sorted out the problem of Hitler, whose idea of how to create a politically united Europe was rather different, it was Monnet who, over the following four decades, was to play the central part in shaping the European project. It was he who conceived the key strategy as to how that hugely ambitious goal was to be achieved. His aim right from the start was to integrate the nations of Europe politically and economically under a supranational government. But he knew there was no way this could be done all at once. It could only be assembled piece by piece over many decades, on the principle which became known as “*engrenage*”—or a gradual ratcheting up. It was also vital not to declare too openly what ultimate goal the project was heading for. Curiously, while Monnet was planning this, during World War II, another key figure in the story, an Italian Communist called Altiero Spinelli, had a not dissimilar vision that after the war the structures of a United States of Europe should stealthily be put into place, until at last a convention could be called to draft a Constitution. Only then could the peoples of Europe be told what this was all about and be invited to vote for it as their crowning dream. And we shall come back to Spinelli in a minute.

Monnet was a superb behind the scenes operator: after the war he was running the French economy, and in 1950, it was he who proposed, set up, and then ran, the European Coal and Steel Community. Those industries in six countries were placed under a supranational authority, which Monnet called the First Government of Europe, with himself at its head. It was Monnet with his ally and friend Paul Henri Spaak, the Belgian prime minister, who over the next few years planned to extend this to a full scale European Economic Community. And it was Spaak who counseled Monnet that they must keep quiet about their ultimate goal of full political union, by pretending that their project was just a common market, a customs union, designed to promote jobs and trade. When the EEC—the European Economic Community—was set up by the Treaty of Rome in 1957, it was structured just as Salter had suggested in the 1920s, round the four basic institutions of the League of Nations, but with its secretariat, the European Commission, playing the key role as the central executive of the new supranational government, with the sole right—as Malcolm has said—to propose new laws. It was Monnet who immediately then began planning the next major building block of the project, giving his original six member states a common currency. And it was Monnet who, through his friend George Ball, here in Washington, just down the road, played a key part in getting Britain to apply for membership in 1961.

It was all, in fact, to take longer than Monnet and his allies originally considered possible. By the early 1970s they were already discussing moves towards political union, with a Common Foreign and Defense Policy, at a time

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when we were publicly still being assured that it was nothing more than a common market. All along, in fact, the project had really only one imperative: the agenda was ever further integration, and ever-closer union. This was to be achieved firstly by creating an ever greater mountain of laws and regulations; secondly, through further treaties, passing ever more powers from the nation states to the supranational government; and thirdly by enlargement, as the project was expanded to include ever more nations. But the cleverest strategy of all, and one which more than anything else helped to disguise the awesome ambition and scale of this project, was that this new form of government did not dismantle any part of the national governments whose powers it was taking over. The Commission with its officials in Brussels was merely the center of a mighty spider's web, a nexus, connecting up all the civil servants and all the civil services of all the national governments across Europe. The Commission achieved and continues to achieve its purpose by working through what it calls the national authorities, so that all the institutions of the nation states, their Parliaments, their government departments, their courts, their monarchies even, and the rest, remain in place as if nothing had happened, but they are all increasingly subordinated to the supranational power behind the scenes, which is making the laws, dictating the policies and exercising the real power. That is why I have called what is taking place, and what has been taking place over these last fifty years as: a slow motion coup d'etat—the real extent of which has remained largely concealed from view.

In the early 1980s, our friend Spinelli—now a member of the European Parliament—produced a draft treaty on the European Union, designed to take the European Community as it still was, forward to full union, with its own currency, flag, citizenship, passport, foreign policy and the rest. This led to two new treaties—the Single European Act and Maastricht—each greatly extending the supranational government's powers. And in 1999, with the launch of the euro, born at Maastricht, came another great push for integration, which was to lead in 2002 to that moment of which Spinelli had dreamed sixty years earlier: the setting up of a Convention to draft a Constitution for Europe. When the delegates gathered, imagining that they were re-enacting Philadelphia in 1787, they did so in two vast buildings in Brussels, named after Spaak and Spinelli. One of those delegates, who I hasten to add did not endorse the result, was David Heathcoat-Amory, who will be speaking to us in a minute. In June 2004, that Constitution—this telephone book here—was agreed. Five hundred pages long, 448 articles, compared with the seven of the original U.S. Constitution plus the Bill of Rights which Becky held up earlier.

Last October in Rome, that Constitution was formally signed on behalf of twenty-five European nations, there was still one stage to come: its ratification by Parliaments and peoples. And as you know, that has not gone quite as Mr Spinelli predicted. A month ago, the peoples of France and Holland turned it down, plunging the Union, as they like to call it, into what has been widely described as the worst crisis it has ever faced.

Why should anyone in the United States be concerned? I believe for three reasons: firstly because a clear motivation of the European Union has increasingly been to set itself up as an ideological and political rival to the United States. Nowhere has this become more obvious than in the recent rush to set up a European defense identity independent of NATO. It now plans its own Galileo satellite system, as a rival to your GPS which, as you know in this town, is the key to modern warfare; FRES as a cut-price rival to your FCS; moves to lift the arms embargo on China—it is all moving ahead very fast. Secondly, with its obsession with regulations, protection and welfare, the EU's economic social model simply doesn't work compared with the U.S. economy; most of the Eurozone economies are in severe structural decline, to which there seems little hope of a remedy. Thirdly, despite claims to the contrary, Europe's new supranational system of government is in no sense democratic. It was never intended to be, Monnet wanted a government of technocrats, not of politicians representing national electorates. Our supranational government is not answerable to any electorate, it cannot be called to account or replaced. We live in effect in a one party state, and the presence of one or two Members of the European Parliament here must not blind you to the fact that the European Parliament is a democratic fig leaf, a charade.

So, confronted with a major power in the world, which is anti-American, which economically is set on a disaster course, and which is a one party state, I suggest anyone who loves liberty, democracy and the cause of peace has every reason to be worried; we certainly are—which is why we are very pleased to be with you here today.

LORD PEARSON: Thank you very much, Christopher. Christopher has written a genuine masterpiece on the whole of this history, *The Great Deception*, and copies are available here. I'm now going to call on David Heathcoat-Amory, the Right Honorable David Heathcoat-Amory MP, Conservative Member of Parliament for Wells, I think.

His bio doesn't say that David was courageous enough to resign from the Major government over the prospect of economic and monetary union. We've asked him to speak to you today on the Convention on the Future of Europe, as Christopher said, modeled on the great Philadelphia Convention of 1787, of which David was an official member from the British Parliament. Ladies and gentlemen, David Heathcoat-Amory.

DAVID HEATHCOAT-AMORY: Thank you Malcolm, and thank you to The Heritage Foundation. Yes, three years ago, the heads of government in the European Union realized that they had a problem: the public. The public had fallen out of love with the European Union and this disillusionment took many forms; people weren't voting in any numbers in the European Parliament elections, and they were even saying “no” in European referendums. So in response to that, the heads of government set up a Convention on the Future of Europe under the chairmanship of the ex-President of France, Valéry Giscard D'Estaing. And they gave instructions to the Convention to create a Europe that was simple, that was democratic, and was “closer to its citizens”—that was the phrase used. And so, for sixteen months, the Convention sat and it wrote the Constitution.

And you can see, just by looking at it, that it failed on the simplification. This is a document that no normal person will ever read. It's over five hundred pages long. I had to read it because I was indeed on the drafting Convention; I was sent there by the House of Commons. There were two parliamentarians from each national Parliament, and I was one from the House of Commons. So I had to read it, but, as you've heard, I rejected it. I do not believe that a continent as diverse and varied as Europe can possibly be governed by a single, central governing document, still less a Constitution. So I, and a small group of dissidents, put in a minority report for a simple treaty relationship between the countries of Europe, but of course it was ignored. The procedures, the processes of the Convention were almost comically undemocratic in themselves. No votes on our amendments were ever taken, but at the end of it all Giscard declared that his Constitution had been adopted by consensus. Well, we're now living with the consequences of that. But if it's wrong, it's also dangerous. It's dangerous for us in the United Kingdom, because instead of bringing Europe closer to its citizens, it takes more powers and policies and decision making away from national electorates and Parliaments, upwards to the European Union. So there is a decrease in the decision making close to the people.

But it is my thesis today that it is dangerous for the United States as well, because this Constitution doesn't just seek to order the relationship between the countries, the member states, of the European Union, but also between Europe and the outside world. And it defines how those policies are to be conducted and by whom. And the European Union under this document ceases to be an association of self-governing countries coming together for common purposes. Instead, the Constitution abolishes all the existing Treaties and replaces them with a single legal entity, the new Union, separate from member states. And that new legal entity becomes a player on the international scene. The Constitution endows this new legal entity with most of the attributes of statehood and all of the attributes of a Common Foreign and Security Policy. It provides for a European Foreign Minister, a foreign service, a diplomatic service, and the duties and powers of a foreign policy, all of which are elaborated and enumerated in this document.

This Constitution is not a vehicle for an alliance with the United States, it is to be a rival to the United States. It's not for standing with the United States; it's for standing up to the United States. And that is why the most enthusiastic members of the Convention and the most enthusiastic countries from which they came for this new foreign policy were precisely those countries with the most differences with the United States. I saw that not just during the Convention process, but also at an earlier stage in my career when I was the Foreign Office minister for the United Kingdom for Western Europe.

But there's another development, which I think received far too little attention, indeed passed almost unnoticed, certainly over here. Just over two years ago, I came to Washington to brief and to hear the views of Congressmen and officials and even a member of President Bush's cabinet, about the Convention and about the emerging Constitution; and what struck me was that there was frankly a complete ignorance of many of the details. Let me give you one example: this Constitution provides that almost all international agreements and treaties will be negotiated and signed not by member states, but by the European Union. And I'm here thinking not simply about pure foreign and security policy, defense and so on, but about the whole area of things like anti-crime policies, tackling international crime, extradition policy, financial services regulation, transport, aviation, shipping, energy policy, oil and gas agreements, environment—what provides the substance of countless international treaties. In every single policy area, tackled by the European Union, the external relationship with the rest of the world, with non-European countries

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will, under the Constitution be negotiated entirely by Brussels, not by member states. And this is already, of course, the view of the European Court of Justice. What the Constitution does is it takes the most ambitious and most creative case law, the most activist aspects of the case law of the European Court of Justice and entrenches it as part of the European Constitution. Moreover, by making it—as the phrase has it—an “exclusive competence” of the new Union, it means that the member states are forbidden by constitutional law from making their own side-agreements or bilateral agreements with other countries in the world. And almost all of them are to be decided by majority voting, and for anyone who wants to look this up, the lead article is Article 13 of the Constitution.

Now, this is obviously extremely damaging for us, and I do not think that any self-respecting, self-governing country or Parliament could possibly sign up to a constitution that undermines us in that way. But let’s be clear, it’s dangerous for you too, because there will be no bilateral relationship between the United States and the United Kingdom of any substance or scope. It will all be conducted by the European Union, whose institutions, whose staffing, whose authority, culture and ethos is profoundly anti-American. Quite simply, you are going to lose your only really reliable ally in Europe. And it was puzzling to me to go through the entire Conventional process for a year and a half with this silence from the United States at official level, with the one partial exception of defense, which we’ll be discussing later on. On everything else, there was—not just a silence, but occasional approval for the concept of a European Constitution. It’s as though the thinking about Europe on this side of the Atlantic was still stuck in the Cold War era, when there was an unquestioning support for any sort of European unity. Even when modern objectives which we know to be American foreign policy, like Turkey’s accession to the European Union, will become completely unrealistic and impossible under the Constitution: Turkey will never join the European Union under this Constitution or anything like it.

Now, you may say, well the Constitution, that’s not going to happen now, the French and the Dutch have turned it down but you would be wrong. The project is still in place. Member states are still ratifying the Constitution, even after the French “no” vote. One member state has already done it, Lithuania actually—the ratification process is proceeding. They never accept “no” for an answer. It’s almost as though people are saying, well, the French the Dutch voted “no,” but they really meant to vote “yes.” It was a sort of “maybe” vote. Of course, if they had voted “yes,” that would have been a ringing endorsement for the entire European project and the Constitution. But a “no” vote, well, they were really voting about French agriculture, or the state of the weather, or whether they liked their government. The project is checked, but it never retreats. Because remember, exactly the same people who drew up this Constitution and ratified it are still in office. All twenty-five member states’ governments signed it. It’s only the people, it’s only the electors who are revolting against it, who are saying “no.” And that has in the past been dismissed, Denmark and Ireland have said ‘no’ in previous referendums—and then they were made to go away and think again, and they were made to change their minds. So this is a check, a roadblock, but it’s one that could be got round; exactly the same forces are at work.

And we in Britain, of course, have the most to lose, but I do believe that it is time for America too to wake up to what is happening. It will, I promise you, fracture the Western Alliance, it will undermine the values which we have in common, and it will shatter the treaties which undermine those values. So in my submission, and those of my colleagues, it is time for America too to say “no” to the European Constitution.

LORD PEARSON: Ladies and gentlemen, I’ll now call on Daniel Hannan MEP, who’s a Member of the European Parliament, as a Conservative MEP. And I hope he won’t mind if I describe him as the best and brightest of the young Conservatives either in the European Parliament, or anywhere else in the United Kingdom. Daniel Hannan.

DANIEL HANNAN: Valéry Giscard D’Estaing is an extremely distinguished person. The former President of France was the chairman of the drafting convention which, as David Heathcoat-Amory has just described, produced the Constitution. I used to see him often, as a member of the Constitutional Affairs Committee in the European Parliament, and I could never see him without being reminded of a wonderful line by Mallarmé, “Si extraordinairement distingué, quand je lui dis ‘bonjour’, je me fais toujours l’effet de lui dire *merde*”—in other words, whenever I saw him, he was so extraordinarily distinguished, that when I bade him good morning, he made feel as though I had said, *merde*.

And of all the things that he said, one particularly stuck in my mind, which is when, comparing his Convention to your Philadelphia convention, he compared himself to Jefferson. You might say a slightly arrogant thing to do, you might say a slightly ignorant thing to do, since of course Jefferson wasn’t there—you’ll correct me if I’m wrong, but

my understanding is that he was in fact ambassador to Paris at the time. But the most extraordinary thing is comparing the different ideologies. We heard from Becky this morning a very robust statement of Jeffersonian principles, the idea that powers unless explicitly given to the government should rest with the individual, and unless explicitly conferred on the center, should rest with the individual States. That is precisely the opposite of the ideology which animates the European Union.

This is not some new principle that has been introduced in the Constitution. From the start, the European Union has been dedicated in the Treaty of Rome to the ever-closer union of the peoples of Europe. And it has operated according to what it calls the Occupied Field Doctrine, whereby—as Malcolm Pearson said—every time the EU legislates in a new field of policy, that field of policy is considered to have been permanently transferred to the jurisdiction of Brussels. In other words, the movement of powers can only ever be in one direction. Sovereignty can be transferred upwards, but never devolved downwards again. You have therefore an intrinsically anti-democratic centralizing project, and this didn’t happen by accident. Christopher Booker gave us a wonderful historical explanation of why this took place. The founding fathers of the EU knew that their project, this awesome, ambitious scheme they had for the merger of these ancient nations into a single entity, would never survive if it had to be periodically referred to the national electorates for approval. And they therefore very cleverly set up a system whereby supreme power was vested in an institution that was unelected, and therefore invulnerable to public opinion. We’ve become so accustomed to this in Europe that we’re no longer shocked by it, but we ought to be. It is an extraordinary and outrageous fact that the only organization in the EU that can propose legislation is the unelected European Commission—this twenty-five man politburo of people who are not accountable or elected by anyone.

Now, just imagine if that was the case here, or in any of our nation states. If the unelected civil service had not only a right, but a monopoly of the right to propose new laws, and then our role, as elected representatives, was simply to sit around and talk about the brief that had been put in front of us by the bureaucrats. That would be intolerable, and yet, in the European Union we’ve become so accustomed to that way of doing business that we are no longer shocked by it.

You may think I’m exaggerating when I say that this “democratic deficit” was deliberate, that it was deliberately constructed, calculatedly in this fashion. If you think that I exaggerate when I say that the system is based on a certain contempt for public opinion, look at the reaction to these two recent “no” votes in France and the Netherlands. There’s a sort of almost Marxist view of history here, that there is only one destination, that that destination is not only desirable, but inevitable, and therefore that if people vote against it, that is an obstacle to be overcome, rather than a reason to change direction. I’ve lost count of how many times I’ve heard in Brussels the description of these “no” votes as a temporary problem, or a challenge to be overcome—rather than my rather old-fashioned Anglo-Saxon view that the people are the boss, and in fact we should take our orders from them, instead of making them follow us to our own predetermined goal. And in accordance with this sort of Marxist view of history you have the belief that the French and Dutch have voted through false consciousness, they got it wrong, they didn’t understand their true interests. And therefore, what we need to do is get out there and explain it better to them, make them see why it really is in their interest. It’s like that wonderful line of Bertolt Brecht’s: “let us dissolve the people and elect another in their place.” They’ve got it wrong. We heard, very charmingly from my colleague Baroness Ludford, a little version of it, earlier this morning when she said, “well, the French were really voting for a more integrated Europe”—well, no they weren’t, they were voting on the proposition actually on a ballot paper in front of them, it was only eleven words long, and even the French could understand it. They were voting against the Constitution.

But the EU is now carrying on as though that had not happened. So we had the extraordinary . . . well, I could stand here and talk for half an hour about the quotations from people who’ve said, “we are going to carry on,” but there is one that stands out, just for its flagrancy, which is from the man who currently holds the presidency of the EU, or who did until last week, the prime minister of Luxembourg, Jean-Claude Juncker. He said—and it really takes some beating this—he said, “I fundamentally do not believe that the French and Dutch have voted ‘no’ to this Constitution.” This is two weeks after they had just done so.

Now, I hear some chuckles around the room. It is quite funny; I find it funny too. But when the laughing stops the people will still be left with this Constitution, or with something very like it. Shortly after the “no” votes we met as a European Parliament and we voted through about twenty bills, and on at least a dozen of them, I noticed that

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the European Constitution was being cited as the legal basis of what we were doing, despite its rejection. For example, there was a proposal to create a single EU representation on the UN Security Council. And the legal authority for this, said the report, was the European Constitution, which gives the EU legal personality, which creates an EU Foreign Minister, and which bestows treaty-making powers on the EU. And nobody was so indelicate as to point out that the treaty authorizing these things had just been comprehensively rejected at the polls. Everything, in short, is carrying on as though people had in fact voted “yes.”

One of the most contentious provisions in the Constitution concerns the creation of, effectively, a European system of criminal justice. What is envisaged is something rather along the lines of what you have, as I understand it, in the United States, which is a two-tier penal system, where you have federal laws and state laws. And this would involve bestowing upon the European Union a European public prosecutor, a pan-European prosecuting magistracy, and some kind of police force, or some kind of FBI, if you like, to act at federal level, in collaboration with the state police forces. All of this was agreed last December by the interior ministers, despite the fact that the people had not yet ratified, and have now voted against the Constitution which authorizes it. We’ve already heard how the creation of an EU foreign policy and an EU foreign ministry, a diplomatic service, is pushing ahead despite the fact that two countries have now rejected, at the polls, the Constitution which authorizes it. The man envisaged as the European Foreign Minister, a silky, Spanish socialist called Javier Solana, came to the European Parliament a couple of weeks ago, and he said, “we cannot have psychological paralysis—you must carry on, you cannot stop now and take your foot off the accelerator.” Again, it seems funny to us, but he is in a position to decide what happens next; we are not.

And perhaps the most contentious aspect of this Constitution, is the incorporation of what the EU calls the Charter of Fundamental Rights and Freedoms. Now, a number of us have compared your Constitution to this one. Your Constitution, I think, was lucky in the timing of its birth. You had the extraordinarily good fortune, as a country, of framing a Constitution at that moment in the development of Western thought when the concepts of limited government, personal freedom, and liberty were at their highest. Alas, the EU Constitution is also a child of its time. So, where your Declaration of Independence offers us life and liberty and the pursuit of happiness, the EU’s Charter of Fundamental Rights offers us strike action, affordable housing, free healthcare. Where your Constitution concerns itself with the rights of the individual, the European one concerns itself with the powers of the state. And where yours tends to restrict itself to delineating the proper powers of federal and state authorities and the rights of the citizen, this one goes into extraordinary detail about the treatment of the disabled, anti-discrimination law, the rights of asylum seekers, and a number of minutiae of national life which are then to be enshrined forever, because one generation’s wisdom will be considered binding on everything that comes next. Now, this Charter of Fundamental Rights is already being treated by the European Court of Justice as a justiciable document—even though we have not ratified the Constitution which gives it binding force. You may think you have problems with an activist Supreme Court in this country. Much of this process of European integration, as I hope we’ll discuss later today, has been driven by European judges on their own initiative, extending their jurisdiction into new fields. And that is why I say we will end up with something like this Constitution, even if they cannot formally implement it and call it the Constitution; we will end up with ninety-five per cent of the contents of this Constitution brought in through the existing legal structures by the European Commission and the European Court of Justice, since—as David Heathcoat-Amory said—the governments that have already agreed to its contents.

Now, why should this bother you? What’s it got to do with you? If the Europeans want to saddle themselves with an illiberal and undemocratic form of government, what concern is that of yours? Well, that’s up to you to decide. I would only make one observation in closing, and it’s that there seems to me to be a contradiction between particularly this Administration’s attitude to the spread of freedom and democracy in the rest of the world, and its approach to Western Europe. This President, greatly to his credit, has moved beyond the old Cold War thinking that you should back stability over democracy, that you should prop up some local strongman simply because he’s on our side, that he may be the son of a bitch, but he’s our son of a bitch. President Bush seems to have grasped that having undemocratic, illiberal, tyrannical regimes is bad for the interests of the West, however notionally pro-Western their leaders are. And therefore he has tried to align himself with the forces of freedom and decentralization and democracy rather than with the existing elites. Except in Western Europe, where your ambassador has explicitly backed this Constitution and in doing so thrown his weight behind the government’s, at the expense of the gov-

erned; behind the elites, at the expense of the peoples. Consider the areas where Washington’s foreign policy interests are most directly clashing now with those of the European Union: Cuba, China, Iran, the Middle East, and what one might call international organizations—Kyoto, the International Criminal Court, the UN. A common theme links all of these disputes: in every one of them, you favor democracy over stability; the EU favors stability over democracy. It has withdrawn its support from anti-Castro dissidents, because it would rather work with Castro. In Iran, it has been cuddling up to the ayatollahs for a dozen years now, in the expectation that this would lead them voluntarily to renounce their nuclear ambitions. The stunning success of this policy was demonstrated in Sunday’s election in Iran. In China, it is not only planning to lift its arms embargo on Beijing, but as we’ve heard, is actively collaborating with the Communists on creating a satellite weapons system explicitly designed, in President Chirac’s words, to challenge the technological imperialism of America’s GPS. In all of these cases, the EU’s ideology is that you deal with the institutions that are there, the people that are there, rather than trying to spread democracy. This is not hypocrisy. They are extending to the rest of the world the same distrust of democracy, of what they call populism, that they apply within their own borders; the same belief that the people make bad decisions, and that government really is better conducted by benign technocrats than by we rogues who have gone to the trouble of getting ourselves elected. And it seems to me that the spread of that ideology directly and indirectly is inimical to the interests of your country and to people worldwide who believe in democracy and freedom. Greatly to your credit, you are trying to extend the rule of law and free speech to societies around the world, please consider extending that ideology to Europe as well.

LORD PEARSON: Ladies and gentlemen, we hoped at this conference to have a lot time for questions So, can I ask for questions please on what you’ve just heard? Sir?

MICHAEL CASHMAN: Thank you. Michael Cashman, a member of the European Parliament. You seem to have quite a few of us here this morning.

LORD PEARSON: The next question is going to be asked by someone who isn’t an MEP!

MICHAEL CASHMAN: What I find interesting—and it will lead to my question—that we spent four days negotiating with Members of Congress on the request for a stronger European Union, a united European Union, in the war against terrorism, in the financial markets, issues on the environment, exchange of data, the economic threat posed by China and India, and therefore is it not in the United States of America’s interest to sign one agreement with twenty-five countries, on these very important global issues, rather than twenty-five separate, and possibly differing, agreements with those twenty-five member states? And, whilst I absolutely recognize some aspects of the European Union here today, I think it’s right to correct Daniel; the notion that somehow the Commission is there. It evolves for all of time. Of course, the Commissioners are nominated by their governments. They serve for a fixed term of five years, but can do no more than two years, and as you and I know, as legislators. The Commission does propose, and when we are co-legislating, as I was last week, on border security, we can amend and even reject those proposals when we act in conjunction with either the Council of Ministers, or indeed, with the Commission. So, it’s not quite as straightforward as you’ve illustrated. Thank you.

LORD PEARSON: Daniel, do you want to take that?

DANIEL HANNAN: Very briefly, on the first point it depends on the content of the agreement, whether it’s in the United States’ interest. It would be better to have twenty-four good agreements and then no treaty with the remaining states than an indifferent or mediocre treaty that is not in the national interest with all twenty-five.

MICHAEL CASHMAN: But arguably the United States would not then sign it.

DANIEL HANNAN: Well, I’m not sure that’s right. It doesn’t seem to have any difficulty negotiating with the republics of South America as separate states, or East Asia, or whatever, and it seems to me that this era of big blocs with everything having to be done in huge units is coming to an end. The successful countries in the world today are the small ones, the ones that are wealthy or big ones like this which have succeeded in pulling off the trick of governing themselves by a confederation of lots of little small countries. On your point, it is important to people, I think, who are not so familiar with the workings of Brussels to contextualize what you’ve just said about the power of MEPs. You and I were elected on the same day, for different parties, on a turnout in the United Kingdom of twenty-four per cent. One of the few examples of unhappy globalization is the spread of this game show *Big Brother*.

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More people voted the following day in the eviction round in the British version of *Big Brother* than participated in the election that returned Michael and me to the European Parliament. This, it seems to me, is not the basis of a functioning democracy, because you need to have . . . I'm sorry?

MICHAEL CASHMAN: Why are you serving in it, if you think you have no legitimacy?

DANIEL HANNAN: Because I was there like the national legislators or the state legislators here that Gordon Smith referred to, wanting to stand up for our national Parliament, rather than to take more powers. It seems to me that just because I'm in the European Parliament, it doesn't mean that I need to have more powers as a member of it, I can take an objective view of it. I think it is important to look at this, because you're claiming that the EU is democratic because it has something that calls itself a parliament. I think that democracy is more than just the right to put a cross on a ballot paper every four or five years. Democracy, to work, also depends on a certain kind of relationship between the people who passed the laws and the people who are expected to obey the laws. There needs to be a community of values, a community of identity, a *demos*, and that is what is missing in Europe, you don't have that basic community of identity, because nobody thinks of themselves—or very few people, apart from maybe you guys—think of themselves as Europeans in the same sense that somebody would think of themselves as Japanese or Norwegian or American. And therefore, without the *demos*, you're left only with the *kratos*—you're left only with the power of a system that has to compel obedience through force of law, because it cannot appeal to any sense of civic patriotism.

LORD PEARSON: David or Christopher, do you want to add anything to that?

DAVID HEATHCOAT-AMORY: Can I just say I've done this. As a member state foreign office minister I have legislated in the Council of Ministers and signed international agreements on behalf of 380 million Europeans. And in retrospect I was ashamed to do it. There's no real sense that I was authorized to do it. It's very exhilarating for a functionary, or even for a minister, to sign international agreements binding all these member states without their real knowledge or consent. But it puts executive efficiency ahead of democracy, and that is precisely why people are voting "no." It's very typical of the Brussels establishment to say, "they weren't really voting 'no'," it's still efficient and exhilarating to legislate in this way. And I tell you, if you persist in that attitude, I have one response: let's have some more referendums, bring them on, I say, let's have a United Kingdom referendum, and the whole thing will be annihilated. Until we get back to respecting the wishes of member states' electorates and our national Parliaments, the whole thing risks catastrophe.

LORD PEARSON: Christopher, do you want to add anything, briefly?

CHRISTOPHER BOOKER: Well, I'd just like to add, in this sense I'm not an elevated elected person, I as someone who has a lot of contact with people at the bottom of the heap, the end product of this massively unaccountable and undemocratic system of law-making. I write week after week in my column about people who find themselves the victims of mad laws, regulations, which are either imposing crippling burdens on their business, or, in many cases, even driving them out of business altogether. And one of the things that I have observed consistently now, as this system has increased its hold evermore over British life, as it does over that of other nations, is how when someone finds themselves in the position where they are about to be driven out of business, what do they do? They do, first of all, what such people will have done for many years; they go to their local elected representative, as people in my corner of England go to David Heathcoat-Amory, who happens to be my Member of Parliament. And I happen to know that, the other day—because he was telling me about it—there was a lorry driver who came to see him, who said, "Mr. Heathcoat-Amory, you're my MP. I have been faced by this Working Time Directive now applying to lorry drivers, which comes from Brussels, with a twenty per cent cut in my income. It's not good enough, people cannot just take a twenty per cent cut in their income overnight, because of some law made somewhere else." And David, being an honest man, unlike—well, I won't compare him with other MPs—but being a straightforward and well-informed Member was able to say, "I'm sorry, but you are the victim of a system over which I have absolutely no influence or power. It is being made by an unaccountable group, somewhere else, and I as your elected representative cannot do anything to help you. I have every sympathy with you, but unfortunately that power has been handed over to another power, and that is the nature of the system under which we are now governed."

Panel One: The European Union: “The Nature of the Beast”

LORD PEARSON: Thank you very much, Christopher. I wonder, ladies and gentlemen, if there is anyone who isn't a Member of the European Parliament, if they'd like to ask a question. Sir?

TOM FORD: Tom Ford from the United States Department of Defense. I would like to ask, should the United States be reluctant to actively engage in this debate, to be accused of meddling in something that's apparently a European affair, and therefore feed your opposition?

LORD PEARSON: We will, of course, be coming back to the whole defense slot later. Quick answer, anyone?

DAVID HEATHCOAT-AMORY: Well I think it's a very good question, because you do not want to be accused of interfering in the arrangements of member states, and in what is essentially a European issue. I understand that. It could actually rebound in the opposite direction. However, I think there are legitimate interests that America has in the way that Europe relates to the rest of the world. And I think it's absolutely legitimate for the United States to make known its views, not just on the narrow issue of defense, and certainly when I was on the Convention we did pick up from the State Department, the Department of Defense, misgivings about the so-called structured cooperation clauses in the defense articles. In other words, a rival to NATO is embedded in this Constitution. And that did come across. But on everything else, and in particular on the things I touched on, about how it would be impossible for the United States to have a bilateral relationship of any substance with any member state again, I think that is a matter which touches your interests, legitimately, and I think it would have been better, and it's still not too late, for America's government to make known its concerns. And that would enormously strengthen people like us. You see, one of the handicaps that I have, and did have on the Convention, is that when I raised these concerns, the people said, “but President Bush came over the other day, and he didn't say anything about this.” In fact, the State Department is still saying, you know, European unity is a good thing. So that undermines our position, because we seem to be trying to raise concerns which are not being articulated by other non-European countries.

LORD PEARSON: Daniel, very quickly?

DANIEL HANNAN: With respect, you are meddling now. Your ambassador to the EU has explicitly and in terms endorsed the European Constitution. Your Secretary of State on her tour of Europe—although she stopped short of explicitly endorsing the Constitution—was very warm about closer integration in more general terms, as was the President when he came to Europe. I would settle for non-intervention.

BILL MCFADDEN: I'm Bill McFadden. I'm wondering if the United States was consistent with its current policy of encouraging ever closer union. I wonder what the reaction would be in Berlin and Paris if we decided that, say in the UN, that Europe already has two representatives on the Security Council, maybe we should just have one: the British, or perhaps even the French, I don't know, but start giving Europe one vote in international institutions instead of the many votes that it seems to prefer to have. It wants to be ever closer, it wants to be one, and yet on the other hand in many of those international fora, it wants to have eight, twelve, twenty-five votes, I don't know how many members you are now. Maybe we should suggest, to be consistent, the United States should look at Europe as just one. What do you think the French reaction would be, the German reaction would be to that?

LORD PEARSON: Daniel?

DANIEL HANNAN: Well, we've just voted through a resolution on this, where, in the best of European traditions, we want to have our cake and eat it. We want to have a single EU seat, but we want to have the same number of votes as now. Rather like the Soviet Union used to have, you know, Ukraine and Belarussia and so on. And sooner or later, I suspect this is going to happen, because when you have moved towards having a European foreign service and a European foreign minister, taking over from the national diplomatic services, then representation in international forums would follow naturally. If you go now to a third country, and see what is being done by the EU embassies on the ground—or missions as they're still rather coyly known, until the formal entry into force of this Constitution—they have taken over the traditional work of ninety per cent of what the national member states' embassies used to do. They run trade, they run foreign aid. They don't do visas, that's still done by the national consulate, but they do determine who may or may not qualify for a visa. So this leaves the national missions with promoting tourism and so on. Effectively it has already happened. So once again we see this pattern where the EU *de facto* extends its jurisdiction, and then years later regularizes that in a treaty, and everyone gets terribly upset and says, “Oh, hang on, we were never consulted about having this European foreign policy, this

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European diplomatic service,” and we’re told, “Yes, it’s been happening, it’s been up and running for years, it’s too late to complain now.”

LORD PEARSON: One more question, perhaps.

HELLE DALE: Thank you; I’m Helle Dale, Heritage Foundation. I was wondering what would you like to see Britain do. Would you like to see it fight from the inside, as you are doing now, or somehow leave the European Union? Is there a way to do that? You’re saying that the project keeps going and going, no matter whether you vote for or against it, but is there a way for it to stop, and what would happen if it did?

LORD PEARSON: Well I imagine the panel may have slightly different answers to that question. But those of us who are not bound by Conservative Party hegemony would say clearly that we should leave the European Union, and that would help to break up the project. If we did, we would repeal sections two and three of the 1972 European Communities Act, and we would carry on in free trade with the Single Market in exactly the same way that we do now. There’s no doubt that we could do that, because the European Union, as we will learn this afternoon, trades in massive surplus with us. They have many more jobs dependent on their trade with us than we do in our trade with them. Don’t forget that only 10 per cent of the UK economy trades with “Europe.” Another 10 per cent goes in trade with the rest of the world, and 80 per cent stays in the domestic economy. Yet the whole 100 per cent of our economy suffers the dictates and over-regulation from Brussels. And therefore, you may get different answers, perhaps, from each of us, but yes I would leave it, and carry on with simple free trade. And we wouldn’t become the fifty-first state of the United States of America, we wouldn’t have to join NAFTA or anything else. As the fourth largest economy in the world, and its third largest exporting nation, we would probably remain entirely independent. Many of us in the United Kingdom, and it’s a growing proportion, believe that leaving the European Union would also help its disintegration and demise. We think that is in the interests of the people of Europe. We would see the United States of America with bilateral arrangements with free democracies all over Europe, linked through free trade, and NATO. That would be our model. But then, of course, we’re not trying to create a hegemony to stand up to the United States of America, to undermine you. It’s been very carefully looked at, it’s perfectly possible, and that is what we would do. But then of course, I lost the Conservative whip some time ago for suggesting that people should lend their vote to The UK Independence Party. I suspect that Christopher Booker might agree with what I’ve just said, but I’m not sure what the other two panelists would say. If they want to say anything, they can.

DAVID HEATHCOAT-AMORY: Can I just add to that, that the existing European project has failed, there’s no doubt about that. The underlying defects which were identified by heads of government in December 2001, in the so-called Laken declaration, remain: that is, the lack of democracy, the bureaucracy, the remoteness, the feel of intrusion. Even if we don’t have this Constitution, these things exist under the existing treaties, so we’ve got to do something about it, and that is why I and my colleagues put in this minority report, not for a Constitution but for a treaty relationship between free and self-governing countries, governed by the unanimity principle. And it’s my belief that if we persist with anything like this Constitution, British membership of a Constitution like this will become impossible and we should withdraw.

Quite apart from anything else, if we go ahead with this rush to integration, we risk hostility in Europe. And indeed, you get on best with neighbors—and I regard Germany and France and the others as good, friendly neighbors—you get on best with them if you have a certain distance between them. And there’s plenty of things we can do with our continental neighbors to trade with them, to cooperate with them, there’s lots of things we can do internationally; but to pretend that we can be governed in the same way, by the same document, sharing the same budget and the same bank account, risks catastrophe, hostility, misunderstanding, and fragmentation. And it’s up to creative politicians to do something in advance about that, and for the first time I’m certain of this, we have the people of Europe on our side. The governing class, the elite, the technocracy in Europe are still persisting with their project, but there is another Europe trying to be born, a peoples’ Europe, not a politicians’ Europe. If we achieve that, we can remain in Europe, if we don’t, we must leave.

CHRISTOPHER BOOKER: Hear, hear.

LORD PEARSON: A last word to Daniel?

Panel One: The European Union: “The Nature of the Beast”

DANIEL HANNAN: The wealthiest countries in Europe—or to be precise, the countries with the wealthiest peoples in Europe—are Norway, Iceland, Switzerland and Lichtenstein: the four members of the European Free Trade Area. They, arguably, get all of the benefits of EU membership with none of the costs. They’re fully covered by the so-called four freedoms of the European Single Market—that is to say, free movement of goods, of services, of people and of capital. But they are outside the Common Agricultural Policy, they are outside the Common Fisheries Policy, they can sign free trade accords with third countries instead of having to be a part of the Customs Union, they pay only a token amount to the EU budget, they control their own borders, their own immigration policy, their own human rights questions, and of course they are all sovereign democracies.

Now I am not saying that we should precisely replicate what any of those countries has done, because obviously our conditions are different, we’re a bigger country, and a maritime country and a global one. What I’m saying is that surely we could do at least as well as Switzerland. If a country with 7.4 million people, relying on a normal, bilateral free trade deal, can furnish its populations with such a standard of living; or Norway, with 4.7 million; or Iceland with 250,000; or Lichtenstein with 18,000 people. If these countries can achieve the standard that they have as sovereign states in free trade accords with their neighbors, surely the United Kingdom, sixty million strong, a trading, maritime nation, a country whose colonizing and enterprising energies connect us to every continent, surely we would be able to get at least a good a deal as Switzerland?

LORD PEARSON: The Baroness Ludford.

SARAH LUDFORD: Can I just have ten seconds to reply to that? Norway and Switzerland are known as fax democracies, because they accept what is sent on a fax from Brussels. They have absolutely no role in the decision making, and if you think that that is the proper role for the United Kingdom, that it just accepts all the decisions made in the Council of Ministers and the European Parliament, just as observers, with no role in the decision making, well, I don’t think that’s standing up for the sovereign interests of the United Kingdom, frankly.

DANIEL HANNAN: It wouldn’t be standing up for your interests or mine; we would be out of a job, and I accept that we are suffering from what the French call, *deformation professionnelle*. We personally have a lot to lose from Britain leaving the European Union.

LORD PEARSON: Ladies and gentlemen, I think it’s time for a break . . .

DANIEL HANNAN: (*speaking over*) The United Kingdom would become richer and freer.

ANA GOMES: I’m sorry, I was the first one to raise my voice, and actually I come from a country that was twenty-four years in a dictatorship, and I have very a different view of Europe than was represented here, and I think that the American people should know. I see Europe and everybody sees Europe in my country, Portugal, as an anchor to democracy, for progress, for reform [*inaudible section*] And I’d like to tell you that actually it’s a disputed view that the European Parliament is a fig leaf. The European Parliament, as you know, a couple of months the Commission changed its composition thanks to a vote of the European Parliament, a very strong sign that the European Parliament is asserting its role [*inaudible section*] . . . since November, against the lifting of the arms embargo to China, for human rights considerations, for strategic considerations. And actually, I believe we need the United States and Europe together to actually also fight terrorism [*inaudible*] . . . and it’s very wrong this perception of Europe and I truly don’t feel represented, and I think if you are democratic you actually should also listen to the voices of those who are in the majority in Europe.

LORD PEARSON: Madam, thank you very much. Thank you very much, I’m sure you can come back to these issues later on in the day, but now we’re having a break.

Panel Two

The Atlantic Alliance and National Security

STEPHEN MEYER: Good morning, I'm Stephen Meyer, senior fellow at the Discovery Institute, and I will be moderating and presenting first at this second session. The purpose of this session is to examine the effect of the European Union and its growing political integration on the Atlantic alliance, and to further examine whether the impact the European Union is having on that alliance will benefit the United States. Our discussion will focus on three main topics: First, I will be discussing the Anglo-American alliance, which is perhaps the core bilateral relationship at the heart of NATO. Secondly, Yossef (Seffy) Bodansky, who is a former Director of the Congressional Task Force Against Terrorism and Unconventional Warfare, will examine how the immigration and policing policies of the European Union are affecting the anti-terrorism campaign of the Western allies. And he will also discuss another security-related matter, the ambitions of the European Command to develop advanced, high-tech weaponry, and how these ambitions could actually lead the European Union to repudiate the current restriction on the sale of high-tech arms to China. And then thirdly, we're going to hear from John Hulsman, of the Heritage Foundation, who will examine the growing political integration of Europe, in particular the European security and defense policy, and how that will—and is—affecting the function of the North Atlantic Treaty Organization, in light of the separate command that the Europeans now envision for a separate European army.

I'm going to begin now with a discussion of the Anglo-American alliance. I'm going to be discussing this aspect of NATO, because I think the Anglo-American alliance is at the heart of Europe. But I thought that before I explained why I think the European Union will damage the special relationship, which is the thesis of my talk, I thought it might be helpful to give a brief history of this alliance and describe some of its achievements and current benefits to the United States and the UK. If it is the case, as I will argue, that the European project threatens Anglo-American cooperation, then it will be important first to have a clear view of exactly the value of that alliance, so that we can access and consider what it is we're likely to lose if the European project continues on its current trajectory.

The special relationship with the United States and the United Kingdom did not emerge in its current form until the Second World War. Though the United States entered the First World War as an ally of Great Britain, it did so rather tentatively, in the very late stages of the war, and the alliance at that time was still very new. Relations between Prime Minister Lloyd George and President Wilson were not particularly warm, and after the war, tensions over the Versailles Treaty and Britain's administration of the Palestinian mandate mitigated against the formation of a close alliance. The seeds of the special relationship, as it's known in the modern context, were really sown in the late 1930s, when Winston Churchill urgently began to cultivate the United States as a potential ally in Britain's struggle against Nazi aggression. In Franklin Roosevelt, he found an American partner, as well as a distant relative, who shared his understanding of the gravity of the threat posed by Hitler and the axis powers. The first fruits of Churchill's cultivation were realized in the lend-lease program, and were more fully realized when America entered the war as a close working partner in the effort to defeat fascism.

Field Marshall Sir John Dill and General George Marshall worked out the practical details of this new and unprecedented military alliance, characterized by the close interlocking command structure, shared intelligence and a coordinated strategy which would eventually produce the Allied victory. Though Roosevelt and Churchill had very different ideas about the post-war world, in particular about the desirability of Britain maintaining its Empire, the emergence of the Soviet Union as a threat at the end of the war ensured that the close military and intelligence cooperation between the United States and the United Kingdom would continue unabated in the ensuing years. In fact, the first public reference to the Anglo-American alliance as a "special relationship" occurred in Winston Churchill's famed Iron Curtain speech, at Westminster College in Fulton, Missouri in 1947. There, Churchill described the contours of this developing relationship, in some detail. And here's an extended quote: he says,

Neither the sure prevention of war, nor the continuous rise of world organisation will be gained without what I have called the fraternal association of the English-speaking peoples. A special relationship between the British Commonwealth and Empire and the United States. Fraternal association requires not only the growing friendship and mutual understanding between our two vast and kindred systems of society, but the continuance of the intimate relationships between our military advisers, leading to common study of potential dangers, the similarity of weapons and manuals of instruction, and to the interchange of officers and cadets at technical colleges, and the joint use of all Naval and Air Force bases in the possession of either country, all over the world.

That was 1947. In the years since 1947, the close fraternal relationship between our kindred systems of society has developed along precisely the lines that Churchill envisioned. In trade, the sharing of intelligence, in the joint operation and development of military bases, and weapons systems, and in the close strategic and battlefield cooperation, in a common struggle against three separate forms of tyranny and terror, both countries have benefited profoundly from this special relationship. Let me highlight a few of the significant practical benefits of that cooperation.

Trade: the United States and the United Kingdom have now the first and fourth largest economies in the world, as measured by Gross Domestic Product. The United States is the single largest investor in the United Kingdom, providing 38 per cent of foreign investment that comes into the UK. The United Kingdom is the single largest investor into the United States. In fact, fully 44 per cent of UK overseas investment goes to the United States.

Intelligence: Since World War Two, Anglo-American intelligence cooperation has extended, in the words of Cambridge Historian, Christopher Andrew, “far beyond the formal obligations of the Atlantic Alliance.” To name just one example of such intelligence sharing, the United States and Britain together with Canada, New Zealand and Australia maintain the UK-US community, a signal-gathering intelligence cooperative, operated jointly by the United States National Security Agency, and the UK Governmental Communications Headquarters, as well as similar organizations within the governments of the other Anglophone countries. This cooperative series serves the Echelon global monitoring system.

Defense: since the end of World War II, the United States has maintained a significant military presence in Britain, at bases such as RAF Lakenheath and RAF Mildenhall. Currently the radar facility at RAF Fylingdales forms a critical part of the U.S. Ballistic Missile Early Warning System. And the U.S. and the UK also jointly operate critical bases at Diego Garcia, in the British Indian Ocean Territory. Following the Quebec agreement of 1943, our two countries have cooperated closely on the development of atomic weapons, with Britain sharing information from its Tube Alloys Project as well as teams of scientists in support of the initial Manhattan Project. Later, after Britain developed its own nuclear weapons, the United States provided the delivery systems for the British warheads. Britain later acquired Polaris and Trident nuclear submarines from the United States, which enabled Britain to maintain an independent and cost-effective nuclear deterrent, which was deemed in the interests of both nations. The U.S. and the UK continued to cooperate on the developments of shared weapons systems, including the AV-8B Harrier II, the US Navy T-45 Goshawk, the Javelin anti-tank missile, the M270 rocket artillery, the Apache Gunship and the C30 Transport Aircraft. In our discussion to follow, Christopher Booker will update us on some of the ways that this joint development of weapons systems may be compromised by Britain’s growing involvement in the EU.

Finally, strategic partnerships: more fundamental than any of these shared military or intelligence assets is the use to which they have been put in the service of shared values and strategic objectives of our two countries. Accordingly, during the last ninety years, the United States and Great Britain have collaborated to fight and finish World War I, World War II, the Cold War, the Soviet and Taliban occupations of Afghanistan, and the regime of Saddam Hussein in Iraq.

During the crucial decade of the 1980s, the mutual support provided by this alliance proved essential to the success of British and American military actions against Argentina and Libya, both of which were opposed by other European allies. The removal of the SS-20s from Europe, and the withdrawal from the Soviet troops from Afghanistan in the 1980s again occurred as a result of Anglo-American actions that were either resisted or ignored on the continent. This pattern has persisted through two World Wars, the Cold War and the Gulf Wars.

The major European powers on the continent have consistently either opposed crucial Anglo-American military endeavors, or—in the case of Germany—caused the problems that necessitated them in the first place. This fact alone

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underscores the importance, from the U.S. point of view, of our long-standing alliance with Great Britain. We do not have other allies as consistent as Britain, even within NATO. Prime Minister Blair's decision to assist the United States in gaining the cooperation of Pakistan in the search for Al-Qaeda, to share MI6 intelligence about Libya's nuclear program, and to participate in the liberation of Iraq, only illustrate the continuing value of this alliance for America—especially at a time of increasing U.S. diplomatic isolation.

In the two months following the attacks on the World Trade Center in 2001, Prime Minister Blair logged more than 40,000 miles and 54 meetings with foreign leaders to generate diplomatic support for the U.S.-led military action against the Taliban. Whatever one thinks of Mr. Blair's subsequent or current leadership, his post 9/11 odyssey surely illustrates this: in the words of President Bush, "the U.S. has no truer friend than Great Britain," and further, the United Kingdom has an unparalleled diplomatic reach among the community of nations. The decision by any British prime minister to put the diplomatic prestige and capital of the United Kingdom behind a U.S. initiative, military or otherwise, invariably benefits the United States, not only by lending legitimacy to U.S. policy, but also by placating or neutralizing potential adversaries, and in some cases by enlisting potential friends that we could not reach or persuade on our own. If the United States is a military superpower, it may be something less than hyperbole to say that the United Kingdom is its diplomatic complement.

Notwithstanding his previous diplomatic and military assistance to the U.S. war on terror, Mr. Blair's insistence that Mr. Bush not oppose his plan to take Britain deeper into the European Union as a condition of British involvement in Iraq has created a deep geo-political dilemma for the United States. The cost of this deal, if indeed it has been struck, is that eventually the UK will not be able to cooperate with the United States as a sovereign nation, as it has just done in Afghanistan and Iraq. As we have just heard, the results of the recent French and Dutch referenda are unlikely, by themselves, to change the long-term trajectory of the European Union, whether by the courts, or by new treaties, the architects of the European Union will attempt to achieve what they could not at the ballot box: greater unity and integration of European defense and foreign policy. And John Hulsman will be talking about that soon, in a broader context. If this achieved, if the UK is required by its treaty obligations to share information freely with France and other EU nations, will the United States and Britain continue to share sensitive military technology and intelligence? Will a future EU foreign policy permit the British military to back the U.S. in the next Iraq, or Libyan or Afghan crisis?

Further movement towards European political integration will entail a further loss of British control over its foreign policy. It will therefore also jeopardize future bilateral Anglo-American initiatives. Bismarck observed a century ago that the most important fact of the modern world was that the British and American spoke the same language. His remark has proven both prescient and understated. Not only language but cultural, religious and democratic traditions have fostered Anglo-American cooperation. As Robin Harris put it in an article recently in *Policy Review*, he said,

It is not, in fact, necessary to accept the policy prescriptions of Anglosphere enthusiasts to recognise that they have drawn attention to a potent phenomenon. The English-speaking nations have particular interests, which will not in every instance coincide. But in the longer term they almost certainly will, because these nations—above all the United States and Britain—view the world in much the same light and want to shift it in broadly the same direction.

Harris is right. From Suez, to Vietnam, to the current Middle East Peace Process, there have been and always will be differences in perspective, approach and policy. But over the long-term, the shared values and commonalities of world view have trumped these transitory differences. Thus, more than any other geo-political force, the Anglo-American partnership, with its bilateral military operations, its unprecedented intelligence sharing, its diplomatic reach, its commerce and trade, its shared political culture, language and religious traditions, has been responsible for the defeat of the great 20th Century tyrannies, and the creation of a stable political order in the West, since the end of World War II.

Yet the Anglo-American alliance, as natural and beneficial as it may seem, cannot be taken for granted. A minimal precondition of decisive bilateral policy is the sovereignty of participating nations. The current drift towards the multi-lateral amalgamation of Europe threatens British sovereignty in ways that will impede future British collaboration with America. Simply put: Britain cannot maintain its special relationship with the United States if it accepts the constraints of an homogenous European foreign and defense policy. Yet, as Christopher Booker has shown, in his

wonderful book *The Great Deception*, this is precisely the kind of Europe that the architects of the European Union have had in mind from the very beginning. For this reason, the European Union—conceived not as a loose association of freely trading sovereign nations, but as a fully integrated and sovereign mega-state—does indeed threaten the interests of the United States, and it does so for one clear and overriding reason: a United States of Europe will necessarily deprive the United States of America of its most trusted, effective and formidable ally. Thank you. And we're now going to hear from Yossef (Seffy) Bodansky.

YOSSEF BONDANSKY: First of all an apology, I don't deal with Europe as academic, trade or professional. I do deal, and I've been dealing with, Europeans on the issues of global crisis and the like for twenty-odd years, and therefore what I'm going to talk about is more on the basis of accumulating experience, rather sad experience and frustrating experience in the last few years, rather than any other source. When I say Europe, it's the EU's Europe, or Europe as the EU would love it to see. I don't do niceties. So, the United States and the EU's Europe are on a collision course on the issues of grand strategy and international security. I want to concentrate on two specific facets of that collision, which are very dear to the heart of official Washington today, and I think rightly so. The first is the issue of fighting terrorism migration and their implication for European policy in the Middle East, and its impact on the vital interests of the United States. To a lesser extent time-wise, but not in importance is the issue of China: the differences between the European and French dominated policy *vis-à-vis* China and its impact on the vital interests of the United States. I'm afraid that given the importance and the centrality of these two issues: terrorism in the wide definition, to include the Middle East, and China, to the grand strategy of the United States, its perception of future challenges, the future well-being of the United States if that gap of policies and contradiction in policies continues to widen, as it does right now, it will have a major impact on the overall U.S.-European relationship, irrespective of rhetoric to the contrary.

So, let me start with terrorism and then go to the PRC issue. The war on terrorism, as we call it, is being waged among other places in Europe, except that the Europeans don't want to acknowledge that. Europe is fast becoming a hub of international terrorism, not just people who are killing with bombs, or blowing themselves up, here and there, but through management, financing, communication, propaganda, etcetera. All the things that enable a relatively small group of individuals, the jihadist operative, to present themselves to the rest of the world, mobilize the rest of the world—which is essentially the rest of the Muslim world, which is a quarter of humanity—should not be exactly ignored or neglected, to the cause of the anti-American jihad, or anti-Western jihad, as they call it. So, the European issue must not be ignored, or its impact on the current rate of Islamist upsurge. Intelligence is the key to fighting terrorism, period. Whenever I'm asked what are the three most important facets of fighting international terrorism, I say they are intelligence, intelligence and more intelligence. You never have enough; you cannot do anything without intelligence.

Now, that said, the number one issue in fighting terrorism is pre-emption, as well as implementation, because it is far more important to prevent Mahmood from blowing up a plane-full of passengers mid-air, than once the plane has been bombed to go and find the guilty party and throw the book at them. Don't get me wrong, it's important to throw the book at them, but far more important to pre-empt the atrocity. However, in today's Europe, although terrorism is a crime, something has to happen, a specific law has to be violated, before the Europeans pursue the culprits. And therefore this is a completely different attitude to dealing with the problem. We can talk to the Europeans until we're blue in the face about specific problems, about networks being organized, networks sending people to, say, Iraq—no European law has been broken, nothing has happened, nobody broke a single egg in a market in a European city, so tough luck Americans, it's not our problem.

Now, there could have been a major change in the European attitude when the new generation of jihadist activists struck on March 11 in Madrid, and the Europeans expressed shock and awe at the fact that Islamic terrorism had crossed the ocean and come into the center of Europe for the first time since the mid-1980s. But they haven't done anything about it. There is indeed a token mid-level official who is supposed to coordinate terrorist activities throughout Europe, but this guy does not have any teeth, his staff is miniscule, and for all intents and purposes, he doesn't do anything. But what the Europeans do have—which this individual is part of—is the European Police, Europol, which unifies all pertinent intelligence, all pertinent data about crimes, which includes terrorism and has to be shared among all participants. But a number of countries, or intelligence services, have a very warm and fuzzy

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relationship with terrorism-sponsoring states, or with local networks and the like, and they have the same access to intelligence as do the countries which are really fighting terrorism, especially the United Kingdom.

The United States' attitude in sharing their terrorism intelligence is "Okay, so let's go to the most lowest common denominator," anything that crosses the Atlantic. I think that we will find—the U.S. and the UK will find—some way round these issues to ensure that there continues to be meaningful, unique exchanges—but already far less is crossing the Atlantic today than used to be the case. If I compare (I'm grey-haired and I've been through the Cold War), if I compare the intelligence then with intelligence now, then it was not just exchanging information—"we know that there is a Mahmood living at this address in Madrid, or Ahmed living at that address in Athens," or whatever—it was also analysis, perception, thinking what do you do with all the minutiae that the intelligence services collect. So to my mind analysis is far more important than just collecting of facts, because we never have enough facts, and we're never sure that all the so-called facts that we have are actually correct. In the good old days of the Cold War, through the mechanism of NATO and special arrangements, meaningful analysis was done together, with meaningful consultation. Okay, so what are we going to do with all the facts that we have? Today we don't trust each other. Even if you can point to volumes of facts crossing the Atlantic both ways, the most important thing: what do they mean? Here there's a yawning gap which keeps growing, and both sides miss out because of it, because we the United States do not understand the rest of the world, the Europeans don't have a clue how to approach it, or even have their own ideas.

So one of the things that is going to happen is intelligence is going to suffer because of this change in intelligence. The collection of intelligence is going to suffer tremendously more than it has suffered in the last few years, because momentum builds. There is now a bureaucratic momentum, an institutional momentum in the intelligence community, as in any other part of the bureaucracy or government. If we stop for a few months or a few years to make the periodic visits to Bonn as we did in the Cold War, or now to London for consultation about 'what does it mean?', nobody is going to renew this process. It's dead, and so the gap is building and building, the disconnection is building and building.

Now, there is also frustration in the United States, and amongst some of our friends, about the use of intelligence provided to the Europeans, in cases where there exists a mechanism to do so. In many cases, the Europeans are committed to making short-term arrangements and agreements. Every European government—and this goes against the project for a united Europe—tries to make sure that nobody sets off a bomb in the middle of their capital city, or any other city, and they do so irrespective of treaties or commitments that they may have made with others. The European penchant has always been the policy that the French and the Germans came up with: 'let's make a deal: you will not set off a bomb here, and we won't interfere with your preparation to blow up somebody else's back yard.' Which is fine, but when it comes to the abuse of U.S.-provided intelligence, that starts a problem in Washington as well.

I think the most recent example of such abuse was the preparation for the security of the Athens Olympics, in the summer of 2004. We provided the Greeks with very specific threat data, including the location of trucks carrying nasty stuff, which we received from a third country, including the address of specific individuals living in specific Greek cities. We knew that these individuals were also involved in other nasty activities, like trying to shoot down American and Israeli and other people's airplanes flying over and around the Balkans, and helping people go to Iraq and do nasty things over there, etcetera. We hoped that the Greeks, who were in charge, with all of their European help, all the European commandoes, SWAT forces, and so on, would do something about it. What did they do? They went and paid them an amount of money, saying "why don't you take a summer vacation while the Olympics are on!" The people about whom we provided very specific information, including their whereabouts in Greece, were still there the last time I checked, and that was last month. So much for our use of intelligence and cooperation.

Look, this sort of story does not go unnoticed. We do take them into consideration the next time we have a list of potential guys. Look at the crisis we have now with the Italians; the United States goes and does things unilaterally. Is it the best way of dealing with the special relationship with Europe to send the intelligence services of the United States to snatch somebody from a street in a NATO country, and then sending them for—shall we call it—not so humane treatment in Egypt? No, it's not the best thing to do, but do we have any other choice? I doubt it. But this is the outcome of the crisis in intelligence and terrorism between the two countries.

Then we have the issue of Iraq. Okay, the Europeans don't like Iraq; fine. The majority of Europeans do not like the war in Iraq, but the United Kingdom has been with us. But a flow of jihadists is being recruited throughout West-

ern Europe. I think London may have finally discovered, as did the CIA last week (hooray!), that these people are being recruited, sent to Iraq to do nasty things. Some of them blow themselves up so they don't come back, but the majority do come back and establish the next generation of networks in Europe, which are there to destabilize the continent. Of course there's a checkpoint; so these people don't fly directly to Syria. These people go to Bosnia, where the Europeans are in charge of local security. Actually, the British Lord Paddy Ashdown is the guy who imposes European policy in Bosnia. The Europeans protect the Bosnian government—the Muslim part of the Bosnian government, the Muslim intelligence services. But the Iranians have one of Europe's largest stations in Sarajevo, cleaning up these people so they can fly clandestinely to Syria and on to Iraq, to fight American and British soldiers, and the like, and back. This is European policy. Does that go unnoticed? No it does not. Once again, that has an impact on our attitude.

A major reason why the Europeans handle the terrorists in their midst like this is because of their need for immigration. Given the decline in their demographics, the Europeans cannot sustain their industrial manpower, the tax base for their welfare states and the like without an inflow of migrants. All of these migrants come from the same Muslim communities, and they are thrown by the Europeans into their own enclaves. These migrants live in enclaves as opposed to being spread throughout the continent, and so begins peer pressure, xenophobia, alienation and radicalization. If you go to any mosque in Europe today on a Friday and listen to the sermons, they are worse than what you hear in Cairo. And that includes the mosques of the royal families in London, for example. What's frightening, I think, about these developments in Europe is that we have the problems of the second and third generation migrants; the children of the migrants of the 1940s and early 50s. These are people who have been born, and their grandchildren have been born, in Europe; they have studied in European schools, received European education, together with recent European converts. They are far more radicalized since around December 2001. Once they decided that Bin Laden was right and that the jihadist trend was the winning trend, they changed. European integration, the Europeans' handling of their Muslim community, has failed because these people are far more radical than their grandparents and they create the peer pressure on the new migrant communities.

Do the Europeans deal with it? No, they refuse to deal with it. The reason is the issue of Arabia. This is an idea the French coined back in the 1970s which has now been adopted by the EU as policy. The plan is to build a special relationship with the Arab Middle East, not geographically but especially over energy policies. Thus the EU hopes to gain enough economic and strategic power to stand up to the United States. It therefore courts migrant workers from the Arab world, from the Muslim community, as opposed to going to Thailand or Taiwan or wherever there is a population eager to provide migrant workers wherever people are willing to pay them. There is an intentional European courting of the special relationship with the Middle East, even though the Europeans are fully aware of the radicalization and the threat that Muslim communities pose to the very existence of the European state.

Back in the 1980s, Ahmed Musawi, one of the leaders of Hezbollah was asked "Why are you fighting in Europe, why are you sending people into Europe?" And he replied: "Because one day Europe is going to be Muslim." And everybody said, "Come on." And he said, "No, not in my time, maybe in my grandson's, but definitely in my grandchildren's time. I am laying the foundation. The foundation is being laid, the European are cooperating with us for their own special interests, in their aim of picking a major fight with the United States."

One word about China, and I'll leave you alone. Let us look at the European military program, the new Euro-defense policies etc. Galileo has been mentioned before today, but there are others. The Europeans—especially the French—have committed to a series of very, very ambitious programs for developing sophisticated weapons, including electronic systems, all the way to a new generation of aircraft, a new generation of submarines, etc. These things cost money, and if you look at the cost, the estimated cost of these items, and especially given the pressing timetables that the Europeans have for them, against the European defense budget, you see there is a yawning gap between what they need and what is available. The source for this money will be the Peoples' Republic of China, and indeed there are European salesmen, representatives of industries and of governments, already peddling their wares and cooperating with the Chinese development program as we speak. In other words, irrespective of all of the discussion about keeping the embargo or not keeping the embargo, the only way that Europe will be able to realize its defense aspirations, coming up with the high-tech stuff comparable with and able to com-

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pete with the United States is having the Chinese foot the bill. And the Europeans are too committed to their military modernization to take into consideration such niceties as the embargo they've committed to. Once again, I don't think that U.S. interests are well-served. Thanks.

STEPHEN MEYER: Thank you, Seffy, that last point is one that we may want to come back to in discussion, because I think it's commonly assumed that because there is not the democratic will to fund high-tech weaponry within the European Common Defense Policy, that therefore it won't get funded, and what I think Seffy is pointing out is that there are other ways to achieve those ambitions. I think many Americans are unaware that people in the European command have ambitions for that kind of high-tech weaponry, so I think that's something that we'll want to come back to. Our next speaker is John Hulsman, and he's going to talk about the European Common Defense policy.

JOHN HULSMAN: When I was an undergraduate student at St. Andrews University in Scotland, there was a very beautiful girl, who ran the international politics association. I ended up running that years later, but my first introduction to international politics and the European Union was through her, and she charmingly invited me to an event by a tenured professor who was funded by the European Union. At the time, I had no idea what any of that meant.

I got out of my class and went along, and I listened to her speak with certain Jeffersonian ears, to what she was saying. At the end of the event, the British academic was taking questions, and I had the temerity, as a freshman, to raise my hand, and I said to her, "You know, what you're saying is headache-inducing acronyms, but what does this thing actually do, and how do you explain to the guy in the pub at St. Andrews how this is in his interests?" And she looked at me disdainfully, lip curling, and said, "We don't have to explain, you don't get it at all." And suddenly I got it.

Up to then, I'd been tepidly in favor, without really knowing, which is the standard American position—if people want to work together, why not? That sounds good to us—after all, we're all allies, aren't we? Working together makes sense, and in fact if we can have unity of working together, you get economies of scale and doesn't that make wonderful sense, and we should be strongly in favor of what goes on. I think that argument is the most overused argument, perhaps in modern history.

But go back to her comment for a minute, because what I was learning, and what I want to talk to you about today is how the operational becomes philosophical—or the other way round—but how they fuse together. And I'm going to look at two of these headache-inducing acronyms for a minute: CFSP, the Common Foreign and Security Policy, which doesn't exist, but is a bother, and ESDP, or ESDI, the European Security and Defense Policy, or European Security and Defense Identity—there's a difference, but I won't bother you with it; as to what goes on here, and why the philosophical underpinnings of what goes on are exactly what's wrong with those things. What they've done is create a house from the attic down, but there are no foundations, and so it's easy to say, none of this matters, it's just, know, a Rube Goldberg drawing, and nobody understands it, and it won't amount to anything. That's the fall-back position from "Isn't it great?" Okay, it's "Well, it doesn't matter, because it won't work," and we should politely go along, as Eisenhower did in the 50s with the European Defense Community, assuming the French would veto it, and our hands wouldn't be on it—very cleverly, that worked.

But here's the problem with that, and let's just look at these two acronyms for a minute. And here's the logic that I was given by actually the British Foreign Office, when I was just starting my career here at The Heritage Foundation, and we were talking about European Security and Defense Policy. Start from the fact that the Europeans never, ever live up to their treaty commitments to improve capability in NATO. Never. There are twelve reform plans on the shelf, in my room. How many have been lived up to? None. The last one, my favorite, the Defense Capabilities Initiative. 56—this is so American—56 measurable goals, not rhetoric: "Do you have lift, yes or no?"; "Are you going to construct lift, yes or no." They sign it solemnly in the late 90s, and we all have a summit meeting, great photo-op—and guess how many of those goals are fully met? None. None. And that leads us to ESDP, because people said, "Well, John, if you keep trying to do this through NATO, it's not going to work."

When I started my career there were three countries in NATO that could do everything, from high-end war fighting, all the way through low-end peacekeeping: Britain, France and the United States. And after consuming gallons of orange juice, flying hundreds of thousands of miles around the world, talking to the same fourteen people in really picturesque European settings—I hope that, by the way, continues, because I have a very nice life indeed—guess

how many countries have that full capability? Britain, France and the United States. Guess how many are going to have that capability when I'm gone? Britain, France and the United States. The goal is to try and leverage the rest of the allies to do more through NATO. We then went to the rest of the allies, and said, "Well, look, this NATO thing isn't working, we've tried twelve times, what would you suggest?", and unfortunately—I have great respect for Mr. Blair—but unfortunately the Foreign Office view came back, and it went something like this . . . in fact, it went exactly like this, a number of times: "John, we have to leverage more capability through the European Union." And I naively, much as I had when I started my career at St Andrews, said, "Well, why's that, what's wrong with NATO, I mean we're all NATO members solemnly signing agreements to do these things, why can't we do that? I mean, is there a problem with the transatlantic relationship I really ought to know about?"—Nervous laughter from the diplomats. And then I was told, "No, no, no, but who are we talking about, John, specifically? Spain, Italy, Germany and Poland are the bigger countries that are likely to be able to do more rather quickly and not just fill niche roles, by the way not being filled either, but it's logical and we can live with that. So, the reality is, we're going to leverage these states, and the best way to do that, John, is through the European Union, because they're ever so much fonder of Europe, the people of these countries, than they are of NATO or the United States."

Now, nobody is doubting that American public diplomacy is an utter shambles, and I don't want to pretend that I don't know that. I go over to Europe very often and get yelled at regularly in exchange for my orange juice. Pretty good trade, I have a nice room, I listen, I engage, I do all the things we're accused of not doing. I'm aware of the disaster there, but let's look at the alternative, because remember, NATO actually works. Okay, all these acronyms confuse the fact that very few of them do much; NATO actually works. And it's very important not just to make it another acronym on the list. So we're told this is going to work, this is going to leverage these countries and they're going to do more, and that's good, and we shrug our shoulders most of us in Washington and say, "Well, okay, let's give it a try, why not, it can't be worse than it is now, and then let's see what happens." How many of these capabilities have changed? None. We have accounting tricks now, we have the same French soldier with six hats, okay, and he works under different operational perspectives—and you may think that doesn't matter, but here we're getting to the rub. Look at Darfur, what we want to do is simple lift, to get people to Darfur to do things, actually Africans to go and defend Africa, a perfectly reasonable goal. And we run into a problem, because the French say "No, no, no, let's do this through the European Union and not through NATO." It's the same capability, it's not a different capability, it's exactly the same capability—by the way, 85 per cent of which is American capability—okay, that's the other thing no one says. They have done nothing to change the capability reality, what they have done is create parallel structures that are not shell-games because you get into food fights about what to do next, and the reality of these food fights is the French are stamping their foot, the Americans are scratching their head, and say, "What's wrong with NATO?"—avoiding the politics here—and the people in Darfur aren't getting any healthier. That's the problem, it gums things up, from an American interest point of view, without creating the capability that we were promised, at all.

Let's look at Germany. There are five million unemployed Germans, 1930's number. Eastern Germany is falling further behind Western Germany despite billions of euros being transferred. Unemployment—and Schroeder, I love it, when he was young and reckless said "If there are 3.5 million unemployed Germans, don't vote for me"—and in the fall, the German people will take him at his word, okay. No job creation in the private sector in Italy, France and Germany, just everything around it flourishing; in it, dead, nothing going on. German and French companies are world-class, which is why they don't invest in Germany and France, because of unit labor costs. So, nothing is going on here, you're in massive economic crisis, fears of globalization are driving all the stuff, and what goes on, how do you think defense spending rates on the list of priorities for the average German? I always look at the bottom and work my way up when I do that, because it's always lowest or second lowest—always in the bottom two. They're not going to do any more. Newflash: they're not going to do any more. Their people don't want them to do any more, and they will have to heed by the wishes of their people. So, forget the capability argument, which was the reason they brought the Americans in, in the first place. That was the hook to get us interested and go along with this. If we don't get the capability, why are we creating parallel structures that merely gum things up anyway? And that's my problem with ESDP.

Now, let's take CFSP, which is another fun-filled acronym. Assume for a minute the referenda hadn't happened, assume for a minute France, Germany and Italy were led by dynamic, hard-charging, integrationist leaders like Jacques . . . pardon me, the wrong Jacques, Jacques Delors—the serious guy. Assume this is going on, and there is

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some form of unity. Assume there is a Common Foreign and Security Policy, okay, for a second. What does that mean? And then place a real world thing in—and this is the other fundamental problem, the ‘ism’ that no one talks about—I adore Europe precisely because it is diverse. Look at the two renegade states who vote “no”—the Dutch are pro-NATO, pro-free market, pro-free trade, I think on the *Index of Economic Freedom* they may have beaten us this year, it’s rather embarrassing, we keep sliding down though, pro-NATO, pro-America, pro-transatlantic. The French are none of those things. They both vote “no,” for very different reasons, okay, it’s a diverse continent, a one size fits all construct over this diversity doesn’t work very well. And we ignore that, that’s a Burkean notion, that’s a bottom-up cultural notion that is entirely missing—we’ll ignore culture, we’ll ignore history, we’ll ignore language, and that’s the reality. As I’ve often said here, I think of the Spanish café owner; you want to know why labor mobility doesn’t work in Europe: say you’ve just been fired, you ran a Spanish café, you lose your job. There’s a job going in Berlin. Okay, your family have lived in your Spanish village for eight centuries, maybe you don’t speak German, maybe you hate the Germans, okay? And maybe you’d rather have 85 per cent of your last paycheck guaranteed forever to sit in Spain. Are you a rational actor to move? No, which is why labor mobility is far less in the European Union than it is in the United States. Because you can’t get around the cultural reality. But say you could, say you wave a magic wand, I’m entirely wrong about history and culture, sociology, anthropology, economics, everything, none of it matters—the utopian dream is reached. And then you have Iraq—real world example—many European governments favor the United States, more favor it than didn’t, many do not, very strongly, public opinion pretty uniformly against, and what do you get with that degree of integration? No allies. No allies.

A Europe that will remain divided over the fundamental issues of war and peace, okay, means you have no allies if you are fully integrated. Is that an American interest? Because the Americans pre-suppose something that isn’t real, and you hear this, that we can bring everyone along, and then the economies of scale will be there, and won’t it be wonderful? The point is, when does this happen, on issues of war and peace? Yes, at the low-end it does happen, but at the high-end, when it matters, I think that the reality is that there simply isn’t—that dog don’t hunt, frankly. And so I think we have to be very serious that a divided Europe doesn’t mean we don’t have allies—we need allies, we need more allies, which means you have to look at sovereignty and say, issue by issue, case by case, in a world where other than the British, it’s a Palmerstonian world, very few people are permanently your friend, very few people are permanently your enemy, you’ve got to work with everybody. It’s really complicated, but other than Britain, Australia and a couple of others, that’s the world we live in. And if you try to go along with a false sense of uniformity that doesn’t exist, what you’re going to get is no allies. I don’t want to encourage American unilateralism in any way, but that will simply be the only alternative to what many Europeans want, which is to do nothing about almost everything. We don’t have that luxury in history. We wasted a decade talking about the end of history, sitting around as though the world was over, so arrogant. I was in grad school, so I’m absolved of course. And I wasn’t, you know, wasting my time at all! But the reality is, we have to be much more skeptical in looking at these things, and not do what I did on that first day and shrug my shoulders, but do what I did secondly: listen to what people actually say, go through the logic of what they’re saying institutionally, and remember that we must safeguard what is real, which is the Anglo-American special relationship, and not let that fall folly to what is not. Thank you.

STEPHEN MEYER: Very good, John, a number of themes emerging in all three of these talks. I wonder if we could get the help of our distinguished British panel on some of these points. Last night over dinner, Christopher and I were speaking about the fact that there are already worries percolating on the U.S. side about this problem of intelligence leaking out through the European Union, and that that is making people on this side much more cautious about sharing information with Britain than previously, and we have now had some examples. I’m also interested in Dan Hannan’s take on the European Security and Defense Policy, the extent to which that has already been agreed by treaty, and Maastricht, and the extent to which it required the Constitution to implement it, and where exactly we are on that. And David, anything you have to add to this, would be excellent. Malcolm asked me to put these guys on the panel because there’s no way we exhausted their expertise in the first one.

CHRISTOPHER BOOKER: The truth is Steve, actually, we haven’t got a real defense expert here. I must issue that health warning. I am not an expert, and there are probably some people in this room who know a great deal more than I do, but what I am is a journalist, I have to ask questions, and above all I have to find the right people to ask those questions of. And one of the people I lean heavily on in this respect is my co-author of *The Great Deception*, Dr Richard North, who’s been a very close and well-informed student of defense for many years, defense policy and

hardware and everything that goes with them. And what I've been hearing, what I've been, to a certain extent, reporting in recent months has been, I find, very alarming indeed.

Let me just say a little bit about this thing called Galileo, which has been mentioned a number of times this morning. I don't know how many people—probably quite a few people in this room—do know, that from next year 2006, the European Union will be putting up thirty satellites round the globe, navigation satellites, as a quite deliberate rival to your own GPS, Global Positioning System.

Now, there are a number of differences between the two systems, apart from the fact that yours is up and running and proves very useful to a lot of us. The GPS system is actually a civil system, although obviously it has very heavy military implications. It is free to its users. The Galileo system is intended to be—apart from anything else—a provider of income for the European Union, because it's going to charge for its use, and it's got a whole range of admitted uses, including toll-charging for vehicles using roads, and congestion charging and aspects of controlling civil traffic throughout the European Union. But the bit that I'm particularly concerned by is its military implication, which they have tried to keep fairly well under wraps, although occasionally it leaks out in either a document from the European Commission, or the French defense minister, Mrs. Alliot-Marie. She was quite explicit about this last December. If you put all the evidence together, there's no question that part of the purpose of Galileo is that it is going to be an EU-run military satellite system. Now, as you guys in this town know better than anyone in the world, the key to fighting modern warfare is satellites. The first Gulf War it was lasers, the second Gulf War it was satellites. That's what you use to guide your weapons and make sure they reach the spot. There are two very ambitious systems now being talked about, neither of which are yet off the ground. You have one in this country called the Future Combat System, the FCS System, into which you're putting an enormous number of dollars. It is a very sophisticated family of weapons and vehicles which are essentially coordinated through satellites. In the EU, they are talking about—just as they're going to put up a rival satellite system, they're going to set up a rival FCS System, called FRES—the Future Rapid Effect System. If it ever gets constructed, it's going to be a damn sight less efficient than yours. It's going to cost very much less money, because, as you've heard, we are not very good at footing the bill for defense spending in the EU. But the point that I would like to emphasize in this context here this morning is that if we do go along with FRES, Galileo satellite-driven, it will be impossible for anyone using FRES to work in total integrated collaboration with American armed forces using the FCS System.

That is merely an illustration of the way which, at amazing speed, we in Britain are being moved, I have to say, alas, as much as anything else by our own senior civil servants in our Ministry of Defense, who are very keen on all this kind of integration. We are being moved into a position where it will no longer—if all these things come about—be possible for us to work with you on a military basis. Now, if I tell you that a twenty per cent share in Galileo is held by the People's Republic of China, you will be going to see some of the other implications of what we are up to in the European Union. When I say "we," I'm obviously not saying "hooray," but this is what we are being carried into. China has bought a fifth share in this thing, and they have not bought it because they want to charge road tolls on their roads in China. This of course, knocks over into what we have already discussed in another context this morning, the pressure from certain EU members, particularly France and Germany, to lift the embargo on selling weaponry to China. There is an island called Taiwan. We are getting here into very dangerous waters, and what most alarms me is the fact that my country which, as we've seen in Iraq, as we saw in Basra, has still got a small, but bloody efficient, well-trained army, is going to be put in the position—my country, and our armed forces—where we will no longer be able to collaborate, work in alliance with our one true ally, the United States. And we are going to be sold; in biblical terms, we are having our birthright sold for a mess of pottage.

STEPHEN MEYER: Daniel, could you illuminate us as to the legal standing of the Common European Defense Policy? I mean is there a basis for that in treaty now, or does that await the Constitution, because it sounds like, again, the train has already left the station. Whether or not that's authorized is what we would like to hear about.

DANIEL HANNAN: The clause which is in the treaty now, and would have been carried over into the Constitution reads as follows: "The European Common Defence and Security Policy shall cover all aspects of foreign policy and all questions relating to the Union's security. Member States shall actively and unreservedly support the EU's Common Foreign and Security Policy in a spirit of loyalty and mutual solidarity."

Ponder those words and ask yourself whether, if they were in effect, the United Kingdom would have been able to join your recent deployment in Iraq. I would like to start from where John Hulsman finished. He made a brilliant

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disposition of the problem, and he ended with saying, “we would have no allies”—“in such a situation we would have no allies.” Just for a moment ask yourself why that is the case, what is driving this alienation, why is it that countries which on paper look as though they’re all Western democracies and law-based systems should not find themselves sharing a common outlook when they look at the challenges in the world. And I come back to what I said this morning: there is a common theme linking the disputes between Washington and Brussels, in Cuba, in Iran, in China.

Let me give one example of why I think that this is a doctrinal ideological split in transatlantic relations, and that is the question of Israel-Palestine. In six years in the European Parliament, I’ve never seen the place so lively as when Israeli policy is being denounced. The MEPs start ululating in joy—primly described in the official record as “loud applause”—but all you need to do to bring the place down is to stand up and attack the Sharon government. Now, why? It’s a pretty small country, it’s pretty peripheral to the EU. Why this obsessive focus on it, and why do they see things so differently from the way in which Anglo-American politicians see things, or the Anglo-American publics? I’ve wrestled with this for a long time, and I’ve come up with four explanations. One has to do with the number of Muslim voters in Europe—a point almost never made. The European media will go on and on about the power of the Jewish lobby on Capitol Hill, but nobody ever mentions that there are now nearly ten times as many Muslim voters in the European Union as there are Jewish voters in the United States. Politicians being politicians, being human beings, have to be sensitive to where the balance of opinion lies—reason one. Reason two: anti-Americanism. I mean, they’re weren’t *really* pro-Arafat, any more than they were *really* pro-Saddam Hussein. It was simply that they saw it as their role to even things up. Reason number three, and this is a rather harder one to put across, but I’ll try: it has to do with what you might call cultural identification, sympathy in the most literal sense of that term—fellow feeling. When a British or American looks at the Middle East, we tend to sympathize with the country which most resembles ours, that has a parliamentary system, the rule of law, democratic elections, and so on. The European doesn’t really think of it in those terms, he has very little sympathy with unrestrained democracy and unrestrained freedom and capitalism. He’s not in favor of those things within his own territory, and he’s not in favor of them abroad, so, if you like, in the same way that his sympathy is with the small French farmer rioting against McDonalds, and against globalism and capitalism, so his sympathy is with the Bedouin in his flowing robes, representing the traditional hierarchical feudal way of doing things, before we got into this kind of brash American capitalism. Reason number four: The European Union is based on the idea that the national principle—by which I mean the desire of every people to form a self-governing state—is irrational, anachronistic and discreditable, the cause of ethnic hatred and war. There is no better exemplar of the national principle in the world, in history, than the state of Israel. Here, for two thousand years was a people that never lost a sense of common identity, despite being stateless and scattered, that never lost the aspiration of fulfilling that nationality through statehood: Next year in Jerusalem. And then, miraculously, providentially, you might almost say, they fulfilled it. If they were right in doing so, the entire intellectual justification for the European project collapses. If people really are better off living under their own laws and their own people in self-governing states, then everything that has been done in the EU for the past fifty years is invalid. So, is it any wonder that Israel finds it hard to get a fair hearing in Brussels? Simply by existing, it is a standing rebuke to the entire European project.

So, I come back to saying these are not isolated disputes, where Europe has decided, randomly, to pick a fight with Washington. There is a community of outlook that connects the one with another. And the question you therefore have to ask yourself is: given that this is happening, do you want the Brits in there as part of it, or do you want us outside it as part of the community of free English-speaking nations. Your country and mine have shared a delusion on European affairs for forty, fifty years now. In both countries there was an assumption that if we went in there and argued our case, and won influence, we could change things. In Britain, it was always put in terms of arguing from within, putting Britain at the heart of Europe, and thereby creating this enlarged free-trading Europe of nation states. And *mutatis mutandis*, in the U.S. it was seen as, “Well, if the Brits are in there, that will make it more Atlanticist, that will make it more friendly to us, that will stop these protectionist impulses.” Well, maybe those arguments were plausible fifty years ago. They are plainly, visibly not true now. Measure it however you like, look at it from any angle, the European Union as it exists is further than it has ever been from that dispensation. So the question is not “Do we want an Atlanticist free-trading outward looking Europe of nations, or do we want a European superstate?” Much as we would like it to be, that former option is not on the menu. The real question, in the real world is: given that there is some kind of European state, impelled by this ideology, hostile to Anglo-Saxon liberal values, are we,

the United Kingdom, going to be part of it? Because the reality is that our participation has not changed the character, or has had a negligible impact on, the character of the European Union. But it is having a serious impact on the orientation of the United Kingdom. As we have got dragged further into this, we've lost, increasingly, our Atlantic outlook, and our capacity to act. Instead of being a small, nimble country able to operate militarily out of area, the single biggest defense project we've ever embarked, the single most expensive has been the Euro-Fighter—a plane that was redundant before it was conceived. A plane designed to defend the skies of West Germany from a massed assault by Russian MIGs—which has now come in 18 years late, £20 billion over budget, and still can't fly. Now, in what sense is that of value to the spread of freedom in the world? By pushing this agenda, and by driving the United Kingdom deeper in to this European project, we put at risk the alliance of English-speaking peoples, which I think has been, without precedent, the best guarantor of the freedom and happiness of mankind.

STEPHEN MEYER: If I could piggy-back on that. I'm trained as a philosopher, and it seems that one of the things that we're really up against is what Tom Sowell calls "a conflict of visions"—in fact, his terminology is very helpful—an American political philosopher at the Hoover Institution—it describes two basic outlooks, and they stem from two different views of human nature. One is that humans are intellectually limited and morally flawed, and because we're limited, therefore governments should be limited. The other view is the more utopian view, which he calls the "unconstrained view," the idea that humans are perfectible through various political machinations and utopian schemes. And I think that the French Enlightenment was perhaps the first place where the unconstrained view was hatched in its full form, and it's interesting that the similarities between the European project and say, the political philosophy of Voltaire with the idea that there would be either a single or a group of wise leaders who could discern the general will without there having to actually be an election. And it seems that the Anglo-American hope that we could influence the European Union, make it more in accord with the political culture that has developed out of a constrained view of human nature, has in itself been a little bit of a utopian delusion, and that we're now having to face the fact that it may be unreformable. And to me there's a very interesting underlying world view conflict that is driving this whole thing, and I think it needs to inform our geo-political judgment.

CHRISTOPHER BOOKER: Steve, I just wanted to offer a footnote. Can I bring us down from this lofty, wonderful . . . I've listened like we all have, but you asked Dan a question. He came out with that wonderful speech, but what he didn't do was answer the little nerd-like question that was at the heart of it . . .

STEPHEN MEYER: I did ask a nerdy question, didn't I?

CHRISTOPHER BOOKER: No, I'm the nerd, you're the philosopher! You asked what is the relation between the proposed EU Constitution and all this stuff we've been talking about . . .

STEPHEN MEYER: Yes, how much of this is Maastricht and . . . yes.

CHRISTOPHER BOOKER: Can I just spell out two or three little facts? We've been talking round about and directly to the fact that the key now to defense collaboration, more than ever before in history is procurement—what weaponry, what equipment you have. There has been set up since January this year a thing called the European Defense Agency. It's headed by a very senior British civil servant called Nick Witney. That European Defense Agency which sounds so boring, is actually the key motor towards the next phase of total integration of European defense. If you look at the European Constitution, the one that is now in the deep-freeze or in limbo until it pops out again, like Dracula, you will find in Article 41:3 a statement that there shall be established a European Defense Agency, and you say, "Fascinating, but hang on, the Constitution hasn't been ratified, and the Defense Agency was set up in January." So, you ask the British government ministers, you say, "Hang on, isn't this rather jumping ahead of us, because here's this very important agency—though most people haven't heard of it and haven't a clue what it is—you aren't authorized to set that up." And they say, "Oh yes, it's all in Maastricht. If you look at Article 14 of the Maastricht Treaty 1992, it says one day we might work towards eventually having a Common Defence Policy." That they regard as the justification for something that actually in the Constitution they spell out quite specifically. "There shall be," in the future tense, "a European Defense Agency"—they can't even actually read the Maastricht Treaty, or the Treaty on European Union, to give it its proper title—most of them haven't read it. It's not Article 14 of Maastricht, it's actually Article 17 which says "there shall be . . ." common defense procurement. So all those years ago, they were talking about defense procurement. We are seeing it happening at a rate of knots at the moment, and it is all happening without any specific authorization, but is all happening anyway.

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YOSSEF BODANSKY: Let me jump in, because I think it's rather more complicated than you presented it, and unfortunately even worse—my favorite word. The most important thing in defense is the definition of the threat, the long-term perception of where is the nation going to go with the alliance and what kind of bad guys they'll have to shoot at, bomb or whatever. Then you go—once you've defined the necessary operational requirements—then you go and allocate the funds and the acquisition of the wherewithal with which to do what the nation wants to do. And probably the worst thing, or the greatest threat, going back to the U.S.-European confrontation, with the EDA, or any other alphabet soup combination, is that the European perception of future threats, future challenges, what the men or women in uniform will have to do in the next twenty-five to fifty years, is completely divergent from the way the United States sees it. The future world that Europe is preparing to fight for, defend or implement is not the world that the United States is looking at. The British used to have a world view very, very similar to ours—British experts still do. The British government, however, is siding with the EU, which is where the problem starts.

Now, when it comes to the issue of acquisition of specific gadgetry, be it satellites or future weapons or machines, future smart-munitions, aircraft, what have you, . . . as I've said, the only way these can be funded in isolation from your subsystem, or in isolation from interaction with the United States, is getting the Chinese to foot the bill. And if you look at the future, Chinese weapons systems, an aircraft carrier is not a small thing. It preserves China's ability to challenge the United States over the waters of East Asia, and we've fought more wars in East Asia, and lost more people in Asia than in any other part of the world. Now, the Chinese wanted initially to have a Soviet-style carrier, that's why they bought the Minsk, and that's why they bought the Varyag, the unfinished aircraft carrier, and dragged it all the way from Ukraine to Shanghai in order to rebuild it. Are they crazy? No, they're not. The French came to them and told them, look there's a follow-up to the De Gaulle on the way; there's a whole new technological breakthrough that will give you a carrier on a par with the United States. Steam catapults, which the Russians don't have, a navigation system, air defense capabilities, and missile protection capabilities that the Russians don't have, and we are willing to give them. So you're looking at the Chinese perception of the future naval battlefield, and it's a European carrier. They know that it is up and coming. The same thing goes in smart-munitions, the same things goes in helicopter capability, the same thing goes for the future small arms that the Chinese guy is going to carry, a European-style rifle, which is built of composite material—which the Chinese right now don't have. And so on and so forth. So this is a serious matter. The United States has treaty obligations toward Taiwan and so doesn't look at all this favorably. One of these days, somebody in Washington will say, "Oops, now we have to deal a quiet submarine, European standard, as opposed to a not-so-quiet submarine Russian standard." Somebody will have to deal with it; somebody will have to pay the price for the joy and great discovery of Chinese capability. I think that our relationship with the EU will be that price.

DAVID HEATHCOAT-AMORY: Being an admiring listener, I just want to make one point, which is that people may dispute the motives and aspirations of the European political class, but they cannot dispute now what is in this document—and whether or not this ever becomes the European Constitution isn't really the point. What we do know is this really is the political handbook of that political class. This is the current state of European political thinking. It was written by the presidency and the secretariat of the European Union—I know that because I was there. And therefore when one reads in it phrases like "Those Member States whose military capabilities fulfill higher criteria shall establish permanent structured cooperation within the Union framework," that is a rival to NATO. It is completely explicit. And the only thing that surprised me as I sat there during the long, long sessions was why the other non-European members of NATO were apparently silent. I can't quite make that allegation against the American government, because there were some muted, off-stage complaints, but from Canada—I don't know if there are any Canadians here—complete silence. But this is a rival to NATO. And it was just reducing the other members of NATO to spectators, and I think that was not just terribly sad, but terribly dangerous. And the only other thing I just wanted to do was to endorse what Christopher Booker said about the Armaments Agency, just to add this thought: not only is this going ahead, even though it's in the Constitution but it hasn't been ratified yet. This is really explicitly a European protectionist agency, a "Buy Europe" agency for weapons. You've got some American weapons companies here; they're quite important—what on earth are they doing? Don't they have clever people who read things, it's all in here; it's all in the Constitution. This is a "Buy Europe" policy, and it's not just a policy, it's got an agency here to enforce it.

CHRISTOPHER BOOKER: What about the trucks order? Do you know about that? The biggest ever British Army trucks order, decided last December. There were three bidders—two of them involved American firms, one

was Stewart and Stevenson with two British in the consortium, the British Ministry of Defense gave the contract for an inferior kind of truck, 1.6 billion quid—that’s, what, two and a half billion dollars, to a German firm MAN-Nutzfahrzeuge, because it was in the cause of EU integration. So we’ve bought an inferior product, we’ve cost ourselves thousands of British jobs, two very good British firms have lost the order, along with one of your own leading truck firms. That is the kind of mistake that we are now making. It is not a crime, sir, it is a blunder.

JOHN HULSMAN: I think there’s one more apology that comes out of here, one more kind of fallacy: if you don’t accept that everything’s great and everybody is going to be unified, and if you don’t accept—well, you know it’s not going to amount to anything because they’re going to fight all the time, so it really doesn’t matter. The final apology is this: given the two referenda, this thing is dead and doesn’t matter; let’s look at how the elite reacted to this. I’m writing a piece with my friend Will Schirano for *The National Interest* about the various stages of dying and we use Kuebler-Ross and we go through denial and anger and bargaining. No one’s near acceptance yet; we’re still in anger. As a friend of mine in the French Ministry of Defense said, off the record at a very nice conference in France, “I hate my people, don’t they know what they’re doing to me?” And I said, “I suggest you get a new one, it’s obviously all their faults.” And that’s the reality of what’s going on here. What is the reaction? Jean Claude Juncker, president of the European Council, wanders in and says two things, one delusional: “In my heart I don’t think they voted no, even though the facts dictate otherwise, let’s make them vote again.” That was his first reaction: ‘Let’s make them vote again, that’s what you do in the EU when you don’t like a result.’”

STEPHEN MEYER: *Make* them vote again.

JOHN HULSMAN: You make them vote again so you get the answer you like. It is fundamentally anti-democratic, and that is one thing going on. The second thing going on, which is also anti-democratic—and my friend Charles Grant immediately did, I was amused if it weren’t serious, “Well yes, we should stop all integration, that’s right, we should learn our lesson, except let’s do some tidying-up.”—and as these gentlemen know, the devil is always in the detail, with the European Union. Tidying up, by the way, would involve creating a new foreign minister, creating a new diplomatic service. These are not small matters to me, and so watch that word—yes, we’re going to heed the wishes of the people, these are little things along the way that nobody much cares about, that we’ll do in the dark, because the lesson they’ve drawn from referenda is: don’t have any. And let’s keep that in mind, if you’re an analyst as I am, empirically, have they gone gentle into that good night, have they accepted the will of the people and said, “you know, our view is wrong, and we’re going to have to spend a long time trying convince them, or we change” or are they doing things in the darkness?

STEPHEN MEYER: Thank you all.

Panel Three

The European Union's Impact on U.S. Business

BECKY NORTON DUNLOP: This afternoon, we're going to begin our discussion on the European Union's impact on U.S. business. Well, fortunately we've got a couple of great sessions behind us, so we've all learnt a little bit more clearly how the EU will impact lots of things that we do here in the United States, which many of us really had not thought of before today. But we want to talk this afternoon about the EU's impact on business, in this panel, and then we will have a couple of other representatives from Europe talk to us a little bit about how they see things, and then finally we'll talk about the legal aspects of the European Union. First of all, let me reintroduce myself. I'm Becky Norton Dunlop, a vice president here at The Heritage Foundation.

Leading off this afternoon is Ruth Lea. Ruth is currently Director of the Centre for Policy Studies, and I'm happy to note that that was founded by Margaret Thatcher. She is also on the University of London Council, and is a governor of the London School of Economics. She has published many papers and served on many public bodies. She was head of the Policy Unit at the Institute of Directors between 1995 and 2003, which is a business organization. She spent five years at the Mitsubishi Bank, finishing her term there as chief economist, and was also employed by Lehman Brothers as their chief UK economist. Prior to joining Mitsubishi Bank, she served sixteen years in the civil service of the United Kingdom, and during the Thatcher prime ministership was at the Department of Trade and Industry.

Our next speaker then will be Diana Furchtgott-Roth. Diana is with the Hudson Institute here in Washington, she's a senior fellow and director of the Hudson Center for Employment Policy. She's very well-qualified to do that job, not the least because she just has left the U.S. Department of Labor, where she was the chief economist from February 2003 to April 2005. Prior to that she served as Chief of Staff of President Bush's Council of Economic Advisers, where she was responsible for the production of the economic report for the President. And from 1993–2001 she was a resident fellow at the American Enterprise Institute. So you can see she also has a good mix of think tank thinking and real life government work.

The next presenter will be Ian Milne, also from Great Britain. Ian is the director of the cross-party think-tank Global Britain, another of our partners today. He has served there since 1999. He was the founder editor of the *European Journal*, and the co-founder in 1995 and first editor of *Eurofacts*. His most recent publications are *A Cost too Far* by the UK's "Civitas" think-tank, published in July 2004, which is an economic cost benefit analysis of UK membership of the EU. And then, *Backing the Wrong Horse* published by the Centre for Policy Studies in December 2004, which is a review of the UK's trading arrangements and options for the future.

Rounding out this panel will be Mr. Mark Ryland. Mr. Ryland is vice-president and director of the Washington D.C. office of the Discovery Institute, and a member of its board of directors. Mark is going to talk to us about a specific case dealing with a company with whom he formerly worked: Microsoft Corporation. He practiced law for three years with the firm of Latham and Watkins here in Washington D.C. and then changed professions, going to work for the Microsoft Corporation, working in software design and management. He will have a very interesting tale of woe to share with us about what we might expect if we get deeper entangled with the EU.

So, without further ado, let me bring Ruth Lea to the podium.

RUTH LEA: Thank you very much, Becky, for that introduction. In my few minutes I'd like to look at some of the regulations that come out of the European Union, and their deleterious effect on business within that area. And I'd also like to look at what's happening in the Eurozone, and suggest that this is something of a cautionary tale. And my final remarks will be a very brief comment on how I see the activities of the European Union affecting American business.

Well, firstly to start with regulations—boy oh boy, does the European Union regulate. I think it's estimated now that at least forty per cent, and this is a conservative estimate, of the regulations that are imposed on Britain actually

come from Brussels, forty per cent. We have virtually no control over those regulations at all. They spread far and wide, as indeed the European Union's reach spreads far and wide. Environmental regulations, regulations affecting certainly industry groups, and last, but by no means least, the labor market, employment regulations, or "social Europe".

I would like to say something about "social Europe," because I think it tells you a great deal about what is happening, or what has happened in so-called Old Europe, which is of course dominated by France and Germany and Italy. Now, when I first started to look at the European Union's economies—this is when I worked for Mitsubishi Bank, way back in the late 80s in the City of London, I came across this extraordinary language, which I frankly didn't understand, and conveying it to the Japanese meant there was a further misunderstanding. It was actually very, very difficult to find out what really went through the Commission's mind, and the mind of Old Europe—and those particular economies, to understand it oneself, and then actually to convey it to a people like the Japanese, who had an entirely different business history themselves. But a bit of the jargon—which will give you an idea. There is no doubt about it, that behind the whole of the European Union concept, there is something called the Social Market Model, the building of "social Europe." This is a highly taxed, highly regulated model of protection, and it's there because the French, particularly, do not trust markets. After all, what are free markets? They are described as Anglo-Saxon in rather less than polite terms. Anglo-Saxon is something to be avoided at all costs. And it was interesting, at the time of the referendum in France, one of the reasons that the French rejected the Constitution was because they thought it was far too Anglo-Saxon, and they didn't want any Anglo-Saxon tendencies there, thank you very much. The fact that some of us had actually read the Constitution and come to exactly the opposite conclusion is neither here nor there. But if you look at the way they think, the Social Market Model is highly protectionist, to build this great social nirvana, and moreover, part of this is not just that certain countries adopt it, but that the whole of the European Union has to adopt it. It's called harmonization, and harmonization is very key to the whole notion. So these are centralized regulations that come through from Brussels, so we all behave in the same way. And if you don't do that, then you are accused in no uncertain terms of unfair competition.

Now, I should think anybody here who believes in competition cannot understand why it should be unfair. But it is endemic in European Union thinking. And so they bring in all the regulations so they are all on a level playing field, and there'll be no horrible, horrible thing called social dumping—where perhaps in some parts of Europe you might find less stringent employment regulations, which might make those areas more competitive and therefore you find that business shifted from the highly-regulated to the less-regulated areas. That's regarded as unfair. I think that gives you an idea of some of the psychology behind the regulatory mindset of Europe. And indeed, if you look at the employment regulations, as I spent many an hour doing when I was with the Institute of Directors, the reach was extensive and broad and comprehensive. They covered equal opportunities; they covered employment protection and working conditions, and they said it was all about protecting labor. They covered health and safety at work—and I don't know if any of you here have followed the fracas in Brussels about the ending of our opt-out to the 48 hour week, but that tells you a lot of just how wrong Europe is. The idea is that nobody should work over 48 hours per week, because basically their health will be totally ruined. Well, how absurd can you get? I sometimes think when I talk to people in the European Union, do you have any idea that beyond the borders of the European Union there are other countries which are extraordinarily competitive, and by bringing in all these extra regulations, you're in fact destroying your own competitiveness and your own prosperity and your own future? It's as if they want to live in their own little bubble. And last but not least, they also deal a lot with employee relations.

And it's interesting, with enlargement, especially the accession of the ten new states, eight of which are in Central and Eastern Europe, and were very much under the Soviet yoke until the 1990s, that they are much less tolerant of this highly regulated Social Market Model. They're much more biased towards the free market, and indeed, if I may say so, the Anglo-Saxons. And many of their leaders have been educated in the States, and they do not share the hostility to the Anglo-Saxon model that a lot of Old Europe does.

Sticking with regulations, which is one of my favorite subjects—after all, some people look at trains, some people collect stamps, and some of us look at regulations. And there's something called the Single Market, which again is another great European concept. The idea is that the Single Market, or the internal market, is going to get rid of all the non-tariff barriers within the twenty-five countries of the EU, so that trade can go from one bit of the EU to another bit of the EU as easily as it can, say, from one part of the States to another part of the States, or from one part

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of the United Kingdom to another part of the United Kingdom. And at first glance, the Single Market sounds a rattlingly good idea. After all, there is a market there of 450 million people, and some of them have a bit of spare change. So why aren't we interested in it all, why are we less than enthusiastic about it? At first, when the Single Market program was launched in the late 80s and early 90s—it was in fact 1992, because that's when we were going to have the Single Market. In 1992, I was in the DTI, and it was most bizarre. But as the world goes on, of course, people have woken up to the fact the Single Market isn't just a matter of free trade, but it's about, yes, you've guessed it, the 'R' word—regulation. And oh boy, do these guys regulate. And now increasingly business is saying, "well, given all the extra regulations, is the Single Market really worth all that much, is it really to our advantage?" And increasingly, business is saying, "no".

I'll just give you an example. As you are probably all aware, the City of London happens to be one of the jewels in our crown, and I can say that proudly having worked in it, and I'm a tremendous supporter of the City of London, and the financial services industry that is in London. Well, lo and behold, Brussels has come up with something called a Financial Services Action Plan, is part of creating the Single Market in financial services. Now, you'd think a bit of a light touch would be a good idea, would you not, because after all, it's not as if London has got a uniquely competitive position which it cannot lose. After all, if business is uncompetitive in London, it won't go to Frankfurt, it won't go to Brussels, it won't go to Milan, it won't go to Paris, but it will go outside the European Union. But a light touch is something, alas, that Brussels does not understand. And the Financial Services Action Plan has 42 seriously difficult and significant pieces of regulation and directives which are coming through. And I'll give you a couple—just as a taster to whet your appetite. The first one is called the Market Abuses Directive, affectionately known as MAD. This is about market abuses in the financial sector, such as insider dealing. Well Britain, because it is ahead of the field—and let's be honest about this—in the European Union, already has legislation which deals perfectly adequately with insider trading. What is in it for Britain? It's fifty million quids worth of compliance costs and no benefits . . . not a good idea.

A far bigger brute is something called MIFID—which rhymes with Triffid, when you think about it. MIFID is the Markets in Financial Instruments Directive. And because it's going to involve such a huge shake-up in the IT systems in the financial services sector in London will come in at a cool £1.5 billion. Now tell me, is this the Single Market improving competitiveness, improving prosperity? I'm afraid that was a rhetorical question; as far as I'm concerned, the answer is "no."

When it comes to taxation, then again the mindset in Brussels about tax policy and tax competition is very similar to what I was telling you about employment regulations. It is often said that if one country has lower corporate taxes than other countries then this is unfair and harmful tax competition. It's never fair; it's always unfair. And indeed, if you have lower taxes than another country, that's fiscal dumping, isn't it, because after all the businesses will be moving where there are lower taxes from where there are higher taxes. Some of you might think that's quite a good idea, but not in the mindset of the European Union. As yet there are no formal arrangements to bring harmonized tax rates in the European Union, but with all the unease about some of the new members cutting their corporate taxes very dramatically, it can only be a matter of time, I think, before these things are put on the table.

And in my final few minutes, I would like to discuss the Eurozone, because what's happening in the Eurozone is incredibly important. For me, what is happening there is a political and economic biggie. You cannot get away from what is happening. As you may know, there are twelve countries in the Eurozone, and they are highly diverse economies. Virtually nothing holds them together. They go from the icy wastes in the north of Finland, down to Greece in the Mediterranean. And indeed, not only are these countries diverse, their economies are actually diverging, as the OECD has recently pointed out. Because the truth is, that the Eurozone with its one size fits all interest rate, and its one size fits all currency, where you can't unilaterally appreciate or depreciate, fits nobody. And what is happening is a core of Eurozone countries, such as France and Germany and Italy are effectively in recession. Italy is in a particularly bad way, because it is very sensitive to what is happening in China. They are countries essentially in recession, whereas other countries, such as Spain and Ireland are still growing fairly well. So what does the poor old European Central Bank do? Well, it has to get some sort of average interest rate which suits everybody. But it doesn't really suit any of them. And I think it's true to say that history is very unkind to currency unions where there's no political union, and of course, as yet—even though there's a lot of integration in many ways in the European Union—there's not yet fully-

fledged political union. I think it's true to say that no currency union has survived without the glue of political union. In the States, obviously, you have disparate, diverse economies, but you have that glue of political union holding it together. The same is true in the United Kingdom, where we have diverse regions, but it's the glue of political union that holds it together. And I would go so far as to say that, without that glue of political union the Eurozone could well fall apart, and it's already being discussed in mainstream papers in, for example, France—*Le Figaro* has already discussed it. Indeed in Germany, where they have the Bundesbank, which was the bank which ruled Europe, they are actually now having meetings where the Bundesbank chief and ministers of finance sit around the table and begin to speculate—alas, it was not reported like this—what may happen to the Eurozone if it starts to creak. And in Italy certain politicians—albeit regarded as slightly eccentric politicians—mainly because they're rather nationalistic, and that's being eccentric, by the way, in European jargon—but certain politicians are actually talking about returning to the lira and the good old days, when they could actually make their own way in the world.

But if it is true that the Eurozone can't survive without political union, then at some point surely: it's the economy, stupid, isn't it? And the economics will surely drive these countries closer and closer together. But in the meantime, there'll be a whole swathe of countries now in this expanded European Union who simply will not want to be part of it. And leading, I suspect, those refuseniks will be my own country, the United Kingdom. And it may well end up that you'll end up with a two-tier Europe, where the Eurozone countries, the core Eurozone countries and push for political union, but the rest of us say, "No thanks to political union; we'd like the free trade, but not very much else." Suffice to say, as far as I'm concerned, that will be a rather good outcome. I don't think I'm just dreaming now, because the problems of the Eurozone strike me as being pretty unsustainable.

Final comment, I said I'd say what I thought all these problems of Europe would have on American business. I think it's swings and roundabouts. Clearly if you've got a prosperous Europe, then your exporters, your American exporters can benefit from that, but on the other hand if Europe is just going to slide in its competitiveness, and slide off the world stage, "the exit ramp of history" as one French think tank put it, then it's actually good news, I would suggest, for your exporters and your producers. It's one competitor less, and don't forget there's plenty of other competition from other parts of the world. But I'll tell you one thing, as far as I'm concerned, all this extra regulation, the difficulties in Europe, they are unremittingly bad news for the European Union, and unremittingly bad news for the United Kingdom. Thank you very much.

DIANA FURCHTGOTT-ROTH: Thank you very much. I'd like to start by thanking The Heritage Foundation for putting on this wonderful conference. It is just so important to have all these issues aired, and Becky has taken a tremendous amount of time to make sure that all these details are right.

What I'm going to talk about is the effects of the EU on American business. What Ruth said was precisely right: that these regulations are slowing down business in the EU, they're slowing down the economy in the EU. And why should U.S. businesses care? Should they say, "Well this is great, because we have fewer competitors"? Well, that's one way of looking at it, but another way of looking at it is, slow growth in Europe means that EU citizens can't buy more of our goods, so we're running a persistent trade deficit, which isn't good for our economy, and it isn't good for the balances of global trade around the world. Exports account for large numbers of jobs in the United States, so slower EU growth means fewer U.S. jobs. And Europe is our largest export market, so it's in our interests to have an efficient, a very efficient Europe, a Europe that's as efficient as possible so that they can buy as many of our goods as we buy of theirs. Now, right now the EU is characterized by high unemployment, low job creation and slow GDP growth, and what I'm going to do today is just show you some data on that. And try to say that with the EU as it is right now, the potential for improving this situation is vastly lower, because these economic data, the economic aggregates that we see in the EU are directly caused by high levels of taxes and regulation. They're caused by a focus on social cohesion, which is defined as job security, and a high social safety-net, with generous benefits. But this definition of social cohesion, whereas it benefits the people who have the jobs already, it excludes those who are outside the labor market. It excludes the high level of unemployed, and it also excludes those people who do not participate in the system because they just can't be bothered to fight the system to enter, to get a job.

[Slides are projected onto a screen behind the panel]

So, here you can look at unemployment rates in industrialized countries. We see that the EU and major European countries have far higher unemployment rates than the U.S. and the UK. The EU-15 has an unemployment rate, on aver-

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age, of 8.1 per cent, this is this past month, in April. The major European countries, France and Germany have much higher unemployment rates, around the 10 per cent level, compared with our level of 5.1. This is true of 2004 also, April is not just one isolated month, we see this consistently that we have lower unemployment rates. The major EU countries, excepting the UK, have less labor flexibility than the U.S. If we look at labor market flexibility measures, we can see that on an index prepared by the OECD, we're at 0.7, we have a lot of labor market flexibility, whereas France, Germany and Italy—the main EU countries—have a lot more employment protection. This can be seen also in this following slide: the direct measure of employment protection legislation. The major EU countries protect their workers, ensuring that less productive workers and firms continue, whereas firms, in order to get themselves more productive, which they could do if they laid off workers, they're not able to do that, because of the employment protection legislation.

We talked about the 48 hour work week, well this looks at trends in hours worked per capita, which have diverged since 1970. So, since 1970, the hours worked per person in the United States have increased by 20 per cent. At the other end of the spectrum, France and Germany have declined by about 23 per cent, to 18 per cent. France by 23 per cent, Germany by 18 per cent. This is hours worked per capita, so this is a combination of more people working and people working more hours. Now, here we get to average hours worked, actually worked per person in employment in the G7 countries. The average hours worked are highest in the U.S., only Japan has a higher number, so we see that Europe is far below the level of Japan, and below the level of the U.S., the major countries in Europe represented by France, Germany and Italy. And over the past thirteen years, hours have fallen substantially, they've fallen all over, but they've fallen substantially in the major European countries, caused by these trends that Ruth discussed, and also the focus on job security and social cohesion.

Well, not surprisingly, this translates to a far lower rate of GDP growth in EU countries. You can see that in the EU-15, the rate of GDP growth in 2003 was 2.9. EU-19 it was about 1 per cent, compared with 3.1 per cent in the U.S. So all this is translating into less GDP growth, which is very harmful for U.S. businesses, because we can't export as much to these countries, and this is our largest export market.

This is an interesting chart: Trends in Earnings Dispersion in the G7 countries. It shows that there's more inequality in the United States. This is frequently criticized, we're frequently criticized as having more inequality, but what it means is that we have more opportunities at the bottom, so entry-level jobs, minimum wage jobs, we have a lot these jobs, where people can get their foot on the bottom rung of the ladder. We also have much higher opportunities at the top. And that's beneficial - it keeps our economy growing more. In Europe, France, Germany, Italy, Spain, if someone who is unemployed was offered a job paying the equivalent of \$5.15 an hour, with only one or two weeks vacation or possibly not two weeks vacation, even, they wouldn't take it. They'd stay on unemployment insurance instead, because they could do better living off of unemployment insurance, living off of the dole, as they call it in the United Kingdom, than working. But that means that the work ethic is completely whittled away. That's the kind of corrosive social policy that just hurts countries, not just in the short run, but also in the long run. In the interests of time, I'm going to skip this next slide. If you look at employment growth in the major countries, Canada has surpassed the U.S., but you can see that the major European four are far below us. The United States has had a fairly steady upward rate of employment growth. I'll skip this one in the interests of time, you see, there is a lot of data that shows this, the case is very clear.

If you look at this, this is interesting, because it shows the employment population as a ratio of the people aged 15-64—it's not just that we have more people working in the United States, we have more older people. More older people work in the United States than in any other country except Japan. About sixty per cent of this age group is employed, compared with two per cent in the EU-15. So, it's not just we work more, but our older people keep on working, our senior citizens keep on working longer, and this is true for the age group 64-75, if anyone is interested in those data, I can get you those afterwards.

If you look at incidents of long-term unemployment, not only is unemployment higher in the EU, but long-term unemployment is higher. About 44 per cent of those in the EU are unemployed for twelve months and over, compared with about 12 per cent for the U.S. And that's also extremely corrosive, if you lose your job and you can't find a job quickly, then you're far less likely to find one later on, because your skills just atrophy.

Now this slide shows the taxes paid, the percentage of labor costs paid in social security and income tax in the G7 countries. Taxes and social security take a much heavier bite out of the major European countries. That's to pay

for all the pensions, for all the social security, for all the welfare benefits. But that also provides us with a disincentive to actually enter into the labor market, because if, on average—as in Germany—fifty per cent of your pay gets taken away, you are far less likely to want to actually work. And the same is true with the social security contributions. There's the same amount is taken away, the same proportions.

Trade union density rates—you see much higher unionization rates in major EU countries. And it's not just a proportion of the workers who are affected by these trade union rates, but here, if you look at collective bargaining coverage rates, in OECD countries, more workers are covered by collective bargaining in the major EU countries than in the U.S. And again, that keeps wage high and productivity low.

Well, I hope that today I presented you with data to show that the EU has serious, serious, economic problems. A lot of those are caused by the focus on harmonization, the focus on keeping everything the same, so if one country, for example, as Italy tried to do a few years ago, cut taxes, which resulted in a higher deficit, that's a no, no from the point of view of Brussels, you're not allowed to do that. If one country wanted to cut its welfare benefits, it's difficult to do that and exclude other people from participating, because everything is supposed to be harmonised. So what we have here, is we have a situation where the slow economic growth is a vast detriment to the United States, and all United States businesses that are trying to export and trying to do business abroad. We're going to hear more specific examples from the next panelists, thank you.

IAN MILNE: Ladies and gentlemen, I want to add to what Ruth and Diana have just said by focusing on two aspects of the EU's underperformance relative to the United States and the rest of the world.

The first is demography. There is a consensus through much of Europe, and indeed amongst most of the world's demographic specialists, that Europe is facing a demographic crisis. Here, for example, is a quote from a book published in France last year, called *Germany—Chronicle of a Death Foretold*. Says the author: "The European project, with a black hole at its epicenter, will disintegrate". To illustrate this, let's look at working age populations in Europe—working age defined in the United Nations population projections as people aged between 15 and 64, those whose jobs, whose work, whose incomes, finance not just their own survival and their own lifestyles, but also children at one end of the scale and old-age pensioners at the other end.

What is forecast to happen by the United Nations and other population specialists between now and the year 2050—which is only, after all, 45 years away—is that the twenty-five member European Union loses roughly fifty million people of working age. Over the same period, the United States gains approximately fifty million people of working age. To grasp what this means, imagine some divine power coming down to Europe with a giant carving knife, and carving out of the present twenty-five member European Union, Germany, with all Germany's highly productive, hard-working and well-organized people. This divine hand then tows away Germany, with all its people, across the Atlantic and plugs it in to the American mainland. It's an image—but that is what is going to happen over the next 45 years: Europe loses the equivalent of the present working age population of Europe's biggest country, Germany, and the U.S. gains it.

Projections are only projections, and no doubt in 2050 these projections will have turned out to be wrong. Nevertheless, such is the consensus throughout Europe and elsewhere, that to ignore them would be extremely dangerous. It would be prudent to assume that something unprecedented in modern history is happening. The last time that Europe suffered population loss of this magnitude was in the Middle Ages, when the Black Death, which visited many countries over a short period, took out 25 per cent, 40 per cent, even 60 per cent of the populations there. What we have to grapple with in the next 45 years is how to manage this astonishing, dangerous and potentially catastrophic drop in working age population.

So much for demographics. Let me try to illustrate the broad magnitudes of the cost on the European economies generally and on Britain in particular of the regulation which both Ruth and Diana talked about just now. I'll cite three very recent studies. Research paper 182, from the New York Fed, in April 2004, compared the economies of the Eurozone—the twelve European countries that now use the euro as their currency—with the economy of the United States. It found that the U.S. economy is about 12.5 per cent more productive than the Eurozone economy, and that if the Eurozone were to adopt the same levels of protection—or absence of protection—as the U.S. economy, then the Eurozone also could raise its GDP per capita to levels similar to that achieved by the U.S. I don't need to remind

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you that the U.S. economy is not exactly regulation-free. What the New York Fed paper is suggesting is that the additional burden of regulation in the Eurozone compared with the U.S. economy is of the order of 12.5 per cent of GDP—a huge number.

The other two recent studies are British. One is by myself, entitled *A Cost too Far?*, in which we asked ourselves, what is the cost to the British economy of belonging to the European Union? We used extremely modest assumptions and came out with a minimum figure for the annual net cost to the British economy of EU membership of around four per cent of GDP. The GDP of the UK at present is around £1000 billion per year, equivalent to about \$1800 billion per year. Four per cent of that is £40 billion, or \$70-odd billion: real money. To put it in some kind of context: if we had £40 billion more per year to spend, we could pay for around half of our hugely expensive National Health Service, that costs the economy about £80 billion a year.

Finally, a very recent study, by Professor Patrick Minford at the Cardiff Business School, uses a quite different approach from mine. Much of his work is focused on the regulatory burden that the EU imposes in trying to protect its manufactured products sector. To cut a fairly long and complicated story short, Patrick Minford also comes up with a figure of a minimum of four per cent of GDP as the current net cost to the British economy of belonging to the EU. Both he and I also looked at measures already in the EU economic pipeline, partly those that are laid out in the draft EU Constitution, partly other things that are already in the EU pipeline, for example, the Financial Services Action Plan that Ruth referred to. And again, deliberately using conservative, modest assumptions about future costs, both Patrick Minford and I come up with figures for the additional net cost of measures already in the EU pipeline of ten per cent of GDP and upwards. Adding ten per cent minimum for future costs to four per cent minimum for current costs, you have a net cost to the British economy, over the next few years, of merely belonging to the European Union, of 14, 15, 16, or 17 per cent of GDP.

These three studies have all been done within the last fifteen months, and suggest that the underperformance of the Eurozone and the EU-25 economies that Ruth and Diana referred to are not temporary phases or blips, but indicative of deep-seated structural problems. Thank you.

MARK RYLAND: Good afternoon everyone, and thanks for being here. Thank you to our esteemed panel for allowing me to join you. My name is Mark Ryland, I work with the Discovery Institute, a think-tank here in town. And as was mentioned in the introduction, I used to work for Microsoft. I worked for Microsoft for almost ten years from the early 90s until September 2000, and let me make clear here that I am not speaking on behalf of Microsoft, of course. In fact, perhaps the reason I am here is that you can't get Microsoft to come here and speak along the lines that I will be speaking. I should also make clear that I no longer hold any financial interests of any substance in Microsoft, so I'm not speaking to my own personal advantage either.

Now, I'm not an expert in European affairs, I'm learning a lot today, and I'm not an economist, and I am lawyer, but I'm not an anti-trust lawyer—so you may wonder, “Well, what is he doing up there on the panel with these esteemed people?” And I think the answer is: two things. One is that I know quite a bit about Microsoft, and the other is I know quite a bit about software and software markets. And the tale I want to tell you today is one more about a kind of business situation and how it played out in terms of competition regulation, and sort of allow you to draw your own conclusions about, I guess, the fairness and the wisdom of the regulatory scheme that's in place.

I've got several points to my talk. I want to first talk very briefly about the historical framework for competition regulation and how it's coordinated between the United States and the European Union. I want to talk briefly about the United States anti-trust case against Microsoft and its conclusion. And then the bulk of my talk is to go into a little bit of detail about the two major prongs of the European Union case against Microsoft, and the current outcomes. And then very brief words in conclusion.

So what is the framework that we're dealing with here? The framework goes back a long way, but in 1991 a lot of the informal understandings between these different regulatory bodies were codified in a coordination and cooperation agreement, which was entered into between then, the European Community and the United States with regard to competition laws. I'll read you a couple of passages to give you a sense of this document, it's easy to find on the web, and I've got some references if anyone's interested afterwards. In Article 4, paragraph 3, it says, “In any coordination arrangement,” that is once the parties have agreed to coordinate anti-trust enforcement, “each party

shall conduct its enforcement activities expeditiously and, insofar as possible, consistently with the enforcement objectives of the other Party.” Article 4 is entitled “Avoidance of conflicts over enforcement activities” and this document has been updated and so forth in the intervening years. I think it’s clear to say that there is a clear understanding that was in place throughout the 1990s that the two anti-trust entities would do their best to work together and also to avoid the problem of different enforcement outcomes and regimes for multinational companies dealing with global markets. And it is the case, I think it’s very clear to say, that the U.S. authorities in their case against Microsoft fully kept their end of the bargain, there was a lot of coordination, and cooperation with European authorities in their investigation and case against Microsoft.

So what happened in the U.S. case? Well, it’s a very complicated case, I’m going to simplify it into two categories, which more or less match the two categories in the European case. The first part was an aspect of what, in that trial, was called “middleware”—and that’s an awkward term, which in the industry usually refers to network layers of software, used in networking environments, but in this case—sort of uniquely—it was used to designate parts of the operating system which arguably are optional, that could be added or subtracted and you would still have basic operating system functions. In particular, things like the web browser, which was a big issue, but also the Java programming language of Sun Microsystems, and in particular, the Windows Media Player, the addition of streaming media and other media functions to the operating system by Microsoft.

Now, Microsoft had a policy prior to the case of allowing its OEM—now, OEMs are the people like Dell and HP and IBM that sell their computers with Windows pre-installed, and that’s the predominant way that Windows enters the marketplace. Microsoft had a policy with its OEMs that said they could install other people’s software, but they couldn’t feature them. If there was a Microsoft version of some capability, had to be sort of be there by default, and sort of the premier one. And there were limits on what the user interface experience would be, Microsoft’s argument being, “Look, if they’re going to call us with support calls on the telephone, we need to have a constant environment that you can add things, but you can’t change the basic configuration.” This was in the case and in the settlement, there was a conclusion drawn that this was anti-competitive and so in the end Microsoft settled the case, allowing its OEMs to install any of the other competitors’ products, instead of theirs, or in addition to their making any one those the default product. So that if you started your Dell computer, assuming they wanted the Real Networks Media Player to be the one that runs the media subsystem, then that would be possible. That was part of the settlement. The other part of the settlement, the other part that’s relevant to the EU case was on the relationship between Microsoft’s clearly dominant position within the Windows operating system client market, there was an ongoing concern that in the server business, the back-end services provided over network to the client systems, Microsoft’s market share had been growing throughout the 1990s [*unclear due to recording error*] but the concern was that somehow there was a leveraging going on because they had predominant share in the client, they were now taking market share in the server, because of the client business—it’s very arguable, as I’ll say, that that was the case, but that was the fear. And so Microsoft agreed to open up the protocols, the networking operations that would connect its clients to its servers, and allow any other vendor to actually clone, to make a copy, of its server, in the sense that it would respond to those same commands [*unclear due to recording error*] and the proprietary protocols. Microsoft agreed to a licensing—it was basically a compulsory license, the government required that it license these protocols to other vendors.

So that’s the background in the U.S. What happened in the European case? Let’s start with the Media Player. While the U.S. case was still pending, Microsoft’s primary competitor in the streaming media world, Real Networks—a company actually started by an ex-Microsoft executive—complained to the Commission that not enough was happening in the U.S., and they wanted more stronger enforcement against Microsoft. So, the Commission responded to that complaint by starting an investigation which, after a number of years now . . . we’ve jumped more or less to the present, the Commission concluded that the Windows Media Player bundle—the fact that Microsoft added the streaming media player to the operating system was an illegal tying arrangement. Now, those of you who know anything about anti-trust law, tying arrangement means that you have some product people really want, and some product they may or may not want, and you say, “You can’t buy my *first* product, unless you buy my second product.” Now, normally in tying cases, you have to pay more for the second product, which is where you’re getting your economic leverage. But it didn’t seem to bother the anti-trust authorities in this case that the second product is free, and actually is included as an enhancement to the first product—even assuming that they’re separate. So, the Windows Media Player was found to be an illegal tying.

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Now this is interesting—not only was the product free, but Microsoft does not have a dominant position in streaming media, it's actually one of three, roughly equal players in the streaming media market, along with Real Networks and Apple Quicktime. Probably all of you who use computers are familiar with all three of these technologies, because for better or worse, you often have to have all three players installed, because the web content has all the different formats that are out there. Moreover, what is fascinating is that in all these cases, the players are typically downloaded for free from the web, so the whole issue of delivering is somewhat moot. Real Networks admitted, in this case, that they had delivered more than 300 million copies of their software to client systems, without any bundling or pre-installation or anything on the Windows operating system. But nevertheless, the European Union anti-trust authorities concluded that this was an illegal tying arrangement.

Now here's where I think it gets really interesting: let's assume that this is okay, that so far we're doing fine in terms of anti-trust law. What is the proper remedy in this case? Here's what Microsoft offered, they made a firm settlement offer, along the following lines: Microsoft said, "We will include in the master copies of Windows that we ship to every OEM throughout the world"—not just in the European Union—"copies of not only our Windows Media Software, but copies of all our competitors software," so that when you buy an OEM computer from any manufacturer, it will include not only the Windows Media Player, but Apple Quicktime, the Real Networks Real Player and then one other vendor whose name I didn't even recognize, I guess is a sort of distant fourth in this competitive marketplace. That offer was turned down. The only remedy that the European Union authorities would accept was the removal of the Windows Media Player from the operating system. So now, Microsoft has in fact, in the last few weeks, shipped a special version of the Windows operating system, which is unique to the European markets, it's called the Windows XPN, and the "N" stands for "No Media." And this is a product which costs the same as their other product, it has no media player, and not only does it not have a media player, but it another detail which I think is interesting is, the way Microsoft and most modern vendors build software is in a modular form, you build different components to do different functions and then in the case of the end user, you build a special application layer which presents the user interface and does the functions that the end user interacts with. But because Microsoft is an operating systems vendor, it builds these modules so they become part of the system, so any other application can also take advantage of video streaming services or sound management, things like the function of a graphic equalizer, those are all built into these components in the system.

So when Microsoft proposed a solution, they said, well, let us remove the end user layer, but leave these other components in there, because our independent software vendors depend on those being there for their applications to work. But that was not good enough. So those components had to be removed as well, so now you have web sites that you can visit and applications that you can install on your special copy of Windows XPN that don't function properly, because those modules have been removed. Now, it should as no surprise to you, that the latest market report suggests that nobody is buying Windows XPN, it has zero sales, and no OEMs are pre-installing it. So after all of this wonderful regulatory activity, counting the tens of millions of dollars of legal time alone, I'm sure, maybe more than that, as well as all this activity by the vendor in having to completely change—it's the first time in the history of the software industry that any vendor has had to change the content of its product as a result of anti-trust enforcement. That has now gone by the wayside, and so you have this crippled product which no one is buying.

Now, I'm going to have to go quickly through an arcane topic, which is tough, but on the server side, let's just say that in the early 1990s, how many of you here remember Novell Netware? Raise your hand if you ever used Novell Netware? Probably most people did at some point. It was the dominant product in the workgroup operating systems in business in the early 90s. But through basically a series of major business missteps, in my opinion, but I think it is well-documented, Novell, rather than focusing on its core technology, in advancing it quickly and powerfully got sidetracked with competing with Microsoft on some sort suicidal basis by buying Word Perfect and Quatro Pro, they bought UNIX, they bought DR-DOS, they bought all of these companies to try to make themselves into another Microsoft, and it failed in almost all those businesses, and meanwhile, their network market share declined precipitously. And so Microsoft's market share naturally increased throughout this period. So, by the end of the 90s, when this anti-trust activity was going on, people began to accuse Microsoft of unfairly leveraging their Windows client dominance into dominance on the server as well. So, as I said in the U.S. case, they agreed to open up certain proprietary protocols so that other people could make clones, that is, you know, interoperable copies of servers that looked just like the Windows server too, or Windows client. But that wasn't good enough for Sun Microsystems, who

originally brought another complaint in the European Union against Microsoft, saying “Not only do we want those protocols, but we want the server to server protocols, so that we can not only appear to be Windows servers to other Windows clients, but we want to be able to look like Windows servers to other Windows servers—we want to be able to incrementally replace copies of the Windows server, even though they have a whole set of additional protocols that are used between them to create this cloud of network services.” And that eventually resulted in a ruling by the Commission that Microsoft had to open up those interfaces, and to give away that intellectual property on a licensed basis.

Now, let me just read you one part of the decision made by the European Commission's anti-trust authorities. Here was the crux of the case, the question was: is there any objective basis for Microsoft not to give this proprietary technology to its competitors. Microsoft seemed sort of dumfounded by that question, they had a hard time explaining what is objective justification, beyond the fact that we developed our own proprietary software that has a lot of value, and we shouldn't have to give it away? That answer was not considered an objective basis for maintaining its position by the authorities. They said, “The major objective justification put forward by Microsoft relates to its intellectual property in Windows. However, a detailed examination of the scope of the disclosure”—that's what it is being asked to be revealed—“at stake leads to the conclusion that, on balance, the possible negative impact of an order to supply”—I'll put in brackets: this proprietary technology to its competitors—“on Microsoft's incentives to innovate”—Microsoft's argument being that if we don't get paid for investments we make in software, then we won't make investments in software, we won't innovate. They said, well, on balance, the possible negative impact of this order on Microsoft's incentives to innovate is “outweighed by its positive impact on the level of innovation of the whole industry, including Microsoft”.

Stop and think about that for a second. So, Microsoft has to give away its proprietary technology so that other people can make copies of its technology. And that means that Microsoft will not want to invest in stuff that it has to give away, but somehow the whole industry will now innovate more—is what we're being told. So, that gives you some idea of that rationale that's going on here.

So, I'll simply conclude by saying that it's a very interesting situation. First of all, the lack of deference given to this very complicated, elaborate and thorough litigation and settlement that happened in the United States. Point two would be what I would say is an economically ridiculous solution to the streaming media player problem—assuming there is a problem. And finally, this sort of Alice in Wonderland decision based on the lack of an objective basis for withholding proprietary technology from your competitors. All those things, I think, can lead one to wonder if we have a regime that is doing things in a way that is wise and fair to U.S.-based companies. Thank you very much.

BECKY NORTON DUNLOP: Thank you all very much, I think everybody on this panel contributed very well to our discussion today. I'm going to take time for two questions, because I want to make sure that we keep our program moving along and we do have two more panels.

UNKNOWN SPEAKER: I have a question for Mark Ryland. Is this lack of deference in anti-trust matters a departure from previous precedents, and if so, does that have implications for not just Microsoft, but other U.S. corporations operating in Europe?

MARK RYLAND: That's a great question. I'll partially disclaim my answer by saying I'm not an anti-trust lawyer, by background, but I think it's fair to say that somebody in this room would know if there was any other major case like this, which had inconsistent enforcement outcomes. I think we all recognize, just as common knowledge that this is new, this is a change. And I think there's a couple of other examples, I think there's a GE case, and a few other things that have happened in the last few years that indicate a willingness to depart from a previous sort of gentlemen's agreement about cooperation and multinational anti-trust enforcement.

BECKY NORTON DUNLOP: Thank you. Yes?

UNKNOWN SPEAKER: For the record, I'm not a member of the European Parliament. [*Laughter from Becky Norton Dunlop*] Two quick money ideas and then a question. One is that Mr. Ryland forgot to mention the most important aspect of this case, which was the 500 million euro assessment levied against Microsoft, which will presumably finance the restaurant industry in Brussels. Secondly, Mr. Ryland is very cogent in his questions about the cost of regulation—there's also a direct cost. Niall Ferguson has estimated that Germany has spent, net, \$120 billion since 1992 in direct subsidies to the European Union. An amount of money which exceeds, in real dollars, and con-

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stant dollars, the projected cost of the Versailles Reparations, which caused such tumult, yet you would think the Germans would be, you know, carrying pitchforks and knives to march on Berlin and demand their withdrawal from the European Union, but they seem to be silent. My question is for Mr. Milne, and Ms. Lea: how soon is it before the European Commission begins to regulate capital flows? It seems to be the next logical step: if you're going to grasp for everything, why not grasp for that as well?

RUTH LEA: I suspect they wouldn't. Do you mean within the EU or generally, nationally?

UNKNOWN SPEAKER: Within the EU.

RUTH LEA: Within the EU. It's against the Single Market, the four freedoms, capital and labor, goods and services, so I don't think you'll get controls over capital flows. But I think, more interestingly, your point about Germany is that they have been actually paying for the European Union from day one, way back in 1957. And why aren't they revolting? Well, perhaps at some point you will find that they will. And of course, one of the problems with the current budget, is that a lot of the new countries that came into the EU, they're expecting very nice goodies from their membership—rather like the Spaniards and the Portuguese and the Irish and the Greeks. It is not going to happen, and I think that in itself, the sheer disappointment, may actually change their attitudes towards the European Union, and who knows, at some point they might actually take the view that I take, that the EU is ripe for some sort of break-up between the core countries and those countries who really want a much less integrated relationship within Europe.

IAN MILNE: If I may add to that, on the pitchfork question, the Germans, there was an opinion poll conducted by the popular newspaper Bildt, in Germany last week, and they got 360,000 people to call in, and the question was, if there was a referendum in Germany, would you reject the Constitution or would you approve it, and the "no's" won by, I think 96 per cent. Now it's only an opinion poll, and so on, but things are—even in Germany—beginning to simmer, and I would anticipate turbulence, to say the least, in that country, as well as in the other Eurozone countries over the next few years. On the point about will the European Union try to regulate capital flows, the French are desperate to regulate capital flows, and Chirac and his successive governments over the last five years have been pushing in the G8 forum, but also within the European Union forum, the idea of a Tobin Tax on financial transactions. So far, it hasn't got very far, but it hasn't gone away, and it is possible that, especially if the European Union or the Eurozone countries themselves are desperate to get hold of extra tax revenues, something like a Tobin Tax, or some regulatory mechanism affecting capital flows, that would raise money at the same time, might be brought in.

BECKY NORTON DUNLOP: Thank you very much. Let's thank the panelists once again. I believe they all will be with us for the rest of the afternoon, but I'd like at this point to ask Lord Pearson and the next panel to step right on up here, and we'll just move right along.

Panel Four

The View from Europe

LORD PEARSON: Ladies and gentlemen, I'm afraid it's me again! We're now going to consider what this project looks like from New Europe, and to do that we're going to have Marek Chodakiewicz, who will tell us specifically about perhaps the most significant country of the new European intake: Poland. And then Daniel will step up, from his vantage point in the European Parliament, with what it looks like to the rest of the new European countries, otherwise known as the applicant nations.

Before we do so, I wanted to just touch on a couple of misunderstandings about New Europe. The first one is the question of Turkey and Turkey's eventual entrance to the European Union. There's a lot of talk about it, and most commentators seem to think that the entry of Turkey into the European Union is still on the cards, and even might be a good thing. I don't want to comment on whether it would be a good thing or not. It isn't designed to happen for ten years, and I suppose by the time ten years are up, we'll know more what has happened to violent Islamism on the planet in general, about which we heard a bit from Seffy this morning, and particularly in Turkey itself. But one thing we should be aware of is that on the 28th February this year, the French president changed the French Constitution to give the French people a referendum on any eventual entry of Turkey into the European Union. And the night before the French vote, in his final plea to the French people on television, Monsieur Chirac reminded them that they now had the veto on eventual Turkish membership. The Austrian people have since also been promised a referendum on Turkish entry. Turkish membership would have to be unanimous among the countries of the European Union, and so, unless that unanimity rule is changed in the meantime, it looks unlikely.

And then there's another misunderstanding, which is worth clearing up, which is one of the difficult points the Europhiles think they put to us, regularly. I'm sorry they are no longer with us after their lively contributions this morning, because I'm sure they'd put it now. So I'll put it for them: that question is this: If the EU is so awful, why did all those new European countries vote in their recent referenda to join it? Well, having visited Estonia quite a bit during their referendum and having followed what went on in several other applicant nations during their campaigns, I do have some insights to share with you in answer to that question. Most people have got the point that turnout in all the new member states was very low, and that spending was massively biased in favor of the "yes" campaigns. In Estonia, for instance, it has been estimated that the Yes Campaign spent some fifty times more than the No Campaign could raise. It wasn't just the governments of the applicant nations who supported the "yes" votes; the European Commission spent liberally on what it was pleased to call "information"—which was, of course, just straight propaganda, as you can imagine.

But the influence which was more hidden, and which has not been spotted by most observers is this: It is that many, perhaps most, of the officials and bureaucrats who negotiated the entry of their countries into the European Union hoped to get jobs in Brussels, or paid on the Brussels pay-scale, after their countries were accepted into the EU. If they could get one of those jobs, after their country joined the EU, their pay would go up by a minimum of ten times their national salaries. The Polish ambassador to the United Kingdom has told me, twice, that 1,400 Poles have now got jobs in Brussels, or paid on the Brussels pay-scale, after Poland joined the EU. And he admits that most of them would have been involved in the accession process. So I submit that this prospect must have influenced the political and official elites who led their countries into the European Union.

Ladies and gentlemen I think we'd all do quite a lot for ten times our present incomes. Whether membership of the European Union will turn out to be such a good deal for the peoples who were thus deceived into voting for it remains to be seen, and is the subject of this panel. Ladies and gentlemen, Marek Chodakiewicz.

MAREK CHODAKIEWICZ: Ladies and gentlemen, Lord Malcolm, thank you very much for having me here. I would like to devote my speech to the Polish plumber, who single-handedly overthrew the European Constitution, in France and supposedly in Poland. Please keep this in mind, because I will talk here about both elite and popular

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attitudes towards the European Union. Now, as far as the elite is concerned, allow me please to read a letter I received in May of 2001, from a Conservative friend of mine in Warsaw. He wrote:

It is with a certain degree of surprise that I have learned that, during your next trip to Warsaw, you intend to participate in the EU debate and to take a stance against the integration. I do not think this is a good idea. This is not because I am a great supporter of the EU. Nonetheless, the media-driven power system is clear: whoever opposes the EU must automatically be a paranoid individual, a mad rightist, and an insane populist. You have put too much effort to establish yourself as a solid historian to risk everything with a single show. Please realize that no one will be debating you seriously about the EU. Your anti-EU views will however become proof of your lack of integrity as a professional historian. How can one be a good historian and not support the EU?

Now, this was written by an intrepid individual, who already in high school was involved in anti-Communist underground activities. This wasn't written by a mainstream pragmatic; this was written by a hardcore conservative who wished me well and who kept quiet. This was the elite attitude on the right, for the most part in Poland on the eve of the accession, and on the eve of the EU referendum. Generally, the Polish people have been rather skeptical about the EU project; their reaction remained passive. For example, less than half, 45.3 per cent, of eligible voters actually cast their vote for the EU accession in June 2003. Although the turnout was barely 59 per cent, the affirmative scored 77.4 per cent of the votes cast. Nonetheless, in some of the provinces, less than 1/3 of eligible voters cast an affirmative vote. Well-educated professionals were over-represented among those in favor. Young and liberal chose the EU more often than the old and conservative. Urban dwellers outnumbered the villagers in the "yes" category. More populous provinces sided with the EU more frequently than the less populated ones. Last but not least, the denizens of western Poland were more inclined to vote for the EU than the inhabitants of the nation's eastern regions. The voting patterns reflected the levels of hope for a better future, the susceptibility to the EU propaganda, the level of economic development—including unemployment—and the degree of the informal integration with the West. The electoral outcome also resulted from media censorship and oppressive atmosphere fostered by the Europhoric elite.

Now, as far as Poland's elite is concerned, we can discern two or three major trends. One is the Euroenthusiasts, and they span the spectrum from the far left to the far right. The Euroenthusiasts generally speaking are divided into Europhoric elite, and the mild Euroenthusiatic group. The Europhoric elite consists, primarily, of leftists; they see the European Union as a great, hopefully socialist, hopefully socialist for them, experiment. In particular they are looking forward to social engineering, a variety of cultural experiments, homosexuality galore, and what have you. The greatest fans on the lefts of the European integration are the post-Communists. The post-Communists know that if Poland remains within the EU, they can enjoy enormous impunity for their crimes, because they haven't been punished yet in Poland for anything. Hardly a single secret policeman has been sentenced during the terrorizing of the population for half a century. Because the EU was more concerned with General Pinochet than with Stalin, the Communists know that they can do anything they please. Also, the Communists are rudderless, they are looking for a new sponsor, and Brussels appears to be much nicer and it's capable of bestowing on them a greater amount of largess than Moscow. Then among the Euroenthusiasts, you have a mild group. Many of them are conservatives—or at least center-right—and their attitude can be summed up by a comment a friend of mine made, Radek Sikorski: "Hold your nose and vote for the EU." Now their concern was that Poland would be left behind if it didn't join the EU—when there is a wave, you're supposed to surf on it. So in a way, in terms of their *modus operandi*, they're mainstream pragmatics. Most of them are also concerned about Poland's safety and security. They felt that if Poland joined the EU that would be a logical step to complement Poland's membership of NATO. Also, the conservatives, the Euroenthusiastic conservatives expected that the EU would be pro-American. They were wrong, of course, and I'll return to it in a second.

Now, there is another group: Euroskeptics, and in Poland unfortunately only a minority of Euroskeptics support the free market. Most Euroskeptics are, in fact, Europhobes, they would like Socialism, albeit with a Christian face. They are also scared that Hollywood and Madison Avenue will be translated into German and descend on Poland, in a series of pathologies and cultural aberrations undermining Christianity. Those are the Europhobes.

Now, the Euroskeptics are much milder and they are much closer to what the British side proposes. They are very strongly pro-American, they are also for the free market, they don't like any social engineering. The atmo-

sphere, like in Germany, has also been changing in Poland, not only in the wake of the defeat of the European Constitution in France, but also because of several developments: namely the former Euroenthusiasts, the conservatives have had a chance to participate in European institutions and to observe the scene very closely, and what they see they don't like, namely the Byzantine bureaucracy of Brussels, Socialism in European economic policy, and last but not least, virulent anti-American sentiment among many of Europe's intellectuals. It seems that the European Union as a project has no glue, except for its anti-Americanism, and that's simply not acceptable, even for Poland's Euroenthusiastic conservatives.

In particular, those conservatives who deal with the European Union formerly were Euroenthusiasts have been shocked by two developments: first, when the European elites refused to include the *Invocatio Dei* into the preamble to the Constitution, invoking of the Lord's name is what most people expected, most of the conservative elite. In Poland they didn't understand what the problem was, and here The Heritage Foundation audience, for the most part, I believe would not object either, unless one was to take the Lord's name in vain. It simply appeared to be no problem, but yet, it became a huge problem and there were very vigorous debates in the European Parliament about it, and the Polish conservatives were taken aback. Hence they moved, some of them, even closer to the Europhobic positions of those colleagues of theirs who have been opposed to the EU from the very start.

The second symbolic event occurred this spring, in April, when the European Parliament and the European leadership refused to honor Polish officers shot by Stalin's secret police in the Katyn forest in 1940. Well, it appeared to the Poles, and Polish conservatives and even centrists that many of the Europeans hate the U.S., and they like Commies, and they didn't mind Communist totalitarianism. Well, that was not acceptable. It has also been noted that the only time the European Union intellectuals mention Nazism is to use it as a baseball bat to bash the rightists on the head, through a maneuver known as *reductio ad Hitlerum*. And whenever they talk about the Holocaust, they will quickly couple it with a very suave—albeit false—analogy of tying Israel to the Third Reich. The Polish conservatives didn't like any of that, so the opinion among the elite moved, not so much against the EU, but it moved more to the right and became more Euroskeptical.

Okay, that's the elite. As for the people, most people didn't vote for the EU. They simply refused to participate and the vote was split also because some Europhobic and Euroskeptical groups called for a boycott and some of the electorate listened to it, and others voted and were defeated. Now, the people at home in Poland, an average man who'd like as much money from Brussels as is possible, and would like to do nothing, just get the money, which is natural—that's how any people work—the people want everything and they wouldn't like to work for that . . .

UNKNOWN SPEAKER FROM PANEL: They should become MEPs

MAREK CHODAKIEWICZ: Absolutely, don't tell them that. Imagine the increase in size of the European Parliament. In any event, unlike Poland's bureaucrats who count on the largess and count every penny that they hope to be getting from Brussels, the people of Poland have been active abroad, not at home, but abroad, so you have Polish baby-sitters in Belgium, strawberry-pickers in Spain, farm workers in Sweden, construction workers in Italy, Great Britain—the famous Polish plumber—and in France. I hear that Poland's butchers who moved to Germany practically monopolized the field, and because their production costs are so low, and they still have pre-industrial skills of an artisan, they practically slaughtered the German competition. Pun intended!

In any event, so the people have been moving and showing initiative to take advantage of the situation that sort of fell into their lap. It has very little to do with anything organized by the politicians or bureaucrats.

As far as the educated are concerned, the young have been moving, too, either obtaining scholarships in the West, or traveling for short courses, learning languages and enjoying academic freedom. Some computer programmers were able to secure jobs in Germany, most of them come to the United States, so it's not an EU issue. Physicians from Poland have been moving in groups, probably several hundred so far, to England, to the United Kingdom, where they are quite welcome. In fact, the British—true to their free market predilections, or at least *some* of the British to their free market predilections—have been the most welcoming of all. The Germans are both uneasy and happy, because they can buy things cheaply and they can contract things from the Poles. The French, for the most part, if you judge by their press have been hysterical. How dare a Polish plumber come and offer to service one's bathroom right away, without having to wait for half a year, and he does it for 25 per cent of the fee that a French

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plumber requested. Incidentally, following that Polish plumber hysteria in the French press, the Polish tourist authority took out an ad with a very handsome, California-looking Polish plumber, superimposed against the background of Poland's lovely medieval capital of Cracow, saying "Come visit the Polish plumber." The ad was in the French press; I don't know if it made it to England.

Well, let me just say a few words about the EU, the elite and popular attitudes abroad, not in Poland. As for the impact of the EU extension on Poland, it's too early to tell. We don't have enough data. The Euroenthusiasts have been waving the flag, the Europhobes have been saying, "You haven't seen anything yet," but neither the pie in the sky predictions of the Europhorics, nor the doomsday scenario of the Europhobes have come true yet.

There are some mixed signals, however—Poland's unemployment continues to hover around twenty per cent, suggesting a structural problem inherent in a deeply flawed post-Communist system set up after 1989. Taxes are crippling, the bureaucracy is positively Byzantine, popular culture reflects the same malaise as in the West. Finally, commercial relations and tourism within non-EU Eastern European nations have been showing very confusing signs. In the public sector the bureaucrats have complained about insufficient funds from Brussels. That is, however, because they sometimes miss the deadlines to file applications for the EU handouts. Knowing government bureaucracy one can doubt that the situation will improve any time soon. In the private sector, a few large manufacturers are closing shop, and moving their operations to other nations where labor is cheaper, and corporations not crippled by the EU's regulations and taxes. Most have relocated east to Ukraine in particular. Meanwhile Ukrainians and Belarusians and other visitors to Poland have complained about problems with Polish visas. Most visitors have been coming to work illegally, but the EU endeavors to ban them from progressing further west. There are even plans to install German border guards on Poland's eastern frontiers. There have been also a few snags and complications regarding the incompatibility of Poland's laws with the EU's legislation. For example, the German police and Polish bureaucrats have raided a Polish company on Polish soil because it subcontracted workers at competitive prices, due to the low cost of Polish labor insurance. The workers were dispatched to Germany to perform small construction tasks and such. However, once the Poles acquire German labor insurance it will no longer pay to hire them in Germany.

Another example of cross-border tensions involves a Polish printing shop which was commissioned to print a neo-Nazi newspaper. Poland's secret services stopped the operation. This was embarrassing not only because the printers claimed that they apparently did not know what they were printing, but also because Germany's neo-Nazis are vehemently opposed to outsourcing and working with the Poles using Polish labor in particular. One can look at this affair both as free market at work and a case of *pecunia non olet*.

Last but not least, the EU extension has facilitated some cultural changes, some of them considered revolutionary in Poland. In particular, the drive for sexual liberation has elicited strong conservative opposition. Undisturbed, Polish homosexual activists invited their gay counterparts from Germany and Sweden (as well as prominent Polish leftist and liberal politicians) to stage successfully the first ever Equality Parade in Warsaw in June 2005. The demonstrators marched despite the official prohibition by the conservative mayor and several counterdemonstrations, dubbed the Parade against Pathology, by the traditionalists and Christian nationalists. Reportedly on the orders from their post-Communist superiors, the police manhandled the counter-demonstrators, while allowing the illegal Equality Parade to proceed. Gay power is probably one EU import that the Poles are not yet ready to embrace and celebrate. Nonetheless, whenever human ingenuity, local self-government, and free markets are able to assert themselves, things improve. For example, a cross-border Polish operation involving printing a German sports magazine directed at teenagers has been rather successful. The same Polish publisher, who happens to be a libertarian conservative friend of mine in his late twenties, also scored well with a papal album directed at the German reader. Likewise, his Polish publishing endeavors have been going well. Another publisher I work with, a kid in his early twenties, not only published Ronald Reagan's selected speeches and Russell Kirk's *Prospects for Conservatives*, but he also published his bestseller, Vladimir Bukovsky's diatribe—fresh off the press—against the EU, and it's selling very well.

To conclude, despite some Western opposition and bureaucratic hurdles, the Polish people have accommodated the EU. On the one hand, while abroad, the people rely mostly on themselves and their own initiative, usually circumventing the official channels. On the other hand, while at home, they expect to be assisted by the government

bureaucrats, preferably with EU funds. They want big subsidies at home and they take advantage of job opportunities abroad. In other words, they'd like to have their cake and eat it too, a situation not dissimilar to that of any voter in any mature democracy, including the United States. Nonetheless, despite some clear advantages, the people have now experienced the reality of the EU and, consequently, the popular support for the project has dropped significantly. The electorate has moved seriously to the right. That is coupled with the renewed Europhobic anti-EU offensive as well as the reintegration and reinvigoration of the Eurosceptic bloc. The Euroenthusiastic and Europhoric elite duly took note. The EU constitutional referendum has been postponed. The leftists lay low and wait for their allies in other EU countries to reassert themselves. Poland, although important, cannot affect a comprehensive change on its own. With all due respect to the Polish plumber, it will take a concerted effort of all the Eurosceptics under the British leadership to turn the EU into a free market enterprise. And freedom will certainly prevail if the good people of the United States of America lend their hand to this undertaking. Thank you very much.

DANIEL HANNAN: Marek dedicated his speech to the Polish plumber, so I'd like to dedicate mine to his apple-cheeked cousin, the Polish *au pair*, also prominent in London, and to one particular Polish *au pair* called Derotto, whose presence in my flat is facilitating my presence among you today.

Join me in a little thought experiment. Try to imagine that you are completely neutral on the question of European integration. I can see that Kim Bolt's brow is furrowed at she makes the effort to do it, but push out of your mind all considerations of sovereignty, federalism, democracy, and instead just ask yourself that basic question, which as good conservatives we should always ask of any new proposal: how well is it working? What can we infer from what we can already see? Before we give any new powers to this machine, let us analyze what it is doing with the powers it already exercises. We could do worse than to start with how it administers itself. Is it a clean open system of public administration and good governance?

I will never forget my first day as a Member of the European Parliament. I flew in from London and I turned up with ticket and I presented it to the reimbursement lady, and she wrote me a check; and I nearly dropped it in astonishment. I said, "No, no, you've made a terrible mistake. I've only come from London." And she said, "No, there's no mistake, Monsieur, that's the rate of kilometrage, that's what we pay you." I said, "But it can't be, there is no way that anyone by any means could have spent this sum of money getting from London to Brussels." And she said, "Yes, that's right, sir, that's how we work it out. It's done on the basis of the most expensive putative fare, the most expensive first class fare that we could think of, plus twenty percent, regardless of how you make the journey." So if you did travel first class, if you did take the most expensive fare possible, you would make a not inconsiderable profit. But if you have an imaginative travel agent, and you're prepared to take a low-budget airline or drive, I'd have thought you could easily—from my part of the country—you could easily make two thousand dollars in clear profit every week. Tax free, because of course it doesn't count as income, it counts as an expense.

And then I went along to the next person, who ran what they call *frais généraux*, the general expenses account. Again, this is a large sum of money, about four and a half thousand dollars a month. And I said, "What's this for? Is it for renting an office?" "Oh, heavens, no, we give you an office, in fact we give you two offices." And I said, "Well it's for what, for computers?" "No, no, no, no. We give you computers." "Well," I said, "I'm going to find it difficult to get through this just on paper clips and stationary.", They said "Yes. Well, between you and me sir, it's never audited and most of your colleagues find it convenient to have it paid directly into their current accounts." I said, "Are you telling me this is just some sort of hidden . . ." "I said no such thing, monsieur! Those were your words!" And so it went on. I could use the rest of our time telling you about MEPs' scams, but they pale into insignificance. The real scandal is not the tens or hundreds of thousands of dollars that are disappearing into the pockets of Members of the European Parliament, but the tens of billions that are going missing in the European Union's agricultural projects, foreign aid, boondoggles, structural funds, and so on.

For, as we heard this morning, for the twelfth year in a row, the European Court of Auditors will refuse to endorse the EU budget. In its report last year, the Court of Auditors said that it could account definitively for only nine percent of total EU spending. It could not account definitively for the other ninety-one per cent. Imagine that this was The Heritage Foundation that we were talking about, and the auditor came along and said, "Well, I've gone over the accounts here, and for all I know ninety-one per cent of the money that you've raised could have been stolen or lost." People would go to prison for that, if a think tank or a public company operated on that basis. People

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would be behind bars. But we are so accustomed to it in Brussels that it doesn't even make the news anymore. It's just, "Oh yeah, Euro-sleaze, dog bites man story, we've heard all that."

And the worst of this is that it isn't getting any better. I've lost count of how many times we're told that there is now an absolute priority of clean-up. My second day in the European Parliament, when I was still reeling from this, we came onto the question of appointing the new Commission. Now, I was elected six years ago, in 1999, in the aftermath of the worst corruption scandal in the history of the EU. A very brave Dutch whistleblower called Paul van Buitenen had exposed awesome, gargantuan levels of fraud. We're not talking here about money being lost or poor accounting, this was straightforward graft and theft—kickbacks in return for contracts, people keeping their friends and family on the payroll at public expense. There was a French commissioner called Edith Cresson who was keeping on her dentist as a consultant at one hundred and twenty thousand a year. I'm not sure how I can put this—I think he was doing rather more than filling her teeth which is why she was so keen to keep him on.

Anyway, the leaders of the EU got together and they said, "This is the worst sleaze we have known in the history of the . . . Who are we going to get to clean it up? Who will have the requisite skill? I know, let's bring in an Italian politician." And not just any Italian politician, but Romano Prodi, himself the subject of three separate sleaze inquiries in his native Italy, not counting the two that he then notched up as President of the Commission. Romano Prodi reappointed four members of the previous Commission, which had been collectively condemned by its own auditors, and put one of those four—Britain's Neil Kinnock—in charge of the clean-up operation. Six years on, how many people do you suppose were fired, in association with that scandal? I asked Kinnock just before he stood down. Not one person. Not one person has lost his job in the European Commission in connection with maladministration or fraud. But, two people have been removed from their posts, not for engaging in sleaze, but for exposing sleaze. First Mr. Van Buitenen himself, who has returned angrily to his native Netherlands, and has now been elected to the European Parliament on an anti-corruption ticket. The second was the chief accountant who was brought in to clean this up, who was a Spanish lady called Marta Andreasen. She looked at the accounts and she discovered something extraordinary, which is that the European Commission uniquely in the modern world, has no system of double-entry bookkeeping. Its accounts were being held, effectively on Excel spreadsheets. So there was nothing to stop you retrospectively doctoring them to get them to say whatever you now wanted. And, there has indeed been a lot of evidence that this is what people have been doing, money has been siphoned off, and then the accounts have been changed after the event. Well, she reported this to her boss, and he took action in one way; he suspended her from her post. She claims that she was physically threatened in order to get her to be silent.

This is not just a problem in Brussels, it's very easy in the nation states of the EU to look down your noses and say, "Yes, alright, the whole thing is corrupt, we know that." But the worst of it is, it's beginning to infect the constituent nations too. The poison of this corruption is spreading into the veins and arteries of our national body politics. If I look around my own constituency, I see that the people who are most affected by EU rules, the people whose lives are most trammled by Brussels regulation are being continentalized, if you like, are being turned into classic EU citizens in their attitude to the rule of law. I've seen farmers and fishermen in my part of England, turn reluctantly step by step, protesting every inch of the way into liars and cheats and falsifiers of documents, because that's how they have to behave in order to survive under the Common Agricultural Policy, or the Common Fisheries Policy. This is a literally corrupting system—a very overused word that in politics, but it is a literally corrupting system in the sense that it takes people and makes them into worse people.

Now, why am I talking about this, why am I bringing this up today. It's partly to ask you to extrapolate from what I'm saying, to infer from it. If this is how the EU administers itself, then why should we expect it to be any more competent at running our taxes, our policing, our foreign affairs, our defense, or whatever it is. But there's one other point that I'd like to leave you with. The system has now become a racket in which the biggest supporters of it are those with a direct personal stake, a direct financial stake in its future. When I was just out of school, I traveled a bit in Central and Eastern Europe, which was then in the last couple of years of Communist government. And in one sense the EU resembles that system, in that, when I was there, there was nobody really left in the apparatuses of those countries who still believed—if ever he had believed—in the principles of Marxism-Leninism. But there were an awful lot of people who understood that their position depended on the maintenance of the status quo, and who carried on with an essentially bankrupt ideology, not because they pretended to believe in it anymore really, but because they didn't know what else to do.

Now, I don't make this parallel lightly. I'm conscious of what I'm saying, and I can see that one or two of you are going to say, "Oh, this is outrageous, you can't possibly compare the EU, which is a benign union of free democracies with this terrible system." Well, of course, on one level that's true, the EU is not going to take away our passports, it's not going to throw us into gulags, of course that is true. But it has in common with its old totalitarianism a belief that the ruling ideology is too important to be subjected either to the democratic process or to the rule of law. There's a belief that this is bigger than the ballot box, that something is so important that you can't trust the people to do it. One small illustration of this: clanking its way through the Brussels machinery at the moment is a piece of legislation providing for the establishment of pan-European political parties, transnational parties that would be funded by the tax payer. And as a condition of their existence, would need to satisfy a number of criteria: they'd need to exist in a certain number of member states, and attract a certain level of support, *and* would need to accept the values of the EU as set out in the EU's Charter of Fundamental Rights and Freedoms. Now, that would disqualify my party. Not because we're against fundamental rights and freedoms, but because we believe that those issues should be determined by elected national politicians, who we can hire and fire, and not by Euro judges. When I made this point, as it was going through the committee, people were saying, "Oh, it's not aimed at you, it's aimed at Le Pen"—even if that were true, it's a pretty dodgy argument. Once you start assuming the right to decide what is and isn't an acceptable political position. But actually, it goes much further than that, this would effectively prevent any Euroskeptic party from registering. Now, I've taken out a court action against this, not something I've embarked on lightly: six years in politics has been enough to teach me that legal cases are uncertain and expensive. But it seems to me, if we're not prepared to take a stand on this, what are we there for? And one of my co-defendants in this court action is a young Polish MEP who is here in Washington today. When he saw this legislation, he went almost white with anger, and he said, "This is exactly, *exactly*, the mechanism by which the Communists maintained their ascendancy in Eastern Europe. They didn't ban elections; we had elections every four years. They didn't even ban opposition parties, not by the end. All they did was to prevent the opposition parties contesting the election." He said, "You know what, their justification was exactly the same as this: they said it was to stop fascists, and pretty soon that definition came to apply to everybody except the Communist Party and their agrarian allies."

So it is not wantonly that I make this point about the quasi-Marxist methodology of this. And it's not a coincidence that so many of the systemic politicians from these ex-Communist countries have taken so naturally to the Brussels system. There was an enormous row when the last Commission was being nominated over the appointment of the Italian nominee, Rocco Buttiglione. There was no row over the appointment of seven former Communists, who had themselves been active supporters of regimes involved in monstrous human rights violations. So, it's all right to have been, not only a distant ideological heir of these totalitarian movements, but an actual participant, sometimes at a very senior level; the Hungarian commissioner was foreign secretary, and an aggressive opponent of NATO and the West, but that's fine. What's unacceptable is to believe in God. That is unthinkable and a cause for scandal and for the blocking of the candidature.

You look at what system these former apparatchiks are arriving in, and you can understand the appeal to them. Here is a system run by an unelected Politburo, effectively, of twenty-five commissioners, whose decisions are rubber stamped by a tame parliament, who rule by a series of five year plans; they get driven around in big black cars, they have a special passport to whisk them through the airport without having to queue up. They even have—in the classic old party member style—a special reserved shop for Commission employees. And it's like that horrible closing scene of *Animal Farm*: we look from man to pig, and from pig to man, and already it's become impossible to tell which is which.

So, can this last? Well, on one level no, and for the same reason we all said of the Soviet Union: it can't work. Ultimately, in the long-term, we were right. But it wouldn't have been much fun to have been born in Russia round about 1910 and lived through the process of it not working. I can't tell whether the EU is, if you like, in 1989 after these recent referendums, or whether we're still in 1956 with the beginnings of popular revolt. Of course, I'm hopeful about this, but almost to quote Edmund Burke, there's a deep deal or ruin in a Union.

LORD PEARSON: Well, thank you very much Daniel, thank you Marek. Those two brilliant presentations have deprived us of time for questions, so I think we're moving on to the next slot.

Panel Five

European Courts Establishing Precedent in the U.S. Supreme Court

KENNETH WEINSTEIN: Good afternoon, I'm Kenneth Weinstein, CEO of Hudson Institute. We are, as an Institute, delighted to be co-founder of this important and rather lively and informative conference today. And it's been a fascinating discussion all afternoon. And we're grateful to both the organizers and the participants.

This panel today, we're going to be looking at the danger that EU law poses, especially to American law. And we have a number of very distinguished jurists, and a distinguished former diplomat with us, in addition to the speakers we have learned so much from earlier today. I'll begin with a brief discussion of a deep contrast by way of introduction, between the Anglo-American understanding of the rule of law, and the French system of administrative law—and I'll be brief. But I think that is what makes the EU system of law so dangerous and such a threat to the way in the Anglo-Saxon tradition understand the rule of law.

And I think the real contrast between the Anglo-Saxon system or systems, if you will, and the European system or systems dates back to the great philosophical arguments of the 17th and 18th Century—essentially to the differences between John Locke and Jean-Jacques Rousseau in some ways. But they have very striking effects today. In England and in America all citizens of whatever rank are subject to the laws and the jurisdictions of ordinary tribunals, officials must answer if they violate the rights of private citizens. In France, however, every servant of the government is considered a representative of the nation, and these individuals possess a large body of special rights and prerogatives and privileges over ordinary citizens. And in a sense, the UK and the U.S. have governments that embody at some deep level the political philosophy of John Locke. Locke's philosophy, as we all know, begins with natural rights, examining what natural rights are attributable to all human beings, as discerned through reason, the laws of nature and of nature's God, especially the right to property. In the Anglo-American tradition, attachment to property leads people to consent to be governed, and consent leads necessarily to limited government. Limited government protects individuals by protecting their property while leaving them free to care for it.

But Locke's classical liberal political philosophy, as we know, never really took full hold on the European continent. And a principal reason for this were the ideas espoused in part by Jean-Jacques Rousseau, their influence on the French Revolution, and echoes of those arguments today. Much of Rousseau's political philosophy is a critique of Locke's limited-government philosophy, and his views still have important reverberations in Brussels. Rousseau, in short, argues that the Anglo-Saxon focus on self-interest cannot provide a basis for a community, because no individual would be willing to sacrifice themselves for the common good on the basis of rational calculation. And instead, Rousseau calls for truly hard work to establish citizens' full dedication to the common good; a full subordination of the individual to the whole. So, whereas Locke uses a minimal state to protect the individual in the particular, Rousseau attempts to create a selfless attachment to the common good because of his thoroughgoing distrust of individual concerns, including private property.

And Rousseau seeks to achieve this subordination through a vague metaphysical concept called the general will, which is an attempt to overcome the tension between individual interests and the community, by calling for the creation of new kind of individual, a person whose private will seeks only the common good—an objective public will, a will which is free from our subjective selves and personal interests. And it's this notion of the objective public will has had deep repercussions on continental political philosophy for two centuries, beginning with "The Declaration of the Rights of Man" and the French Revolution of 1789. Rousseau's formulation that all sovereignty is found essentially in the nation to certain understandings of the role of bureaucracy that later became important in the writings of Hegel, who stressed the importance of the role the bureaucrat, and truly understanding this objective public will which is separate from the individual wills.

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And so we see a clash in a sense between two systems: the Anglo-Saxon system which is limited government based on the consent of the governed, and a continental belief in the need for a kind of moral liberty, that is achieved by ridding oneself of the subjective will and self-interest in the name of the common interest. And I think it is this line of thinking which today dominates in some ways in the French system and in Europe, that bureaucrats do not feel themselves responsible to the represented interests of those to whom they supposedly held accountable. And in fact, given this focus on state sovereignty in France and elsewhere, disputes between the government and private persons are rarely decided in favor of individuals.

So, in short, I think that philosophically, this is part of the basis for the problem that we have today, this notion of an abstract general will that is separate from the representation of interests and passions that we have in the American system. That being said, by way of brief introduction in philosophical abstract introduction, we're now fortunate to hear from someone who I have the distinct honor of calling a colleague, Judge Robert Bork, who is today Distinguished Fellow at Hudson Institute. He is one of America's most distinguished jurists, noted professor of law for many years, at, among other places, Yale University. A distinguished member of the D.C. Circuit, obviously known worldwide, a man whose last name has been unfortunately transformed into a verb by the rather abhorrent treatment that he received when President Reagan nominated him to the United States Supreme Court, and we are fortunate to have Judge Bork with us today.

JUDGE ROBERT H. BORK: Thank you Ken. I must say, I don't mind my last name being a verb, it's one form of immortality.

Ladies and Gentlemen, conservatives are now enraged, and their reactions run the full range of emotions, from convulsion to apoplexy, on the United States Supreme Court's habit of citing foreign precedents. And not just foreign judicial decisions but foreign legislation, unratified treaties, and so forth, in the process of allegedly interpreting our Constitution—particularly the Bill of Rights. There's reason to be angry, I suppose, but other people have given up all together on constitutional law, and they tend to see there's a drama played out, something like Abbot and Costello meet James Madison. But Professor Leno Graglia of Texas has said, accurately I think, that the first thing to understand about constitutional law is that it has very little to do with the Constitution. We've known that for some time; what we did not anticipate was that our constitutional law turned out to be the European Court of Human Rights, which is what's being cited now in our courts—not to mention the constitutional jurisprudence of Zimbabwe, to which Justice Stephen Breyer has directed our attention.

Now, various remedies have been suggested, some of them more radical than others. Ed Meese on a platform we shared suggested that the government refused to pay Justices' travel expenses to foreign, international conferences. That seemed to me to be extreme, so I suggested a compromise—they should pay their own way over.

Well, most of us have some difficulty, in any event, understanding what the principles understood by James Madison, the Congress, and the ratifying States' intentions in 1789 and 1791 have to do with something the European Courts have decided in the year 2000. Justices have mounted various defenses of this practice. They say that the problems faced by our countries are similar and therefore they look to the reasoning of foreign precedents for guidance. If you look at the opinions, however, of our courts, they never recite the foreign court reason and say, "We were persuaded by this, and not by that"—they just note the existence of the outcomes, which are remarkably similar, since they choose which foreign courts they are going to look to. It's more like an international Gallup Poll of judges, rather than one of analysis.

I want to suggest to you that we've been superficial in our objections to this kind of practice; the real problem isn't the fact that they cite foreign precedents. I don't think anybody is naïve enough to suppose that they would have decided these cases differently, had they not cited foreign precedents, and I've looked at them. They cite countries they agree with, and so we have a disease which has infected the judiciary, but it's also infected all of our society, and this citation of foreign precedents is merely one minor symptom of it. And the disease which the Court has caught is identified by the British political scientist, Kenneth Minogue as Olympianism—it is, in his words, "the project of an intellectual elite which believes that it enjoys superior enlightenment and that its business is to spread this benefit to those living on the lower slopes of human achievement. It burrows like a parasite into the most powerful institutions of the emerging knowledge economy, the universities." Now, the disparity between the Olympian viewpoint—to those of us on the lower slopes—is of course what we call the cultural war. And our courts increasingly, our

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Supreme Court particularly, is increasingly on the side of the Olympians. That is, when you come to Olympian opinion, for example, it favors the normalization of homosexuality, it favors abortion, it favors a number of these things, and public opinion does not want to take a harsh attitude towards those things, but it's much less permissive than the elite opinion is. But the elite opinion is the one which is prevailing. The public tends to win in legislatures, the Olympians tend to win in the Supreme Court.

Now, it's a transnational problem. As Minogue put it: "Olympianism is a vision of human betterment to be achieved on a global scale by forging the peoples of the world into a single community based on the universal enjoyment of appropriate human rights." Until the majority of the people have become enlightened, it must be constrained within a framework of rights, to which Olympian legislation—in our case, the court decisions—are constantly adding. Now a little of what we're observing is precisely that: our Court has become interested in international, transnational constitutional law. Linda Green has remarked—there are plenty of statements by the various Justices to back this up—but she remarked that the Justices have come to see themselves as participants in an international constitutional conversation. She might have said an international constitutional *convention*. Now, what we're getting is kind of a coordination of our Supreme Court with the courts of Europe and the courts of the European Union, and they cite each other, as I say. They cite not only each other's decisions, but they cite legislation, they cite unratified treaties.

So, we're beginning to get a transnational constitutional common law. These courts collectively are cooperating and coordinating so much now that they are beginning to take on the character of a single or a unified international court. It's almost like a franchise arrangement—each court has its own country, but they are controlled by a central understanding. Now, this might not sound too exciting, except that it's part of a general trend towards the internationalization of law. The last time anybody looked at this, it was the growth of international institutions, international courts, real international courts—I'm not talking about our cooperating or coordinating with foreign courts. In 2000, more than fifty international courts were in existence, with more than thirty of them having been established in the last twenty years, and the number of international tribunals of various sorts is escalating rapidly, so that we're now getting a globalization of judges.

Now the reason the citation of foreign precedents by our Supreme Court, and indeed, the citation of our precedents by foreign constitutional courts is important, and its way more dangerous than the spread of international tribunals, like the International Criminal Court, is simply that if there's an International Criminal Court proposed, the United States can refuse to sign, or if it signs a treaty, and it turns out to be oppressive, Congress can repudiate the treaty at any time. But the difference between those courts established by treaty and our Supreme Court and the supreme courts of these various nations who now are also applying Constitutions, is that you cannot—no legislator can—repudiate the international or transnational law being made by the courts. It's binding, as a matter of constitutional command, so that the globalization of judging is going on apace, and as it continues to spread I think there is a very obvious real danger to our national sovereignty. Sandra Day O'Connor said that anybody who didn't follow international law, and any judge who didn't, wasn't doing his duty, and Ruth Ginsberg has made speeches defending the practice. So we're getting into an area—it's slow—but we're getting into an area of judicially imposed multilateralism and the dominance in foreign policy of other non-U.S. institutions.

All of which suggests that we should not only react to this silly business of citing foreign precedents, but we react in the wider sense of confining our courts to what our Constitution says, rather than what the international consensus favors. And I think that should become, will become, part of the great struggle we're about to see either this year, or next, over the next nominee to the Supreme Court. Both sides are gearing up, preparing to spend lots of money, but I'm worried that the debate will not be very enlightening, because both sides will play it as a political struggle. The Court has converted itself, in a way, into a political institution, and hence its view is a prize in a political struggle, which it should not be, but it's going to be, and whether or not we can get judges who stick to the original understanding of the principles of our Constitution and stop inventing it—if they stopped inventing new principles, we won't have to worry about the influence of foreign decisions, because they will simply be irrelevant to our decision making process. Thank you.

KENNETH WEINSTEIN: Thank you Judge, you spoke for thirteen minutes—you gave us twenty-five minutes worth of information there, at least. Thank you. Okay, the next distinguished speaker we have is Kim Holmes, Kim

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is vice president of the Davis Institute for International Studies here at The Heritage Foundation, and he returns to Heritage after a noble service in the Bush administration, where he was assistant secretary for international organizations at the State Department, during a very crucial ten year re-examination of our role in these institutions and Heritage is very fortunate to have him back.

KIM HOLMES: Thank you very much Ken, it's a pleasure to be here this afternoon, to serve on this distinguished panel. I guess I come, Ken, as a reformed diplomat. I was at the State Department for two and a half years, but my question is to all the lawyers on the panel here. I guess once you're a lawyer, you're always a lawyer, and you can't really be a reformed lawyer but you can be a reformed diplomat, particularly when you come back to The Heritage Foundation, and when you were here before. So I hope to make up for my time in that august institution, the State Department, with my work here at Heritage.

What I'd like to talk to you all about briefly is the European Union as an international actor. That is how the EU operates in international organizations like the United Nations. And also say a few words about how it operates in international law. It will come as no surprise to you that this approach by the EU is very different than ours in the United States, and this approach has becoming increasingly reflected not only in the European Union's external policies but also the EU's policies are becoming increasingly reflected in the national foreign policies of the European member states. And it's this sort of connection between these two elements that I'd like to talk about here.

I'd first like to read you a quote. Jan Smith, my special assistant, was helping me prepare for this, and she went to the European Union website, and she found a very interesting quote that I want to read to you, to set the stage here. It says:

The European Union (EU) is not a federation like the United States. Nor is it simply an organisation for co-operation between governments, like the United Nations. It is, in fact, unique. The countries that make up the EU—its member states—remain independent sovereign nations but they pool their sovereignty in order to gain a strength and world influence none of them could have on their own. Pooling sovereignty means, in practice, that the member states delegate some of their decision-making powers to shared institutions they have created, so that decisions on specific matters of joint interest can be made democratically at European level.

Now, there are two interesting words in this definition that I want to emphasize: the first is this word *unique* in the sense that the European Union is understood by its proponents as being unique, unique as an international actor, unique as an international organization, and unique as a legal body in international politics and law. But the interesting thing is that the EU is essentially asking the rest of us to accommodate its own special, unique definition of what the European Union is. The second is this phrase *pooled sovereignty*, in that nation states surrender some of their national sovereignty to the pool of the European Union. Now, it's this uniqueness that often puts the EU at odds with the United States, which takes a more traditional view of international laws being agreements made among nation states. The EU is moving in the direction of acquiring new legal rights that are normally associated with sovereign states. The United States is not ready to recognize this approach; the U.S. has no similar experience or tradition of surrendering sovereignty to any supreme organization.

So, what you have here is essentially the European Union understood as a supranational body, one that stands above the nation state exercising what we traditionally understand as national sovereignty. The EU members see this model not only as appropriate for them, but as a model for other nations, including the developing world, and also, of course, for the United States. This creates a challenge for us, as I said a minute ago, because not only is our constitutional system different, as Judge Bork was saying, but also because the United States does not belong to any comparable regional organization like the European Union, where there is some kind of a supranational body which acquires the attributes of sovereignty.

Now where do you see some of these differences? Certainly you see them, as Judge Bork mentioned, in the differences of opinion over the International Criminal Court; the European Union does not recognize the United States' right to opt-out of this treaty. Even though they may say so sometimes in principle, in practice they do not recognize this. Many in the European Union may accept the practicality that the United States wants to protect its troops in United Nations peacekeeping operations, and will pass resolutions in the Security Council giving us that right, but

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they interpret it—this is a very important distinction—they interpret it as giving the United States an exemption from the International Criminal Court, or from the Rome Statute. They see that we are coming to the Council, asking for an exemption, even though we have not signed, or even though we have not ratified the International Criminal Court. Essentially, the European Union implies that the ICC is somehow legally binding on the United States, even though we do not recognize it as such.

There are two problems here: one is of course the problem of international law and sovereignty, but the other is that there is no willingness at all on the part of the European Union nations to recognize that the United States has special obligations, special responsibilities and a special position in the world as a superpower which is responsible for defending the liberties of many other peoples in the world. There is no recognition of that concept whatsoever, and of course many of the differences that we have with the European Union and International Criminal Court comes to what kind of protection we want for our servicemen and women. And therefore there is not only the legal definition, but there are also geo-political and strategic differences of opinion as well.

When you get into this area of what Judge Bork called the “transnational common law”—it’s a very apt description of what’s happening—you find that the European Union recognizes and sometimes is a driving force behind a number of international conventions that reach deep into the domestic arrangements of nations. The Kyoto Protocol is one of those, as is the Convention on the Defense of Women, and the Child Rights Convention. There is a convention that’s being negotiated under the auspices of UNESCO in Paris on cultural diversity. These conventions cause the United States difficulties, partly because of the federal structure of our Constitution, but also because the United States has different social and cultural values from many Europeans, and we want to preserve these. There is a tendency for the European Union to work with other blocs in the United Nations to lock economic, social and cultural values into an interlocking web of international obligations as seen through these conventions. And so when the United States does not go along, as we don’t go along on Kyoto, for example, the implication is that somehow the Americans are not only out of step with international norms, but they’re also out of step with international law. This is the underlying subtext, and sometimes it’s even explicitly said, that the United States is in violation of international law—even when we don’t sign these conventions, even when we don’t ratify them.

One of the underlying subtexts here is that the European Union is increasingly taking on the trappings, not only of sovereignty, but also of being a distinct legal entity with distinct legal opinions. For example, there was this recent case of the Mexican national versus the United States—this is where there was a Mexican arrested in Texas, which was taken up to the International Court of Justice, on the grounds that the legal rights of the Mexican national were violated—according to the protocol of the Vienna Convention for Consular Affairs. The United States objected to the ruling against the United States in the Court, and we pulled out of the optional protocol to the Vienna Convention in March this year. Now, this is an interesting case for two reasons: the first is that the European Union filed a brief in support of the Mexican national, arguing that his rights had indeed been violated, but they did so as speaking on behalf of not only the European Union, and not only the Council of Europe, but other members of the international community. It’s interesting because the EU was asserting a legal opinion against the United States on behalf of the international community. The subtext of this is that this is part of a long-term campaign of many in the European Union to oppose the United States’ position on the death penalty, since this was a death penalty case, and you have seen other examples of this, where the European Union has submitted Friends of the Court briefs to the U.S. Supreme Court in cases involving the death penalty. So, in other words, what you have here is the European Union actively trying to change U.S. domestic law by not only intervening inside the U.S. judicial system, but also by employing mechanisms of international law to create international pressure from the outside. There’s an obscure Commission in Geneva, associated with the UN, called the International Law Commission. It is heavily influenced by the Europeans, developing this new legal concept of sovereignty that has essentially been developed by the experience of the European Union, and it is trying to apply the idea that international organizations have sovereignty attributes, attributions, that will be applied to the United Nations and other global organizations and international organizations. If you go through and read some of the interesting studies and disputes that we have with this Commission, there was recently one where there was a difference of opinion between the United States and this International Law Commission, on the legal ramifications of “unilateral acts of state”—we’re not really sure what they meant by that, but we thought it had something to do with Iraq.

Now, the last point I want to make is something I experienced when I was at the State Department and negotiating with the European Union officials. The European Union is increasingly arguing for dual competency in inter-

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national organizations and is demanding more representation in the United Nations to reflect this view. We gave this a name—it was called “additionality”—to describe the effort by the EU to gain additional representation in the United Nations. It works like this: there was a recent international conference in Kobe, Japan on disaster relief. There were extensive negotiations with the European Commission on how the EC would be represented at that conference. The European Commission claimed competency in disaster reduction, and they wanted a seat at the table, just like the European states did. They didn’t want to be just an observer, which is what they had been before. The United States objected, saying this would be giving the same rights as individual member states and would unfairly give the European member states, who were still, by the way, at the table, an additional seat; it would give them an unfair advantage by essentially giving them double representation.

This debate about additionality is also going on in the negotiations on cultural diversity at UNESCO in Paris. There was an agreement reached about how this could be done, at Kobe. Essentially what happens is the EC was given a seat at the table, but they couldn’t chair meetings, and they couldn’t break consensus or vote, but they could give their views separately from some of the other nation states. What you have here is a European Commission saying that they have competency in trade, so the Commission will negotiate on behalf of the European countries in the WTO; and they’re finding new areas of expertise, like disaster relief and the like, and saying “We now have a Commission which has more competency in that area than the nation states do.” But in some areas you find that there isn’t really a clear line of distinction between the two, and the disaster relief was a classic example of that, where in fact they really don’t have more competency, it’s just simply adding on another voice at the table of the UN on behalf of the European Union.

It’s a challenge for American diplomats to negotiate with the European Union because the European Union almost always speaks with one voice in the General Assembly of the UN. In 95 per cent of all resolutions passed by the General Assembly, the European Union was united. Of the fifteen to twenty-five per cent of the resolutions that are actually voted on, in the General Assembly, the EU voted unanimously on an average of four times out of five. Now, this creates a challenge, not only because the European Union is multiplying their votes on one position in these bodies—it essentially has one country, one vote—but also because the European Union will go out and form their positions ahead of time, come to the United States at the last minute, and say, “Our position is locked in, we can’t change it”—and so there’s nobody to negotiate with. You can’t negotiate with the individual states ahead of time, because they’re negotiating amongst themselves, or with the European Union trying to work out their decision. They just say: “This is EU competency, we can’t talk to you about that until we get our position formed,” and then they get the position formed and it’s locked in, they can’t change it. So it’s really a Catch-22 situation.

What do we do about this in conclusion? Just two things: first of all we Americans need to understand that there is a deeper legal and cultural divide here than we would like to admit. There are fundamental issues affecting our social values and our understanding of law that are often swept under the rug. Essentially the European Union is hoping to establish its legal and social norms as global and international legal and social norms which will force the United States—in an interest to avoid international isolation—to comply with these new norms. This is quite conscious on the part of many of them . . . maybe it sounds conspiratorial, but they’re very conscious of what they’re trying to do. Now, as far as our European Union friends are concerned, they need to realize that they are pressing us on some very sensitive issues. They’re pressing us on our Constitution, our values, and our understanding as to who we are as Americans. You can’t get any more basic than that, if they continue to press us, they will find that they will be stirring up enormous resentment among some segments of this country against the European Union. We already know that there’s much resentment against the United Nations, because of this phenomenon. I think that the Europeans would be wise not to have the European Union gain a similar reputation. Thank you very much.

KENNETH WEINSTEIN: Kim, thank you. We can all see that you’re well on your road to recovery. Our next speaker is Ed Meese, who is the chairman of the Center for Legal and Judicial Studies at The Heritage Foundation. As we all know, he was one of President Reagan’s closest advisors, serving both as a key member of the White House staff, and as Attorney General.

EDWIN MEESE: Thank you Ken. In the interests of time, I’m going to speak very briefly. I have a responsibility at the end to make some closing comments, and so I will leave a little room for that. At the outset though, I was impressed with Ken Weinstein and your recalling of Rousseau about subordination to the general will. I guess Bob

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Bork would agree with me that that must be what the Supreme Court had in mind when they said the government could take people's property for economic reasons last week, in one of the most infamous decisions in regard to property rights I think we've experienced in this country. Becky Dunlop showed us this morning how our Constitution compared with the proposed European Constitution. I want you to know that the National Center for the Constitution has gone one better than the little booklet that Becky has, [*holds up sheet of paper*] and our Constitution now fits on one sheet of paper. On one side are the seven articles of the original Constitution, and on the other side are the entire Bill of Rights.

The United States experience, with the Constitution and the rule of law has been very interesting. Not long ago, I attended a conference for three days, in which we examined the arguments of the Anti-Federalists back in the years following 1787, in which well-meaning people argued against the Constitution that was proposed to the various States. And their arguments, basically, were that this would permit, over a period of time, the centralization of power, the erosion of the capabilities of the States to carry on those functions closest to the people, and that it would be a transfer of power from the then-13 States to the federal government. It's interesting that all of us in that conference, I think, came to the conclusion that most of the things that had been predicted in 1788 and 1789 had indeed come true, and there has been this tremendous transfer of power to the federal government. But at least it took us one hundred and fifty years for that process to really begin in earnest, and the ensuing seventy years for it to become almost complete—as we see in recent cases of the Supreme Court. The European Union, I would say, has accelerated the timetable and is probably where we were in about 1930 or 1940 at the present time. And so, if our history is any example to countries such as the United Kingdom, please look at that history and bear in mind what has happened here.

I would like to just comment a little bit on the International Criminal Court. Kim talked a little bit about it, and I think there are a couple of aspects to it. One is that the International Criminal Court itself is a major problem for us, for those who look at this from the standpoint of the rule of law. First of all, because there is no legislative body operating with the consent of the governed to make laws that apply uniformly. Instead, law is being made up as we go along. It is indeed, as Bob Bork talked about, a kind of transnational common law, being made up by judges as they go along. But perhaps the most pernicious thing about the International Criminal Court is its ongoing prosecutor who is looking to try to find cases to prosecute. I have been a prosecutor, I spent a number of years as a prosecutor in a county in California, and then of course headed the largest prosecution office in the world. And I can tell you there is nothing more dangerous than a prosecutor looking for work. And so I would suggest that that's one of the inherent problems with the International Criminal Court.

But as far as that relates to the EU, the EU as was pointed out, has tried to make universality for the Rome Statute a primary goal of its foreign policy, and has taken a number of concrete steps to achieve this result. And that's why it acts as though it applied to the United States and talks about exemptions, as Kim pointed out. In addition to that, it's opposed our policy in this country of obtaining agreements from member states of the ICC, whether or not they happen to be EU members or EU aspirants, that would shield American citizens from ICC jurisdiction, and particularly in regards to our armed forces, if they are operating in those countries. The European Union has taken a dim view of this, but it's absolutely essential we take the position that we are not subject to the International Criminal Court. But we would rather have this decided in advance through these kinds of agreements, rather than have to resort to the United States Marine Corps as a means of enforcing that particular position. The terminology that they have used — and they talk about impunity for the United States and so on—is to suggest that we're somehow properly subject to ICC authority and that we're trying to escape pre-existing international legal obligations.

The other thing which the EU is doing is funding American Non-Governmental Organizations, NGOs, such as an organization known as the Coalition for an International Criminal Court, which is dedicated to changing our government's policy with respect to their own statute, thus interfering in the domestic politics of the United States as well.

Well, another aspect of this, of course, is the anti-American attitude which has been talked about today, about the EU, which blends over also as is illustrated here, in to a number of the legal aspects of the relationship between nations and the relationship between the United States and European countries. In terms of jurisprudence, there is a great difference—as has already been pointed out—between the common law tradition, which has been referred to as the Anglo-Saxon legal tradition and the continental form of justice. Ken Weinstein talked about that. And this

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certainly also would affect the United States, because it would tend to have an influence on our court decisions, and our jurisprudence in this country, as Bob Bork pointed out in citing the habit of the United States Supreme Court in using international precedents and international law from other countries to interpret the U.S. Constitution. But there is also an important aspect of it, and that is its influence, the influence of the EU and these international tribunals on international commercial law, which are primarily anti-free market, and thus have an important impact on the commercial legal relationships of the United States.

Finally, let me say that the essence of Anglo-Saxon concepts of the rule of law, or as we would think of it, our common law tradition, involves a written legal basis legislated by elected representatives; fairness and administration of the law, consistency in its application, impartial administration, and transparency. These qualities are not present—as has been pointed out throughout the day—in the European Union Commission and in the various aspects and institutions of its apparatus, in its legal and regulatory system, particularly, and thus it represents a negative influence on international jurisprudence, including that of the United States. And so this is one of, what we would regard as, a perverse influence on our own jurisprudence, as well as that of other countries. Thank you.

KENNETH WEINSTEIN: Thank you, for being a straight-shooter as always. And now, the next man needs no introduction—he needed one this morning—Daniel Hannan.

DANIEL HANNAN: Thank you very much. I've found this the most important and useful session of the day. I have very little to add to what's been said. I only wish that in the United Kingdom we had politicians of the caliber of Ed Meese and diplomatists of the caliber of Kim Holmes, and above all jurists of the caliber of Robert Bork. It would be a very different kind of country, and a very different kind of Europe.

This question of the internationalization of law, this growth of a corpus of human rights legislation, I think is the big challenge of this century. A class of people who have had their agenda rejected at the ballot box use international courts to push through ideas that they could never get through a representative legislature. And this is happening in a way that is more and more intrusive, into national sovereignty and our national jurisdictions. Not long ago, international law was simply a way of arbitrating disputes among states. It was concerned with the treatment of diplomats, safe conduct, maritime rules and so on. It would have been unthinkable a generation ago that international tribunals could lay down whether the United States should practice the death penalty, whether a paperboy is violating laws on child labor, whether you should have women in the army. These things would have been absolutely regarded as sensitive national issues to be decided by people who are vulnerable to their electorates.

What's striking—and this a point that Robert Bork has made in his writings, very persuasively—is that this creative interpretation, this constant extension of jurisdiction, this ruling by judges on the basis of what they think the law ought to say, rather than what it actually says, always happens in the same direction. So you had that extraordinary saga of the arrest, the house arrest, as though we were Burma or somewhere, of General Pinochet. Nobody has ever attempted to arrest Fidel Castro. You have the extraordinary arrest warrants going out for Ariel Sharon, but never for Yasser Arafat. You have a situation where Donald Rumsfeld and Colin Powell cannot set foot in some jurisdictions, lest they be seized and put on trial for the Iraq war. And yet, people who were themselves leading members of blood-stained Communist dictatorships in Europe are European commissioners. And this same one-sidedness exists within our national jurisdictions, and this is really to me the most worrying aspect of it. The point that has been made before, the way in which our national judges take their cue from this growing corpus of international law, not only ruling on it as though it were precedent, but picking up ideas at the conferences and colloquiums that they attend.

We have exactly the same tendency in the United Kingdom of judicial activism, and it began really when we joined the European Union. Our judges took their cue from what they could see their continental counterparts getting away with, and above all from the most activist court of all, which is the European Court of Justice, which has really been the motor of integration, has repeatedly extended the boundary of EU jurisdiction, well beyond what the treaties allow, in the cause of closer integration. So we have the same one-sidedness. Our judges went ballistic when it was suggested that Parliament might specify minimum prison terms, for certain categories of offence—this was an appalling assault on the principle of independence of the courts. Absolutely no problem when MPs set maximum terms for certain categories of crime: that's absolutely fine, that's totally within their function. There was a tremendous squeal of outrage when the former home secretary ruled that certain categories of murderer ought never to be subject to parole. How could he intrude like this in the judicial process? But, when—with equal disregard for due

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process—his predecessor had ruled that a number of murderers be freed in Northern Ireland as part of the Belfast agreement, with equal disregard—well, that was fine, yes, no problem with that, of course they should go free. We have this constant one-sidedness, and this is not something we can fight in isolation. I just leave you with the thought that you have this tide, this wave of international jurisdiction washing up your own estuaries and rivers and affecting what you can do in this country. This is something that we have to act collectively to stop, if we want to re-assert the supremacy of the electoral process. Before your sea-walls are completely overwhelmed and your fields and towns inundated.

KENNETH WEINSTEIN: Thank you very much for that both informative and rousing talk. Lord Pearson has graciously yielded his time, so I believe we have time for a couple of questions from the audience.

CHRISTOPHER BOOKER: Could I just read one quotation, because it's so apt to what Dan's been talking about. It's the closing words of Jean Monnet's memoirs, and it starts this book called *The Great Deception*, which one or two of you have been kind enough to buy. This is what Jean Monnet said: "The sovereign nations of the past can no longer solve problems of the present: they cannot ensure their own progress or control their own future. And the Community"—he meant the European Community, of course—"is itself only a stage on the way to the organized world of tomorrow." There is our challenge.

KENNETH WEINSTEIN: Comments, thoughts, reactions?

UNKNOWN SPEAKER: Dan, you might have answered this indirectly, but do you have any examples of UK courts or otherwise in the EU citing, with approval, United States law in interpreting your founding documents or any other of the documents you might consider your Constitution? Not just citing what the U.S. [word unclear] as some comparative analysis, but citing with approval in order to interpret your documents as our court has suddenly adopted the practice here. And second, any comments from the panel on the potential creep under our Alien Tort Claims Act, which allows aliens to sue in U.S. courts for any matter, in tort, in violation of a treaty or the Law of Nations—Law of Nations being uniquely susceptible to the analysis of: I can't tell you what it is, but I know it when I see it. And it opens our courts to anyone in the world, and with certain opinions of late the Supreme Court had the opportunity to put this down, and instead they invited district courts to offer them more intriguing cases to study. We don't know what the Law of Nations is, but it sounds like some consensus that doesn't include us — might include us ultimately.

DANIEL HANNAN: I can't think of cases where they have cited U.S. legislation. What they tend to cite is international treaties. So, for example, our courts have now effectively reached a position where they will always and everywhere refuse the deportation of an illegal immigrant. It just cannot happen, and they cite as the basis for this the 1951 UN Convention, the Geneva Convention on refugees, which they now hold to be higher than any Act of Parliament. So, even when Acts of Parliament are explicitly phrased in such a way as to be proof against judicial activism, the courts still strike them down. We had an extraordinary case under the 1981 Nationality Act, where the then Chief Justice, Lord Woolf struck down a deportation order, even though that Act had said, in the legislation, in the statute, the decisions of the home secretary shall not be subject to review in or challenge by any court whatever. The judge said, "This is far too draconian, we can't allow that, that can't possibly have been the will of Parliament, it may have said so, but this is unthinkable." So, it's almost that they don't have to be that sophisticated, to cite precedent, it's sort of "We are the masters now" and it's the most frightening thing, because there is no higher appeal against it.

It seems to me that the only solution we can have is the dispersal of jurisdiction. Judges are doing this not because they're wicked, not because they set out to annoy me or to annoy Robert Bork, but because they think that they are acting in the highest traditions of the liberal West, and this is a very dangerous thing. Almost all really wicked things happen from good intentions. They think that, you know, their conscience is a higher source of authority than the populism of the elected politician; it seems to me that the only way of reducing their scope to harm is to reduce their field of jurisdiction, and that is what is so dangerous about this European Court, it is completely beyond control, there's no appointments procedure, very few of them have actually served as judges at all, most of them are politicians or academics who have distinguished themselves, basically because they're pro-Europe rather than having any experience on the bench on their home countries. The Belgian nominee on the European Court of Justice was the interior minister who had ordered the release of Marc Dutroux, the pedophile. It was how

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they got him out of domestic politics—go and be a judge at the European Court of Justice. These are the people that we now have deciding on policy, and until we tackle that, there is no point in having elections.

UNKNOWN SPEAKER: My question is probably most specifically for Judge Bork, and it's concerning as far as when will this issue be decided, it seems like this is heading for kind of a crux, where it must be decided. An ICC nation arrested an American citizen for crime which the U.S. does not recognize, my question is how can this actually be resolved, whether U.S. courts are destined to interpret international law, and who is supreme? There seems to be an uneasy tension between the international courts and the U.S. jurisdictions.

ROBERT BORK: I'm not quite clear about what the first part of your question has to do with the ICC, the claim that they can punish American servicemen abroad, for example, even though we have refused to join the treaty. I don't know how you do that, except exert economic and political pressure on countries that do that, just as Rumsfeld told the Netherlands—if they were going to exercise jurisdiction over American servicemen and so forth, they could just forget about NATO. The other part of your question, I suppose, has to do with what our courts are doing, and it is a universal phenomenon that given a written Constitution, and our judicial review, courts assume more and more power. And now, in this country and abroad, they are eroding the area of democratic self-government, piece by piece it's being cut back, and they're moving our society to the cultural left. That's where the Olympian, or elite view is, it's on the cultural left. What I was worried about when I spoke was the fact that they are taking the views of Europeans and others on such things as capital punishment and homosexuality and abortion and religion and so forth as more important than the original understanding of the Constitution, by the people who made the Constitution work. We now have a court that is divorced from the Constitution, it's floating free, and you can predict what they will do when a cultural case . . . by asking what is politically correct.

KIM HOLMES: Can I just add one thing to that. I don't think there is one single solution, but there may be a number of things that we can do on a number of different fronts. One thing the Bush administration has been trying to do with respect to the International Criminal Court was create alternative legal structures and obligations to the ICC through the so-called Article 98 Agreements, where the United States would go out and negotiate specific agreements with other countries, that would essentially make it illegal for those countries to serve over U.S. servicemen to the ICC. And not only was that asserting the traditional understanding of international law, that you have two countries coming together, forming a legal agreement that trumps the presumptions of universal jurisdiction of the ICC, but in fact it was creating also a political alternative to the ICC. Now I have to admit that it was a very, very difficult thing to do. John Bolton when he was Undersecretary of State was a leader on this, and I can't remember the last number—How many? 100 agreements that we had—so that's a lot of countries, but of course we were fought every step of the way by the European Union, because they understood what we were up to.

KENNETH WEINSTEIN: I want to thank the distinguished panel. This really was an extraordinary session, and I'll now turn it over to Ed Meese.

Closing Remarks

ED MEESE: Well, the plan was for at least a ten or fifteen minute critique and summary of the day's events, but I think in the interests of time, let me abbreviate that considerably. The first thing I'd like to do though, is to thank Lord Pearson and all the others, particularly those who have come across the Atlantic to be with us today, and to give us such a great introduction to the European Union, and a critique of it, but also to discuss with us as common inheritants of the common law tradition, and what was once described as the "Rights of Englishmen," the rights of the Anglo-Saxon legal system. We thank you, and I think we all owe all of those who participated today a round of applause.

If we had to summarize the day's activity, I think it could be done in a sense, in a few words. One is that the negative side of the ledger is that a supranational bureaucracy has been created that has disastrous economic results for the participants, and it has the potential for growth, like a cancer, unless something is done. It also has, at the same time—perhaps we ought to put this on the asset side of the ledger—the seeds of its own destruction, because of what is happening. It is an organization which, as we have learned today, has a vast amount of corruption, waste fraud and abuse, as we would call it in this country. It also has a real propensity to undermine traditional legal structures, particularly those which have characterized the United Kingdom and the United States. It also has serious implications for us in terms of the cross-Atlantic alliance, and the national security of both countries—in such examples as were given this morning, about the Galileo System, the relationship with China, immigration issues, rivals to the Future Combat System, the decline or deterioration of alliances between the United States, for example, and individual nations, and perhaps an undermining of the most successful alliance in keeping the peace in Europe, which has been NATO.

At the same time, we've talked about and had discussions on the implications in terms of the domestic economy, of the European countries, and the negative results. We've had a very learned discussion of why, in many ways, there is intimidation—or at least causes for the nations of New Europe, many of those who have escaped from behind the iron curtain, and are fledgling democracies, to often they are enticed by subsidies at home and job opportunities abroad, and they too are being drawn within the net of the European Union, that perhaps not for their own best interests.

I think it was interesting to—as a tool of analysis of the European Union—was Daniel Hannan's very brilliant question: let's examine the European Union by saying how well it runs itself, and then extrapolate that as to whether or not it can run the rest of Europe. And I think, of course, the answer was pretty plain.

But throughout this has been the demonstration of what I would call, and what Ronald Reagan used to talk about, the arrogance of officialdom—the idea that we're doing a great thing that's so important that it cannot be subjected to the democratic process or the rule of law. And if there's any particular flaw that characterizes the European Union as has been described today, it's that particular weakness.

Just as we have major problems in this country with our Supreme Court which, as Bob Bork has said, has now departed from anything having to do directly with the Constitution, we find that that trend is exacerbated by the ability of the Court to reinforce their very limited jurisprudential foundations for their decisions, by talking about the decisions of European courts, and by European conventions, and so what is going on in the European Union, particularly in its judicial branches is eating at the rule of law within our own country.

So, today we've examined the nature of the European Union in that brilliant presentation by our speakers this morning; we've talked about its relationship to the Old and New Europe; we've talked about its implications for the Atlantic alliance and the United States and our national security; and its impact on business and legal institutions. Our question at the beginning this morning was: 'Is the European Union in the interest of the United States of America', and I think based upon its current situation, and its potential future, the answer from all of our panelists today would be a resounding "no." And since those who might think otherwise have left us, I guess that has to be the conclusion of this conference.

I think it's an important lesson for us in America that as conservatives, as lovers of freedom, we must support our friends in the United Kingdom, as well as others who may feel the same way in Europe, to limit the power of the European Union to the extent we can, to exploit its own internal seeds of its own destruction, to educate our own people and people we can find everywhere on what we have learned today. Marek said, in his remarks, freedom will certainly prevail if the American people lend a hand to this effort. I can only say that as for the organizations sponsoring this conference today, including The Heritage Foundation and the others, we certainly will lend that hand, and are pleased to do so. Thank you.