



What to expect from the Swedish EU Presidency

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Contents

1. Introduction	3
2. Executive Summary	5
3. Reacting to the financial crisis	10
4. Climate change and energy	17
5. Justice and home affairs	20
6. Lisbon Treaty and institutional changes	26
7. Other priorities	28
Key personnel	31
Swedish Presidency calendar	32

1. INTRODUCTION

“Managing the financial crisis and unemployment; addressing climate change: these will be the two main priorities of the Swedish Presidency”

– Fredrik Reinfeldt, Swedish Prime Minister¹

“Sometimes things turn out like the John Lennon song ‘Life is what happens to you while you are busy making other plans’”

- Cecilia Malmström, Swedish Minister for European Affairs²

Sweden will take over the reins of the EU Presidency from the Czech Republic on 1 July 2009 for six months. The EU's current system of rotating Council Presidencies operates in so-called 'Trios', spanning 18 months in total. Sweden is the last in the current trio of Presidencies, which started with France in the second half of 2008 and continued with the Czech Republic in the first half of 2009. These 'Trios' draw up a general 18-month programme outlining the issues that are expected to be covered³.

The Swedish EU Presidency will take place in challenging circumstances. In the words of Minister for European Affairs Cecilia Malmström, “sometimes things turn out like the John Lennon song ‘Life is what happens to you while you are busy making other plans’”⁴.

The recession will be at the top of the agenda, with new proposals to regulate financial markets across the EU taking shape. Many member states will need to find a more sustainable balance between government-funded recovery and soaring public debt.

Sweden will also represent the EU at the United Nations Framework on Climate Change due to be held in Copenhagen between 7 and 18 December, aimed at reaching a new global deal on reducing emissions to replace the Kyoto protocol. The EU now takes a leading role in climate and energy policy and the next six months will be important for agreeing global targets for reducing greenhouse gas emissions and the methods for doing so.

In addition, Sweden is seeking agreement on an ambitious and wide-ranging new five-year justice and home affairs programme. This programme contains a number of controversial items, such as a common asylum system, which foresees member states accepting a percentage of asylum applicants, possibly in accordance with their population size, as well as more EU measures in data sharing and criminal and civil law.

The EU's ongoing attempt to push through the Lisbon Treaty will also be a dominant theme. With Ireland's second referendum on the Lisbon Treaty scheduled for the autumn

¹ Speech at the Centre of European Policy Studies, Brussels, 9 June 2009;

http://www.se2009.eu/polopoly_fs/1.5450!menu/standard/file/CEPS.pdf

² Speech at the College of Europe, Bruges, 4 February 2009;

<http://www.sweden.gov.se/sb/d/11647/a/120791>

³ See, 18 month programme of the French, Czech and Swedish Presidencies;

<http://register.consilium.europa.eu/pdf/en/08/st10/st10093.en08.pdf>

⁴ Speech at the College of Europe, Bruges, 4 February 2009;

<http://www.sweden.gov.se/sb/d/11647/a/120791>

and the European Parliament reeling from the lowest ever turnout in a European election and a substantial increase in the 'eurosceptic' vote, the debate over the EU's democratic legitimacy is unlikely to diminish.

Sweden will preside over the appointment of a new Commission and the start of a new term for the European Parliament. With the fate of the Lisbon Treaty still in doubt, both institutions will begin their new mandates uncertain of the rules by which they will operate.

The Presidency looks set to be a busy one – with the Swedish Ambassador to the EU announcing there will be a staggering 6,000 meetings in the 'working groups' of the Council alone.⁵

⁵ See, <http://openeuropeblog.blogspot.com/2009/02/meetings-madness.html> and <http://www.svensktnaringsliv.se/fragor/europa/article72358.ece?csref= newsletter nyhetsbrev europanytt 2009-02-13>

2. EXECUTIVE SUMMARY

Reacting to the financial crisis

A decision on what powers the new EU supervisors will have over national supervisors and governments. At a June 2009 summit, EU leaders agreed to create three new EU agencies to supervise banks, insurers and securities firms in the EU. Controversially, the new authorities would have legally binding powers over national supervisors on supervisory standards and the European Court of Justice would have the final say in disputes between national supervisors. The UK Government had previously said it was against the idea that “outcomes of mediation should be binding”.

Following the agreement in June between national leaders, the Commission will this autumn table a detailed proposal on the new structure. What needs to be worked out and agreed during the Swedish Presidency is exactly how much power the EU supervisors will have over national authorities and what their day to day tasks will look like.

Critically, the UK Government is yet to identify exactly what it hopes to achieve in the ongoing negotiations over the new EU structure. A recent inquiry into the proposals by the Lords EU committee noted that the Government had provided the committee with three different views of the nature and scope of the EU authorities.

The UK has secured the assurance that “decisions taken by the European Supervisory Authorities should not impinge in any way on the fiscal responsibilities of the member states.” However, it’s unclear how these broad limitations would work in practice, given that the authorities also have binding powers.

In addition to this ambiguity, the crucial day-to-day powers of the EU supervisors have yet to be finalised and agreed.

French President Nicolas Sarkozy has dubbed the agreement on the new authorities “a complete sea-change in the Anglo-Saxon strategy” and suggested that the powers of the new EU authorities will grow over time. When asked if London had succeeded in its efforts to limit the transfer of powers to the EU supervisors after June’s summit, Sarkozy said, “This is a point of departure. In the future there will be an evolution. Institutions end up doing more than foreseen”, adding, “We’ve created a new EU institution from scratch...We could have gone further, but I believe that it will widen [its powers] through experience and practice, the way it’s always happened.”

A decision on who will chair the European Systemic Risk Board (ESRB). In June, EU leaders also agreed to establish a new EU body, consisting of national bankers and regulators, to act as an ‘early warning’ system, spotting risks to the stability of the financial system as a whole. The original Commission proposal recommended that the ESRB be chaired by the President of the ECB but the UK has questioned whether the interests of non-eurozone members will be adequately represented under such an arrangement. June’s summit conclusions stated that the ESRB’s chair will be elected by members of the General Council of the ECB, where the UK is represented, but it is still the case that eurozone members outnumber non-eurozone members by 16 to 11.

Will the UK Government muster enough support to water down damaging hedge fund and private equity regulation? In April 2009, the Commission tabled a proposal foreseeing tougher regulation of alternative investment funds and managers. The directive will for the first time extend EU regulation to all investment fund managers, most notably those managing hedge funds and private equity houses.

The proposal would impose stricter disclosure, reporting and capital requirements on EU-based alternative investment fund managers, while tightening regulations for non-EU funds.

The proposal has come under serious criticism in the UK, amid concerns that it could land a serious blow to both the alternative funds industry and its investors. Dan Waters of the UK's Financial Services Authority has said that the draft Directive is "a surprise and in many cases a complete shock to the markets that are affected".

UK City Minister Lord Myners has vowed to "fight tooth and nail to make the necessary improvements".

However, while the UK is home to 80 percent of Europe's hedge fund industry and about 60 percent of the private equity industry, the proposals will be voted on by Qualified Majority Voting in the Council, meaning that the UK could be outvoted. In addition, the European Parliament will have the power to amend and change the proposal before it can become law.

France and Germany are leading the push for tighter regulation with French Finance Minister Christine Lagarde saying that she wants to go even further, "The Commission's proposal is way below the demands that Europeans should have", she has said.

The European Parliament – lead by the Party of European Socialists – has signaled its desire to toughen up the proposal.

The UK Government is isolated in its fundamental opposition to the draft directive, though it has drawn some support from the incoming Swedish Presidency. Critically, the centre-right grouping, the EPP, appears split. For this reason, the EPP will be one of the main battle grounds on which the details of this proposal will be fought out.

Clamping down on government spending and budget deficits

Prime Minister Reinfeldt has stressed that, while combating the recession is important, there is little or no room left for further economic stimulus through government spending. There is therefore likely to be a focus on restraining government deficits and a renewed emphasis on the rules of the Growth and Stability Pact, which govern the thresholds of government debt.

Climate change and energy

Will a deal be struck at Copenhagen? At the UN-sponsored climate change conference in Copenhagen on 7-18 December, the Swedish Presidency will represent the EU in negotiations aimed at agreeing a replacement to the Kyoto Protocol, which expires in 2012.

Despite the already ambitious emissions reductions targets, the EU is committed to increasing its emissions reduction target to 30 percent by 2020 “provided that other developed countries commit themselves to comparable emission reductions and that developing countries contribute adequately according to their responsibilities and respective capabilities.” The Copenhagen summit has been described by both the Swedish government and Commission President Jose Manuel Barroso as the most important event during the Swedish Presidency.

How will emissions reductions in developing countries be financed? One of the most difficult questions, in the run up to the Copenhagen conference, will be how the EU member states fund their share of this investment. EU leaders have so far been unable to agree on this, despite several attempts. Ministers will discuss the issue again at a summit in October.

A new carbon tax? Sweden will push for a carbon tax on sectors not covered by the EU’s Emissions Trading Scheme, which covers around 40% of carbon emissions. Environment Minister Carlgren has said “We now have a system with a cap on 40% of emissions. But the remaining 60% also need to come down and a climate tax such as a CO2 tax is absolutely one of the best ways to achieve this”.

Justice and Home Affairs

How far will the “Stockholm Programme” advance? The new ‘Stockholm Programme’, which will run from 2010-2014, will set the framework for all EU cooperation in areas such as police, border and customs issues, legal matters and asylum, migration and visa policy. The Programme will be the EU’s most ambitious project ever in this field.

Jacques Barrot, the European Justice and Security Commissioner, has publicly declared that the objective is to “develop a domestic security strategy for the EU”. The aim is to adopt the ambitious programme at the European Council on 10-11 December.

A Common Asylum System based on ‘burden sharing’? Home to more asylum seekers than any other EU country, Sweden is very keen to make progress towards completing a Common Asylum System for the EU. The proposed aim is to “reduce over time the dramatic fluctuations in asylum flows to individual Member States.” As well as Sweden, countries such as Malta and Italy have seen masses of asylum applications and illegal immigration from the Mediterranean and new rules could see a more even, fairer and arguably more consistent distribution of asylum applications throughout the EU.

Controversially, the ‘burden sharing’ provision – which has effectively already been approved by the European Parliament – foresees member states accepting a percentage of asylum applicants, possibly in accordance with their population size. This could mean that some countries, including the UK, could see an increase in the number of asylum seekers – although the details of the proposal are still to be agreed on.

Sweden is also likely to push for the principle of ‘mutual recognition’, whereby judgements and rulings made in one member state on an asylum case are recognised and respected by all the others, to be enshrined by the end of 2014.

An Asylum Support Office by 2010? The Commission has also proposed the establishment of an Asylum Support Office “to coordinate and step up cooperation on asylum between Member States”, which could be up and running as soon as 2010. Under the new rules, “All officials responsible for handling asylum applications in the Member States will have to follow common training modules.” Although member states have already agreed in principle to establish such an office, its precise role and scope are still to be decided.

The creation of the “largest fingerprint system in the world”? The Stockholm programme will see the continued extension of the European Border Surveillance System (Eurosur) and the EU’s border agency Frontex, “in order to share surveillance data” between member states. Proposals also include the increased use of technology, such as “an electronic system for recording entry to and exit from Member States’ territory” and the use of biometric data. This data would then be stored on a central database, managed by a single agency. Controversially, the Commission has said that this will create “the largest ten fingerprint system in the world.”

A common Schengen visa issued by an EU consulate? The Stockholm Programme may also see the creation of a common visa for the Schengen area, which includes all EU members except for the UK and Ireland. The Commission has suggested that the visa could be issued by “a common consular authority”.

More ‘mutual recognition’ in civil and criminal matters? The Commission has also called for judgements on civil matters which are “essential to everyday life”, such as “succession and wills, matrimonial property rights and the property consequences of the separation of couples” to be subject to ‘mutual recognition’. There are plans to extend this to criminal matters as well. An example would be the ability to implement fines received in another member state.

Common rules on procedural rights for criminal matters?

The Swedish Presidency has said that it wants to balance out the “repressive” aspects of the EU’s far-reaching justice and home affairs programme with “initiatives securing the rule of law and the rights of the individual, including a law on the right to interpretation for criminal suspects, accompanied by a non-binding guide on suspects’ access to interpretation. Other rights, such as access to a lawyer, consular assistance and help with understanding proceedings, will be proposed later. The UK is opposed to this.

Lisbon Treaty and institutional changes

Will the Irish vote Yes? In case of a Yes vote in a re-run referendum in Ireland on the Lisbon Treaty, the Swedish government will lead the transition into a permanent President, a new EU Foreign Minister and a union in which more decisions are made at the EU level. If Ireland votes Yes, Sweden has only a few weeks to get EU governments to agree on who will take up the positions as President and Foreign Minister – the aim is to have these positions agreed by the Council meeting on 29-30 October.

What will a new Commission look like? The Swedish Presidency will see the appointment of a new Commission. This will lead to a new set of policy priorities and fierce negotiations between member states as they battle it out to secure the top jobs in the Commission. There is also the issue of the size of the next Commission, which will

depend on whether the Lisbon Treaty comes into force. Swedish PM Reinfeldt has said that the new Commission will “probably take office some time early in the new year”.

France, Germany and the UK are all likely to lobby for one of the top posts. There has been speculation that French President Nicolas Sarkozy would like his Finance Minister, Christine Lagarde, to take on the role of Competition or Internal Market Commissioner.

German Chancellor Angela Merkel has said “For us it is clear that we aim for an economy-based post, such as competition, internal market or industry”. Friedrich Merz, the former MEP and former Chairman of Merkel’s party, the CDU, is reportedly in the running but Merkel has said that no decision will be made until after the federal elections in September.

Meanwhile, in the UK, current incumbent Baroness Ashton is rumoured to want to carry on. However, the latest reports suggest that Gordon Brown is lining up Baroness Vadera, who is currently serving under Lord Mandelson in the Department for Business, Innovation and Skills.

Other Priorities

Enlargement: The Swedish government sees advancing EU enlargement, including continuing accession talks with Turkey, as one of its main priorities.

Patient mobility and cross-border healthcare: EU negotiations on the patient mobility directive are likely to continue in the second half of 2009, as are talks on conditions for the reimbursement of patients who receive cross-border health care, which could have a huge impact on the NHS.

EU budget: The EU is fast approaching a new EU budget period (2013-2020) and the Commission is due to publish its budget review during the Swedish Presidency, which will start the long process of budget negotiations. Sweden is one of the strongest proponents of a fundamentally reformed budget, including cuts in the CAP, although to what extent this will make budget reform more likely, is unclear.

Iran: Sweden’s EU Presidency will be tested by forging a common EU response to the continuing political unrest in Iran, following the recently disputed elections.

Concluding a free trade deal with South Korea: The Swedish Presidency has announced that it wants to forge a consensus next month on whether to proceed with a free-trade agreement with South Korea. One Swedish diplomat has said “It is crunch time” for the deal.

3. REACTING TO THE FINANCIAL CRISIS

“Initiatives to establish a new structure for European financial sector supervision, as proposed by the de Larosière report and most recently the Commission, aim to enhance the ability to detect threats to financial stability. We will seek political agreement on these”

– Fredrik Reinfeldt, Swedish Prime Minister and Anders Borg, Swedish Finance Minister⁶

“We have agreed a European system of supervision with binding powers... It is a complete sea-change in the Anglo-Saxon strategy... We could have gone further, but I believe that it will widen [its powers] through experience and practice, the way it's always happened.”

– Nicolas Sarkozy, French President⁷

“It is important that we develop new regulations that prevent crises and at the same time safeguard London’s continued position as the leading financial centre in Europe”

– Mats Odell, Swedish Minister for Local Government and Financial Markets⁸

“If the crisis we face today was created by people borrowing too much, the solution cannot be for governments to act in the same way”

– Fredrik Reinfeldt, Swedish Prime Minister⁹

Both the Swedish Prime Minister and Finance Minister have made it clear that tackling the effects of the recession and implementing new measures to avoid any recurrence of the causes of the financial crisis are the first priority for the Swedish Presidency. With a raft of proposals in the pipeline resulting from the de Larosière report on financial supervision¹⁰, authored on behalf of the European Commission, the Swedish Presidency will play a central role in shaping how financial institutions are regulated and supervised in the EU.

Financial supervision

At the June 2009 summit, EU leaders agreed to create a new system for financial supervision in the EU, largely based on the recommendations contained within the de Larosière report¹¹. They agreed to the establishment of two new bodies: a European System of Financial Supervisors (ESFS), which will set standards for national regulators to supervise banks, insurers and securities firms, and a European Systemic Risk Board

⁶ FT, 4 June 2009; <http://www.ft.com/cms/s/0/60f27820-514c-11de-84c3-00144feabdc0.html>

⁷ Telegraph, 20 June 2009,

<http://www.telegraph.co.uk/finance/newsbysector/banksandfinance/5581725/UK-wins-concessions-on-EU-rules.html>; Wall Street Journal, 20 June 2009, <http://online.wsj.com/article/SB124541961471231443.html>

⁸ FinAlternatives, 23 June 2009; <http://www.finalternatives.com/node/8307>

⁹ Speech at the Centre of European Policy Studies, Brussels, 9 June 2009;

http://www.se2009.eu/polopoly_fs/1.5450!menu/standard/file/CEPS.pdf

¹⁰ See, The High Level Group on Financial Supervision in the EU, Chaired by Jacques de Larosiere, Report, 25 February 2009; http://ec.europa.eu/internal_market/finances/docs/de_larosiere_report_en.pdf

¹¹ For Open Europe’s reaction, see; <http://www.openeurope.org.uk/media-centre/pressrelease.aspx?pressreleaseid=112>

(ESRB) that will monitor the financial system, and act as an 'early warning' system for threats to stability¹².

Formal legislative proposals will be tabled by the Commission in the autumn, with a view to having them adopted in time for the new supervisory framework to be up and running during 2010. The proposal is likely to be introduced under the EU's internal market rules and decided by Qualified Majority Voting, meaning the UK does not have a veto.

Negotiations over the coming months will be crucial in determining how the proposed system of financial supervision will work and what powers the bodies will have in practice.

What powers will EU supervisors have over national supervisors and governments?

The UK has secured the assurance that "decisions taken by the European Supervisory Authorities should not impinge in any way on the fiscal responsibilities of the member states."¹³ The UK Government says this means that a member state government could not be compelled to bail out one of its banks with taxpayers' money, since ultimate fiscal authority remains with national governments.

However, it is unclear how these broad limitations would work in practice, given that the authorities would have binding powers (as explained below). There is also a question mark over who would have the final say over which decisions are considered to "impinge on the fiscal responsibilities" of member states.

Adding to this ambiguity, the crucial day-to-day powers of the EU supervisors have yet to be finalised and agreed.

The Commission's proposal establishes a two-stage process for the upgrading of three EU committees, known as 'Level 3' committees, which currently have only advisory status. The first stage would give these committees a more proactive role in organising and guiding so-called colleges of supervisors (meetings of representatives of all national supervisors), and in reviewing the standards of national supervisors. The second stage would elevate the committees into three new authorities – called European Supervisory Authorities (ESAs) – overseeing banking, insurance and securities regulation in the member states.

Controversially, the new authorities would have legally binding powers over national supervisors on supervisory standards¹⁴ and the European Court of Justice would have the final say in disputes between national supervisors. June's EU summit conclusions read: "the summit agrees that the European System of Financial Supervisors should have binding and proportionate decision-making powers (over) whether (national)

¹² See European Council Conclusions, 18-19 June, sections 19 and 20; <http://www.openeurope.org.uk/research/councilconclusionsjune2009.pdf>

¹³ European Council 18-19 June conclusions, section 20

¹⁴ For a more thorough discussion, see House of Lords European Union Committee, "The future of EU financial regulation and supervision", 9 June 2009; see <http://www.publications.parliament.uk/pa/ld200809/ldselect/ldecom/106/10602.htm>

supervisors are meeting their requirements under a single rule book and relevant (EU) law”¹⁵.

Commission President Jose Manuel Barroso has said that "an overwhelming majority" of EU countries are in favour of this type of “binding dispute settlement mechanism”, enabling the European regulator to overrule national governments.¹⁶

Critically, the UK Government is yet to identify exactly what it hopes to achieve in the ongoing negotiations over a new EU supervision structure. A recent inquiry into the proposals by the EU Committee in the House of Lords noted that the Government had provided the committee with three different views of the nature and scope of the EU authorities.¹⁷

In addition, Lord Woolmer – the Labour Peer who chaired the committee – accused the Government of being “behind the ball game at times” in the negotiations.¹⁸

Indeed, prior to the Council meeting in June, the UK’s Financial Services Authority had argued that the Commission goes “too far in proposing that the EU level body should be able to overrule national supervisors.”¹⁹ Similarly, the UK Treasury expressed specific opposition to ‘binding mediation’ powers, saying, “We do not agree that mediation be widened to include the whole of the Level 3 committee, that it should be obligatory, or that the outcomes of mediation should be binding.”²⁰

However, during the negotiations, the UK Government conceded to giving the authorities ‘binding mediation powers’. French President Nicolas Sarkozy dubbed this a “sea-change” in Britain’s position on EU supervision. He said, “Mr Brown has assumed his responsibilities: it is a complete sea-change in the Anglo-Saxon strategy.”²¹

President Sarkozy has also made it clear that he sees the establishment of the EU supervision system as a crucial first step towards even more power being transferred to the EU in this area in the future.

When asked if London had succeeded in its efforts to limit the transfer of powers to the EU supervisors after June’s summit, Sarkozy said, “This is a point of departure. In the future there will be an evolution. Institutions end up doing more than foreseen”²². He added: “We’ve created a new EU institution from scratch... We could have gone further,

¹⁵ European Council 18-19 June conclusions, section 20

¹⁶ *Guardian*, 17 June 2009; <http://www.guardian.co.uk/business/2009/jun/17/gordon-brown-financial-brussels-summit>

¹⁷ House of Lords European Union Committee, “The future of EU financial regulation and supervision”, 9 June 2009, see <http://www.publications.parliament.uk/pa/ld200809/ldselect/lducom/106/10602.htm>

¹⁸ See the Lords press release, <http://news.parliament.uk/2009/06/lords-criticise-european-commissions-financial-regulation-proposals/>

¹⁹ Quoted in House of Lords European Union Committee, “The future of EU financial regulation and supervision”, 9 June 2009, see

<http://www.publications.parliament.uk/pa/ld200809/ldselect/lducom/106/10602.htm>

²⁰ Commission consultation paper on changes to the Decisions establishing CEBS, CEIOPS and CESR > UK response, p3; http://www.hm-treasury.gov.uk/d/consultation_cesrcebsceiops_response.pdf

²¹ *Press Association*, 19 June 2009

²² *Telegraph*, 20 June 2009,

<http://www.telegraph.co.uk/finance/newsbysector/banksandfinance/5581725/UK-wins-concessions-on-EU-rules.html>

but I believe that it will widen [its powers] through experience and practice, the way it's always happened."²³

The next six months will be crucial in determining the exact nature, scope and powers of the new EU authorities.

Who will chair the European Systemic Risk Board (ESRB)?

The original Commission proposal recommended that the ESRB be chaired by the President of the European Central Bank (ECB), but the UK has questioned whether the interests of non-eurozone members will be adequately represented under such an arrangement. June's summit conclusions stated that the ESRB's chair will be elected by members of the General Council of the ECB, where the UK is represented, but it is still the case that eurozone members outnumber non-eurozone members by 16 to 11²⁴.

Hedge fund and private equity regulation

In addition to the proposals for EU financial supervision, the Commission has proposed a directive on alternative investment funds and managers (AIFM Directive). The Directive will for the first time extend EU regulation to all investment funds managers. In addition to hedge funds and private equity houses, the Directive will cover a range of other funds, such as infrastructure and real estate.²⁵ The proposal will be amended by the European Parliament and national governments in the autumn.

The proposal would impose stricter disclosure, reporting and capital requirements on EU-based alternative investment funds managers, while also tightening regulations for non-EU funds.

Greater hedge fund regulation has been on the wish-list of some EU governments and many MEPs for some time, and the financial crisis is being seen by some as the ideal pretext for introducing more regulation. For example, in a recent speech, President Sarkozy said "the crisis gives us again the freedom to imagine. It is the time to go as far as possible."²⁶ In a similar vein, Commission President Jose Manuel Barroso has said, "It's now or never. If we cannot reform the financial sector when we have a real crisis, when will we?"²⁷

The proposal is under heavy criticism in the UK. Critics argue that the draft proposal is inconsistent, protectionist, overly burdensome and written without proper consideration given to current market practices. In addition, neither the de Larosiere report, the Turner review, nor the Commission itself have claimed that hedge funds or private equity groups were to blame for the financial crisis, so the proposal appears irrational.

²³ *Wall Street Journal*, 20 June 2009; <http://online.wsj.com/article/SB124541961471231443.html>

²⁴ See, <http://www.ecb.int/ecb/orga/decisions/genc/html/index.en.html>

²⁵ The Directive covers all funds currently not regulated by the so-called UCITS Directive.

²⁶ Speech at the International Labour Conference, Geneva, 15 June 2009;

http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/statement/wcms_108155.pdf

²⁷ *Telegraph*, 28 May 2009;

<http://www.telegraph.co.uk/finance/newsbysector/banksandfinance/5395678/Europe-tightens-regulatory-noose-on-City.html>

Paul Marshall, co-founder of Marshall Wace, one of London's top hedge funds, has said the draft directive has “the wrong priorities, wrong approach and was written by the wrong people”²⁸.

Dan Waters of the UK's Financial Services Authority says the contents of the proposal “are a surprise and in many cases a complete shock to the markets that are affected.”²⁹

While agreeing with parts of the proposed Directive, UK City Minister Lord Myners has vowed to “make improvements” to the proposal. He said: “We think there is a job of work to be done here and we will fight tooth and nail to make the necessary improvements.”³⁰

The UK is home to 80 percent of Europe's hedge fund industry³¹, and yet the proposals will be voted on by Qualified Majority Voting in the Council, meaning the UK could be outvoted. In addition, since the proposal will be decided under the so-called ‘co-decision’ procedure, which gives the European Parliament equal rights to decide with the Council, the European Parliament will have the power to amend and change the proposal before it can become law.

France and Germany are leading the push for tighter regulation, with French Finance Minister Christine Lagarde saying that she wants to go even further. She said: “The Commission's proposal is way below the demands that Europeans should have. It is regulation at its minimum. We need to have a maximalist position at the start.”³²

Internal Market Commissioner Charlie McCreevy, who originally defended alternative investors as more the victims than the perpetrators of market turmoil, has noted that the majority of the European Parliament is determined to introduce regulation. He said: “They obviously decided this is a big issue for them, and they're going to run with it... That's politics.”³³

In September 2008, MEPs voted in favour of a resolution³⁴, by 562 votes to 86³⁵, calling for hedge funds and private firms to disclose their leverage and debt exposure. It also called for a cap on the amount that private equity firms can leverage (borrow).

The Party of European Socialists (PES) in the European Parliament has already indicated that it intends to toughen up the proposal further when it goes through the Parliament. Former MEP and current PES President Poul Nyrup Rasmussen – one of the main proponents of the Directive – said that the proposal “has more holes than a

²⁸ *Telegraph*, 18 June 2009;

<http://www.telegraph.co.uk/finance/newsbysector/banksandfinance/5560994/Hedge-funds-attack-EU-regulation-plans.html>

²⁹ See, <http://www.citywire.co.uk/adviser/-/news/regulation-training-and-competence/content.aspx?ID=346474>

³⁰ *Sunday Times*, 14 June 2009,

http://business.timesonline.co.uk/tol/business/industry_sectors/banking_and_finance/article6493379.ece

³¹ *Alternative Investment Management Association*, Spring 2009 newsletter

³² *Le Monde*, 8 May 2009; http://www.lemonde.fr/la-crise-financiere/article/2009/05/08/les-fonds-speculatifs-s-engagent-a-s-autoreguler_1190538_1101386.html

³³ *Bloomberg*, 18 June 2009; <http://www.bloomberg.com/apps/news?pid=20601085&sid=aPJUmvtGkQtg>

³⁴ See, Recommendations to the Commission on Hedge funds and private equity;

<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2008-0338&language=EN>

³⁵ See, Rasmussen (A6-0338/2008) - resolution; <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+PV+20080923+RES-RCV+DOC+PDF+V0//EN&language=EN>

Swiss cheese.”³⁶ He has called for the proposal to be radically toughened up, and wants to widen its scope to include more managers and the funds themselves.

The UK Government is isolated in its fundamental opposition to the draft directive, but has drawn some support from the incoming Swedish Presidency.

UK Financial Services Minister Lord Myners has indicated that Sweden has agreed to work with the UK Government to improve the Directive. Following a recent meeting with his Swedish counterpart, Mats Odell, Lord Myners said, “We are pleased at the consensus that exists between our views and those of the Swedish presidency. We have agreed to work closely together in the months ahead to explain how hedge funds and private equity can add value whilst examining the concerns expressed by some member states.”

Odell added: “It is important that we develop new regulations that prevent crises and at the same time safeguard London’s continued position as the leading financial centre in Europe.”³⁷

Given that many member states lack an alternative investment industry of their own – and therefore have no particular reason for either opposing or supporting the Directive – it remains to be seen whether these countries can be convinced to support the UK Government’s position.

In the European Parliament, the Socialists are clearly in favour of the proposal – (and have been weakened by their poor election performance) – while the liberal group (ALDE) is said to be against it. Critically, the centre-right grouping, the EPP, appears split. For this reason, the EPP will be one of the main battle grounds on which the details of this proposal will be fought out.

Regulation on remuneration within the financial services sector

The Commission has issued a recommendation to member states asking them to ensure that financial institutions make sure that executives’ pay “is consistent with and promotes sound and effective risk management and [...] does not induce excessive risk taking”³⁸.

Sweden is likely to support this proposal, as Prime Minister Reinfeldt has previously said, “The hunt for easy money, unhealthy risk-taking and, in some cases, pure greed created a financial hurricane”³⁹.

Kick-starting the ‘Lisbon Agenda’ – creating growth and employment

The Swedish Presidency wants to reinvigorate the EU’s ‘Lisbon Agenda’, which was agreed in 2000 with the aim of boosting growth and employment. The Presidency’s work programme says that, “The Presidency’s ambition is for the future strategy to be focused and deal with the largest challenges in the longer term: to convert the EU to an eco-

³⁶ See <http://www.pes.org/en/news/draft-directive-has-more-holes-swiss-cheese>

³⁷ *FinAlternatives*, 23 June 2009; <http://www.finalternatives.com/node/8307>

³⁸ European Commission, *Commission Recommendation on remuneration policies in the financial services sector*, 30 April 2009; http://ec.europa.eu/governance/impact/docs/ia_2009/c_2009_3159_en.pdf

³⁹ Speech at the Centre of European Policy Studies, Brussels, 9 June 2009; http://www.se2009.eu/polopoly_fs/1.5450!menu/standard/file/CEPS.pdf

efficient economy so as to meet the environmental and climate objectives, to strengthen the EU's global competitiveness through open trade systems, to combat the effects of an ageing population and to restore sustainable public finances"⁴⁰.

Clamping down on government spending and budget deficits

Prime Minister Reinfeldt has stressed that, while combating the recession is important, there is little or no room left for further economic stimulus through government spending. There is therefore likely to be a focus on restraining government deficits and a renewed emphasis on the rules of the Growth and Stability Pact, which govern the thresholds of government debt.

⁴⁰ Swedish Government, *Work Programme for the Swedish Presidency of the EU*, 23 June 2009, p14; http://www.se2009.eu/polopoly_fs/1.6248!menu/standard/file/Work%20Programme%20for%20the%20Swedish%20Presidency%201%20July%20-%2031%20Dec%202009.pdf

4. CLIMATE CHANGE AND ENERGY

“Most important is of course to contribute to a global post-Kyoto agreement at the UN climate conference in Copenhagen in December. The climate package agreement by the European Council last December was an important first step. Now we must make sure that we get the rest of the world onboard. That will not be easy”

– Cecilia Malmström, Swedish Minister for European Affairs⁴¹

“With the climate and energy package Europe has put itself firmly on the road towards a low-carbon future. Now we need to convince others to follow suit and put the world firmly on the path to a low carbon and energy efficient economy”

- Stavros Dimas, EU Environment Commissioner⁴²

“The Swedish EU Presidency wants the climate agreement in Copenhagen to be ambitious, and that the EU should reduce its emissions by 30%”

- Andreas Carlgren, Swedish Minister for the Environment⁴³

Copenhagen climate change conference (Intergovernmental Panel on Climate Change)

At the UN-sponsored climate change conference in Copenhagen on 7-18 December, the Swedish Presidency will represent the EU in negotiations aimed at agreeing a replacement to the Kyoto Protocol, which expires in 2012.

In December 2008 the EU agreed to binding energy and climate targets, including a binding target on cutting carbon emissions by 20 percent and a commitment that 20 percent of all the EU's energy should be renewable by 2020. There is also a non-binding target to increase energy efficiency by 20 percent by 2020⁴⁴.

Despite these already ambitious targets, the EU is committed to increasing its emissions reduction target to 30 percent by 2020 “provided that other developed countries commit themselves to comparable emission reductions and that developing countries contribute adequately according to their responsibilities and respective capabilities.”⁴⁵

Swedish Environment Minister Andreas Carlgren has said that “Our decision to scale up the EU contribution is also our most important tool, a lever, to make the rest of the world prepared to do their part, in response to science. We cannot let go of this lever, and move from 20 to 30%, until we get sufficient commitments and measures from the rest of the world.”⁴⁶

⁴¹ Speech at the College of Europe, Bruges, 4 February 2009; <http://www.sweden.gov.se/sb/d/11647/a/120791>

⁴² Speech in Brussels, 9 February 2009; <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/09/43&format=HTML&aged=0&language=EN&guiLanguage=en>

⁴³ Speech in Brussels, 24 June 2009; <http://www.sweden.gov.se/sb/d/7529>

⁴⁴ For an overview see, Open Europe, *The EU Climate Action and Renewable Energy Package - Are we about to be locked into the wrong policy?*, 2008; <http://www.openeurope.org.uk/research/carep.pdf>

⁴⁵ See European Council Conclusions, 18-19 June, section 30; <http://www.openeurope.org.uk/research/councilconclusionsjune2009.pdf>

⁴⁶ Speech in Brussels, 24 June 2009; <http://www.sweden.gov.se/sb/d/7529>

Financing emissions reductions in developing countries

EU Environment Commissioner Stavros Dimas has suggested that the global cost of combating climate change will be in the region of €175 billion a year by 2020, with “over half” of this investment targeted at developing countries⁴⁷. Greenpeace and other NGOs have suggested that the EU should be contributing around €35 billion towards the funding⁴⁸.

The question, in the run up to the Copenhagen conference, will be how the EU member states fund their share of this investment. Environment ministers meeting in March 2009 were unable to reach an agreement on either the EU’s share of the funding or on how to share the burden of the costs between the EU’s member states. Germany’s Environment Minister Sigmar Gabriel said, “It makes no sense to say now how much the EU is willing to transfer. We will negotiate that in Copenhagen. We are creeping towards a number.”⁴⁹

A second attempt to agree the EU’s negotiating position, at June’s EU summit, also failed, with Poland reportedly rejecting a proposal whereby all member states would contribute 0.7 percent of their GDP⁵⁰. EU leaders eventually put off further talks until the autumn summit in October⁵¹.

A carbon tax for carbon emissions not covered by the EU’s Emissions Trading Scheme

Sweden will push for a carbon tax on sectors not covered by the EU’s Emissions Trading Scheme, which currently covers around 40% of carbon emissions. Environment Minister Carlgren told Swedish radio, “We now have a system with a cap on 40% of emissions. But the remaining 60% also need to come down and a climate tax such as a CO2 tax is absolutely one of the best ways to achieve this”⁵².

However, such a plan is likely to meet resistance, and because taxation is not an EU competence any agreement will have to be co-ordinated on an ad-hoc intergovernmental basis by the member states. Prime Minister Reinfeldt has recognised this, saying, “I am asking them to introduce this at the nation state [level].”⁵³

Energy security

Sweden, along with Finland, may delay progress on the building of the Nordstream pipeline, which would see Russian gas piped directly to Germany along the bed of the Baltic Sea. Sweden and Finland have asked for additional information regarding the

⁴⁷ Speech in Brussels, 9 February 2009; <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/09/43&format=HTML&aged=0&language=EN&guiLanguage=en>

⁴⁸ *Deutsche Welle*, 3 March 2009; <http://www.dw-world.de/dw/article/0,,4069857,00.html>

⁴⁹ *Deutsche Welle*, 3 March 2009; <http://www.dw-world.de/dw/article/0,,4069857,00.html>

⁵⁰ *Handelsblatt*, 15 June 2009

⁵¹ See European Council Conclusions, 18-19 June, section 32;

<http://www.openeurope.org.uk/research/councilconclusionsjune2009.pdf>

⁵² *Euractiv*, 12 May 2009; <http://www.euractiv.com/en/climate-change/swedes-push-co2-tax-eu-helm/article-182201>

⁵³ AP, 9 June 2009; <http://finance.yahoo.com/news/Sweden-to-call-for-CO2-tax-as-apf-15477837.html?v=1>

potential impact on the ecology of the Baltic⁵⁴. The project has political ramifications due to the fact that it 'bypasses' Eastern European countries reliant on Russian gas imports.

Energy efficiency

Various EU initiatives aimed at increasing energy efficiency, including the Energy Performance of Buildings Directive, a proposal to extend energy labelling to cover all energy-related products, and the labelling of tyres, will come up for negotiation during the Swedish Presidency⁵⁵.

⁵⁴ *Reuters*, 17 June 2009; <http://www.reuters.com/article/companyNews/idUKLH86357720090617>

⁵⁵ *Euractiv*, 25 June 2009; <http://www.euractiv.com/en/energy-efficiency/sweden-seeks-steer-eu-energy-efficient-path/article-183378>

5. JUSTICE AND HOME AFFAIRS

“There is distinct need to work out an ‘EU master plan on information exchange between law enforcement authorities”

– Beatrice Ask, Swedish Minister for Justice⁵⁶

“We will do our utmost to create a Common European Asylum System and to harmonise the area further to maintain long-term sustainability of our asylum systems”

– Cecilia Malmström, Swedish Minister for European Affairs⁵⁷

The “Stockholm Programme”

Besides the financial crisis and the global climate change negotiations, the other top priority of the Swedish Presidency is to establish a new ‘strategic work programme’ for the entire policy area of justice and home affairs, replacing the current ‘Hague Programme’ and the preceding ‘Tampere Programme’.

The new ‘Stockholm Programme’⁵⁸, which will run from 2010-2014, will set the framework for all EU cooperation in areas such as police, border and customs issues, legal matters and asylum, migration and visa policy⁵⁹.

The Stockholm Programme will be based on the recommendations of the informal ‘Future Group’, made up of ministers from previous, current and future EU presidencies, which first met in 2007⁶⁰. The ‘Stockholm Programme’ will be the EU’s most ambitious foray in this field, with Swedish Justice Minister Beatrice Ask saying, “Our aim should be a holistic objective in law enforcement information management, comprising data security, data protection and law enforcement needs.”⁶¹

The Swedish Presidency has said that it intends to devote the informal meeting of justice and home affairs ministers in Stockholm on 15-17 July 2009 entirely to the Stockholm Programme. The Programme will then be dealt with formally in the Justice and Home Affairs Council on 30 November to 1 December and in the General Affairs and External Relations Council (GAERC) on 7-8 December before it is adopted by European leaders at the European Council on 10-11 December⁶².

⁵⁶ Speech at the College of Europe, Brussels, 4 March 2009;

<http://www.sweden.gov.se/sb/d/10959/a/122436>

⁵⁷ Speech at the College of Europe, Bruges, 4 February 2009;

<http://www.sweden.gov.se/sb/d/11647/a/120791>

⁵⁸ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: An area of freedom, security and justice serving the citizen; see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0262:FIN:EN:PDF>

⁵⁹ Swedish Government, *Work Programme for the Swedish Presidency of the EU*, 23 June 2009, p7; http://www.se2009.eu/polopoly_fs/1.6248!menu/standard/file/Work%20Programme%20for%20the%20Swedish%20Presidency%201%20July%20-%2031%20Dec%202009.pdf

⁶⁰ See,

http://www.eu2007.bmi.bund.de/nn_1052590/EU2007/EN/ServiceNavigation/PressReleases/content_Pressemittelungen/Eltville_en.html

⁶¹ Speech at the College of Europe, Brussels, 4 March 2009;

<http://www.sweden.gov.se/sb/d/10959/a/122436>

⁶² Swedish Presidency press release; see,

http://www.se2009.eu/en/meetings_news/2009/6/10/swedish_ministers_welcome_commission_communication_on_the_stockholm_programme

Jacques Barrot, the European Justice and Security Commissioner, has publicly declared that the aim is to “develop a domestic security strategy for the EU”, adding that, “National frontiers should no longer restrict our activities”⁶³.

Tony Bunyan, of the European Civil Liberties Network, has warned that EU security officials are seeking to harness a “digital tsunami” of new information technology, suggesting that existing and new proposals will create an EU ID card register, internet surveillance systems, satellite surveillance, automated exit-entry border systems operated by machines reading biometrics and risk profiling systems⁶⁴.

A Common Asylum System based on ‘burden sharing’

Sweden has said that it wants to make progress towards completing a Common Asylum System for the EU. The proposed aim is to “reduce over time the dramatic fluctuations in asylum flows to individual Member States.”⁶⁵ Countries such as Malta and Italy have seen masses of asylum applications and illegal immigration from the Mediterranean, and new rules could see a more even and arguably more consistent distribution of asylum applications throughout the EU.

Controversially, the ‘burden sharing’ provision – which has effectively already been approved by the European Parliament – foresees member states accepting a percentage of asylum applicants, possibly in accordance with their population size.⁶⁶ This could mean that some countries, including the UK, could see an increase in the number of asylum seekers. Proposals are also floating around for minimum standards on reception conditions, such as guarantees on housing, food, clothing, health care, freedom of movement and access to work within six months of arrival.

During the Swedish Presidency, negotiations will be ongoing to amend the EURODAC Regulation⁶⁷ and the Dublin Regulation⁶⁸, which form much of the legislative basis for asylum rules in the EU. The Commission’s communication calls for the principle of ‘mutual recognition’, whereby judgements and rulings made in one member state are recognised and respected by all the others, to be enshrined by the end of 2014⁶⁹. This will mean that once an applicant has received asylum in one member state they can transfer to the ‘protection’ of another. This is to be combined with a ‘mechanism for

⁶³ *Telegraph*, 10 June 2009; <http://www.telegraph.co.uk/news/worldnews/europe/eu/5496912/EU-security-proposals-are-dangerously-authoritarian.html>

⁶⁴ *Telegraph*, 10 June 2009; <http://www.telegraph.co.uk/news/worldnews/europe/eu/5496912/EU-security-proposals-are-dangerously-authoritarian.html>

⁶⁵ Swedish government website; <http://www.regeringen.se/sb/d/11901/a/126472> (viewed on 29 June 2009)

⁶⁶ See, http://www.europarl.europa.eu/news/expert/infopress_page/022-55223-124-05-19-902-20090506IPR55222-04-05-2009-2009-true/default_en.htm

⁶⁷ See http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/133081_en.htm

⁶⁸ See http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/133153_en.htm

⁶⁹ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: An area of freedom, security and justice serving the citizen, p27; see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0262:FIN:EN:PDF>

internal resettlement' which the Commission hopes will be operational by 2013, under the coordination of a proposed EU Asylum Support Office⁷⁰ (see below).

Asylum Support Office

The Commission has proposed the establishment of an Asylum Support Office “to coordinate and step up cooperation on asylum between Member States”, which could be up and running as soon as 2010⁷¹. Under the new rules, “All officials responsible for handling asylum applications in the Member States will have to follow common training modules.”⁷²

As noted above, the Commission wants the body’s longer term role to be focussed on promoting and coordinating burden sharing of asylum applications between member states.

Border surveillance and the “largest fingerprint system in the world”

The Stockholm Programme proposes the continued extension of the European Border Surveillance System (Eurosur) and the EU’s border agency Frontex, “in order to share surveillance data” between member states⁷³. Proposals also include the increased use of technology, such as “an electronic system for recording entry to and exit from Member States’ territory” and the use of biometric data. This data would then be stored on a central database, managed by a single agency.

The Commission has announced that:

“The Visa Information System will store data on up to 70 million people concerning visas for visits to or transit through the Schengen Area. This data will include the applicant’s photograph and their ten fingerprints. The VIS will become the largest ten fingerprint system in the world.”⁷⁴

A common Schengen visa

The Stockholm Programme may also see the creation of a common visa for the Schengen area, which includes all EU members except for the UK and Ireland⁷⁵. The

⁷⁰ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: An area of freedom, security and justice serving the citizen, p28; see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0262:FIN:EN:PDF>

⁷¹ Commission press release, 18 February 2009; <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/275>

⁷² COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: An area of freedom, security and justice serving the citizen, p27; see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0262:FIN:EN:PDF>

⁷³ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: An area of freedom, security and justice serving the citizen, p18; see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0262:FIN:EN:PDF>

⁷⁴ Commission press release, 12 June 2007; <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/802&format=HTML&aged=0&language=EN&guiLanguage=en>

⁷⁵ Bulgaria, Cyprus and Romania have yet to implement the Schengen rules

Commission has suggested that the visa could be issued by “a common consular authority.”⁷⁶

Extending ‘mutual recognition’ in civil and criminal matters

The Commission has called for judgements on civil matters which are “essential to everyday life”, such as “succession and wills, matrimonial property rights and the property consequences of the separation of couples” to be subject to ‘mutual recognition’.

There are plans to extend this to criminal matters as well. An example would be the ability to implement fines received in another member state. The Commission’s communication gives the example of a speeding fine levied in another member state:

“It should be possible to implement certain fines, which can be criminal or administrative according to the Member State, between countries, with a view to ensuring compliance with EU policies in general and, more specifically, improving road safety.”⁷⁷

Common rules on procedural rights for criminal matters

The Swedish Presidency has said that it wants to balance out the “repressive” aspects of the EU’s far-reaching justice and home affairs programme with “initiatives securing the rule of law and the rights of the individual.” Swedish Justice Minister Beatrice Ask said:

“The last years of activity in the area have [for] many reasons been focused on repressive instruments. Therefore we can see an increased need to balance these measures with initiatives securing the rule of law and the rights of the individual. Individual rights in criminal proceedings, rules on international protection and rules of data protection are issues to work with.”⁷⁸

The proposals backed by Sweden and the European Commission include a law on the right to interpretation for criminal suspects, accompanied by a non-binding guide on suspects’ access to interpretation. Other rights, such as access to a lawyer, consular assistance and help with understanding proceedings, will be proposed later.

Ireland, the UK and Slovakia share the view that the European Convention on Human Rights already affords minimum protection and have questioned the merits of a new set of rights. These countries have been backed by the Czech Republic, Malta and Cyprus in opposing the proposals⁷⁹.

⁷⁶ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: An area of freedom, security and justice serving the citizen, p19; see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0262:FIN:EN:PDF>

⁷⁷ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: An area of freedom, security and justice serving the citizen, p10; see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0262:FIN:EN:PDF>

⁷⁸ Speech at the College of Europe, Brussels, 4 March 2009;

<http://www.sweden.gov.se/sb/d/10959/a/122436>

⁷⁹ *European Voice*, 16 April 2009;

<http://www.europeanvoice.com/CWS/Index.aspx?PageID=200&articleID=64608>

Standing Committee for Internal Security

In addition to the proposals outlined in the Stockholm Programme, the Lisbon Treaty would see the establishment of a new 'Standing Committee for Internal Security' within the Council of Ministers. This would coordinate policy between national and EU security organisations such as Europol, the Frontex borders agency, the European Gendarmerie Force and the Brussels intelligence sharing Joint Situation Centre or Sitcen⁸⁰.

The Committee is shrouded in secrecy. In March 2008 the Commission was unwilling to answer a European Parliamentary question which asked:

"What exactly will be its remit? Who will be on it? How will they be selected, and by whom? How will it/they be held to democratic account? Will they report to the Home Office in the UK (and the equivalent departments in other nations)? How will it enforce its decisions? Will foreign police and law enforcement officers be sent to Britain as part of the EU's law enforcement resources? Who will police them?"⁸¹

Pushing for more immigration from outside the EU

The Swedish Presidency may seek to challenge several member states' position on immigration from outside the EU⁸². Cecilia Malmström has said that,

"We must avoid building closed walls along the borders of Europe...One of the EU's core problems is a decreasing productivity. Europe also has an ageing population and will therefore soon face a declining working force. Fewer people in the work force will have to support a growing number of elderly people dependable on the social services. We need more people working. Despite this, some Member States perceive migration as a problem rather than an opportunity. Increased mobility and migration puts new demands on harmonised legislation."⁸³

Impact of the Lisbon Treaty

The Lisbon Treaty will mean that all but a few decisions in justice and home affairs will be subject to qualified majority voting rather than unanimity. The European Parliament will also gain a greater role in the process through its power to 'co-decide' with national governments⁸⁴.

⁸⁰ *Telegraph*, 10 June 2009; <http://www.telegraph.co.uk/news/worldnews/europe/eu/5496912/EU-security-proposals-are-dangerously-authoritarian.html>

⁸¹ Written question E1140/08; <http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2008-1140&language=CS>

⁸² *Euractiv*, 11 June 2009; <http://www.euractiv.com/en/opinion/sweden-eu-immigration-plans-facing-headwinds/article-183119>

⁸³ Speech at the College of Europe, Bruges, 4 February 2009; <http://www.sweden.gov.se/sb/d/11647/a/120791>

⁸⁴ For an overview see, *Open Europe*, A guide to the Constitutional Treaty, 2008; <http://www.openeurope.org.uk/research/guide.pdf>

The Lisbon Treaty will also give the European Commission greater power to initiate justice and home affairs legislation and the European Court of Justice greater power to enforce it⁸⁵.

A Commission official has confirmed that many of the controversial proposed measures cannot go ahead without the new powers contained within the Lisbon Treaty, saying, "Some of things we want to do will only be realistic with the Lisbon Treaty in place, so we need that too."⁸⁶

⁸⁵ See Brian Donnelly, *Justice and Home Affairs in the Lisbon Treaty: A constitutionalising clarification?*, European Institute of Public Administration, 2008, 1-2;
http://www.eipa.eu/files/repository/eipascope/20080509184107_SCOPE2008-1-4_BrendanDonnelly.pdf

⁸⁶ *Telegraph*, 10 June 2009; <http://www.telegraph.co.uk/news/worldnews/europe/eu/5496912/EU-security-proposals-are-dangerously-authoritarian.html>

6. LISBON TREATY AND INSTITUTIONAL CHANGES

Second Irish referendum

The Swedes will also be at the EU helm when the Irish vote again on the Lisbon Treaty, in the referendum expected in early October. In the case of a Yes vote, the Swedish government will lead the transition into a permanent EU President, a new EU Foreign Minister and a union in which more decisions are made at the EU level. Swedish Foreign Minister Carl Bildt has said that one of the priorities of the Swedish EU Presidency will be “to manage the transition of the European Parliament and Commission, without knowing which treaty will apply, whether it is Nice or Lisbon”.⁸⁷

If Ireland votes Yes, Sweden has only a few weeks to get EU governments to agree on who will take up the positions as President and Foreign Minister – the aim is to have these positions agreed by the Council meeting on 29-30 October.⁸⁸

Swedish PM Fredrik Reinfeldt, has stressed the need for his government to be “flexible about a solution, knowing that a transition [to a permanent EU President] could even happen during the Swedish Presidency.”⁸⁹

A new Commission

The Swedish Presidency will see the appointment of a new Commission. This will lead to a new set of policy priorities and fierce negotiations between member states as they battle it out to secure the top jobs in the Commission.

There is also the issue of the size of the next Commission, which will depend on whether the Lisbon Treaty comes into force. Swedish PM Reinfeldt has said that if the Treaty does come in to force, and if member states can agree on who will take up the position as EU Foreign Minister (who will also be a Vice President of the EU Commission), the new Commission will “probably take office some time early in the new year”.⁹⁰

Under the current Nice Treaty the next Commission must have fewer Commissioners than the number of member states – though it does not state how many this must be. Under the Lisbon Treaty, the number of Commissioners must be reduced to two thirds the number of member states, but this arrangement may be changed by a unanimous vote in the Council.

At the June Council, EU leaders reached a political agreement that if Lisbon enters into force they will vote to change the default arrangement and allow for each member state to keep its Commissioner, though it is not specified how long for.⁹¹

Provided that EU leaders stick to that agreement (of which there is no guarantee), each member state will continue to be represented in the Commission.

⁸⁷ <http://www.lefigaro.fr/elections-europeennes-2009/2009/05/25/01024-20090525ARTFIG00315-l-ue-a-besoin-de-la-turquie-pour-peser-dans-le-monde-.php>

⁸⁸ *Dagens Nyheter*, 9 June 2009, <http://www.dn.se/nyheter/utrikesdagen/reinfeldt-intar-eu-1.887538>

⁸⁹ <http://www.sr.se/ekot/artikel.asp?artikel=2393097>

⁹⁰ *Dagens Nyheter*, 9 June 2009, <http://www.dn.se/nyheter/utrikesdagen/reinfeldt-intar-eu-1.887538>

⁹¹ See here for more on the ‘guarantees’ given to Ireland in return for holding the second referendum: <http://www.openeurope.org.uk/research/irishguarantees.pdf>

France, Germany and the UK are all likely to lobby for one of the top posts in the new Commission. There has been speculation that French President Nicolas Sarkozy would like his Finance Minister, Christine Lagarde, to take on the role of Competition or Internal Market Commissioner⁹².

German Chancellor Angela Merkel has said "For us it is clear that we aim for an economy-based post, such as competition, internal market or industry"⁹³. Friedrich Merz, the former MEP and former Chairman of Merkel's party, the CDU, is reportedly in the running⁹⁴ but Merkel has said that no decision will be made until after the federal elections in September⁹⁵.

Meanwhile, in the UK, current incumbent Baroness Ashton is rumoured to want to carry on. However, the latest reports suggest that Gordon Brown is lining up Baroness Vadera, who is currently serving under Lord Mandelson in the Department for Business, Innovation and Skills⁹⁶. Former Transport and Defence Secretary Geoff Hoon was also rumoured to be considered for the role⁹⁷, although his chances may have taken a dent due to the expenses scandal in Westminster⁹⁸.

⁹² *Wall Street Journal*, 17 June 2009;

http://online.wsj.com/article/SB124509887935816273.html#mod=todays_europe_page_one

⁹³ *Die Welt*, 7 June 2009; <http://www.welt.de/politik/article3880815/CDU-und-SPD-streiten-um-naechsten-EU-Kommissar.html>

⁹⁴ *Focus*, 30 May 2009; http://www.focus.de/politik/weitere-meldungen/schaeuble-cdu-friedrich-merz-als-deutscher-eu-kommissar-waere-hervorragende-loesung_aid_404032.html

⁹⁵ *Die Welt*, 7 June 2009; <http://www.welt.de/politik/article3880815/CDU-und-SPD-streiten-um-naechsten-EU-Kommissar.html>

⁹⁶ *Times*, 29 June; <http://www.timesonline.co.uk/tol/news/politics/article6597988.ece>

⁹⁷ *Mail*, 6 June 2009; <http://www.dailymail.co.uk/news/article-1191133/Geoff-Hoon-sights-set-role-European-Commissioner-quitting-Cabinet.html>

⁹⁸ See *Telegraph*, 2 June 2009; <http://www.telegraph.co.uk/news/newstoppers/mps-expenses/5427808/MPs-expenses-Geoff-Hoon-pays-back-allowances-money.html>

7. OTHER PRIORITIES

Enlargement

The current Swedish government is pro-enlargement and actively supports Turkish membership of the EU.

Prime Minister Reinfeldt has said, "Continued progress in the accession negotiations with Turkey and Croatia will be a priority for the Swedish Presidency, but will mainly depend on the efforts of the countries themselves."⁹⁹

In terms of Turkish accession there is notable opposition from France and Germany but the Swedes will still try and make progress on the various 'chapters' in Turkey's accession negotiations. Reinfeldt has said that the chapter on energy should be the EU's first priority¹⁰⁰. European Affairs Minister Cecilia Malmström has said that,

"Sweden has a strong interest in the membership of Turkey, as should the EU as a whole. It would be the culmination of a long process of European modernisation for the country, including a deepening of the democratic system and full respect for human rights. Turkish membership would also improve prospects for stability in the entire region."¹⁰¹

Croatia's membership application is currently on hold due to border dispute with Slovenia, with Foreign Minister Carl Bildt indicating that Sweden will not interfere to resolve the dispute: "I would like to emphasise that responsibility for solving bilateral issues lies primarily with the countries concerned."¹⁰²

With accession talks indefinitely on hold until the border dispute is resolved, Croatian accession looks unlikely in 2010 and this could have political repercussions for the Irish 'guarantees' on the Lisbon Treaty. The plan devised by EU leaders would see Ireland's 'guarantees' added to the existing EU treaties via Croatia's accession treaty, which has to be ratified by all member states. Without ratification in this manner Ireland's protocol cannot take effect.

Sweden has also suggested that it expects a membership application from Iceland¹⁰³. Icelandic membership is likely to be less problematic, as it already a member of the European Free Trade Association (EFTA), with negotiations over EU fishing rights to Icelandic waters likely to be the major sticking point.

Patient mobility and cross-border healthcare

⁹⁹ Speech at the Centre of European Policy Studies, Brussels, 9 June 2009; http://www.se2009.eu/polopoly_fs/1.5450!menu/standard/file/CEPS.pdf

¹⁰⁰ Press conference, Stockholm, 16 June, 2009

¹⁰¹ Speech at the College of Europe, Bruges, 4 February 2009; <http://www.sweden.gov.se/sb/d/11647/a/120791>

¹⁰² *EUobserver*, 23 June 2009; <http://euobserver.com/9/28353>

¹⁰³ Press conference, Stockholm, 16 June, 2009

EU negotiations on the patient mobility directive are likely to continue in the second half of 2009, as are talks on conditions for the reimbursement of patients who receive cross-border health care¹⁰⁴, which have could have a huge potential impact on the NHS.

EU budget

The EU is fast approaching a new EU budget period (2013-2020) and the Commission is due to publish its budget review during the Swedish Presidency, which will start the long process of budget negotiations. The Swedish Presidency's Work Programme states:

“The EU budget should be adapted according to current needs and future challenges. It requires reforms and reprioritisation of common expenditure. The Presidency is prepared to initiate a debate on this as soon as the Commission's report on the budget review is presented.”¹⁰⁵

Sweden has said that it wants to make cuts to the EU's Common Agricultural Policy (CAP) in the next EU budget period beginning 2013, with Swedish Agricultural Minister Eskil Erlandsson saying that the share of the CAP in the EU budget, estimated at 43 percent, has to be reduced¹⁰⁶. In addition to a reduction in the EU's agriculture budget, Sweden wants greater emphasis on rural development rather than direct farming subsidies. Mr. Erlandsson has said, “It's very important to have a common agricultural policy but it will have less money”¹⁰⁷.

EU Strategy for the Baltic Sea¹⁰⁸

European Affairs Minister Cecilia Malmström stated that this was one of the Swedish government's “top priorities in the discussions with France and the Czech Republic for our common presidency work programme”¹⁰⁹.

The Baltic Sea Strategy will not require new EU funding but is seen by Sweden as a chance to create a ‘model’ of regional cooperation within the EU that can “serve as a source of inspiration to other EU regions”. The aim is to combat environmental degradation in the Baltic Sea, improve growth and employment opportunities, and combat cross-border crime through “better application of Community legislation and more efficient use of existing EU funds”¹¹⁰.

¹⁰⁴ Swedish Government, *Work Programme for the Swedish Presidency of the EU*, 23 June 2009, p27; http://www.se2009.eu/polopoly_fs/1.6248!menu/standard/file/Work%20Programme%20for%20the%20Swedish%20Presidency%201%20July%20-%202031%20Dec%202009.pdf

¹⁰⁵ Swedish Government, *Work Programme for the Swedish Presidency of the EU*, 23 June 2009, p14; http://www.se2009.eu/polopoly_fs/1.6248!menu/standard/file/Work%20Programme%20for%20the%20Swedish%20Presidency%201%20July%20-%202031%20Dec%202009.pdf

¹⁰⁶ *Handelsblatt*, 27 May 2009; <http://www.handelsblatt.com/politik/international/schweden-will-eu-agrarhilfen-kuerzen;2300388>

¹⁰⁷ *EUobserver*, 2 June 2009; <http://euobserver.com/886/28224>

¹⁰⁸ Speech at the Centre of European Policy Studies, Brussels, 9 June 2009;

http://www.se2009.eu/polopoly_fs/1.5450!menu/standard/file/CEPS.pdf

¹⁰⁹ Speech to the European Parliament, 12 December 2007, cited in Fredrik Langdal & Goran von Sydow, *The Swedish 2009 Presidency – Possible Policy Priorities*, *Swedish Institute for European Policy Studies*, October 2008

¹¹⁰ Swedish Government, *Work Programme for the Swedish Presidency of the EU*, 23 June 2009, p9; http://www.se2009.eu/polopoly_fs/1.6248!menu/standard/file/Work%20Programme%20for%20the%20Swedish%20Presidency%201%20July%20-%202031%20Dec%202009.pdf

Diplomatic relations with Iran

Sweden's EU Presidency will be tested by continuing political unrest in Iran, following the recently disputed elections. The Czech Republic's Presidency suffered due to a confused EU response to conflict in the Middle East, its efforts arguably undermined by larger EU countries. So far the EU's response to Iran has been fairly united with EU member states showing support for Britain over the arrests of its embassy staff in Tehran. EU foreign ministers said: "Harassment and intimidation would meet a strong and collective EU response"¹¹¹.

However, the test may come if it comes to imposing sanctions. Germany has traditionally had a warmer attitude than France and Britain have had to Iran due its strong trading links – it was, until overtaken by China, Iran's largest trading partner¹¹².

Concluding a free trade deal with South Korea

The Swedish Presidency has announced that it wants to forge a consensus next month on whether to proceed with a free-trade agreement with South Korea. One Swedish diplomat has said "It is crunch time" for the deal¹¹³.

¹¹¹ *Guardian*, 29 June 2009; <http://www.guardian.co.uk/world/2009/jun/28/iran-british-embassy-workers-arrested>

¹¹² See, *WSJ*, 29 November 2008; <http://online.wsj.com/article/SB122791929646865705.html>; *Times*, 26 June 2009; http://www.timesonline.co.uk/tol/comment/columnists/bronwen_maddox/article6579517.ece

¹¹³ *European Voice*, 25 June 2009; <http://www.europeanvoice.com/CWS/Index.aspx?PageID=146&articleID=65308>

KEY PERSONNEL:

Fredrik Reinfeldt – Prime Minister

Carl Bildt – Foreign Minister

Cecilia Malmström – Minister for European Affairs

Anders Borg – Finance Minister

Mats Odell – Minister for Local Government and Financial Markets

Tobias Billström – Minister for Migration and Asylum Policy

Beatrice Ask – Minister for Justice

Andreas Carlgren – Minister for the Environment

SWEDISH PRESIDENCY CALENDAR:

Event	Date	Talking points
ECOFIN	7 July	Anders Borg, Sweden's Minister for Finance, will present Sweden's Presidency programme to EU finance ministers.
European Parliament sits	14 July	First plenary session of the new Parliament.
Informal Justice and Home Affairs meeting	15-17 July	Initial discussions on the Stockholm Programme.
Justice and Home Affairs	21 - 22 September	
German Federal Elections	27 September	
Irish Referendum	September / October	Ireland's second referendum on the Lisbon Treaty.
ECOFIN	20 October	Finance ministers are likely to discuss plans for EU supervision.
Justice and Home Affairs	23 October	
Environment Council	23 October	Environment ministers will discuss the EU's negotiating position ahead of the UN climate change talks.
EU Leaders Summit	29-30 October	EU leaders are expected to negotiate and finalise climate change financing, and appoint new Commission, EU President and Foreign Minister if Lisbon Treaty is passed by Ireland.
Portuguese General Election	October	
ECOFIN	10 November	
Justice and Home Affairs	30 Nov-1 December	Formal discussions between ministers on the Stockholm Programme.
ECOFIN	2 December	
UN Climate Change Conference	7-18 December	
EU Leaders Summit	10-11 December	The UN climate change conference will be a major issue at this summit and EU leaders are also expected to formally adopt the Stockholm Programme.
Environment Council	22 December	