

Speech by Christopher Tugendhat, Member of the EEC Commission
at the Edinburgh Chamber of Commerce: Evening of 18 March 1977

Introduction

Gratitude to the Edinburgh Chamber of Commerce for invitation to speak on a subject for which I have primary responsibility within the European Commission.

2. As the Commissioner responsible, in addition to the Community budget, for financial institutions, which means all Community legislation in the fields of banking and insurance, as well as stock market operations and investment, I have taken the opportunity of this visit to Scotland to make my first speech on this important subject. Tonight I will try to explain what we in the Community, and in particular we in the Commission, are trying to do, and why I think this is helpful to the European industries concerned, including those of the UK. First, however, I want to put the subject in its context and discuss briefly why we are bothering to act at all at the European level.

Freedom of establishment and services

3. People are familiar with the idea of the free movement of goods across frontiers. They have also heard about the lowering of tariff barriers, and they welcome the opportunity to travel freely throughout the Community. They are however less aware of the advantages to be gained from freedom of services and the extent to which these can directly benefit the public. One obvious example is the recent simplification of holiday motor insurance among the Nine. A small thing, but of direct benefit to thousands of ordinary holidaymakers.

4. The Treaty of Rome is quite explicit that existing obstacles to freedom of establishment and the service should be abolished and the creation of new obstacles should not be allowed. For a variety of reasons it is only recently that significant progress in the Community in freedom of services has begun to be made. It will however be a priority of this Commission. You may have noticed that doctors were recently enabled to practice freely within the Community: nurses, dentists and lawyers will soon be able to do the same.

5. What I want to see is the same degree of freedom for bankers, insurance brokers and agents and people involved in investment - on both a company and individual basis. There is no reason why it should not happen, but it will require hard work and persuasion, including possibly the use of the Court against those who are accustomed to sheltering behind the existing barriers. To be successful those in the Community engaged in the battle will want the active support and collaboration of those banking, insurance and investment interests which stand to gain from a freer market.

6. Our aim is to create a common market in banking, insurance and investment. Some of you may feel that UK industries in these fields have done perfectly well in the past without a common market.

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In my view this is shortsighted. I fully endorse the view that British banking and insurance has a record to be proud of. In 1974, the latest year for which figures are available, the UK insurance industry provided 46% of the total UK invisible income while banking contributed another 14% - 60% in all. Banking and insurance are quite evidently successful and thriving and I believe can benefit still further from, and make constructive contribution towards, the existence of a genuine common market in Europe. The European market is the home market and all insurance and banking industries of Europe, including that of the UK, must regard it as such.

7. The creation of a common market does not of course mean harmonisation for its own sake. It is right to be against the harmonisation of national habits and traditions implied in such unnecessary and unwanted things as Euro-bread and Euro-beer. But because things can be taken too far does not per se invalidate the underlying principle: a degree of Community-wide standardisation of the rules and practices governing both the industrial and service sectors of the economies of the Nine is both inevitable and positively desirable.

8. To take an example in the banking sector: banks must be fairly stringently regulated in order to ensure the safety of peoples' deposits; insurance companies must maintain proper reserves against all the claims that might be made on them and those reserves must be readily realisable in a crisis. And so on. As far as we in the Commission are concerned, it is no part of our objective to interfere with regulations or administrative practices of this kind if by doing so we would weaken the proper protection of the savings of the public. But the form these protections take differs sometimes fairly fundamentally from one Community country to another, mostly as a result of history and experience but also, in some cases, because of a different political philosophy. And these differences often constitute real barriers to free business competition across national frontiers. Some degree of harmonisation to get over these problems is necessary.

9. What we have done in our Directives - these are the means by which we can get changes in national laws - is to concentrate on the basic principles in each case, as a starting point of common accord, and then to leave the various national authorities and interests concerned to develop by collaboration among themselves a gradually more common approach. In other words, it is the industries themselves, which, over a period of time, will have a major say in how the Common Market in insurance, banking and investment develops. This is as it should be.

10. It is obvious from what I have said so far that the process of achieving a Common Market in services is a slow one. Law making in the Community is slow - sometimes painfully so. But we are after all bringing nine countries and nine different traditions together into a single whole.

Against this background, what are we doing in the Commission? I will turn first to insurance.

/Insurance

Insurance

12. The main legislation so far in the insurance field has been the Directive on non-life insurance adopted by the Council of Ministers in 1973 and which has been in application (except in two defaulting countries) since February of 1976. This Directive set a common standard of licensing requirements and financial guarantees to protect solvency, and thus has removed most if not all the difficulties in the way of establishment. For example, under these provisions British insurers establishing in other EEC countries will no longer have to provide caution deposits; all that will be needed will be a certificate from their control authority to the effect that they have the requisite solvency margin. A very similar directive doing the same thing for life-assurance is now being discussed in the Council of Ministers and might well be adopted later this year. I suspect that there will be a considerable Scottish interest in this measure.

13. Freedom of services is the next step in the creation of the Common insurance market but is a matter of considerable controversy. Many governments are concerned at allowing non-established insurers to offer their services in their countries because they fear among other things a weakening of the protection of the insured. We in the Commission have made a proposal on non-life services - it had its first discussion in the Council a week or so ago - which is based on two relatively simple propositions:

- a) it is not reasonable to make freedom of services in non-life insurance wait for full coordination because this would take decades;
- b) it is not reasonable to expect countries to face the upheavals of full freedom of services for all forms of non-life insurance in one go, because undoubtedly protection of the insured is vital in many kinds of risk.

14. So our proposal seeks to liberalise the markets at this stage only for transport and certain classes of large industrial and commercial business. We want to proceed by doing away with the requirement for prior approval by each control authority of the general and specific conditions of policies and tariffs - as many of you may know these controls are common on the Continent. We also suggest that for these big commercial risks the parties should be allowed to choose the law under which the contracts be written. All other risks, including of course all personal insurances, would be left subject to local legislation until more coordination has been achieved.

15. Now it is no secret that the insurance industries of some European countries are strongly opposed to the degree of liberalisation this proposed directive would provide. We in the Commission believe, however, that it is very much in the interests of the European consumer and I am very pleased that the British industry supports the proposal. Nonetheless, great efforts are being made by some representatives in the European Parliament to block this proposal, and it will be up to the British insurance industry to put up a vigorous defence of its interests. So far those member countries who are against liberalisation have had things too much their own way in Parliament on this directive - it is urgent that those who represent insurers who believe in freedom of services make their voice felt. I commend the efforts of the British Insurers European Committee and of the United Kingdom insurance brokers European Committee in this direction

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and urge them and the sections of the insurance industry they represent to continue their efforts.

16. In many respects the European legislative process is more like the American than it is the British: it has many stages, many forums and at each stage a new set of interests interlock, out of which the final common denominator emerges. I said earlier that the legislative process in the Community is long-winded and slow. It does have the advantage of enabling all view points to be heard. And in such a process, as the French say, he who is absent is always in the wrong: there is, to put it bluntly, no substitute for continuous and persistent lobbying for one's point of view.

17. Freedom of services is important - even though so far we are only talking about the sector of non-life insurance - because it is the key to a real Common Market and because it will be a precedent for life-assurance and other matters in due course. Even if Scottish insurers are more interested in life-assurance than this particular directive, I believe that a united effort by the insurance industry in this country is now called for to demand the implementation of the Treaty in insurance, both this proposed services directive and others that will follow.

Banking

18. In the banking area there is another major example of our efforts to fulfil the objectives I spoke about earlier. For banking and credit institutions in general the freedoms of establishment and services which were the subject of a directive adopted in 1973 are in practice little used. Partly this is because banks have found ways of working with each other in the different countries, and so have not set up there or sought customers directly, and partly it is because the central bank control systems have differed so fundamentally in the past.

19. So in 1974 we sent a draft directive to the Council which has been under discussion ever since. This proposal seeks to establish certain common principles or guide-lines on a limited number of important supervisory questions. Few, if any, changes in national legislation are called for by this proposal, but a great deal of reliance is placed on close cooperation between the control authorities. It is our hope that this measure will be adopted in the near future; when it is, the necessarily lengthy process of integrating the Community's banking markets and bringing about the day when free branching anywhere among the Nine is possible, will be one step further on.

20. Further banking directives will be put forward after consultation with the banking associations and between the supervisory authorities. Two such additional steps are already under discussion, one concerning the international exchange of credit information and the other the possibility of some kind of Community system of deposit insurance.

Investment

21. There are also examples of our proposals in the field of

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investment. As is widely known, the official securities markets in the nine EEC countries offer greatly differing opportunities both to investors and to firms seeking to raise investment capital. We have based our proposals on the creation of a framework ensuring the proper operation of the markets, and on the protection of savings by higher and more equivalent standards of information. Directives have been forwarded to the Council on the contents of prospectuses and the procedures for admission to quotation on stock exchanges. Further directives in the course of preparation will cover information to be released regularly by listed companies, and the abuse of insider trading.

22. There is one other directive in this area I would cite as it is perhaps of some interest to a Scottish audience. This is a proposal concerning the structure and operation of unit trusts. Unit trusts, in our view, are a useful vehicle for the investments of the small saver, and for that reason it is particularly important that their structure should be sound. So our draft makes such trusts located in any Member State subject to a single set of legal and supervisory provisions, regardless of whether they operate in one or several countries of the Community: the home State becomes responsible for governing the trust wherever it may offer its units or invest its monies within the EEC. We were not however able to reach agreement on similar unification of marketing rules, so this question has had to be left over for a further directive in due course.

23. Other aspects of unit trust legislation which are treated in the directive include the relationship of the trust and the management company, restrictions imposed on investment policy, information which must be made available, the authorisation and supervisory machinery, and collaboration between national supervisory authorities. Of these points, the only one I might comment on today is that covering investment policy. Here the main problem was a difference of view between countries over the extent to which it is desirable for a unit trust to be able to invest in other unit trusts: some countries wished to prohibit this completely, others to allow it up to a certain proportion of assets. As a kind of compromise, we suggest that a ceiling of 10 per cent should be permitted. I know that this does not go as far as the United Kingdom would have wished, but I believe that our suggestion of a compromise formula is realistic in the circumstances.

24. Our directive thus represents a first step in the process of standardising the rules in this important sector of the investment market, and when adopted should help prevent IOS type problems, in the Community. There are other proposals in the field of investment which I do not have time for in this speech, though during question time I would be glad to go into our ideas on a voluntary European code of conduct in securities transactions if anyone is interested.

Exchange Control

25. You will recall that at the beginning of this speech I

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mentioned what the Treaty has to say about the "progressive liberalisation of the movement of capital" and you may well ask, does not exchange control make nonsense of all our efforts to integrate markets in these various ways? It is of course true that not all banking transactions are yet free from exchange controls, and nor certainly are investments in the securities markets. But some countries do allow such transfers and for them at least our directives are of immediate assistance. Secondly, even a difficult case like the United Kingdom is under time constraints for the abandonment of controls on capital movements within the Community.

26. Now obviously no one expects a country in such balance of payments difficulties as ours to abandon all exchange controls at a stroke. Is it however so inconceivable that abandonment might be phased? If so, might it not be least damaging to begin the dismantling of controls with small personal payments for investment purposes, perhaps beginning with mainly limited amounts. If this were to happen our ideas on unit trusts for example would become very timely. The freeing of capital movement in the Community would of course have to be much more substantial for free trading of, say, clearing banks in the Nine, to become a reality.

27. Here, a word of warning is in order. Exchange control may prevent or certainly hinder the spread of UK banking in the rest of Europe, but it would be a mistake to think that it will protect the immediate home market against competition from the rest of the Nine. My contacts with German banks have shown that they intend to follow their clients round Europe - much as American banks did when establishing in Europe, and in London especially, during the 1950s and 1960s. The British banking industry, like its continental counterparts, must develop a conscious and determined European strategy and must put the necessary pressure on government to remove or modify obstacles in its way. If they do not, they will gradually lose out to European competition and the business that could have been theirs will go to their competitors elsewhere in the Community.

The future

28. This is perhaps the moment to say a word about our plans for the future. In insurance we still have to get the important establishment coordination directive on life-assurance through the Council. That will then have to be followed by a measure on freedom of services. Once that is done the basic framework will be in place, and on that we can build a series of coordinating measures of narrower application dealing with particular problems or distortions. Our present discussions are about motor insurance, atomic energy insurance, insurance contract law, accounts of insurance companies, and liquidation legislation.

29. In banking and the credit industry, I explained that the coordination directive being discussed in the Council only sets a few of the principles of supervision. Within the machinery that directive will create we then have to refine those general principles, perhaps designing specific directives about some of

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them (such as licensing criteria, liquidity control or relations with third countries) or specialised directives about some kinds of credit activity which do not easily fit the general pattern - building societies, perhaps, or leasing. There are also certain other important topics under discussion such as deposit insurance schemes, accounts and inflation accounting, and the secrecy provisions.

30. In investment, in addition to the points mentioned earlier, the future programme is likely to cover other kinds of investment vehicles such as investment trusts or pension funds, with the object of enabling them to operate anywhere in the Community, and also rules covering stock-brokers and jobbers. I cannot be more precise about this area today because our programme is at present being reviewed in conjunction with the European Committee of Stock Exchanges.

Conclusion

31. So what does all this add up to? You may say a lot too much government interference. As a Conservative I am second to none in my desire to see a reduction in government regulation and control of our daily lives, but here I think we must distinguish between the process and the end. The fact is that legislation in the Community is ultimately a negotiation between governments in the Council of Ministers. Unless and until such time as the European Parliament becomes a legislative as well as a deliberating body, this degree of government involvement will continue to be the case.

32. As I have said before this means of course that you must keep British Ministers and UK government departments fully informed, at all stages, of your views. Secondly, it has of course to be recognised that the Continental European approach to the rôle of government in such matters as banking, insurance and investment has historically been different from that of the UK: government authorities have been much more interventionist both in the name of an orderly market and to protect the consumer. In the UK the traditional attitude has been much more one of caveat emptor. For a variety of reasons which I will not go into here but of which you will be fully aware, the British situation is changing. Consumer Protection legislation for instance inevitably implies more government, or government-inspired regulation of industry and services in the future.

33. It could therefore be said that to a certain extent UK practice is in any case moving somewhat towards the Continental European. But more and more government regulation is not inevitable. Just as Britain is being influenced by continental traditions, so I would like to see the continentals adopt some of the creative free market traditions of the UK. It is a question of balance, and the extent to which those of you who are affected by these developments choose to get involved in them, will help determine where that point of balance is found.

34. Once again I return to the theme of involvement. I want tonight to make a pledge to you: that we in the Commission will do our best at all stages to consult your representative European

bodies and, so far as we can, take account of your views. Some of your representative bodies have already been to see me. This I welcome and hope that more will do so in the future. I think that in the fields of banking insurance and investment the Commission already has a good record of consultation: I intend that this should continue and where possible be improved. I and my staff, some of whom are here tonight, are there to bring about enlightened but workable European legislation in these fields. We are laying what we hope will be the ground work. The rest is up to you.

35. I am convinced that the opportunities offered by this enlarged backdoor step to industries as healthy and adventurous as British insurance, banking and investment is very considerable and that your inventiveness will find new ways of making money in Europe not hitherto thought of. So can I urge you tonight to put new vigour into your European strategies, or, if you do not have one yet, to think seriously about one? Your European competitors are not sleeping. As we know, what is good for General Motors may not necessarily always be good for the USA, but I do believe that on the whole what is good for Europe is good for the UK. And vice versa. So I hope that over the next four years we can work together towards the realisation of a true Common Market in these fields.