

## FINANCIAL TIMES

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## Beware of bosses bearing gifts

Companies should take every opportunity to lobby government in the interests of shareholders, employees and the communities they operate in. Politicians, regulators and civil servants should want to learn more about what goes on in business and the concerns of executives. But unless exchanges between government and the private sector are open and transparent, they will inevitably be seen as corrupting the political process.

Enron's relationship with governments around the world is a case in point. It was operating in new businesses using advanced financial engineering to trade energy and about 2,000 other commodities. Kenneth Lay, its chairman, needed to persuade politicians and regulators to deregulate the energy industry.

Campaign donations were part of its armoury. In the US, for example, Enron donated almost \$10 million to the Republican Party between 1989 and 2001. It was among the 50 biggest organisational donors in the 2000 elections. The \$11.8 million (\$9.7 million) given to President George W. Bush made it one of his largest supporters.

On one level, Enron looks to have thrown much of the money away. Mr Bush does not favour such entering the White House - he rejected Enron's advice to support the Kyoto treaty on global warming, which would have boosted trading in energy permits. Vice-president

Dick Cheney's energy taskforce was lobbied by Enron but his report seems to have made only a few concessions favourable to the energy trader.

Yet the company's lobbying efforts have clearly been successful. In the longer term, during the 1990s, the industry was reshaped by legislators and regulators in ways that helped Enron to grow into the world's sixth largest energy group. Ralph Hodge, former chairman of its European arm, has explained that much smaller donations in the UK of £50,000 to the Labour party and £20,000 to the Conservatives had bought Enron "access". His candid admission makes clear the insidious aims of the company's campaign contributions: they opened doors to those making important political decisions.

When the decisions over a new and little-understood business activity, access could prove difficult. Mr Cheney's best protection against such distortion of the political process was his influence on the company's donations by both the giver and the receiver. When there are accusations of undue influence, it is difficult to prove. Records of meetings between donors and officials should be published in reality. Mr Cheney could release the information needed by Congress for its probe into Enron's influence without prejudicing the constitutional rights of the executive.

## Summary justice

The Bush administration should not be surprised by criticism, mostly from abroad, of its handling of al-Qaeda and Taliban prisoners in Guantanamo Bay. The US administration claims that it alone should determine the status of the captives has understandably given rise to concern that it is careless of international law and conventions. The suspicion is that, having built an international coalition against terrorism, it nonetheless will act unilaterally whenever it chooses.

The concern reaches beyond the immediate conditions at Camp X-Ray and the strong feeling among most European governments that some, at least, of the prisoners should be accorded prisoner-of-war status under the Geneva convention. America's allies are asking: what next? Washington has yet to provide an answer.

The US intends to transport about 400 prisoners to its Cuban base for "processing". But the US has not thought through the legal processes that might follow interrogation.

Washington should now act to restore confidence in its handling of the prisoners. First, it should constitute a competent tribunal to determine the status of the detainees, consistent with its Geneva convention. It is highly likely that a good number of the suspected al-Qaeda and Taliban

members do not meet the PoW definition.

In reality, the status of the detainees may make little difference to the conditions of their detention. Mr Cheney could release the information needed by Congress for its probe into Enron's influence without prejudicing the constitutional rights of the executive.

Second, the administration should speed up preparations for the military tribunals that it may set up to try those against whom it has solid evidence of terrorism. In December, there were indications that it was preparing to set up military tribunals, grant a presumption of innocence and require a unanimous verdict for the death penalty. These would be welcome concessions, although there must also be a right of appeal to a civil court.

Third, Washington should be ready to discuss how best to deal with prisoners, many of whom it may suspect of terrorism but lack evidence to prove it. It appears willing to hand over some detainees to their own governments but has not decided under what conditions. Some countries, such as Britain, have anti-terrorist laws with extra-territorial reach. Others, though, might let them go free.

Bringing suspected terrorists to justice is not just a US problem. But in making up its mind as it goes along, Washington has made the unenviable task its own.

## Germany's fix

Only the most sympathetic European will resist an element of *Schmerzfreude* regarding Germany's budgetary problems. Germany insisted on the stability and growth pact at the 1998 Dublin summit. But Germany's deficit is the first in the eurozone to hover around the 3 per cent limit enshrined in the pact.

The pact empowers the European Commission to evaluate whether Germany has an "excessive deficit" and ultimately to impose a fine of between 0.2 and 0.5 per cent of gross domestic product. No fines will materialise, not because everyone accepts that imposing fines on a depressed economy is absurd but because the procedures in the pact render fines almost impossible.

First, the pact is subject to a potentially shabby political process. The Council of Ministers will decide by a qualified majority vote whether to uphold any warning to Germany about its deficit. This is an invitation to horse-trading: there will be questions concerning favours owed to countries supporting Germany.

If Germany escapes censure, smaller countries such as Ireland, will have a right to feel aggrieved. It was sternly ticked off under a different measure for its 2001 budget. There should not be one rule for big countries and another for small nations.

Second, a fine could not realistically

apply until 2006: it will be known only in early 2003 whether Germany's deficit has exceeded 3 per cent; there is a 10-month process between reporting the figures and any sanctions; and for two further years, the sanctions are not fines but non-interest-bearing loans to the Commission, returnable at any time.

Although the pact has helped improve fiscal discipline, European ministers and officials understand its limitations. Last summer they explicitly chose to use cyclically adjusted measures to define the European Union's broad economic policy guidelines on fiscal policy. The European Central Bank and financial markets are equally sophisticated. With little intellectual or practical underpinning, it would be senseless to invoke the excessive deficits procedure against Germany now; it would be an example of officials interpreting EU treaties far too strictly. But rules are rules. Germany's deficit is the "non-adjustment of households" and, like many other commentators, he sees the resilience of consumer spending rooted in some form of irrational behaviour. Before condemning the consumer to stupidity, I suggest that Mr Wolf and others consider a more reasonable explanation for stability in consumption spending.

Many economists have long subscribed to the idea that

## COMMENT &amp; ANALYSIS

## Seeds of change

Governments dislike it, citizens distrust it. Now global trade liberalisation and enlargement offer a chance to replace Europe's costly and cumbersome farm support regime, says **Michael Mann**

Discredited in the public mind and hampering political support, the European Union's Common Agricultural Policy is set for fundamental change.

Supported for more than four decades by an alliance of political and farming interests, Europe's farming policy, which costs more than €40bn (24bn) a year or about half the EU's total annual budget, is being overwhelmed by external and domestic forces.

In the short term, the CAP must cope with the demands brought on by a new round of negotiations on global trade liberalisation agreed at Doha. At the same time, EU leaders are working to adapt the CAP so that it can cope with up to 10 mainly eastern European countries joining the union by 2004. The first important stage in that shift is expected to come today when Franz Fischler, the EU's agricultural commissioner, sets out his plans for incorporating the accession countries' farming sectors. Many EU members are also keen to agree overall changes to the CAP before the first wave of enlargement. Failure to do so would give the new members, with their powerful farming lobbies, an easy target for criticism.

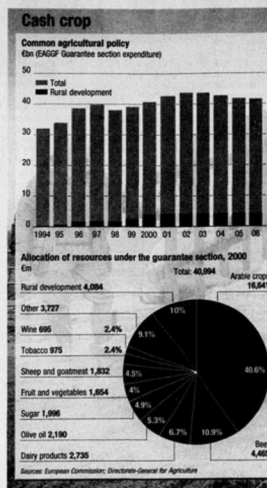
These pressures come on top of European citizens' growing disenchantment with the CAP. Many hold the policy responsible for encouraging the intensive farming methods they have come to associate with mad cow disease and foot-and-mouth disease. Germany, meanwhile, historically the EU's payermaster, has signalled a marked change of attitude towards the CAP. And yesterday Britain underlined its determination to lead CAP reform when an official commission into farming called for a significant speeding-up of cuts in production subsidies and their replacement with payments for environmental services.

All this has coincided with the "mid-term review" of modifications to the CAP agreed by EU leaders at the 1999 Berlin summit. Already, there are plans to ease the CAP away from its traditional support towards a broader rural development policy. Brussels is calling it "evolution". The result is likely to be more of a revolution by stealth.

Rural development measures are favoured by national treasuries, which means their wider introduction would answer French demands to control the cost of the CAP. They also have the advantage of being more acceptable to public opinion, better targeted to meet a wider range of needs, and less likely to attract from the EU's trading partners.

"The Commission is seeking to shift support into rural development and the rural economy as a whole, rather than supporting agriculture per se," says Conrad Caspari, managing director of CEAS Consulting, agricultural policy analysts at Imperial College, University of London.

Reforms to the CAP over the



past 10 years have already succeeded in slashing the proportion of the budget spent on market support measures in favour of direct payments to farmers. But these changes have proved insufficient for Germany, which is now calling for radical reforms to a policy it defended staunchly for four decades. The country's about-turn is inspired as much by a desire to limit its contributions to the EU budget in the build-up to a big EU spending review in 2006 as by the more consumer-friendly environment recently adopted by Renate Künast, the German politician who heads the food and consumer protection ministry.

For Mr Fischler, the mid-term review offers a last opportunity to build himself a legacy as a reformer after EU governments undermined his original plans in Berlin. But he also knows his proposals must have the support of France. Jean Glavany, French farm minister, has talked cryptically of using reform as a means of achieving "reorientation" of the CAP. But neither Jacques Chirac, French president, nor Lionel Jospin, prime minister, is likely to give ground on agriculture.

Mr Fischler's main aim is to shift a greater share of the CAP budget towards "rural development". Currently, rural development - anything from environmental measures to creating non-agricultural jobs in rural areas - accounts for just 10 per

cent of the budget. Mr Fischler will do what's necessary this year. He's not going to wait until 2006," says an aide. "We're looking at a 'greener' CAP, with more payments decoupled from production, which means more co-financing by governments. Mr Fischler feels that whatever is necessary to make the CAP future-proof will have to be done immediately.

**'We're looking at a greener CAP, with more payments decoupled from production'**

not in 2006." To finance the shift, Mr Fischler proposes to skim off a proportion of direct subsidies paid to each farmer and put the money in a pot for rural development schemes topped up by national governments.

This concept, called "modulation" in EU jargon, already exists as an option but has been taken up only by three countries: the UK, France and Portugal. The Commission now wants it to be compulsory and to take a much greater share of the budget. Under proposals by the UK's commissioner yesterday, Britain would increase its modulation payments from a planned 4.5 per cent of total direct subsidies to 10

per cent by 2004 and possibly 20 per cent by 2006.

Mr Fischler's preference for rural development policy is clear in his proposals for the enlargement negotiations. Enlargement will add more than 8m mostly poor farmers to the already hefty CAP bill. That prospect would make a regime still largely based on price guarantees, export subsidies and heavy market intervention financially untenable after the current EU budget period expires in 2006. To solve the problem, the Commission plans to establish a 10-year waiting period before farmers from the accession countries can qualify for full access to direct farm subsidies. The Dutch government argues that the gradual phasing-in of aid to eastern European farmers should be accompanied by the gradual phase-out of aid to western farmers. "A possible fall-back option could be phasing in the system of direct support in the new member states, while at the same time gradually reducing the existing support," it said in a recent policy paper.

This idea of "regressivity" - gradually reducing the level of direct aid - is given prominence in the German government in a recent memorandum on CAP reform. It says that, with enlargement imminent, the mid-term review offers a chance to carry out "urgent and necessary reforms".

The goal, Germany says, should be the abolition of EU-funded buy-ups of surplus grain

and the compulsory setting aside of land and the eventual introduction of a "single area payment as compensation for the maintenance of the landscape linked to specific ecological and socio-economic criteria".

Such a system would make the EU's life easier in the coming world trade talks. Spending less on direct support for farmers and more on measures decoupled from production - such as rural development programmes - would protect that money from attack from farm trade liberals. "A major remodelling of the EU's agricultural subsidy structure would appear to be inevitable to meet the demands of any new world agricultural trade agreement," says Brian Gardner, farm policy analyst and publisher of Food Policy International.

The key to the future lies with farmers. "A possible fall-back option could be phasing in the system of direct support in the new member states, while at the same time gradually reducing the existing support," it said in a recent policy paper.

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## LETTERS TO THE EDITOR

## Board must execute strategy for shareholders

From Mr John Mayo.  
Sir, John Kay's report ("A vital item is missing", January 28) provides a useful statement of the importance of operational management and the primary role of a business in satisfying its customers, that few would argue with. Indeed, as he points out, I did not make this assertion in my articles a week earlier, as I had taken it as read. It is a shame that he did not go on to build on this assertion, by examining the specific facts of the case.

Mr Kay's thesis assumes all companies are focused so that the board's job is only to improve their performance and position in their sector, obviously by pleasing their customers. In the real world, each company is different, owing to its history. Many companies evolve with multiple business units that have different customers, different products, different

technologies and quite often nothing in common at all. GEC/Arcon is a conglomerate. When Mr Kay says the board should have restricted itself to operational improvements that would enable it better to please its customers, was he thinking of defence ministries, police forces, power generating companies, train operators, hospitals, petrol station owners, postal services, manufacturing companies, high street retailers or telecommunications operators?

When a management team inherits such a situation it cannot avoid making the strategic sectoral capital allocation decisions that he derides as "meta-fund management". Even choosing to do nothing is a decision. In the case of GEC/Arcon, our strategy was to try to give the shareholders the chance to participate directly in three

separately listed global leaders in power, defence and communications, rather than in a conglomerate made up of a series of weak market positions. It required a series of co-ordinated acquisitions and disposals.

The execution of such a strategy is, I believe, the duty of a conglomerate's board when the shareholders demand change and, like Mr Kay, prefer focus. Who else, other than the board of a conglomerate, can do this for shareholders? A corporate break-up bidder or raider. Aren't they meta-fund managers? Shouldn't public company boards look after their shareholders' interests themselves? It is in this real world context that strategy and actions should be analysed.

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## The resilience of US consumers is rational

From Mr Daniel J. Aronoff.

Sir, One of the most surprising features of the current economic downturn is the resilience of the US consumer. Martin Wolf ("When shoppers begin to save", January 23) refers to the "non-adjustment of households" and, like many other commentators, he sees the resilience of consumer spending rooted in some form of irrational behaviour. Before condemning the consumer to stupidity, I suggest that Mr Wolf and others consider a more reasonable explanation for stability in consumption spending.

Many economists have long subscribed to the idea that

individuals make their consumption decisions on forecasts of their earnings over a long period of time. Basing consumption behaviour on "permanent income" or "rational savers", January 23) refers to the "non-adjustment of households" and, like many other commentators, he sees the resilience of consumer spending rooted in some form of irrational behaviour. Before condemning the consumer to stupidity, I suggest that Mr Wolf and others consider a more reasonable explanation for stability in consumption spending.

Many economists have long subscribed to the idea that

in the US, extending credit for home equity loans, credit cards, lines of credit and other instruments that, for the first time, enable a sizeable sector of the population to smooth their consumption over time by adjusting their savings and borrowings. It may be that we are living through the first recession in which US consumers are rationally smoothing consumption in the way that economic theory has long predicted they should.

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## Politicians should keep out of daily management of NHS

From Mr Steve Dewar.

Sir, The state of the NHS should be a matter of heated political debate ("Party politics and health", January 26). Our proposal to place the NHS at arm's length from government is not a response to the thunderous row over Rose Addison, nor an attempt to stifle future rows that are the stuff of politics. What we want to stop is politicians being drawn into the detailed management of each and every hospital and GP surgery. Politicians may be tempted to try to control every detail of change across an organisation employing a million staff and then claim the political credit for improvement - but it is self-defeating.

It leaves those leading the NHS consistently looking upward to political objectives and politically expedient timetables. Instead, we want them to be more responsive

to the needs and wishes of their patients and their local communities and less buffeted by political tampering. After all, health care has a much more important job to do, not least in establishing a real ministry for health rather than just for health care. We, like you, recognise the power of legislation to formalise and safeguard that devolution of power. The government talks the language of devolution and promises greater independence for some NHS organisations and greater choice for some patients, but these do not go far enough. Our proposals are about making a more radical vision meaningful.

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## Not much choice in private care

From Mr Keith McDouall.

Sir, I know nothing about anaesthetists but to find in the FT Dr Adrian Bull, medical director of PPP, demanding better choice for the consumer in private medicine and more transparency is a conversion worthy of St Paul ("Call for more transparency over private health care fees", January 23). As the dominant medical insurer in London and the south-east for several years, Dr Bull consistently insisted cardiac patients go to the Wellington and Harley Street Clinic which PPP controlled with the Columbia Group. Had PPP argued strongly to the Office of Fair Trading that

there was too much choice for private cardiac patients and medical specialists in London. The trenchant opposition by PPP to competition was the principal reason why the Heart Hospital, probably the finest cardiac facility in London, recently gave up the unequal struggle and was sold to the NHS. Most of the staff have now quit and few private patients are admitted. This PPP domination of private health care in central London continues - not much choice for consumers nor much transparency there.

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