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# Editorial

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By the time this issue of the EC Tax Review arrives on your desk, the UK (or more specifically Douglas Hurd as the UK's Foreign Minister) will be halfway through its six month term of office as President of the Council of Ministers, which began on 1 July 1992. The French will have just held their referendum (on 20 September) on the Maastricht Treaty and the success of the UK's Presidency will be easier to judge. Indeed, some might say that the acid test for the UK's Presidency will be whether all twelve EC Member States ratify the Maastricht Treaty (as planned) by the end of the year, which is something only time will tell.

Without the benefit of hindsight, however, what can be said more generally about the UK's Presidency of the EC? Certainly it comes at a crucial time in the development of the EC. This is of course purely coincidental – the Presidency of the EC Council of Ministers rotates on a six monthly basis and these six months just happen to be those in which the UK's turn falls. Perhaps other Member States would have preferred the UK (which seems to be on extremes of community opinion on several issues, such as minimum VAT rates) to take on the role at a less volatile moment in EC history. On 2 June, just before the UK Presidency was due to begin, the Danes gave their famous 'no' vote on the Maastricht Treaty and at the time of writing the Danish government are still considering how to respond to this unexpected outcome to the referendum, while the French have still to hold their referendum, the result of which appears to be less clear cut as each opinion poll appears, and the ratification of the Treaty by all the Member States is by no means guaranteed. In other ways too the Community is prospectively at a turning point. The Single Market is due to come into force at midnight on 31 December 1992, just as the UK's Presidency will come to an end, while the four year term of office of the incumbent EC Commissioners also finishes in December, which may lead to yet more changes in the Community. Following the agreement over a European Economic Area with the EFTA countries in June several countries are applying or considering applying for membership of the EC.

And just at this moment the UK has taken over the mantle of Presidency of the EC Council of Ministers. This powerful EC body decides whether to accept or reject legislation proposed by the EC Commission. The President chairs meetings of the Council, the relevant Minister from the country of the current President chairing meetings considering the topics for which he is responsible. Douglas Hurd will accordingly chair meetings of the other foreign ministers while Norman Lamont, as Chancellor of the Exchequer, will chair meetings of the powerful economic and finance council (Ecofin). Thirty-eight meetings of the Council of Ministers are due to be held over the six month period, the grand finale being a heads of government meeting at the Palace of Holyrood House in Edinburgh.

The main and most challenging task for the President is to mediate between the differing views put forward by the various Member States, forge compromises and produce results so as to advance the Community. Although the Presidency brings with it some influence and considerable responsibility to produce results, it does not give Britain any additional decision-making powers.

The UK has clear goals for its term of office in the EC Presidency. A booklet issued on 12 August by the Conservative Research Department lists the main priorities as:-

- (i) Completing the Single Market;
- (ii) Entrenching subsidiarity;
- (iii) Preparing for the admission of new Member States;
- (iv) Ensuring sound financial structures for the future;
- (v) Securing the ratification of the Maastricht Agreement;
- (vi) Exercising the international responsibilities of the Twelve;
- (vii) Completing the GATT Agreement.

On the whole the aims listed appear relatively uncontroversial. Completing the Single Market must obviously be a priority since it is due to come into force at midnight on 31 December

1992. Yet it may be a cause of anxiety to other Member States that securing the ratification of the Maastricht Treaty seems to come relatively low down the UK's list of priorities. One explanation for this could perhaps be the fact that Britain plans to resume the ratification process after Denmark has made up its mind how to proceed and France has held its referendum. Certainly concern among other Member States that the UK will seek to use the Danish opposition to the Treaty to revisit the whole question of the Treaty seems unfounded. The Conservative booklet insists that renegotiation of the Treaty is not an option and that the government has firmly stated that it does not consider a referendum in Britain on the question of the Treaty necessary. Such statements should go some way toward assuaging the anxieties of the other EC Member States, but until the Treaty has finally been ratified by all twelve Member States the worries may not completely disappear.

One concern for the other Member States may be that the UK will seek to use its influence during its Presidency to develop the Community in a direction of its own choice. The UK will doubtless be sensitive to such concerns and will wish to be seen not to be abusing its authority. In this respect, the emphasis on entrenching the concept of subsidiarity (the principle that action is only taken at Community level if it cannot adequately be taken at national level) may give rise to questions. A clause on subsidiarity was included in the Maastricht Treaty at the behest of the UK and Germany while at the Lisbon Council in June 1992 the UK gained permission to develop the concept of subsidiarity, not only in relation to new proposals but also examining existing legislation to see whether it should be modified or even scrapped. Subsidiarity is not solely a British enthusiasm – for example, Mme. Scrivener, the EC Commissioner for Taxation, has placed much emphasis on the concept, but it is an issue in which the UK may perhaps be regarded as having more interest than most and there may be a risk that it might be given undue attention from the viewpoint of the other Member States during this six month period. This may be closely monitored as a barometer of the UK commitment to the community.

During its term of office the UK government has the delicate task of both mediating between EC Member States to keep the Community programme on course and pacifying the small but vociferous number of sceptics about the EC in the UK Parliament. This could prove a difficult tightrope for the government to walk, but it is important that it succeeds in doing so.

A promising start was made to the UK's Presidency when a compromise was finally reached on minimum VAT rates, Norman Lamont agreeing to a 15 per cent minimum rate for an initial four-year period, with a review at the end of that time. After years of opposition to any minimum rate being set, this may indicate that the UK government may be prepared to be more flexible than before. And commitment to the EC now runs across all political parties in the UK so that it seems unlikely that after twenty years in the EC the UK would ever seek to come out. The vital importance of the Community as a body to compete on the world arena now appears to be recognised. So too does the importance of EC law. Practitioners have to be increasingly aware of what is happening in the realm of EC Communitarian law as well as in the purely domestic field, and this is as true in the field of tax as in other areas. There appears to be a greater awareness of rights under EC law and an increased willingness to bring cases to the European Court of Justice, while even at the lowest domestic levels courts and tribunals expressly take account of the EC law underlying domestic legislation. Since in cases of conflict EC law prevails over domestic legislation and since actions can be brought to force EC Member States to implement relevant EC legislation, it is vitally important for practitioners to keep up to date with EC developments. This publication is designed to assist in that process.