

It's Not a Treaty Guv, Honest

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It's the start of a new year and, in Europe, the start of a new era. The Lisbon Treaty - the Treaty that isn't a treaty but just 'tidies up' the administration - is now in effect.

One consequence of the new 'administrative tidying' non-treaty Treaty is that it has created the European Union (or the "Union" as it is called) in place of the "Community" it replaces. The new Union is independent of the countries that belong to it. So we can now talk about the EU and the Member States and they are all different entities.

We will see, over the next years, just how major and significant a change that little bit of 'administrative tidying' turns out to be.

Another consequence of the Lisbon Treaty is that the brand new Union and the Member States now have a curious kind of joint responsibility for a number of things. Energy is among them.

It's hard to describe in brief what this joint responsibility amounts to since it's expressed in Eurospeak as "a spirit of solidarity". If anyone thinks there's anything discretionary about that spirit of solidarity, just consider what its opposite would be: 'acting alone', 'acting without regard to membership of the Union', etc. It would, in effect, run counter to the Treaty (and the non-treaty Treaty) and the Union.

No; there is nothing discretionary about the spirit of solidarity. One might as well call it as it is and say there are now joint obligations imposed on individual (and joint) Member States and also on the new entity, the Union.

In the field of energy, our basic joint obligations are listed as:

- ◆ to create a *Union* energy market;
- ◆ to ensure security of supply for Member States and the Union;
- ◆ to promote energy saving and renewable energy; and
- ◆ to bring about interconnection of all energy networks.

These have always been our obliga-

tions. That is, they have been the obligations of France or the UK or Italy or Spain, and so on to ensure that France, or the UK or Italy or Spain, etc., do these things and aim to achieve these objectives. But that has changed. We now have joint obligations and the Union has the same obligations - which means that we must act jointly and the Union must act.

There is one significant additional change in the 'administrative tidying' of European energy obligations. Before the non-treaty Treaty came into effect the way in which each Member State carried out these obligations was left to each of them because they, and not other Member States (and not an administrative entity) had what is described as greater 'competence' in dealing with their own local circumstances.

That is no longer so: our competence to decide how we will implement the provisions of any directive is no longer a separate competence but is a competence only capable of being exercised in collaboration with the other Member States and the Union. We now share a competence in energy matters, which clearly means no Member State may act alone. But more: that competence cannot be exercised by a Member State if the Union exercises its competence first.

What this means is a quite extraordinary reversal of powers: the UK (a Member State) could not decide how to implement energy provisions emanating from the Union if the Union had decided how to implement the provisions first.

So much for an administrative-tidying no-treaty Treaty. And so much for a government that either decided not to discuss the Treaty with the electorate or which didn't have a grip on what was happening. The amateurism of the energy brief over the last few years suggests that it's less stitch up and more cock up.