

DOES THE EU HAVE A FUTURE?¹

Sir William Nicoll²

"This is not a new question. Like love, the course of European integration has not run smooth. It goes in cycles.

The Monnet-Hallstein cycle was a time of hope and confidence. The age-old rivalries were abandoned. Destiny was shared in a union, which was ever closer. The Community was not merely in economics, as its name suggested, but in politics. Realities uncomfortably did not always correspond to predictions for example, growth rates in the Six were lower in their first five years than in the preceding five. But the pace of post-war reconstruction had been bound to slacken.

There were deeper tendencies. The Coal and Steel Community which emerged from the Schuman Plan was not supranational. An unforeseen institution established power sharing the Council, which gained more ground in the EEC treaty compared with ECSC. In ECSC policies had not worked out as foreseen. Member states defied High Authority wishes. Monnet, the dirigiste, had to acknowledge the free market German formula, which prevented deconcentration of Ruhr industry; and he trod softly because he did not want to turn Germany against joining his next community, Defense. The first catastrophic failure came five years after the new dawn the collapse of the European Defense Community and the associated European Political Authority.

But this also initiated the next cycle, ushering in the EEC. Hope was reborn. For most of a decade it forged ahead, until the Commission took its autonomy too far and provoked the 1965 crisis of confidence of the empty chair, which made the veto central in decision-taking, the reassertion of national power. Its legacy was one of its two common policies, agriculture, characterized by subsidies and protectionism which were not mandated by the Treaty of Rome but had their explanation and perhaps justification in post-war experience of famine.

The first enlargement of the Community seemed to be a new vote of confidence, despite Norwegian dithers. One of the bon mots of Brussels at the time was if they want to join us, there must be something worth joining for. But this phase of euphoria was short-lived. The oil price surges of 1973 and the Arab embargo on the supply of oil to the Netherlands saw each of the Nine seeking to go it alone, making their deals with the oil producers and, since they could not, by virtue of the second and last common policy, negotiate commercial agreements, inventing "economic agreements" with chosen partners. Solidarity broke down.

We will pass over the pseudo "re-negotiation" of the British terms on entry of 1974-75, except to remark that it illustrated the observed tendencies of divisiveness. In

¹ A contribution to the Bucharest Conference organized by the British Council, 17 September 2005.

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the following years, the cycle was one of Euro sclerosis, apart from further enlargement. This was rarely described as good for the Community rather as saving three European countries for democracy. At one time 800 Commission proposals for further economic integration, or at least harmonization were lying untouched. Once again Britain confirmed its role as the awkward partner, demanding and getting a cut in its financial contribution, and for five years crowding other matters off the strategic agenda. It also stood aloof from the attempt to stabilize forex markets in the European Monetary System, the lesson learned from the turmoil of the mid-70s.

But 1985 saw a new cycle, led off by the combined heavyweight of the British Commissioner, Arthur Lord Cockfield and the French President and firebrand, Jacques Delors. The products were the single market, for all and the single currency, for some. The first was approximately achieved, but had been oversold. The Cechinni forecast boost to growth did not materialize. The second was preceded by successive attempts at currency stability, culminating in the collapse in 1992 of the Exchange Rate Mechanism. The Monetary Union was an example, among others, of variable geometry. It included two member states, which did not satisfy the entry conditions (and still do not) The same is true of the one Member state, which joined after the launch. There was more variable geometry in the free movement of people, with the land-linked members of the Schengen Agreement; and briefly, a kind of "occupied but facing backward chair", in which the UK, retaliated against the ban on its beef by withdrawing from co-operation and vetoed whenever it could, including proposals which it had been supporting.

There were system shocks when the Irish and the Danish electorates rejected new Treaties. The collective disregard of their opposition was not a ringing endorsement for democracy. Euro sclerosis had mutated into Euro pessimism. This was not alleviated by the humiliation suffered by the Union of the Yugoslav conflict, which gave it furiously to think about a defense concept - not territorial defense, but the use abroad of military assets. Almost symbolically, the millennium year saw deep divisions among the participants and an ineptly handled meeting which spawned the largely incomprehensible Treaty of Nice.

The participants tried out a new formula for progress. While not abandoning the legislative route, they introduced the "Open Method of Co-ordination", which roughly equates with the Lisbon Process. Instead of laying down rules of conduct leading to desired results and instead of entrusting the Commission with the monopoly of putting up bright ideas, they agreed on a collection of targets, within the overall objective of making the EU the most competitive world economy by 2010. To get to the targets, they were to act nationally, compare methods and results, and gently name and shame backsliders. Delors described the process as "In the absence of legal sanctions, peer pressure and the example of successful experiences should ensure that the guidance was respected." We will never know if it works because the economic cycles were against it.

Top leadership realized that the Union, as it now was, was losing touch with the citizenry. They resorted to a device, which had not worked too well first time round when it produced the Charter of Human Rights. They set up a Convention

with a mandate to provide remedies for what was perceived to be a gulf between the ruling classes and the citizens. It was not entirely the fault of the conventioners and their President that they ran "out of control" as their Secretary-General concluded. They produced an indigestible treaty text, which in itself made little change in policies but as is customary on the occasions when policy is sticky drew up plans for re-organization, some of them well-taken.

It did not work. The purely constitutional parts of the resulting Treaty [1,2 and 4] are respectable and might have been both readable and approved of. The large Part 3 is too complicated to follow. Critics could pick it apart to affirm:

- (1) That state welfare policies would be replaced by individual responsibility in a Darwinist survival of the economic fittest;
- (2) That there would be no job protection against the immigration flood.

To the 95% or more of the voters who are no more familiar with the earlier Treaties, which the Constitution codified, than they are with the quantum mechanics of their mobile phones, the new Treaty must seem gigantesque and disturbing.

Which brings us to the question beyond the period of reflection and analysis, which is another word for doing nothing, does the EU have a future?

It does, and a coming sign of endurance will be the accession on 1 January 2007 of Romania and Bulgaria. I regard these as fixtures.

But what shape will it be?

1.No further enlargement until at earliest 2014. Turkey and Croatia will be in the running. Europe's "near abroad" is not in sight.

2.Some commentators are suggesting that the No votes in France and the Netherlands are only symptomatic of a wider loss of support for European integration. After all, they rejected Part 3, which is the consolidated treaty. This could put core principles under threat, such as the supremacy of Union law. This phenomenon, if it exists, could accentuate a trend towards the reassertion of national sovereignty, relying for legal endorsement, if any, on a blanket appeal to subsidiarity.

3.Europhobes regard the failed referendums as a platform for radical reform. Stripped of rhetoric, the programme would be to withdraw the Union from social policy development, considered inimical to enterprise, to embed fiscal independence, to regard the Monetary Union as an option from which participants might freely withdraw and to reduce Foreign and Defense policies to matters of multilateral co-operation, largely subordinate to NATO and the UN Security Council. It does not happen to be what the voters of France and the Netherlands had in mind. Still less the extreme, which the muddle-headed antis in Britain talk about - regression to a free trade agreement.

4. Another programme, mentioned in the brief for the Constitutional Convention, but which it did not follow up, is repatriation. The favourite subjects for withdrawal from the Union and reversion to the Member States are agriculture and fisheries. The Social Chapter would go. The Charter of Human Rights, if preserved at all,

would be a showcase, without legal force. No new subjects would pass to Union competence. (NB None did in the draft constitution)

5. A less full-blooded version of No 4 is deregulation. This envisages on the one hand more rigorous scrutiny of the impact of new regulation - of which there would be less - and retroactively a review of the *acquis* to establish how much of it complies with the current doctrines of subsidiarity and proportionality. Better regulation is a priority of the British Presidency, and has been enthusiastically taken up by the Commission.

6. It does not look as if the Open Method of Co-ordination, exemplified by the Lisbon Process, has a future. The Convention looked at it, mentioned it low-key in some articles, but did not elevate it to a method of obtaining results not available by the traditional Community method.

7. It is perhaps safe to suggest that the future will see increasing recourse to differentiation. This takes a number of forms.

7a. Enhanced co-operation already has a treaty base. It has not been used. The Convention suggested how it might become more readily usable. It could come into play, without prejudice to the singleness of the market, in areas like social and fiscal policy. It is offered not as a formula for weakening the Union but one for making progress more rapidly than by moving *en masse*.

7b There is often talk of a hard core or *avant garde* of countries which desire closer integration and should not be held back by partners who would be unable or unwilling to participate. The ground rules would be no

coercion and no exclusion. In return the non-participants would accept that the hard core would press on with integration, using Union instruments and institutions. The hard core itself would be constant apart from enlarging.

7c Another form of differentiation is opt-outs. There are already examples, quite distinct from the temporal derogations already widely used. Here again the countries which did not take the option must not disturb the singleness of the market but could doubtless find space for action in social, fiscal and judicial policy and elsewhere. Constructive abstention in foreign and defense policy is a form of opt-out, with a more dignified name. Unlike the hard core this kind of differentiation does not imply that the group is constant - the coalition of the willing shifts as member states make their political/rational or sociological/ occasional choices of policy preference.

8. Another outcome is standstill, although that word would never be used. The Union, in its own words, would take time to analyze and reflect. Meanwhile business would be as usual, without bold new initiatives. This has happened before and has been called brushing the problems ahead of you.

9 And then there is organizational change. If, after the passage of some time the taboo on quarrying the Draft Constitution fades away, there are several improvements, which could be made by Council decision. They do not need a Commission proposal. They include:

- 1 - Council legislating in public;
- 2 - Formal scrutiny of legislative proposal in national parliaments

- 3 - A fixed-term Chair of the European Council;
- 4 - Team presidencies (already in place);
- 5 - External Action service (already in planning)
- 6 - Court states that it will regard the Charter of Human rights as *acquis*
- 7 - Generalization of the existing CFSP declaration which says that where unanimity is required, small minorities will not block it.

In fact the shape of the future is bedeviled by the old question: What is the EU for? Some of the old answers are irrelevant bringing peace to a divided continent, assuring prosperity by bringing down the barriers, strengthening competition on behalf of consumers, protecting the environment trans-nationally, protecting human rights... Europe has not yet found its message for the first decades of the new century. The heart of the message must be a plan to exploit economic growth and secure high levels of employment, coupled with an as yet indeterminable level of affordable social security, which does not impede adaptation to change.

So perhaps after these homilies it is about time I tried to answer my own question: does the EU have a future?

1. Yes, because it is now so closely integrated that disunion is unthinkable.

2. The dispute about CAP spending and the British rebate will not be resolved before late next year. This will cast a shadow over the WTO meeting in Hong Kong in December to carry forward the Doha Round of trade negotiations. There the EU will

stand before the bar of world opinion and, in conjunction with the USA, will have no alternative but to offer a substantial further reduction in its agricultural protectionism

The EU countries, which will claim adverse effects therefrom, will need some sweeteners. In the nature of diplomacy, the EU will have to get something back for its opening possibly some response to its older "Singapore" demands for an FDI code or a competition code.

3. A new start depends entirely upon the economic cycle. At the slightest sign of upturn, promising growth and falling unemployment, the Union will as historically it has done, galvanize itself, put some resolve into completing the internal market, and take on at least some of the programmers in the modernizing agenda.

4. If there should be some new international crisis, it is unlikely that the Union will allow itself to be split. In what will hopefully be a calmer world environment it will strive for a single position in foreign affairs, with such constructive abstentions as are needed. It will almost certainly not thicken its Common Defense Policy, except rhetorically. That will remain an area for practical working co-operation, especially between Britain, France and Germany.

Will this make a difference to the legitimacy of the Union in the perception of its citizens? No, that problem remains unsolved. But the Union need not make extravagant claims about its activities; and at least one government will need to try harder to explain to its voters why it backs the Union and wants to contribute to its progress. The Union needs in 2006 is some tangible success story, such as a good Doha

meeting with more than words as its product. It may also help purely emotionally if some of today's top men and women lose their political eminence in elections or otherwise, with their replacements radiating confidence in a New Start".