



We had prepared for you a scholarly review of the implementation of the Lisbon Treaty, which raises a number of problems awaiting solution. But it is spiked following the Irish referendum.

As the Irish voters were told, there is no Plan B. (more accurately, no Plan C) But there are a string of options. The Union can go on as it is. Contrary to expectations its enlargement has not prevented it from functioning effectively. Or, as happened over the Treaty of Nice, the Irish Government could open a new information campaign and hold a second referendum. That is a matter entirely for the Irish to judge and there can be no question of outsiders demanding a re-run. Or, a certain number of the Lisbon provisions could be brought in use without a new Treaty – legally possible but politically hazardous. Or, highly improbably, there could be a full-scale renegotiation - but that would imply new ratifications and possibly more than one new referendum., which is a dead end.

It was insensitive for the Commission President to suggest that we need to find out what went wrong; and although it earned him Brownie points, for the Prime Minister to declare instantly that his government would complete the ratification procedure a matter of days after the Irish result. Talk about an inner union of 26 is legal nonsense, as well as an abuse of democracy. Further, two more Member States, Cyprus and the Czech Republic, were already debating whether to ratify at all.

If there ever were a slow lane, we would qualify. We have opt-outs from free movement and immigration control, we do not pay full membership dues and we do not belong to the monetary union. We refused to allow the Charter of Fundamental Rights to become legally binding, as most of the others intended (It pre-dates the Lisbon Treaty.)

Having gloriously erred in its description of the origins of democracy in the USA, compared with the authoritarianism of Brussels, the Times compounded the bloomer two days later by suggesting that the Lisbon Treaty, if ever, should open with the message: “They the People...” As foreseen, the Times did not publish a further correction offered to it. The Founding Fathers who endorsed a Constitution with its ringing introduction “We the People of the United States...” “were being oratorical. The said people had no say, either in the selection of the delegates to the Philadelphia Convention of 1787 or in the ratifications by State legislatures. The only State to hold a popular referendum voted against the adoption of the Constitution and stayed out until it was threatened with sanctions.

### **Open Meeting**

The Branch held an Open Meeting in its series of discussion forums in Canterbury on Friday 13 June 2008. The speaker was Ms. Sharon Bowles, MEP, (Lib Dem). The Branch Chairman presided.

It was Ms Bowles’ experience that the traditional “History Thing”, European Union seen as securing the pacification of Europe, no longer had much resonance with any

generation. Her work had shown her that the best way to win support for the Union was by demonstrating that its actions were directly relevant to the concerns of the citizens and were closely connected to the actions of their own governments. There was, however, an in-built difficulty. The Union's agenda, reflected in the work of committees of the European Parliament, was wide-ranging and fast-moving. Information about progress changed rapidly and news reports could not keep up. The media were more eager to trumpet the negative than to recognize the achievements. An example was Ms Bowles' own heavy workload in the Economic Committee, devising Europe-wide measures to ensure the efficiency and security of financial markets, with a direct bearing on the problems with which the UK was simultaneously grappling. Another largely unknown aspect of the European Parliament, was the high degree of cross-party collaboration, where the absence of a majority party meant that decisions could not be whipped through but depended upon a measure of consensus.

Ms Bowles said that she had no fear of the evolution of the EU. It was rooted in democracy- equally in the directly elected Parliament and in the Council of Ministers, answerable to their parliaments and voters. All concerned had not done enough to bring out the true nature of the systems and procedures.

Ms Bowles invited questions and the audience responded with enthusiasm.

- Readers take as gospel what they read in the Press (“no dogs allowed in BandB kitchens”) How could real stories be told? Ms Bowles knew that newspapers tended to be negative. It was also true that the British authorities tended to overt-egg the puddings and apply regulations strictly, whereas other governments showed what they would call flexibility.

- Why not bring out in detail what Kent had gained from EU membership? Ms Bowles this would be the wrong approach. Kent had gained from the overall improvement in prosperity. A member of the audience strongly agreed – since Britain was a net contributor to the EU budget, EU funds disbursed specifically in Kent were no real gain to the nation..

- It was suggested that the EU should do more to protect our firms and employment when State Aid was vitally needed for survival and when they were threatened with outsourcing. Ms Bowles pointed out that within the Union the UK was the powerful force for economic liberalism and was “tugging the others along”. It would damage our own interests to revert to forms of protectionism.

- Asked about dealings with representatives of the new Member States, Ms Bowles said that she had found them generally constructive. With huge tasks imposed upon them in their accession negotiations there was an inevitable tendency to relax the effort once inside. But their MEPs had integrated and acquitted themselves well.

- Could there be a regular round up of EU news to be distributed to schools ? Answer: the cost would be beyond resources. It would be a mistake to entrust a venture of this kind to the Commission, which tended to be self-serving.

- Why cannot we see European TV, when most other EU countries can? We can, at a price, with the appropriate satellite dish, properly aligned; meanwhile there is need for a sorting out of the digital and analogue spectrums.

Alan Forrest brought the meeting to a close by calling for a vote of thanks to Ms Bowles for an insightful and thought-provoking account of the EU seen from her special vantage point.

### **Rotating Presidency**

France takes over the Presidency of the Council of the EU from 1 July. Headline subjects for it will be climate change, energy security and strengthened European defence.

### **Word and Deed**

In the spring of 2007, under inspirational German leadership, the European Council proclaimed the Union's firm intention to implement bold plans for carbon reduction *even if* other countries should be unwilling to take corresponding measures. By spring 2008 the political climate had changed. The messages, including some in German, were now of the need for special treatment for European fuel-consuming industries which are in international competition and cannot afford to be disadvantaged. So instead of implementing decisions, it was a matter of the Commission undertaking to analyze and study cases with a view to coming forward with appropriate proposals.

One idea making some running is a border charge on manufactured imports from third countries not fully co-operating in attempts to reduce carbon emissions. Unless sensitively handled ideas like this could put paid to negotiations for a widely supported successor to the Kyoto agreement (... and to trade negotiations in the Doha Round, unless it already morbid).

### **Defence**

"It is magnificent, but it is not war"

Marshal Bosquet, observing the  
Charge of the Light Brigade, 1854

To the lay civilian – and ever fewer have military knowledge – the European Defence Policy is hard to grasp. Official pronouncements about it lack coherence and the bodies responsible for executing it are a maze of titles and acronyms. The relationship between

Defence in EU policy and in NATO, with the latter including 21 members of the former is unclear. In this note, written with the help of leading experts, we attempt to explain what is what.

The first principle is that Union does not make war and is not equipped to do so.

Traditionally European Defence Policy has likewise had nothing to do with the defence of Europe, or of the countries of the European Union. For all the members of the Union, territorial defence rests with NATO. The Member States which do not belong to NATO have the comfort of knowing that its shield also covers them.

One NATO founding member, France, has been semi-detached from the organization and the only NATO and EU Member State which historically championed an autonomous Union defence capability. President Sarkozy has said that this is about to change. Four traditional neutrals have joined the NATO Partnership for Peace, which is a connection not involving the obligation to provide mutual assistance. Two, Malta and Cyprus, are on the outside. NATO is also the primary instrument for out-of theatre actions, involving the use of armed forces for tasks described below.

If not for the defence of the homelands what is the European Defence policy for?

Answer: for circumstances in which the members of the Union consider that their armed forces should be used outside the Union to intervene where there is disorder. The kinds of disorder are usually summed up as: *humanitarian intervention*, to protect and relieve distressed populations; *peacekeeping*, where combatants have arrived at a truce and a third force is called in to ensure that hostilities do not break out again; and *peace-making*, where combatants are compelled by armed force to desist from fighting. In the jargon these are known as “Petersberg tasks.” The Union has explicitly not gone as far as Mr Blair’s adherence to what he called “liberal interventionism”, in the cause of freedom or the UN’s “right to protect” suffering populations.

A Petersberg task could typically be undertaken is at the request of the UN, following a resolution of the UN Security Council; or at the request of a country which is a victim of aggression; or where the Union judges that international stability is jeopardized by the localized outbreak of fighting. As a general rule, such tasks would typically be undertaken to complement actions of NATO.

What about NATO? NATO has given itself the mission of intervening militarily outside the North Atlantic theatre, currently exemplified by the operation in Afghanistan. But for NATO to act, the USA, the major stakeholder, must agree. The European Defence Policy consequently envisages situations in which the USA does not want to act but the members of the Union do - unanimously. There is provision for the EU to use NATO assets, even if the USA does not participate in the intended action. This is known in the trade as the “Berlin plus” agreement.

What military resources does the EU have? It says that it can put in the field a Rapid Reaction Force of 60,000 service personnel in what it calls a “headline” figure. Researchers have shown that several times the Union has come close to realizing this capability. But their count is not of a simultaneous deployment. It involves double counting and includes missions which are not UN- or EU-sponsored. Except insofar as they contribute to NATO the available forces have no serious experience of working together and Afghanistan has shown that there is little cohesion among the national units from the EU deployed there under NATO auspices. They have largely remained under national political control, which has not helped towards their operational use.

Since 2003 there have been 14 EU military or police deployments in trouble spots, including the Balkans.

The substantial resources are, in rotation among the member states, the designation of two or three “battle groups”, each around 1,500 strong. Some of the battle groups are of a single nationality, some are mixed - Cyprus, Greece, Romania, Bulgaria contribute to a Balkan battle group; Sweden, Finland, Norway, Estonia and Ireland make up a Nordic group. Members with small military resources can offer specialized service, such as reconnaissance units or field hospitals. Only Malta currently makes no contribution

Member States can enter into “permanent structured co-operation” of their military resources, the better to perform EU tasks. They remain under EU auspices. A European Defence Agency, mentioned in the Lisbon Treaty, already exists. It has the task of identifying operational requirements and promoting measures to satisfy those requirements and “where appropriate implementing any measure needed to strengthen the industrial and technological base of the defence sector”. The UK has been at pains to contain the agency’s budget. More generally, the upgrading of Member States’ military capabilities would cost an increase in defence budgets which most have not shown readiness to pay.

Defence procurement has had a blanket exemption from single market rules – or Member States have said it does. In April the Commission tabled proposals to develop an EU defence equipment (single) market.

As things stand the resources available to the Union are not capable of fighting a high intensity war. They lack amongst other things, intelligence capability; helicopters; heavy lift aircraft; “smart” munitions. To undertake Petersberg tasks they require unanimity among the Member States; there is no supranationalism. Joint financing of any operations decided upon is at least uncertain.

As one of the few EU countries with significant military assets, Britain is a key partner. Mr Blair’s government helped to launch a European Defence Policy in 1998, notably by agreement with France. But the enthusiasm which this kindled overstepped the mark when in 2003 France, Belgium, Germany and Luxembourg joined to create a military headquarters in Brussels. Britain moved to link the new creation with

NATO HQ in Mons. This illustrates the dilemma – yes to military co-operation within the EU but not if it serves to weaken European support for NATO

Why have a Common Defence Policy of relatively limited scope? Some Member States believe that economies in public expenditure can be obtained by closer military co-operation. Some were humiliated by the Union's inability to enforce peace in the Balkan wars of the 1990s. Some may remember Frederick the Great's observation that "diplomacy without the army is like a band without the drums". Some may think back to the now distant days when the Common Agricultural Policy was the "cement" of the European Economic Community and conclude that today's Union needs new binding forces. Some may consider that Europe should be more than a junior partner in NATO.

Few outside the European Parliament would want to revert to the 1950's idea of a European Army. This was first proposed by Winston Churchill but when a European Defence Community was mooted he dismissed it as "sludgy amalgam." The project failed and the European Economic Community, which itself grew out of the impasse, drew the consequences and steered clear of military involvements...until it matured into the Union.

The UK has been classified in a Federal Trust study among the less enthusiastic supporters of European Security and Defence Policy. But the study acknowledges that the UK has played a leading role in formulating the policy and ensuring that it remains complementary to rather than distinct from NATO. A Foreign Office official once cheerfully described the relationship as in a "modern marriage...back to back"

There are other problems. With Turkey in NATO, Cyprus in the EU and Greece in both, tensions occur when co-operation is evoked. "Liberal interventionism" brings its own headaches. As Lord Hurd, former Foreign Secretary, wrote in the preface to one of his thrillers, we cannot "do nothing" and sit by while blood stains the snow; but we cannot "do everything", disarm the warring tribes, appoint a governor and make the stricken province part of a new Rome. The difficulty is knowing what is in between.

## **Agriculture**

Union policy has been to encourage the use of biofuel. Biofuel needs land. Farmers have opportunities to bring more land into cultivation. Payments for "setting aside" pieces of land are being phased out. In 2003 the EU began to "decouple" farm subsidies from production.

So there are awkward problems around the doctrine of farming responsibility for the "stewardship of the countryside." Set-aside land was good for wild-life. Whence a demand for "compensation" for farmers who might decide not to increase their cultivated acreage. Meanwhile there is another debate about whether the production and use of biofuel is low in carbon emission and yet another about the damaging effect of biofuel production on food supply. The Commission wants to discontinue the existing subsidy

for biofuel production and to encourage the emergence of the second generation, which uses agricultural residues instead of food crops.

Soaring world prices for food, in the expectation of shortages, have incited France to turn back the clock and demand renewed cash support for EU farmers. Early in this decade there were expectations that world agriculture might be re-organised by the outcome of the Doha Round of trade negotiations conducted in the World Trade Organisation. EU and US markets might have opened up to increased exports from developing countries. The EU said that it was ready to cut its food tariffs in half and end subsidies. But food shortages in developing countries may reduce their exportable surpluses.

Successive final deadlines for agreement on the Doha Round were reached and passed. The chances of any outcome are ever slimmer, especially with protectionism growing in the turbulent conditions of US politics. In a recent letter on their retirement net a former Commission official notes that half (actually rather less) the Union's budget is paid to the 5.5% of the population engaged in agriculture; that the falling share of CAP in the budget is a consequence of the growth of other expenditures; that the cost of the CAP has not fallen; and that it harms developing countries. The Chancellor of the Exchequer would like to be shot of it but the Agricultural Commissioner riposts that the idea is unreal.

### **Why integrate?**

Conflict and co-operation are twin evolutionary instincts. The hunters banded together for the chase and then squabbled over the spoils. For eight centuries European thinkers preached doctrines of Christian or humanist peace through closer unity but Europe remained locked in civil war.

Many countries suffered war as, striving to assert their distinctiveness, they broke with their established rulers. Many others fought to resist domination by powerful, acquisitive neighbours. Others split more or less peacefully from partners with whom they no longer felt the same kinship. (Singapore, Pakistan-Bangladesh; Czech Republic – Slovakia, devolution in Scotland, Wales and Northern Ireland, with Cornwall seeking the same, the “Pandanian” independence movement in Northern Italy)

In other cases independent entities freely united with others to form new unions. Inspired by equal patriotism as the separatists proclaimed they have regarded themselves as one people (Act of Union 1707, Malaysia, Zanzibar-Tanganyika)

Countries come together in associations of different kinds according to the objectives which they want to achieve. Many are functional – postal services, monetary unions, trans-national canal management, copyright protection and numerous others. There are in modern times few examples of full-scale political unification, typified by the history of Italy in the 19<sup>th</sup> century or the growth of Canada.

**Collective military defence** is a recurrent motive. This is agreement to help automatically if the associates are attacked. The degree of pre-war military co-operation may be minor as it was between Britain and France before WW2. The important message is the warning given to a possible aggressor. The undertaking to show solidarity implies a *limitation on national discretion* in return for the assurance of stronger protection. NATO is an example of countries in Western Europe joining up with a superpower, which itself wanted their backing for its own objectives.

Another kind of association, which may have political overtones, aims at improving bilateral or multilateral trade. Hence the dictum, enunciated from Gropius to Montesquieu and Gladstone to Churchill, that commerce makes peace. The parties agree to reduce restrictions on trade in goods and, in modern times, on trade in services. Here again *national discretion is qualified* by the undertakings given reciprocally to the partner(s) to accept their products. The economic gain is greater competition, pressure to reduce prices, wider choice and specialization yielding productivity gains.

The World Trade Organisation (WTO), in its rounds of tariff cutting, offers its members enhanced trading opportunities in return for respect for its rules, which among other things ban discrimination, subsidies and dumping (export prices below cost). Its rules allow for free trade areas and customs unions, provided they apply to substantially all the trade exchanges.

A step beyond a Free Trade Agreement is a **Customs Union**. The participants grant each other free trade and adopt a single trade policy, including a common tariff towards the outside world. The European Economic Community is the leading example of a Customs Union. A customs union requires the *replacement of national commercial policy by a consensual policy*, to be reached by the give and take of negotiation. The Common Market with its freedom of movement of goods, persons and capital grew into the Single Market in which a wider range of regulatory requirements and restrictions was unified into one system. "Regulation" is a disliked word, but better for business and its customers than there should be one code rather than a multiplicity of them.

The empirical pay-off from working together in the trade field encouraged the parties to unify their efforts to protect the environment, which is transnational, and to collectivise parts of their approach to problems in such areas as central banking, anti-criminality, research and development, external aid, health, transport and as described above some aspects of defence policy. This is the substance of European Union.

"*Political Union*" is a concept much talked about but nowhere defined. It has acquired two imperfectly understood connotations. According to one, it is a process whereby the participants adopt a common view of their political relations with the outside world. The common view tends to be based on their shared values – stability, peace-seeking, the rule of law, human rights, equality, humanitarian aims – and to be expressed through particular actions, jointly agreed in response to events as they unfold.

The second implied meaning of political union is usually negative. It describes a process, often surreptitious, in which national sovereignty is considered to be supplanted by a supranational authority. This is the spectre of the “superstate” which nationalists vow to prevent or turn back. Unfortunately the first implicit meaning, which is beneficial, tends to be lumped with the second and discredited. It is important to understand the difference.

The origins of post-war European integration are complex. It is part of a continuum of plans and proposals to make Europe at peace with itself. It is also inspired by a history of shared culture, by the rewards of free trade and by recognition that “going it alone” is impossible in the modern world, whether the problem is the environment or economic stability. It is also important to distinguish between Union and nationhood. The Union is composed of nations. They agree on what can most effectively be achieved by their co-operation in comparison with the limits on their individual capabilities. This is encapsulated in the principle of subsidiarity. Depending on the sensitivity of their populations they endorse the other principle that, as within their own nations, the majority view can prevail. In Utopia there would then be trust in a man’s bond. But in the world as it is there are Augustinian temptations: “Lord, make me chaste but not yet.” An independent Court calls to account any action or inaction which weakens the consensus and the basis for the progress which it secures.

The Union shuns the word “federal”. Some observers soften the blow by using “confederal”, by which they mean something less centralized. (The Confederacy of the Southern States defended the principle of “nullification”, the right to disapply the laws of the United States.) Neither word is precisely defined in the day- to- day discourse or much of a help to discussion.

### **The glorious irrelevance of the UK Independence Party.**

UKIP does not present itself as a single issue party. Before the 1 May local election, six UKIP members sat on the Councils involved. There are now eight, about the same number as the Councillors elected on behalf of the Independent Kidderminster Hospital and Health Concern. There were two UKIP Members of the outgoing London Assembly. Both seats were lost.

In all, 8,416 Councillors were elected. UKIP has 0.095%.of the total. On that showing there would be no UKIP MPs after a General Election.. In the Nantwich-Crewe by-election, UKIP collected something like 0.2% of the votes cast

*Our neighbour, Sir Stuart Wheeler, the multi-millionaire owner of Chilham Castle, is making headway with a legal action aimed at securing a direction that the Government honour its manifesto undertaking to hold a referendum on the ratification of the Draft Treaty establishing a Constitution for Europe. Mr Bill Cash, MP, the veteran opponent of British membership, has also opened court proceedings in the light of the Irish No.*

## **The Rising Euro**

As Ken Clarke sagely observed recently, it is impossible in Britain today to have a rational debate about the euro. The pound sterling seems to have become an icon of the elusive quality of “Britishness”\*. There is no current discussion of monetary union in either of the main political parties.

In the past two years, the pound has lost 20% of its value against the euro. The markets seem to be trying to tell us something about the oft-quoted “pound in your pocket”.

\*The first “sterling” currency was issued by the Hanseatic League’s counter in London in the 16<sup>th</sup> century. One derivation suggests that it is a contraction of “Easterling”. More probably it is named for the star on the face of the coins.

## ***Forward tho’ I cannot see, I guess and fear***

Robert Burns, To a mouse

Within two years of the appearance of this issue there will be a General Election in Britain - a long time in politics. Present polling numbers are not a usable guide. Labour party manifestoes assure the voters of the importance of membership of the Union and of the leadership role which New Labour plays. Conservative material is more critical. It will promise, as already decided, to take Conservative MEPs out of the European People’s (centre-right) party in the European Parliament. It will predictably formulate demands for a “re-negotiation” – although the R-word is taboo – including renewed withdrawal from the Social Chapter, repatriation of fisheries policy, curtailment of the application to the UK of the Charter of Human Rights, unadulterated national control of immigration, lower EU spending and thick red lines round national tax and social security policies. The euro – never, never, never.

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**\*\*Opinions expressed in this Newsletter are not necessarily those of the European Movement\*\***

**CORRECTION:** In Issue no 2//08 we implied that La Marseillaise (“Sacred love of the Fatherland”) was adopted as the Anthem of Revolutionary France in 1797. The true date is 1795.

## **SUPPLEMENT no 1**

If you would like a reminder of how the Union has emerged from its foundation, keep this for reference

European Economic co-operation took a boost from the Marshall Plan, 1947, which required recipients of dollar aid to co-operate. The institution created for the purpose was the Organisation for European Economic Co-operation (OEEC), which became the Organisation for Economic Co-operation and Development (OECD)

It took 30 years for the European Economic Community to embark on a significant revision of the landmark Treaty of Rome (1957). From then on, treaty revision was negotiated every few years until 2007, when it was agreed that at least institutional change should be renounced for a foreseeable future.

What follows are thumbnail sketches of the treaties.

**The Treaty establishing the European Coal and Steel Community** (1954) set up a High Authority to take control of the coal and steel industries of the six member states. It established a Special Council of Ministers, whose unanimous agreement was needed for some but not all of the measures advocated by the High Authority. The treaty had a life of 50 years and has expired.

**The Treaty establishing the European Economic Community** (1957) (“Treaty of Rome”) was the sequel to abortive attempts to build a French-inspired **European Defence Community**. It created a customs union of the six members of the ECSC treaty, along with a managed market in agriculture. It set up an executive Commission with the sole right to make legislative proposals and a Council (of Ministers) with decision-making powers. The treaty initiated “common policies”, notably for external trade and for agricultural support. An Assembly had to be consulted on some proposed measures, but had powers of decision only over parts of the budget. At the same time the participating states established the **European Atomic Energy Community**, but its early promise came to little.

**The Merger Treaty**, (1965), scrapped the High Authority of the ECSC Treaty and assigned its functions to the EEC Commission.

As the Community/Union has enlarged there have been **accession treaties**. Apart from adjusting the composition of the institutions to admit more members, accession treaties normally contain transitional provisions, for example relating to free movement of workpeople.

### **Enlargement:**

UK, Ireland and Denmark joined the Union in 1973. Greece joined in 1981 and Spain and Portugal in 1986. Austria, Finland and Sweden joined in 1995. In Norway for the second time a referendum ruled out membership in 1994. The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia Slovenia, Cyprus and Malta joined in 2004. Bulgaria and Romania joined in 2007.

A large number of membership applications are with the Union, the most pressing from Turkey. Croatia is probably at the top of the list

The **Single European Act** (1986) was the product of a string of initiatives – Commission, European Parliament, individual national statesmen - devoted to creating a new inter-institutional balance, to consolidating the unity of the internal market, to seeking to give effect to long-standing aspirations for

economic and monetary union and to strengthening the status of the “political co-operation” which the Member States were already conducting outside the framework of the EEC Treaty.

It introduced a system of legislative *co-operation* between the Council and the European Parliament and decreed the creation of a Single Market. To promote progress a large number of headings were made subject to qualified majority voting in place of the previous unanimity. The treaty brought foreign policy into the ambit of the Community. To mark the distinctiveness of the new political co-operation it was not characterised as the handiwork of the Member States of the EEC but as that of the High Contracting Parties, Members of the EEC. In other words, it was inter-governmental.

In a new Chapter the Act provided for “Co-operation in economic and monetary policy”, parenthetically “Economic and Monetary Union”. It called for economic and social cohesion, without specification, and provided a new, stronger basis for funding Research and Development, associated with the vision of the dynamic Belgian Commissioner, Davignon.

The Act converted the sporadic “summit” meetings of Heads of State and Government into the European Council, meeting at least twice a year, with the participation of the President of the Commission. This development weakened the Commission in its role as “the motor of European integration”. Its other role, “Guardian of the Treaties” was unaffected.

It was apparent that the SEA was of an interim character and that it fell short of the outlook of several Member States. The clear illustration is that while the European Monetary System and the écu gained mention monetary union did not progress and it was left to the Presidency and the Commission alone to affirm that the provision in the SEA did not prejudice the possibility of further development within existing competences. Mrs Thatcher noisily dismissed monetary union, as well as any brand of federalism...never,never,never.

The Community’s big idea of the second half of the 80’s was the creation of the Single Market. With good progress recorded (although benefits over-estimated) the preoccupations of the final decade of the century were economic and especially monetary union, enlargement, including eventually Central and Eastern Europe, and whatever was achievable by way of the “ever closer union.” to which the 1957 Treaty aspired.

### **Maastricht, the Treaty on European Union, 1992**

**The Maastricht Treaty** began as a further stage in the progress towards monetary union, sometimes headlined as “One Market, one Money”, to which was added a separate negotiation on the “political union” which was a talking point. Restrictions on capital movements within the Community and with third countries were prohibited.

As a counterbalance to the charge that the Union was being steered by business it evolved a Social Charter on the rights of workpeople. Conservative Britain opted-out. The Treaty erected three “pillars”, one the Community, possessing legal personality (no longer the Economic Community), with further changes from unanimity to qualified majority, especially for Single Market measures; two, a Common Foreign and Security Policy which remained inter-governmental; three, Co-operation on Justice and Home Affairs, which was largely founded on forms of co-operation which the Member States were already practising outside Treaty frameworks. Pillars two and three did not give the Commission exclusive rights to propose measures.

Another major change was a recognition of the “democratic deficit” in the form of the institution of legislative co-decision between the Council and the European Parliament, and a Conciliation Committee charged with seeking to resolve differences between them. Despite antagonisms between the two institutions they co-operated with marked success.

For the first time a European treaty was repudiated, in a Danish referendum, and only narrowly passed a French referendum. It gave extreme political difficulty to the post-Thatcher British Conservative Government, which had already been shaken by, among others, its disastrous brief membership of the

Exchange Rate Mechanism, in which the national currencies of the Member states were tied to each other. The same government began a series of self-exclusions from Union obligations, in this case from the final stage towards monetary union, which the Treaty elaborated, and from the Social Charter (which unusually was not part of the Treaty, but an agreement among 11 Member states.).

Under British leadership formulae were found which enabled Denmark to conduct a second referendum, which passed the Treaty.

The long and painful negotiation of the Maastricht Treaty and its aftermaths left much undone. It was agreed that another treaty needed to be negotiated in 1996.

### **The Treaty of Amsterdam 1997**

The next treaty began life under a British Conservative Government but was concluded with the new Labour Government and extensively tidied up treaty drafting under the heading “simplification.” With an eye on the next enlargement and the changes which it would bring, the Treaty directed that there should be a new treaty negotiation one year before the membership of the Union exceeded twenty.

In recognition of the growing difficulty of reaching agreement all round, despite more majority voting, and especially in view of UK separatism, the Amsterdam Treaty formalised “closer co-operation”, to be concluded as a Community act, only among a majority of member states and only as a last resort. This was a limited response to what had been a long and continuing debate about “flexibility”, the different ways in which the Community could continue to act without the participation of all its members. In practice closer co-operation was inoperative, but its inclusion was assign of the times.

### **Treaty of Nice 2000**

The new millennium began inauspiciously. A high-handed French Presidency masterminded a new Treaty midst a good deal of muddle. The mainsprings were preparation for the near-doubling of membership within the coming decade and the corollary of rebuilding the institutions ahead of that event. This affected especially the “college” of Commissioners, which manifestly could not go on growing with every new entrant. It also meant re-jigging the voting weights of old and new members with great subtlety, to strike a new balance between the more and the less populous.

The Treaty cut back the Commission by limiting each member state to one nomination; and ruled that when there were 27 members, there would be fewer than that number. How to get there was not defined. Mindful of the angry debates over the appointment of Commission Presidents – the UK had twice vetoed the favoured candidate – it made the decision subject to majority vote, not common accord. Separately, a gathering of MEPs and national MPs had brought out a Charter of Human Rights. Despite a general wish to make it binding, the British Government insisted that it should be only a “showcase”. This was left for later resolution. In practice the European Court of Justice began to regard the Charter as part of the tradition of human rights within the Union, which it had always respected and upheld.. The number of MEPs elected by the existing Union was cut back to make room for new entrants. Closer co-operation was renamed enhanced co-operation, without change of substance or any better result.

Although it was proclaimed that the Union was now ready for its dramatic enlargement, once again many matters raised in discussion were left unresolved. The collection included: the delimitation of the powers of the institutions vis-a-vis national governments; the contribution of national parliaments to decision-making; human rights in Union jurisprudence; the simplification of the treaties to make them accessible to the citizens; transparency of action... This was the meat for a new treaty which the Nice Treaty said would be negotiated in 2004, making it the fifth since the reform movement began fifteen years before.

There was a hiatus when in June 2001 the Irish electorate was stirred into apathy and on a low turn-out in the obligatory referendum (technically, a constitutional amendment) voted against ratification. The Irish

Government embarked on a publicity campaign which in October 2002, on a higher turn-out in a new referendum, gave a comfortable margin for ratification.

### **Treaty of Lisbon 2007**

Meeting in the Belgian royal suburb of Laeken in December 2001 the European Council listed 60 questions about where the Union might be going. It decided to break with the traditional method of preparing a new draft treaty, which had been in-house, sometimes with the advice of wise or other men and fewer women. The New Style was to be, as in French history, a Convention, chaired by former European Council member (French), supported by former Permanent Representative (British) and bringing together members of national governments, other eminent political figures and persons nominated by the European Parliament and national parliaments, 207 in all.

The first meeting was on 28 February 2002, the last on 13 June 2003. The product, which the President pushed through on his own authority, which he had freely exercised throughout, was a draft *Treaty establishing a Constitution for Europe*.

The Constitutional Treaty revoked all preceding treaties and re-wrote their provision, with amendments. 50 or so new subjects were brought under majority voting. The Commissioners' college was to be cut to comprise two thirds of the number of Member States. While foreign and defence policy remained inter-governmental, the area of security, justice and freedom (Maastricht Pillar three) was brought with the scope and procedures of the Community.

The rotating Presidency of the European Council was to be replaced by a standing President, appointed for two and a half years, renewable. A new post of High Representative for Foreign and Security Policy or "Foreign Minister" was instituted, "double hatted" as Vice President (External Affairs) in the Commission. He or she would chair the External Relations Council, and would be in charge of an External Action Service, to replace the Commission's offices in third countries and the Council's outposts in Geneva and New York, with staff drawn from the two bodies as well as from Member States' administrations.

Voting in the Council would be governed by double majorities, of the number of member states and the size of the populations they represented. Low population countries accordingly would lose some clout. National Parliaments would communicate directly with the Commission on whether new legislative proposals complied with the doctrine of subsidiarity (should the Union be doing it, rather than national governments?). There would be a procedure for voluntary withdrawal from the Union. The Charter of Fundamental Freedoms would have legal force. One new policy area, with competence shared between the Union and its Member states, was incorporated – outer space. And much more, including treaty status for the yellow and blue flag, the anthem, Ode to Joy and the motto "ever more closely united." This description of history replaced "ever closer union", which had seemed to be deterministic.

The Member States took delivery of the draft constitution for Europe and set in hand their national ratification procedures, whether by parliamentary vote or referendum. Two referendums, in Spain and Luxembourg went for the Constitution. Several others adopted the treaty in parliaments.

The Labour government in Britain had reversed an earlier decision and promised a referendum in its 2001 election manifesto. In a White Paper it had commended the Treaty as a good deal for Britain and a good deal for Europe. However, work was paralysed by the referendums in France on 29 May and the Netherlands on 1 June 2005, in which the voters rejected the Treaty. The standard explanation is that it was a condemnation of the sitting governments. It also seemed to reflect unease about the effects of enlargement, especially anticipated job losses and rises in immigration. The Dutch were also discomfited to find that they had become the largest per head contributor to the EU budget.

It was clear that there was no prospect of obtaining ratification of the draft constitutional Treaty. There followed a renewed inter-governmental negotiation, in which the "constitutional approach was abandoned" and with it referendums in all save Ireland (where all European treaties must be voted on), and in which most of the substance of the abortive constitution would be taken up in an "amending treaty". Public

statements throughout the Union differed on whether the amending treaty in essence would be significantly different from the constitutional treaty. In form it maintained the previous treaties (which the constitutional treaty had abrogated) and amended articles in them.

This made it largely unintelligible to lay readers, and even to their initiated compatriots, and far from the primary objective of making the Union more transparent to its citizens. The British Government made much of the opt-out it had negotiated from Co-operation on Justice and Home Affairs and from the Charter of Fundamental Freedoms, insofar as it clashed with UK law. From the beginning it had drawn “red lines” round indirect taxation and social security. Like their thin predecessors these red lines kept foreigners at bay.

The Reform Treaty, signed in Lisbon in 2007 replaced the Treaty establishing a Constitution for Europe, lost in the referendums in France and the Netherlands. It was stated that it marked the abandonment of the constitutional process. Critics argued that it was a repackaging of the abortive constitution. The Constitutional Treaty grew out of awareness that the Union had become detached from the citizenry and, being both massive and opaque, was exposed to criticism.

The Reform Treaty extended qualified majority voting to some 50 new subjects. It distinguished policies which were the preserve of the Union from those in which competence was shared between the Union and Member States. It gave the European Parliament full power of co-decision over the Union budget. The Treaty gave national parliaments the right to challenge legislative proposals which did not respect subsidiarity.

It instituted the office of President of the European Council, for a fixed renewable term of two and a half years. It created a new High Representative. For external policy, who would also be a Vice-President of the Commission. The High Representative would take the chair at the External Affairs Council. He or she would head up an External Action Service, to replace the Commission’s offices abroad. The number of Commissioners would be reduced to two thirds of the number of Member States. A new schedule of voting weights was drawn up, based on double majorities – number of Member States and size of population they accounted for.

The UK opted out of, and was given the possibility of opting into, measures taken under Co-operation on Justice and Home Affairs. It also secured acceptance of the principle that the Charter of Fundamental Rights annexed to the Treaty and forming part of it, could not override UK national law (past and future). The formal adoption of EU symbols, flag and anthem, which had appeared in the draft constitutional treaty, was dropped. The symbols survive.

The Lisbon treaty was the culmination of years of debate and division. It was affirmed that institutional reform would not be undertaken again in a foreseeable future. Much remains to be done to bring the Treaty fully into effect. By early June 18 Member States had ratified Lisbon using parliamentary procedure. On 12 June 2008 the only referendum to be held, in Ireland, registered No, with a large turn-out. On 19 June the UK became the 19<sup>th</sup> country to ratify. The Lisbon Treaty cannot enter into force until all 17 countries have ratified it.

With further enlargement there will be new accession treaties, with transitional provisions.

SUPPLEMENT no 2

**IKEU, a self-assembly guide.**

Part no.

- 1 The most visible part is the Commission. Its college of Commissioners is due to be reduced to less than the number of Member States. The rotation will be based on equality of sacrifice. The Commissioners are nominated by the Member States, PL by majority vote. They are subject to confirmation by vote of the European Parliament. They serve for five years, re-newable. Their President, confirmed separately, can dismiss a member. The College takes its decision by majority vote. Each Commissioner is in charge of a block of subjects

The Commission is served by a staff recruited by open competition, which is now inter-institutional. About 25% of the staff are translators (written material) plus the corps of simultaneous interpreters. Some of the senior posts are occupied by national officials who have been “parachuted” in, but their loyalty is to the Commission, not to the governments which sponsored them. Senior staff are rotated at intervals to prevent capture of particular policies.

By far the greater part of the work of the Commission is the preparation of legislative proposals, of which on the economic side it has the monopoly. A small share of executive power is devolved to the Commission, but even most of this facility is controlled by the Member States. The Commission has independent executive power in the area of competition policy. As “guardian of the Treaties” it takes member states to Court for acts of commission or omission contrary to the obligations which they have accepted.

- 2 The Council, colloquially Council of Ministers, consists of members of national governments. In a legal fiction there is only one Council, but it meets in different formations according to subject matter. The central council is for General and External Relations (GAERC), consisting of Foreign Ministers. General means that it concerns itself with institutional questions as well as with the work of the European Council ( see below). External used to mean Trade ( oddly there is no Trade council) but now also concerns foreign policy.. Other council meetings bring together Ministers of Agriculture, of Finance, of Transport, of Development and the other matters which are within the competence of the Union. Ministers of Member states which belong to the Economic and Monetary Union (aka euro-area) have their own group,

The Councils are served by committees of officials of the Member states, some from HQ, some Brussels residents in the national Permanent Representations. The senior Committee is COREPER (Comité de représentants permanents) which prepares Council meetings. Their work includes the drafting of agreed positions on Commission proposals. This is sometimes misrepresented as usurping the power of ministers. In fact the agreed positions are shaped by instructions from national capitals

Most of the traditional subjects before Councils can be decided by majority vote, but not external relations matters. Consensus is preferred because politically it is stronger. For most questions the Council co-decides with the European Parliament, as to which see below.

The Council is served by a Secretariat, including a legal branch. The Secretariat is responsible for the material organization of meetings and for the reports of committee work. A quarter of its staff are translators. The *lingua franca* used to be French but is now English.

Councils often hold informal meetings in the Presidency country. This generates local publicity and can help to open up discussion which will later migrate to a formal session

- 3 The European Council consists of Heads of State or Government (Presidents or Prime Ministers), joined by the President of the Commission. They meet normally three times annually, often in Brussels. But they also tour the parish. The European Council is not to be confused with the Council of Europe, an entirely separate organisation.

The European Council gives strategic direction to the work and progress of the Union. It publishes lengthy "Presidency conclusions", which despite the title are consensual. It does not normally legislate and it is not designed to act as a Court of Appeal from Council decisions which a Member State dislikes.

3A Heads of State and Government also meet when required in an **Inter-Governmental Conference** (IGC). Its sole purpose is to debate and decide on Treaty revision

4. The European Parliament consists of members elected separately by vote in each Member State. The national electoral method is decided by the State concerned. The UK now uses a Regional List system. The mandate is for five years. Members of the European Parliament form groups according to their persuasion, and if there are enough members from enough countries qualify for funding from the parliamentary budget. The EP conducts most of its work in cross-party committees, whose reports are voted in plenary sessions. This gives influence to committee Chairpersons and to "Rapporteurs" who guide the discussion and prepare the reports. Parliament's position on Commission proposals gives rise to co-decision with the Council, if necessary in a joint conciliation committee

Committees and some plenary sessions meet in Brussels but wastefully the Parliament spends one week a month in Strasbourg, the city emblematic of European conflict and reconciliation

- .5. The European Court of Justice is based in Luxembourg. The judges and their advisors, the Advocates General, are appointed by the Member States. The Court hears cases brought by the Commission against Member States and by legal persons against the institutions. It also hears cases brought by staff of the institutions against their employers.

Euro-sceptics have accused the Court of legal activism, that is of using Union law to promote closer integration. Union law is superior to national law wherever there is a conflict. It would be impossible to maintain unity of purpose if a national legal system was able to decide for itself what Union law was when applied to its country.

The Court's verdicts are unanimous, without dissenting opinion.

- 6 The Court of Auditors, a title borrowed from a French body with the same function, considers whether the Commission's annual accounts give a true picture of permissible expenditure. For many years it has qualified the accounts. Critics and some Member States charge the Commission with weak financial management. The Commission invites attention to the national spending bodies which receive Union funds and do not properly account for them
7. There are two advisory organizations. The Economic and Social Committee is composed of

representatives of employers, workpeople and “independents”. They are appointed by Member States and are consulted on specified matters contained in Commission legislative proposals. They may also prepare reports on their own initiative. The Committee is an underused resource of practical experience.

The Committee of the Regions consists of members of local government bodies appointed by Member States. It is likewise consulted on legislative proposals of concern to sub-national levels of government. Membership is uneven. The representative of a German Land is close to ministerial status. His or her colleague from a Borough Council may not be of the same eminence.

8. The Union has shares in or possesses three banks.

The European Investment Bank (EIB) raises capital on the market and lends on to development projects in the Member States, such as improvements in communications.

The European Central Bank (ECB), in Frankfurt, manages the monetary policy of the euro-area. The ECB reports comprehensively on its board meetings on its web-site.

The European Bank for Reconstruction and Development (EBRD) was a post-Cold War creation, with a mission to promote recovery in the former Soviet Bloc, which remains its focus. It has 63 stakeholders, including the USA, its largest. It achieved and has lived down some notoriety when it began by equipping itself with lavish premises in the City of London.

9. There are 18 “Agencies”, wholly or partly paid for by the Union. Some have recognizable functions, like the European Patent Office or the European Medicines Agency. Some others are less evidently significant and may owe their existence to a desire for the blue flag with golden stars to be flown where it was not otherwise seen.

When in December 2001 the European Council turned from weightier matters to consider the siting of a proposed Food Agency, President Chirac objected to Finland’s candidacy, a country in which, he said, only reindeer was eaten. Prime Minister Berlusconi argued that it should go to Parma, famous for its cheese and ham. The European Food Safety Authority, to give it its official name, was duly established in Parma.

**You can now assemble the European Union. Enjoy.**