

# THE FEDERALIST

a political review

*To look for a continuation of harmony between a number of independent unconnected sovereignties situated in the same neighbourhood, would be to disregard the uniform course of human events and to set at defiance the accumulated experience of ages.*

Hamilton, *The Federalist*



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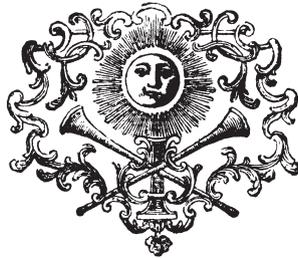
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# THE FEDERALIST

a political review

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*The Federalist* was founded in 1959 by Mario Albertini together with a group of members of the Movimento Federalista Europeo and is now published in English and Italian. The review is based on the principles of federalism, on the rejection of any exclusive concept of the nation and on the hypothesis that the supranational era of the history of mankind has begun. The primary value *The Federalist* aims to serve is peace.



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## *From Coordination Between States to Political Union: the True Challenge Facing the Eurozone*

The economic and financial crisis has dramatically exposed the inadequacy of the resources available to the European Union to cope with periods of difficulty. This inadequacy is due to the “congenital” defects of the single currency, in other words to the false assumption, which dates back to Maastricht, that it is possible to create a currency in the absence of a state, leaving economic policy to be managed at national level in the misguided belief that the mere existence of a single monetary policy can mitigate the imbalances between different states, and that these imbalances can be contained through simple coordination of economic policies.

In this framework, recent years have seen the member states and the EU institutions, faced with a glaring lack of effective tools to deal with the crisis, attempting to strengthen the instruments that do exist, and to force the provisions of the Treaties in order to contain the emergency. The approach they have adopted, however, involving coordination of the different states’ economic policies and the development of forms of cooperation and intervention at intergovernmental level, is the same as the one that characterised the Maastricht Treaty and all the Treaties that have followed since: in short, an approach based on efforts to find compromises between the positions of the single member states, which remain the key actors in the process. The steps that have been taken to strengthen economic and budgetary surveillance of the eurozone countries and the mechanisms that have been put in place to allow interventions in favour of countries in difficulty are both indicative of this approach.

As regards the issue of surveillance, the mechanisms set up by the Stability and Growth Pact were already seen to be insufficient as long ago as 2000, when France and Germany failed to comply with the parameters it set out. Indeed, in the absence of binding instruments that

can force a state to adopt a certain conduct, infringements are almost inevitable in times of recession, when it becomes harder for the member states to respect the deficit and debt rules. On the other hand, the provisions of the Stability Pact, which effectively gave the states the possibility to declare one of their number in default, created a blackmail-type mechanism that effectively prevented the correct working of the Pact (i.e. it led single states, fearful that they might soon find themselves in the same situation, to choose not to use this faculty).

To overcome these limits, the Pact has been modified numerous times through recourse to different solutions — an international treaty, acts of secondary legislation, and non-binding measures. In this context, there have therefore been several developments: it was decided that the countries signing the Euro Plus Pact should coordinate their economic policies more closely and report periodically on their progress; the fiscal compact reaffirmed the constraints of the Stability Pact, committing the states to gradually reduce their debt and introducing a mechanism of almost automatic sanctions in the event of their exceeding the 3 per cent deficit limit. These pacts, together with the Six-pack and the Two-pack legislation, introduced: the so-called European semester, a procedure for preventing excessive macroeconomic imbalances, the mechanism of reverse qualified majority voting to decide on sanctions against a state, and a strengthening of the economic and budgetary surveillance of the eurozone member states. All the above, however, are mechanisms based on coordination between states, and serve only to allow stiffer (and more specific) controls and sanctions.

Similarly, the mechanisms that have been put in place to help struggling countries remain in the traditional mould. The European Stability Mechanism (ESM), despite constituting an important development — it is an international treaty that, applying only to the eurozone member states, recognises that the needs of these states are different from those of the other member states —, is indeed an intergovernmental-type mechanism, financed essentially by the member states, in which the decision to help a state is subject to a unanimous decision by the ESM Board of Governors.

This manner of proceeding, i.e. this attempt to remain within a framework of mere coordination of different national interests, has given rise to some quite considerable problems. First of all, it has created a distinction, whose effects are extremely negative, between virtuous and non-virtuous states: while, on the one hand, Germany (which belongs to the first category) is somehow expected to step in and pay for

everyone, with scant regard for the fact that this country's fiscal resources are provided by German taxpayers and not by the taxpayers of the entire EU, on the other, the struggling states (which belong to the second category) have, objectively, no chance of getting themselves out of the dire economic conditions in which they find themselves, which austerity measures would likely serve only to aggravate. This situation accentuates the states' lack of trust in each other and makes a common vision highly improbable. Second, the domestic situation has become extremely difficult for many of the national governments, such as the Italian one: the more intrusive the European surveillance mechanisms and instruments of economic and fiscal policy become, the less the national government is perceived as legitimate by the citizens, who can clearly see that it has no autonomous room for manoeuvre or decision-making capacity. Furthermore, the EU is perceived as a bureaucratic entity capable only of imposing austerity policies, but not of offering a solution to the crisis. All these elements play into the hands of the euro-sceptics and fuel nationalism and populism.

In order to find a way out of this vicious cycle it is therefore necessary to adopt a radically new perspective, quite unlike the one from which the crisis has been tackled to date. This means going beyond the concept of coordination between sovereign states and creating genuinely supranational instruments.

In particular, as also highlighted by the Commission's "blueprint for a deep and genuine economic and monetary union", the turning point will be the creation of a eurozone fiscal union, and thus the furnishing of the eurozone with fiscal resources to finance its own separate *ad hoc* budget. In other words, it will be a question of allowing the central power to procure autonomously, through taxation, the resources it needs to conduct the policies that must necessarily be implemented at supranational level, and the member states, in turn, to procure the fiscal resources they need to manage the policies that remain at national level, in accordance with the system in place in federal states. Clearly, we are talking about a quantum leap for eurozone integration, which would inevitably lead to the creation of a true economic government of the eurozone. Indeed, the attribution of fiscal competences demands democratic legitimation of the power responsible for exercising these competences; this is why their attribution to a technical body not controlled by the representatives of the citizens is inconceivable.

At first glance, this leap might seem difficult to make, as it implies relinquishment, by the eurozone states, of their sovereignty. On closer

examination, however, it is a step liable to throw up far fewer problems and contradictions than those that would inevitably arise should Europe instead continue, with increasing determination, to pursue coordination of its member states' economic policies. Indeed, it can already be observed that the instruments adopted in recent years reflect a tendency towards increasingly strict monitoring, by the European institutions (the Commission in particular), not only of the member states' budgetary policies, but also of their economic policies, this tendency even leading the Commission to go so far as to tell the states how they should be using certain resources and what reforms to implement.

Such a tendency, if carried to extremes, ultimately renders national sovereignty an empty concept, assigning the power to make economic and budgetary policy choices to authorities that have not been democratically legitimised; it also surreptitiously expands the powers of EU institutions, violating the principle of allocation and distribution of powers between the Union and the member states. In such a scenario, even though the power to decide the amount and the use of fiscal resources (a cornerstone of state sovereignty) would formally remain in the hands of the states, this power would, in reality, be strongly conditioned by decisions taken elsewhere, namely within the EU institutions and by the Commission in particular.

A shift to fiscal federalism — and thus to a framework in which both the European level (eurozone) and the national level can finance, with their own fiscal resources, the policies for which they are responsible — would instead root out these problems. There are three reasons for this: first, such a shift would imply the creation, at eurozone level, of an authority accountable to the European Parliament (or rather to a part of it) and would not therefore raise problems of democratic legitimacy; second, the eurozone member states would have, each within its own sphere of competence, the necessary resources to take effective action; third, the presence of a eurozone fiscal authority empowered to impose taxes on certain economic activities of supranational relevance and to use these resources to finance a separate budget would allow the implementation of effective measures to remedy the imbalances between member states and help those that are really struggling.

In truth, steps in this direction could already be taken, by exploiting two new elements now present in the EU landscape: the new organisation of the Commission and the financial transaction tax (FTT). The present European Commission is, indeed, the first whose president was appointed in accordance with the selection procedure provided for by

the Lisbon Treaty, which involved the nomination of a candidate by each of the various political groups within the European Parliament; furthermore, the Juncker Commission promises to be far more political and less bureaucratic than the Commissions of the past. In fact, the President of the Commission is flanked by seven vice-presidents (six commissioners plus the High Representative), each responsible for an area within which several commissioners work. This organisation of the Commission is intended to prevent its work from being fragmented into numerous separate compartments and encourage a more collective management of it, and also to give it a stronger political impetus. Certainly, a more political and less bureaucratic Commission could play a prominent role in, and be a driving force for, a change of direction in economic crisis management and in efforts to achieve the steps set out in the aforementioned blueprint. The FTT, on the other hand, could be the starting point for the creation of eurozone fiscal resources. There has, in fact, been talk of a tax on financial transactions for some time now and an enhanced cooperation in this area between eleven (eurozone) states has already been authorised. But, to date, all the steps to create this resource have been taken in accordance with the traditional approach. Indeed, an enhanced cooperation between eleven states would not meet the financing needs of the eurozone (given that it would include only some of the states that have adopted the single currency); furthermore, the debate on the use of this resource suggests that it is envisaged that the states should decide unanimously what proportions of the revenue from this tax should feed, respectively, the national budgets and the EU budget. Moreover, under the project as it currently stands, the share of the FTT revenue paid into the EU budget by the states participating in the enhanced cooperation would replace, in a corresponding amount, part of the percentage of GDP that these states currently pay to Europe. In other words, the FTT would not constitute an additional resource with respect to the European budget, given that, offset by the payment of a smaller share of GDP, it would not increase the size of the EU budget.

Such an approach renders the FTT irrelevant for the purpose of finding a European solution to the economic crisis. Yet, seen in a different way, this tax could in fact play a crucial role — in particular, as a means of tackling the problem of unemployment or of promoting investments.

Europe's share of revenue from the FTT (the size of which should be decided both by the national parliaments and by the European Par-

liament) would need to be channelled into a special chapter of the EU budget created specifically for the eurozone (or rather the “eurozone plus”) and should not be subject to the constraints of the EU’s multi-annual financial framework. The resources included in this chapter could then be used, on the one hand, to create a European system of unemployment support, and on the other to realise a European investment plan promoted and managed by the Commission.

Such a solution would constitute the first step towards the creation of a true eurozone fiscal capacity, and thus towards a democratic government of the economy. It would therefore be the breakthrough capable of overcoming the current impasse situation in which the method based on coordination of national interests is causing the Union to sink. For Italy, which — insofar as it proves able to provide its European partners with concrete evidence that it has the capacity to implement structural reforms — could once again have a decisive influence on the evolution of Europe, it is both an opportunity not to be missed and a responsibility not to be shirked. It is in the interests and within the possibilities of our country to fight to replace the current contraposition between “austerity and growth” — which actually reflects two sets of opposing national attitudes and interests within the eurozone — with a constructive proposal, namely to have the monetary union make the quantum leap to political union.

*The Federalist*

# Financial Autonomy and Differentiated Integration\*

GIULIA ROSSOLILLO

## *Introduction.*

The system of financing the European Union has, since the 1950s, been reformed several times and also the subject of heated debate. It is a question that today, once again, finds itself at the heart of discussions on the future of the process of European integration. The economic and financial crisis of the past few years has, in fact, exposed both the shortcomings of the current system — this system, still based largely on contributions from the member states,<sup>1</sup> tends, in times of recession, to lead to a reduction in resources available at supranational level — and the need to find new resources in order to address the crisis.

The new aspect, which sets today's situation apart from the situations of the past, is the fact that today the question of the financing of the EU intersects with two other issues: the growing presence of forms of differentiated integration between EU member states and, above all, the progressive emergence of the eurozone as an increasingly distinct entity within the European Union. It is no coincidence that the Council recently authorised an enhanced cooperation between eleven member states for the establishment of a tax on financial transactions,<sup>2</sup> the proceeds of which should, in part at least, be used to finance the EU budget; or that there has emerged, within this debate, the idea of a eurozone fiscal and budgetary capacity — most recently in the Commission's "blueprint for a deep and genuine economic and monetary union".<sup>3</sup>

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\* This article has already been published in the review *Il Diritto dell'Unione Europea*, no. 4 (2013), p. 793 ff..

<sup>1</sup> It is explained in the present article that the resource consisting of a percentage of the member states' GNI now accounts for 75 per cent of the European Union budget.

<sup>2</sup> Council decision no. 2013/52/EU of 22 January 2013, authorising enhanced cooperation in the area of financial transaction tax, in *OJEU L 22* of 25.1.2013, p. 11.

<sup>3</sup> COM(2012) 777 final.

This paper, aiming to provide an overview of the resources available to the EU cannot, therefore, fail to examine the new prospects that differentiated integration seems to be opening up in this field.

*The Concept of Own Resources and the Relationship Between the Financing of an Organisation and the Degree of Autonomy it Enjoys.*

The financing of an international organisation is not merely a technical issue: indeed, the mode of an organisation's financing influences substantially the relations between it and its member states; in particular, it influences the degree of autonomy which the organisation enjoys in relation to them.<sup>4</sup> Indeed, when the resources at the disposal of an organisation are made up of financial contributions from states, then its capacity to act depends, ultimately, on the willingness of the states to make these contributions, which means that the organisation's very existence will be endangered if this willingness is withdrawn or if it becomes impossible for the states — as in times of severe economic crisis — to allocate sufficient resources for this purpose.<sup>5</sup> Conversely, the greater the ability of an international organisation to procure its resources independently — and thus the more it is based on its “own resources” — the less dependent it will be on the will of the states that created it or have joined it.

However, the conditions that need to be in place in order to be able to say that the financing of an international organisation is truly autonomous are not immediately clear. Indeed, the relationship between the financing of an organisation and that organisation's degree of independence from its member states is characterised by a complex web of different elements relating to the types of resources contributing to the

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<sup>4</sup> On this point, see, among others, Q. Wright, *The mode of financing unions of States as a measure of their degree of integration*, International Organization, 11 (1957), p. 30 and ff.; C.D. Ehlermann, *The financing of the Community: the distinction between financial contributions and own resources*, Common Market Law Rev., 19 (1982), p. 517. The relationship between the modalities by which organisations are financed and their degree of independence from states generally receives little attention in the literature, see N. Parisi, *Il finanziamento delle organizzazioni internazionali*, Milan, Giuffrè, 1986, p. 4 and ff.

<sup>5</sup> On the problems raised by financing through state contributions, see G. Olmi, *Les ressources propres aux Communautés européennes*, Cahiers droit eur., 7 (1971), p. 381 and 394. On the other hand, the risk of states deciding arbitrarily not to pay their contributions does not constitute a noteworthy argument according to G. Tesauro, *Il finanziamento delle organizzazioni internazionali*, Naples, Jovene, 1969, p. 10, who maintains that the financial support of states might be withdrawn only if they became unwilling to be part of the organisation.

funding, to their amount, and to the instruments available to the organisation for determining the type and amount of its own resources and for obtaining the payment of the same.

Indeed, the classic tendency, which began with the Treaty establishing the EEC,<sup>6</sup> is to set own resources in opposition to the member states' contributions, but this approach does not allow an accurate definition of an organisation's degree of financial autonomy. The main reason for this is the uncertainty over the very meaning of the expression "own resources", which scholars have interpreted in two different ways that have different implications as regards the degree of independence of the international organisation in question.

According to a first interpretation, which was in fact initially accepted by the European Commission, only fiscal resources decided by the supranational organisation and paid to the same by natural and legal persons can be considered own resources.<sup>7</sup> Thus, the Commission's green paper of 23 November 1978<sup>8</sup> on the financing of the Community budget reads "it is clear that an own resource has a fiscal nature, must be a direct charge of individuals or companies in the Community and be independent of decisions by the member States; there must also be an automatic link between the Community and the source of revenue, i.e. each economic operation on which the Community tax is levied." According to a broader interpretation, on the other hand, own resources should be taken to include all those resources, including non-tax ones, that, through a common procedure, are automatically placed at the disposal of the supranational organisation. In other words, the supranational organisation would only need to have a direct and immediate right to obtain a given resource (i.e. a right not subject to a decision by the budgetary authority of the member states) for that resource to qualify as an own resource.<sup>9</sup> In this way, even non-tax resources that

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<sup>6</sup> Art. 201 of the EEC Treaty stipulated, in fact, that the member states' contributions, originally the Community's only source of financing, should be replaced with "own resources".

<sup>7</sup> In this sense, see for all G. Olmi, *Les ressources...*, *op. cit.*, p. 379 and ff., in particular p. 395. For further references, see C.D. Ehlermann, *The Financing...*, *op. cit.*, p. 578 and ff..

<sup>8</sup> *Financing the Community budget: the way ahead*, COM(78) 531. On this point, see A. Potteau, *Recherches sur l'autonomie financière dans l'Union européenne*, Paris, Dalloz, 2004, p. 75.

<sup>9</sup> In this sense, see for all G. Isaac, *La notion de ressources propres*, in *Les ressources financières de la Communauté européenne*, edited by G. Isaac, Paris, Economica, 1986, p. 70 and ff., in particular p. 76 and ff., who states that the concept of "own resources" is "une fausse notion claire" (p. 70).

have no direct link with the competences exercised by the organisation could constitute own resources.

But whichever of these two interpretations one accepts, it is clear that profiling the type of resources available to an international organisation does not fully address the question of that organisation's financial autonomy. In order for an organisation to be considered truly independent of its member states in terms of its financing, then the organisation itself has to have the capacity to determine the type and amount of its own resources, and has to be equipped with the instruments allowing it to obtain the payment of these funds. In fact, in order for an international organisation, even one funded only through fiscal resources, to acquire a significant degree of autonomy, the amount of the resources available must be sufficient to finance the activities that fall within its sphere of competence and must be decided by the organisation itself. Furthermore, to address the possibility of member states failing to make the payments, the organisation must also be equipped with the instruments necessary to enforce such payments, and must not depend, in this regard, on the authorities of the member states.

Therefore, the greatest degree of autonomy is reached not only when the organisation has at its disposal fiscal resources that are paid directly by natural or legal persons and stem from policies that the organisation itself has implemented, but also when the amount of these resources is decided through a supranational process not conditioned by the unanimous will of the organisation's member states and the organisation has the powers of coercion necessary to ensure their actual payment.<sup>10</sup>

It is clear that an organisation's achievement of this level of autonomy implies a limitation of the sovereignty of its member states; at the same time, the organisation, on acquiring the capacity to finance itself absolutely independently, would lose its identity as an international organisation and become, instead, a sovereign entity.<sup>11</sup> On a spectrum be-

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<sup>10</sup> On the connection between own resources and the ability of the Community to determine their amount, see the European Parliament resolution on the Council's provisions regarding: – replacement of the member states' contributions with Community own resources; – the amendment of some budgetary provisions of the Treaties establishing the European Communities and of the Treaty establishing a Single Council and a Single Commission of the European Communities in OJ C 65 of 5.6.1970, p. 32.

<sup>11</sup> In this sense, see G. Isaac, *La notion...*, *op. cit.*, p. 76 and ff.; V. Duissart, *Le financement de l'Union européenne: nouvelles problématiques à l'orée du XXème siècle*, in *Mélanges en hommage à Guy Isaac, 50 ans de droit communautaire*, edited by M. Blanquet, Toulouse, Presses de l'Université de sciences sociales de Toulouse, 2004, p.

tween the classic model of an international organisation funded entirely by contributions from its member states and the hypothetical scenario outlined above, there nevertheless lie possible intermediate forms, such as today's European Union.

This paper sets out to analyse, in the light of these considerations, the mode of financing of the European Coal and Steel Community (ECSC), and then of the European Community/European Union, in order to ascertain their level of financial autonomy, and to assess whether and to what extent the new prospects opened up by the differentiated integration phenomenon constitute a step forward towards a greater strengthening of this autonomy.

### *The Financing of the ECSC.*

Within the category of international organisations financed by own resources, the ECSC undoubtedly features prominently.<sup>12</sup> Article 49 of the ECSC Treaty empowered the High Authority “to procure the funds necessary to the accomplishment of its mission” “by placing levies on the production of coal and steel” and “by borrowing”.<sup>13</sup> In particular,

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889 and ff., in particular p. 891. On this point, it is interesting to refer to the debates in the member states' national parliaments during the ratification of the Council decision of 21 April 1970, on the creation of Community own resources, and of the Treaty of Luxembourg of 22 April 1970, on the extension of the European Parliament's budgetary powers (reported in Parlamento Europeo, Direzione generale della documentazione parlamentare e dell'informazione, *Le risorse proprie delle Comunità europee e i poteri del Parlamento europeo in materia di bilancio, I dibattiti di ratifica*, Luxembourg, 1971, in particular p. 69 and 136). The connection between sovereignty and financial autonomy, and therefore the parallelism between financial autonomy and political autonomy, is also highlighted by G. Tesaurò, *Il finanziamento...*, *op. cit.*, p. 220, who notes that the very nature of international organisations implies that they cannot be financed in the manner and to the extent desired by the member states.

<sup>12</sup> For an overview of the functioning of the ECSC, see P. Reuter, *La Communauté européenne du Charbon et de l'Acier*, Paris, Librairie générale de droit et de jurisprudence, 1953; H.L. Mason, *The European Coal and Steel Community: Experiment in Supranationalism*, The Hague, Nijhoff, 1955; D. Vignes, *La Communauté européenne du Charbon et de l'Acier*, Paris, Librairie générale de droit et de jurisprudence, 1956; R. Monaco, *Caratteri istituzionali della CECA*, Riv. dir. int., 41 (1958), p. 9 and ff.; F. Benvenuti, *La CECA ordinamento sovrano*, Diritto internazionale, (1961), p. 297 ff. In accordance with the provisions of its establishing Treaty, the ECSC expired on 23 July 2002, fifty years after it had come into force. The ECSC was initially provided with estimates of administrative expenditure and an operating budget, both subsequently merged into the common budget (ECSC, EEC and Euratom) on the signing of the Merger Treaty in Brussels on 8 April 1965. On this point, see G. Tesaurò, *Il bilancio delle Comunità europee*, Dir. com. sc. int., 19 (1980), p. 58 and ff., in particular p. 59.

<sup>13</sup> The nature of the levies, and particularly their nature as a supranational tax, has been a subject of discussion in the literature. In particular, on the idea that levies had a

whereas the levies were intended to cover the administrative costs of the organisation, non-reimbursable assistance and any “portion of the servicing charges on the High Authority’s obligations” that could not be covered “after recourse to the reserve fund” (Art. 50 ECSC Treaty), “the funds obtained by borrowing”, on the other hand, could “be used by the High Authority only to grant loans” (Art. 51 ECSC Treaty). It was therefore the levies that were important for the purpose of financing the organisation.

The levies were paid directly by coal and steel producing companies to the ECSC into accounts opened in the name of the High Authority, and therefore not via the budgets of the member states:<sup>14</sup> the treasury of the ECSC was therefore centralised and independent of the national treasuries.<sup>15</sup>

From the perspective of the type of resources at its disposal, the ECSC, being funded by taxes<sup>16</sup> paid directly by companies, thus enjoyed a considerable degree of independence from the member states.

This independence was also borne out, at least in part, by the instruments it had at its disposal for deciding the amount of its resources and for obtaining payment of them.

As regards the first of these aspects, Art. 50, par. 2 of the ECSC Treaty, stated that the mean rate of levy “may not exceed one percent unless previously authorised by a two-thirds majority of the Council”, while the “method of assessment and collection” of the levies was to “be fixed by a general decision of the High Authority taken after consulting the Council”. In this way, the extent of the High Authority’s power to set the rate of levy, and thus to determine the amount of resources available to the organisation, was defined by the specification

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fiscal but not supranational nature, see G. Tesauro, *Il finanziamento...*, *op. cit.*, p. 192 and ff. For an opposite view see, among others, A. Coppé, *La Communauté européenne du charbon et de l’acier*, in *Aspects financiers de l’intégration économique internationale*, The Hague, Van Stockum, 1953, p. 178 and ff., in particular p. 179; G. Olmi, *Les ressources...*, *op. cit.*, p. 387.

<sup>14</sup> Cf. J. Molinier, *Les ressources propres dans les documents budgétaires et comptes nationaux*, in *Les ressources...*, *op. cit.*, p. 79 and ff., in particular p. 83.

<sup>15</sup> On this point, see A. Duassin, *Le régime financier des Communautés*, in *Droit des Communautés européennes*, edited by W.J. Ganshof van der Meersch, Brussels, Larcier, 1969, p. 461 and ff., in particular p. 476.

<sup>16</sup> In practice, especially in the event of severe crises in the coal and steel sectors and of a subsequent failure of levies to cover the organisation’s expenditure, it was necessary, in some cases, to integrate ECSC’s budget with contributions from the states. On this point, see J.-P. Jacqué, *La décision en matière de ressources propres*, in *Les ressources...*, *op. cit.*, p. 95 and ff., in particular note 1.

— contained in the founding Treaty itself — of the upper limit of this rate. Despite this, its power was far from insignificant, given that the High Authority retained the faculty, within this limit, to establish a levy rate that was superior to the real needs of the organisation — a faculty that it could use to create a surplus as a buffer against times of crisis<sup>17</sup> or to finance expenditure not explicitly provided for under the founding Treaty.<sup>18</sup> Furthermore, the upper limit could be modified by the Council, without the latter even needing to obtain the consensus of all its members in this regard.

As for the instruments at the disposal of the ECSC for obtaining payment of the levies imposed on enterprises, the High Authority, in the event of “failure to obey the decisions it may issue”, had the faculty to “impose increases of not more than 5 percent per quarter-year of delay” (Art. 50, par. 3, ECSC Treaty). Moreover, the “decisions of the High Authority imposing financial obligations on enterprises [were] executory”, and their enforcement was subject only to the placement of a writ of execution, without any formal verification by the state “on the territory of which the decision [was] to be carried out”, other than its “certification of the authenticity of such decisions”<sup>19</sup> (Art. 92, ECSC

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<sup>17</sup> On this point, see the Artzinger *Report on the ECSC's financial and budgetary problems*, submitted during the examination of the annexes to the *Fifteenth General Report on the Activities of the ECSC* (doc. 72/67), excerpts of which are reproduced in *Parlement européen, Les ressources propres aux Communautés européennes et les pouvoirs budgétaires du Parlement européen*, Luxembourg, 1970, p. 26 and ff. In the European Union, on the other hand, any surplus in own resources over expenditure cannot be allocated to reserves, but must be carried forward to the following financial year.

<sup>18</sup> Cf. G. Tesauro, *Il finanziamento...*, *op. cit.*, p. 186 and ff.; A. Daussin, *Le régime...*, *op. cit.*, p. 464 and p. 468. According to A. Potteau, *Recherches...*, *op. cit.*, p. 94, on the basis of Art. 95, par. 3 of the Treaty of Paris, which established that, in exceptional circumstances represented by “unforeseen difficulties which are brought out by experience in the means of application of the... Treaty” or by “a profound change in the economic or technical conditions which affects the common coal and steel market directly,” the High Authority and the Council could adapt the rules concerning the exercising by the former of the powers which were conferred upon it, it was conceivable that the High Authority could obtain further financial resources besides those provided under the terms of the Treaty, for instance through loans, an instrument which generally could be used only in order to provide loans to companies and not in order to finance the organisation.

<sup>19</sup> As remarked by A. Duassin, *Le régime...*, *op. cit.*, p. 469, these provisions “rapportent à beaucoup d'égards celles que l'on trouve dans les régimes fiscaux nationaux. C'est ce qui a permis de dire que le prélèvement constituerait le premier impôt européen.” On this point, see N. Parisi, *Il finanziamento...*, *op. cit.*, p. 122. Since the member states were entirely responsible for imposing the levy, as the tax liability was imposed by the founding Treaty, the High Authority's decisions became enforcement orders only after the member states had appended the enforcement clause, and the powers of the High Authority's agents responsible for inspections were equivalent to those of the states' fis-

Treaty). Finally, it was established that officials of the High Authority responsible for conducting inspections should enjoy on the territories of the member states the same rights and powers legally granted by the latter to the officials of their own tax services (Art. 86, par. 4, ECSC Treaty).

Therefore, even though the ECSC undoubtedly remained, to a degree, financially dependent on the will of the states, it constituted, in all the respects mentioned above, an extremely advanced model within the spectrum of international organisations.

### *The Evolution of the European Union's System of Own Resources.*

The method found to finance the ECSC proved difficult to apply to the two organisations created under the Treaties of Rome in 1957: the EEC and Euratom. Indeed, whereas the ECSC had concerned two strong and traditional industrial sectors, with solid economic foundations offering plenty of scope for the application of levies, Euratom, concerning a sector — atomic energy — that needed sizeable investments and that was not yet able to generate significant profits, did not possess these attributes; meanwhile the European Economic Community, being an international organisation designed to pursue economic integration and created with much broader aims, was characterised by the presence of significant fiscal disparities between its member states, which ruled out the immediate establishment of European taxes.<sup>20</sup> Thus, Art. 200 of the Treaty establishing the European Economic Community (TEEC), in a continuation of what is laid down in the acts establishing the traditional international organisations, stipulated that the revenue feeding the budget of the European Economic Community should be made up of financial contributions<sup>21</sup> paid by the member states.

However, Art. 201, of the same Treaty stipulated that the Commission should examine conditions in which these contributions might be replaced by own resources, in particular by revenue from the Common Customs Tariff. To this end, the Commission was required to submit proposals to the Council which, through a unanimous decision reached

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cal agents only because the member states had recognised those powers, see G. Tesaro, *Il finanziamento...*, *op. cit.*, p. 184 and ff. For an opposite view, see A. Coppé, *La Communauté...*, *op. cit.*, p. 179; G. Olmi, *Les ressources...*, *op. cit.*, p. 204.

<sup>20</sup> Cf. G. Spenale, *Introduction*, in *Parlement européen, Les ressources propres*, *op. cit.*, p. 14.

<sup>21</sup> On the difference between the states' contributions and ECSC's levies, see N. Parisi, *Il finanziamento...*, *op. cit.*, p. 54.

after consulting the Assembly, would then establish provisions in this regard and recommend their adoption by the member states, each in accordance with its own constitutional rules.<sup>22</sup>

A first step in this direction was taken in 1962, with the establishment of the European Agricultural Guidance and Guarantee Fund. Indeed, Art. 2 of the regulation establishing this Fund<sup>23</sup> stipulated that revenue from levies on imports from third countries would accrue to the Community and be used for Community expenditure, and that the Council should, at the appropriate time, initiate the procedure laid down in Art. 201 TEEC in order to implement the above-mentioned provisions. The agricultural sector is thus the one that saw the emergence of the Community's first own resource.

A true system of own resources was put in place a few years later, through the Council's decision of 21 April 1970,<sup>24</sup> which stipulated that the financing of the European Economic Community was to be based on three different resources: customs duties,<sup>25</sup> agricultural levies and a percentage of the revenue from value-added tax. In particular, it was specified that from 1 January 1971, all the proceeds deriving from agricultural levies and customs duties should be included in the Community budget, while the share of the revenue from value-added tax, pending application in all the member states of the rules establishing a uniform VAT base, would become an own resource only as from 1 January 1975.<sup>26</sup> With regard to this latter resource, it was stipulated, in the decision, that the ceiling on the rate applied to this base would be 1 per

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<sup>22</sup> This procedure should have been implemented by 31 December 1969, the expiry date of the transitional period.

<sup>23</sup> Council Regulation no. 25 on the financing of the common agricultural policy in OJ 30 of 20.4.1962, p. 91. On this point, see G. Olmi, *Les ressources...*, *op. cit.*, p. 402 and ff..

<sup>24</sup> Council Decision 70/243 of 21 April 1970 on the replacement of financial contributions from member states with the Communities' own resources in OJ L 94 of 28.4.1970, p. 19. As remarked by J.-C. Gautron, *Fédéralisme fiscal et fédéralisme budgétaire d'un mythe à l'autre*, in *Mélanges en hommage à Guy Isaac. 50 ans de droit communautaire*, Tome 2, Toulouse, Presses de l'Université de sciences sociales de Toulouse, 2004, p. 877 and ff., in particular p. 879, the creation of own resources was necessary also in view of the future accession of Great Britain, which promised to lead to difficult negotiations on budgetary matters.

<sup>25</sup> Pursuant to Art. 2, par. 1, letter b) of the Council Decision of 21 April 1970, the term "customs duties" indicates common customs tariff duties and other duties "established or to be established by the institutions of the communities in respect of trade with non-member countries".

<sup>26</sup> On the progressive implementation of the own resources system see G. Olmi, *Les ressources...*, *op. cit.*, p. 412.

cent, and specified that, until 1 January 1975,<sup>27</sup> the rest of the budget would be covered by contributions from the member states.

The different elements of the 1970 decision highlighted here immediately allow us to make several remarks on the nature of the above-mentioned own resources, and in particular on the difference between, on the one hand, agricultural levies and customs duties, and, on the other, VAT. The decision was underpinned by acceptance of a broad concept of own resources,<sup>28</sup> and it does indeed seem clear that whereas agricultural levies and the common customs tariff have many features in common with the ECSC levies, the share of VAT is a “weak” own resource.<sup>29</sup> Indeed, the first two resources are paid by natural and legal persons and are used entirely to finance the organisation’s budget (being closely linked to the competences it exercises); furthermore, their amount does not depend on the financial needs of the organisation itself. The resource consisting of a percentage of VAT revenue, on the other hand, can be likened in many ways to the contributions paid by the states: indeed, on the one hand it is not linked to the competences exercised by the supranational organisation,<sup>30</sup> which is why only a percentage of the tax is considered an own resource, whereas the rest is included in the national budgets; on the other, it was conceived, initially at least, as a residual resource serving to cover the expenditure not covered by the first two,<sup>31</sup> with the

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<sup>27</sup> In fact, the sixth VAT Directive 77/388/EEC (Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the member states relating to turnover taxes – Common system of value added tax: uniform basis of assessment, in OJ L 145 of 13.6.1977, p. 1) was not adopted until 17 May 1977. The provisions included in the Decision of 1970 on own resources regarding the VAT resource, therefore, were only applied as of 1 January 1979. On this point, see G. Olmi, *Les ressources... op. cit.*, p. 415 and ff.; C.D. Ehlermann, *The financing... op. cit.*, p. 574; J.-L. Chabot, G. Guillermin, *La rétention des ressources propres de la part des Etats membres*, in *Les ressources... op. cit.*, p. 87 and ff., in particular p. 91.

<sup>28</sup> According to V. Duissart, *Le financement... op. cit.*, p. 890, none of the resources mentioned in the Decision of 1970 can be properly defined as an “own resource”. A strict interpretation of the term “own resources”, would in fact include only the tax on Union officials’ salaries, bank interests, penalties for late payments and fines.

<sup>29</sup> This expression is used by C.D. Ehlermann, *The Financing... op. cit.*, p. 574.

<sup>30</sup> In order to underline the connection existing between value-added tax and financing of the Community, the Commission had initially proposed that the national VAT share as well as the share of VAT to be paid into the Community budget as an own resource should be indicated on every sales receipt. On this point, see J. Haug, A. Lamassoure, G. Verhofstadt, D. Gros, P. De Grauwe, G. Ricard-Nihoul, E. Rubio, *Europe for Growth. For a Radical Change in Financing the EU*, Brussels, CEPS Paperbacks, 2011, p. 7.

<sup>31</sup> On this point, see G. Olmi, *Les ressources... op. cit.*, p. 409 and ff.. As remarked by A. Brancasi, *Il bilancio della Comunità europea*, in *Trattato di diritto amministrativo*

result that the size of this resource depended on the organisation's budgetary requirements.

If the Council Decision 70/243, albeit with the limitations here highlighted, represented a step forward in the direction of financial independence of the supranational level in relation to the member states, given that it decreed the replacement of state contributions with tax resources, the Council's third decision on own resources, in 1988,<sup>32</sup> seemed to mark a change of direction and a setback on the journey towards financial independence.<sup>33</sup> In an effort to overcome the impasse created as a result of tensions between the Council and European Parliament over the budget, which had made it impossible, on as many as three occasions, to approve the latter,<sup>34</sup> the Council Decision 88/376, in fact established, alongside customs duties, agricultural levies and the percentage of VAT, the so-called fourth resource, which consisted of a percentage of the member states' gross national income (GNI).<sup>35</sup>

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*européo*, edited by M. Chiti, G. Greco, Milan, Giuffrè, 2007, p. 611 and ff., in particular p. 616 and 620, agricultural levies and customs duties do not pursue strictly fiscal purposes, given that they are intended to be used for the implementation of Community policies. For this reason, the acts regulating them are the ones relating to the policies involved, not to the budget. On the contrary, first VAT revenue and then the fourth resource, being residual resources and therefore having to correspond to the overall expenditure and amount of the remaining revenues, are not only regulated by the "substantive" law, but also based on the Union's budget. In this sense, see also C.D. Ehlermann, *The Financing...*, *cit.*, p. 584, who distinguishes between *expenditure-oriented* and *revenue-oriented* resources.

<sup>32</sup> Council Decision of 24 June 1988 on the system of the Communities' own resources, in OJ L 185 of 15.7.1988, p. 24. In 1988, the "Delors I package" introduced the concept of financial perspectives, a mid-term programming instrument designed to establish, for the coming 5-7 years, spending limits and guidelines for the development of the annual budgets. Financial perspectives have now been replaced by the multiannual financial framework, introduced by Art. 312 TFEU. On this point, see L.S. Rossi, *La dinamica interistituzionale nella definizione del bilancio comunitario*, *Il Diritto dell'Unione Europea*, 1 (2006), p. 179 and ff., in particular p. 189 and ff.; G. Rivasecchi, *Autonomia finanziaria e procedure di bilancio della Comunità europea*, in *Trattato, op. cit.*, p. 653 and ff., in particular p. 675 ff.

<sup>33</sup> According to M. Dévoluy, *L'architecture des politiques économiques européennes*, in *Les politiques économiques européennes* edited by M. Dévoluy, Paris, Editions du Seuil, 2004, p. 52 and ff. and G. Rivasecchi, *Autonomia finanziaria...*, *op. cit.*, p. 655, the European integration process would have led the European Union to gradually acquire financial autonomy. However, this statement seems to refer more to the gradual increase in the powers of the European Parliament with respect to the budget approval process, than to the own resources system.

<sup>34</sup> On this point, see J. Haug, A. Lamassoure, G. Verhofstadt, D. Gros, P. De Grauwe, G. Ricard-Nihoul, E. Rubio, *Europe for Growth...*, *op. cit.*, p. 10.

<sup>35</sup> Pursuant to Art. 2, par. 1, letter d) of the Council Decision 88/376, *op. cit.*, the fourth resource consists of "the application of a rate, to be determined under the budgetary procedure in the light of the total of all other revenue, to the sum of all the Mem-

It was a resource whose function was the same as that previously fulfilled by the percentage of VAT revenue. Indeed, the 1988 Decision on own resources capped the percentage rate applicable to the total GNI of all the member states, and established that the function of the fourth resource would be to cover the part of the budget not covered by the other sources of budget revenue.<sup>36</sup> However, as a result of a progressive reduction in the revenue generated by the common customs tariff and agricultural levies, the fourth resource today covers around 75 per cent of the EU budget, rendering the claim that the EU finances itself through a system of own resources partially meaningless.

It is also necessary to consider the fact that the renewed importance of the state contributions, clearly illustrating the link between the financing of the supranational organisation and the contribution of the single states, encourages the latter, invoking the principle of “just returns” on national contributions, to start weighing up whether or not their contribution is proportionate to the advantages they derive from their membership of the European Union. According to this principle, upheld by the European Council since the Fontainebleau summit of 1984,<sup>37</sup> the countries that are “net contributors” to the EU budget can benefit from a substantial reimbursement of a portion of the difference between their contribution to the system of own resources and the total expenditure incurred by the Union on their territory. Quite clearly, this is a principle that, in essence, is entirely at odds with that of solidarity among Europe’s member states, and in practice comes down to a debit-credit system that in some respects runs counter to the whole idea of a common EU budget.<sup>38</sup>

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ber States’ GNP established in accordance with Community rules to be laid down in a Directive...”. The third decision on own resources also establishes the reduction of the VAT base to 55% of each member state’s GNP.

<sup>36</sup> The establishment of the fourth resource implied that the rate to be applied to the taxable VAT base was calculated directly according to the Decision on own resources and no longer through the budgetary procedure. On this point, see A. Brancasi, *Il bilancio...*, *op. cit.*, p. 618. On the relationship between fourth resource and the VAT resource, see L. Kolte, *The Community budget: new principles for finance, expenditure planning and budget discipline*, *Common Market Law Rev.*, 25 (1988), p. 487 and ff., in particular p. 490 ff..

<sup>37</sup> S. Saurel, *Le budget de l’Union européenne*, Paris, La documentation française, 2010, p. 162.

<sup>38</sup> Initially, only the United Kingdom benefited from this correction; however, since the Council Decision 2000/597/EC of 29 September 2000 on the system of the European Communities’ own resources, in OJ L 253 of 7.10.2000, p. 42, it has also been applied to Germany, Austria, the Netherlands and Sweden. On this point, see G. Isaac, *Le problème de la contribution budgétaire du Royaume-Uni*, *Rev. trim. dr. eur.* 20 (1984), p. 107 and

The limits of the financial autonomy of the supranational organisation — the Community first and the Union subsequently — also emerge when viewing the situation from other angles.

The first is the size of the budget. Indeed, even though it was underlined from as long ago as the McDougall Report in 1977 that, even in a pre-federal phase, the Community budget should amount to at least 5-7 per cent of the member states' GNI,<sup>39</sup> the size of the EU budget today is negligible compared with that of the national budgets, amounting to little more than 1 per cent of the total GNI of all the member states. Part of the reason for this phenomenon is the mechanism through which the amount of the resources themselves is decided. Indeed, according to the terms of Art. 311 TFEU, own resources — meaning their nature and their amount — are decided unanimously by the Council, “acting in accordance with a special legislative procedure [...] and after consulting the European Parliament”, and the “decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements”.<sup>40</sup> It is, therefore, a decision that requires

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ff.; J. Ørstrøm Møller, *La notion de contribution nette et le “système des ressources propres”*, in *Les ressources...*, *op. cit.*, edited by G. Isaac, p. 275 and ff.; V. Duissart, *Le financement...*, *op. cit.*, p. 903 and ff.; S. Saurel, *Le budget...*, *op. cit.*, p. 173 and ff. As remarked by N. Parisi, *Il finanziamento...*, *op. cit.*, p. 255, at least in principle, organisations financed by levies — such as the ECSC — should not apply the principle of fair return.

<sup>39</sup> P. Llau, *La coordination des dépenses publiques d'allocation et de redistribution face au fédéralisme budgétaire en UEM*, *Revue d'économie financière*, 12 (1998), p. 213 and ff., in particular p. 215; P-A. Muet, *Union monétaire et fédéralisme*, *Revue de l'OFCE*, n. 55 (October 1995), p. 151 and ff.

<sup>40</sup> In the draft Treaty establishing the European Union, submitted by the Parliament on 14 February 1984 (Spinelli Project), in OJ C 77 of 19.3.1984, p. 33, Art. 71 stipulated that the European Union might, by an organic law, amend the nature or the basis of assessment of existing sources of revenue or create new ones. The creation of new resources did not depend, therefore, on the unanimous agreement among member states, since the organic law would have required a qualified majority resolution of the Council, and Art. 71 did not provide for any subsequent approval by the states in accordance with their own constitutional procedures. Almost identical to the current form of treaties was, on the other hand, the provision included in the draft Treaty establishing a Constitution for Europe which, in Art. I-54, stipulated that own resources should be decided unanimously by the Council, after consulting the European Parliament, and that this provision should come into force only after approval by member states in accordance with their own constitutional rules. According to J.-P. Jacqué, *Droit institutionnel de l'Union européenne*, 7me éd., Paris, Dalloz, 2012, p. 211 and ff., the Decision on own resources, despite its peculiar implementation procedure, requiring its approval by the member states in compliance with their own constitutional rules, is a European Union act and, therefore, can be subject to the preliminary ruling procedure. Since its entry into force requires the member states' intervention, however, it would be a primary law and, as such, not amenable to annulment.

the unanimous agreement of the states, on whose will the amount of the resources available to the organisation depends.

Furthermore, contrary to what happened with the ECSC, these resources are not paid directly into the EU treasury, but rather to the member states,<sup>41</sup> so that, as underlined by the Court of Justice in the *Mertens* judgement,<sup>42</sup> “it continues to be the task of the member states to undertake prosecutions and proceedings for the purpose of the system of levies and refunds and to continue to take steps to this end *vis-à-vis* the parties involved”. It follows that, on the one hand, the supranational organisation has no instruments of coercion that it may use to obtain payment of the resources, and on the other, especially as from the introduction of the fourth resource, the own resources feature, in different ways, in the budgets of the member states, where they compete with national expenditure.<sup>43</sup>

#### *The Proposal to Implement Enhanced Cooperation in the Area of Financial Transaction Taxes.*

The decisions on own resources that followed<sup>44</sup> Decision 88/376 did not make significant changes to the system of financing the European Union; they merely made adjustments to the provisions relating to the VAT taxable base and the percentage of the states’ GNI to be paid into the EU budget, and clarified the mechanism of correction of budgetary imbalances established for the benefit of the so-called net contributors.

In recent years, however, the economic and financial crisis has

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<sup>41</sup> In order to cover the collection costs, initially the European Community, after having ascertained that the collection had been performed properly, returned 10 per cent of the resources to states as reimbursement of collection costs. This method, however, was soon modified in such a way that the states could directly withhold that percentage, which today has increased to 25 per cent. On this point, see C. Federkeil, G. Di Vita, *Du remboursement forfaitaire à la retenue de 10% par les Etats membres pour frais de collecte et de perception des ressources propres*, Rev. Marché Commun, 32 (1989), p. 408; A. Potteau, *Recherches...*, *op. cit.*, p. 144; S. Saurel, *Le budget...*, *op. cit.*, p. 163. The amended proposal for a Council Decision on the system of own resources of the European Union of 9 November 2011, COM(2011) 739 final, reduces the percentage to be withheld as reimbursement of collection costs back to 10 per cent.

<sup>42</sup> Court of Justice, 4 April 1974, cases 178, 179 and 180/73, *Mertens*.

<sup>43</sup> On this point, see J. Molinier, *Les ressources...*, *op. cit.*, p. 79 and ff.; J. Haug, A. Lamassoure, G. Verhofstadt, D. Gros, P. De Grauwe, G. Ricard-Nihoul, E. Rubio, *Europe for Growth...*, *op. cit.*, p. 12.

<sup>44</sup> Council Decision 94/728/EC on the system of the European Communities’ own resources (OJ L 293 of 12.11.1994, p. 9); Council Decision 2000/597/EC, *op. cit.*; Council Decision 2007/436/EC on the system of the European Communities’ own resources (OJEU L 163 of 23.6.2007, p. 17).

prompted a reopening of the debate on whether new own resources should be introduced in order to give the Union greater autonomy from the member states.

In particular, given its role in the onset and development of the crisis, the discussion has centred on the possibility of looking to the financial sector to raise new tax resources for the EU budget.

Indeed, the Commission, in its communication on the EU budget review dated 19 October 2010,<sup>45</sup> provided a non-exhaustive list of the means of financing that could constitute new own resources. This list included a tax on financial transactions, a resource that, like the other new resources mentioned in the communication, should gradually replace the national contributions to the EU budget. An EU financial transaction tax was subsequently indicated as a new own resource in the Commission's "Proposal for a Council Decision on the system of own resources of the European Union" dated 29 June 2011,<sup>46</sup> which was amended in November of the same year.<sup>47</sup> And the "Amended proposal for a Council regulation laying down implementing measures for the system of own resources of the European Union" of 9 November 2011<sup>48</sup> specifies that the share in the financial transaction tax to be paid into the EU budget shall be two-thirds of the minimum rates set out in the Directive that will establish the tax itself. Thus, ever since it first appeared in the ongoing debate within the European institutions, the financial transaction tax has been seen as closely linked to the financing of the Union.

However, the precise nature of this tax is still under discussion and the process of adopting the Directive on a common system of financial transaction taxation is proving rather complex. Indeed, in the Council meetings of 22 June and 29 July 2012, there emerged strong differences in the opinions of the member states on the proposal presented by the Commission on 28 September 2011<sup>49</sup> which made it clear that it would be impossible to reach an agreement within a reasonable space of time. Eleven member states<sup>50</sup> therefore sent a request, to the Commission,

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<sup>45</sup> COM(2010) 700 final.

<sup>46</sup> COM(2011) 510 final.

<sup>47</sup> COM(2011) 739 final, *op. cit.* On 27 June 2013 a political agreement was reached between the European Parliament and the Council on the multiannual financial framework for the period 2014-2020, which provides for the establishment of a group of experts, appointed by the Council, the European Parliament and the Commission, with a mandate to develop a draft revision of the own resources system.

<sup>48</sup> COM(2011) 740 final.

<sup>49</sup> COM(2011) 594 final.

<sup>50</sup> Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal,

for the implementation of enhanced cooperation in relation to the tax on financial transactions, after which the Commission submitted a proposal<sup>51</sup> to the Council. The latter, in its decision of 22 January 2013,<sup>52</sup> authorised the enhanced cooperation. This development was quickly followed, in February 2013, by a new proposal from the Commission,<sup>53</sup> in which it reiterated that its “Proposal for a Council Decision on the system of own resources of the European Union [...] set out that part of receipts generated by the FTT shall constitute an own resource for the EU budget” and that “the GNI-based resource drawn from the participating Member States would be reduced accordingly”. This therefore marked, for the first time in the history of the process of European integration, an intertwining of the issues of differentiated integration and the financing of the EU. Indeed, the proposal was to create an own resource of a fiscal nature to be levied only in certain member states — a resource that, therefore, only these states would pay, at least in part, into the EU budget.

Even though the characteristics of this tax are still under discussion<sup>54</sup> and it is therefore too early to analyse in detail the contents of the above-mentioned documents, we can nevertheless make some

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Slovenia and Slovakia. As stated in the *Rapport d'information sur le projet de taxe sur les transactions financières* submitted to the French Senate on 21 December 2012 by Senator Fabienne Keller on behalf of the European Affairs Committee (available at <http://www.senat.fr/rap/r12-259/r12-259.html>), the Netherlands would agree to become part of the enhanced cooperation only if the revenue from the financial transaction tax were not used as own resource by the Union.

<sup>51</sup> COM(2012) 631 final/2.

<sup>52</sup> Council Decision 2013/52/EU of 22 January 2013 authorising enhanced cooperation in the area of financial transaction tax, in OJEU L 22 of 25.1.2013, p. 11. On the mechanism of enhanced cooperation, see G. Gaja, *How Flexible is Flexibility under the Amsterdam Treaty*, *Common Market Law Rev.*, 35 (1998), p. 855 and ff.; C.D. Ehlermann, *Differentiation, Flexibility, Closer Cooperation: the New Provisions of the Treaty of Amsterdam*, *Europ. Law Journal*, 4 (1998), p. 246 and ff.; U. Kortenberg, *Closer Cooperation in the Treaty of Amsterdam*, *Common Market Law Rev.*, 35 (1998), p. 833 and ff.; H. Bribosia, *Les coopérations renforcées au lendemain du Traité de Nice*, *Rev. dr. Un. eur.*, 11 (2001), p. 111 and ff.; A. Cannone, *Le cooperazioni rafforzate. Contributo allo studio dell'integrazione differenziata*, Bari, Cacucci, 2005; L.S. Rossi, *L'intégration différenciée au sein et à l'extérieur de l'Union: de nouvelles frontières pour l'Union?*, in *Genèse et destinée de la Constitution européenne*, edited by G. Amato, H. Bribosia, B. De Witte, Brussels, Bruylant, 2007, p. 1219 and ff.; V. Constantinesco, *Les coopérations renforcées, dix ans après: une fausse bonne idée*, in *Mélanges en hommage à Georges Vandensanden*, edited by A. De Walsche, Brussels, Bruylant, 2008, p. 241 and ff..

<sup>53</sup> Proposal for a Council Directive implementing enhanced cooperation in the area of financial transaction tax, COM(2013) 71 final.

<sup>54</sup> On 18 April 2013, the United Kingdom appealed for annulment of the Council Decision authorising enhanced cooperation (Decision 2013/52/EU, *op. cit.*) (case C-

brief remarks on the effects that the creation of this new own resource could have in terms of the financial autonomy of the European Union.

From the perspective of the types of resources available to the European Union, this proposal seems to represent a step forward in the direction of a greater level of independence of the supranational organisation from its member states, given that it is designed to replace the national contributions with tax resources. Indeed, as already indicated, if the states participating in the enhanced cooperation were to pay into the EU budget, as is suggested, a share of the tax corresponding to two-thirds of the minimum rate, this would lead to a proportional reduction in the share of GNI that these same states would be required to contribute, with the result that a larger share of the EU budget would be covered by genuine own resources.

However, this very mechanism is the source of a limitation of this new resource. Indeed, introduction of the financial transaction tax, as conceived in the proposals mentioned, would not increase the size of the EU budget. This is because it is a tax that would be paid into the budget only by some of the member states, and if the share of GNI paid by these same states were not proportionally reduced, they would in fact find themselves at a disadvantage, since this would create a situation that would see the states participating in the enhanced cooperation feeding the budget with a larger amount of resources, to be used to cover expenditure that benefits all the member states.

Instead, such a situation would not be created if, as an exception to the budgetary principle of universality,<sup>55</sup> which decrees that all the budgetary resources constitute an indistinct mass that is used to finance all the expenditure, the own resource deriving from the tax on financial transactions were used to finance expenditure relating exclusively to the states that are part of the enhanced cooperation in question, thereby forming an extra resource at European level that benefits only these

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209/13), but its action was dismissed by the Court with its judgment of 30 April 2014. The Council's Legal Service also issued an opinion on the new proposed Directive (COM(2013) 71 final, cit.); according to this opinion (13412/13 of 6 September 2013), the proposal would be incompatible with the European Union law and, in particular, with Art. 327 TFEU.

<sup>55</sup> This principle appears for the first time in the Decision on own resources no. 88/376, *op. cit.*, specifically in Art. 6. Derogations from this principle generally concern the allocation of particular resources deriving from specific sectors to the financing of these same sectors, but these are all sectors and policies that involve *all* the member states.

states (i.e. a resource additional to the ones paid into the general EU budget). Looking at the history of EU funding, it can be seen that this type of solution has already been examined before, even though the precedent to which we refer is not exactly comparable to the hypothesis we are examining here. Art. 184 TFEU, relating to the sector of research and technological development, states that “In implementing the multiannual framework programme, supplementary programmes may be decided on involving the participation of certain Member States only, which shall finance them subject to possible Union participation.” This was in fact the basis for the creation of a complementary research programme on the operation of the high flux reactor (HFR) in Petten, which was funded solely by the Netherlands and France.<sup>56</sup>

However, the solution envisaged by Art. 184 is expressly provided for in the TFEU, and it is also designed to pursue a specific objective, namely the creation of complementary research programmes involving only a small number of states. The financial transaction tax, on the other hand, is conceived as an own resource of a general nature, in the sense that it is not meant for the funding of specific policies involving the participation of only some of the member states. It is therefore hard to imagine that the enhanced cooperation relating to it might be considered to justify a derogation from the principle of universality of the EU budget.

Moreover, additional confirmation that this new own resource, as it is currently configured in the aforementioned proposals for enhanced cooperation and for a Council decision on the system of own resources, would not significantly alter the financial autonomy of the European Union is provided by the fact that it would be fully integrated into the system of own resources still in force, which presents the limitations we have already illustrated relating to the method of deciding and collecting these resources.<sup>57</sup>

*Economic and Monetary Union and the Commission’s “Blueprint for a Deep and Genuine Economic and Monetary Union”.*

Instead, the prospects for creating an additional budget for the eurozone, set out in two reports by the presidents of the European Coun-

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<sup>56</sup> Explicit reference to this programme is made in the Decision on own resources no. 88/376, *op. cit.*. On this point, see S. Marciali, *La flexibilité du droit de l’Union européenne*, Brussels, Bruylant, 2007, p. 410 and ff..

<sup>57</sup> Furthermore, since this tax is not strictly connected with competences exercised by the European Union and, as a result, is paid only partially into its budget, it is more akin to the VAT resource than to customs duties and agricultural levies.

cil, Commission, Eurogroup and European Central Bank, published respectively in June and October 2012,<sup>58, 59</sup> and in the Communication from the Commission of 28 November 2012 entitled “A blueprint for a deep and genuine economic and monetary union”,<sup>60</sup> have to be viewed in an entirely different light.

These are documents that should be considered part of efforts to reform the Economic and Monetary Union and that identify the steps forward that, in the short, medium and long term, can be taken towards its completion. To evaluate the extent to which they are geared at promoting greater financial autonomy at supranational level, we need to examine briefly the features of the Economic and Monetary Union, and in particular the elements that distinguish it from the other forms of differentiated integration<sup>61</sup> that have emerged during the process of European integration to date.

Even though the single currency has been said to be a form of enhanced cooperation ahead of its times, the Economic and Monetary Union is, among the various forms of flexibility envisaged by the Treaties, absolutely unique.<sup>62</sup> It is in fact the only form in which certain provisions of the Treaties are applied only to a predefined group of states, i.e. those that share the single currency, and give rise to specific organs for the management of monetary policy,<sup>63</sup> which exclude the states that have kept their own national currencies. All other forms

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<sup>58</sup> *Towards a genuine economic and monetary union*, Report by the President of the European Council Herman van Rompuy (in close cooperation with the Presidents of the Commission, the Eurogroup and the European Central Bank), 25.6.2012.

<sup>59</sup> *Towards a genuine economic and monetary union*, Interim Report by the President of the European Council Herman van Rompuy (in close cooperation with the Presidents of the Commission, the Eurogroup and the European Central Bank), 12.10.2012.

<sup>60</sup> COM(2012) 777 final.

<sup>61</sup> On differentiated integration, a subject extensively debated in the literature, see for all C. Guillard, *L'intégration différenciée dans l'Union européenne*, Paris, 2006; S. Marciali, *La flexibilité...*, *op. cit.*

<sup>62</sup> On the peculiarities of the EMU compared with other forms of differentiated integration, see for all O. Clerc, *La gouvernance économique de l'Union européenne*, Paris, 2012; S. Marciali, *La flexibilité...*, *op. cit.*, p. 370 and ff.. As highlighted by P. Manin, *Les aspects juridiques de l'intégration différenciée*, in *Vers une Europe différenciée? Possibilité et limite* edited by P. Manin, J.-V. Louis, Brussels, Pedone, 1996, p. 13 and ff., in particular p. 15, in the case of EMU, differentiation depends on factors which are beyond the will of the single state, given that once the competent institutions have ascertained that the state meets the requirements, it automatically enters third stage of EMU.

<sup>63</sup> Cf. J.-V. Louis, *Differentiation and the EMU*, in *The many faces of differentiation in EU law*, edited by B. De Witte, D. Hanf, E. Vos, Antwerp, Intersentia, 2001, p. 43 and ff., in particular p. 47.

of differentiated integration allowed by the Treaties<sup>64</sup> are indeed characterised by the fact that they use the institutional structure of the Union, without giving rise to new organs, and in many cases — that of enhanced cooperations primarily — concern groups of states that differ according to the area with which the cooperation is concerned.<sup>65</sup>

Moreover, from the end of the 1990s, and in particular following the entry into force of the Lisbon Treaty, the features distinguishing the Economic and Monetary Union from the other forms of differentiated integration became more pronounced, to the point that the EMU can be considered a sort of subsystem operating within the European Union.<sup>66</sup> Indeed, even though it was always envisaged, from the time of the creation of the single currency, that the voting rights of Council members representing member states with a derogation should be suspended when the Council is called upon to adopt decisions relating to

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<sup>64</sup> These do not include forms of flexibility that are not covered by Treaties, such as the Schengen Agreement, which actually created new specific organs.

<sup>65</sup> The two enhanced cooperations implemented so far actually involve different states. The enhanced cooperation in the area of the law applicable to divorce and legal separation (EU Regulation 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation, in OJ L 343 of 29.12.2010, p. 10) involves Austria, Belgium, Bulgaria, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Portugal, Romania, Spain, Slovenia and Hungary. The enhanced cooperation regarding the European unitary patent (EU Regulation 1257/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection, in OJEU L 361 of 31.12.2012, p. 1, and EU Regulation 1260/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements, in OJEU L 361 of 31.12.2012, p. 89), instead, includes all the member states except Spain and Italy.

<sup>66</sup> See S. Marciali, *La flexibilité... op. cit.*, in particular p. 396, where it is stated that EMU, before the entry into force of the Lisbon Treaty, could have been identified as the fourth pillar of the European Union.

<sup>67</sup> OJ C 35 of 2.2.1998, p. 1. In the resolution, however, the name Eurogroup was not yet used. Today, the Eurogroup is also the subject of Protocol no. 14, where its composition is described and the election process of its President is established.

<sup>68</sup> On the possible evolution of the Eurogroup into an ECOFIN Council for the eurozone see J.-V. Louis, *The Economic and Monetary Union: Law and Institutions*, *Common Market Law Rev.*, 41 (2004), p. 575 and ff., in particular p. 585.

<sup>69</sup> The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union signed in Brussels on 2 March 2012 by the Kingdom of Belgium, the Republic of Bulgaria, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic,

monetary policy (Art. 139 TFEU), meaning that only eurozone member states can vote, a resolution adopted by the European Council in Luxembourg<sup>67</sup> gave rise to the Eurogroup,<sup>68</sup> an informal meeting of the finance ministers of the eurozone member states, while the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union<sup>69</sup> (the so-called fiscal compact), led to the institutionalisation of the Eurosummit, a European Council-like meeting of eurozone states. Despite not constituting new EU institutions, whose creation would require a revision of the Treaties in accordance with Art. 48 TEU, and despite not being equipped with decision-making powers, these organs emphasise the differentiation between states without a derogation and those with a derogation, facilitating the adoption of common stances by the former.

The amendment of Art. 136 TFEU contained in the Lisbon Treaty, which allows the Council, operating in restricted composition, to adopt measures geared at reinforcing the measures designed to strengthen the coordination and surveillance of budgetary discipline and to develop guidelines for the economic policies of the member states whose currency is the euro, subsequently allowed the adoption of other measures,<sup>70</sup> a prominent one being the Treaty establishing the European Stability Mechanism,<sup>71</sup> which was adopted following an amendment, through the simplified revision procedure,<sup>72</sup> of Art. 136 itself.

However, the progressive institutionalisation of the EMU has never impacted on the financing of the European Union. Rather than sep-

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Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden.

<sup>70</sup> EU Regulation 1173/2011 on the effective enforcement of budgetary surveillance in the euro area (OJEU L 306 of 23.11.2011, p. 1) and EU Regulation 1174/2011 on enforcement measures to correct excessive macroeconomic imbalances in the euro area (OJEU L 306 of 23.11.2011, p. 8). Art. 136 TFEU served as the legal basis also for the adoption of decisions relating to Greece, the so-called *Greek loan facility*. On this point, see A. Viterbo, 136, in *Codice dell'Unione europea operativo* edited by C. Curti Galdino, Naples, Simone, 2012.

<sup>71</sup> Treaty establishing the European Stability Mechanism, signed in Brussels on 2 February 2012 by the Kingdom of Belgium, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Grand Duchy of Luxembourg, Malta, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Republic of Finland.

<sup>72</sup> European Council Decision 2011/199/EU of 25 March 2011 amending Article 136 of the Treaty on the Functioning of the European Union with regard to a stability mechanism for Member States whose currency is the euro, in OJEU L 91 of 6.4.2011, p. 1.

arating the revenue generated by the eurozone states and allocating it to expenditure relating to these states,<sup>73</sup> it was decided from the very creation of the single currency that there should be no derogation from the principle of universality of the EU budget.

The proposals to create an additional budget for the eurozone financed with its own tax resources thus represent the first attempt to equip the eurozone with its own autonomous resources and raise, for the first time, this issue of the relationship between the financing of the EMU and the EU budget.

Despite the very general nature of the proposals in question, it is clear to see that the perspective adopted by the documents of the four presidents and of the Commission is radically different from that of the proposed enhanced cooperation in the areas of financial transaction taxation and of the June/November 2011 “Proposal for a Council Decision on the system of own resources”. Indeed, whereas the latter are still very much within the mold of the existing system of financing the European Union, not substantially altering its relationship with its member states, the proposals to create an additional budget for the eurozone, based on its own fiscal capacity, imply, providing they are developed fully, a transfer of sovereignty from the eurozone member states to the supranational level and thus the creation of a supranational government of the economy.

The Communication from the Commission states, in fact, that the additional budget and fiscal capacity should be accompanied by the creation of a dedicated budgetary and own resources procedure, and a new taxation power or power to raise revenue by borrowing on the markets, and by the creation of an EMU Treasury within the Commission. Furthermore it also states that the “progressive further integration of the euro area towards a full banking, fiscal and economic union will require parallel steps towards a political union with a reinforced democratic legitimacy and accountability.”<sup>74</sup>

The words of the Commission thus provide confirmation of the close link that exists between an organisation’s financial and political autonomy, and underline the fact that true financial autonomy not only entails the replacement of the contributions of the member states with fiscal resources, but ultimately requires that the organisation in question be invested with the powers of a sovereign entity.

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<sup>73</sup> On this point, see S. Marciali, *La flexibilité...*, *op. cit.*, p. 410.

<sup>74</sup> COM(2012) 777 final, p. 14.

*The Possible Routes Towards Completion of the Economic and Monetary Union.*

Leaving aside hypotheses regarding the institutional structure of the Economic and Monetary Union following such a transformation, we can nevertheless comment on the steps that will draw it closer to this objective, which were set out in some detail by the Commission in its Communication.

In general, it should be pointed out that the Commission's approach is characterised by a tendency to exploit all the possibilities offered by the existing Treaties, to the point that their amendment should be contemplated "only where an action indispensable for improving the functioning of the EMU cannot be constructed within the current framework." From this perspective, one step in the direction of a eurozone fiscal and budgetary capacity, according to the Commission, could be to introduce a convergence and competitiveness instrument able to provide financial support for the rapid implementation of structural reforms in the eurozone countries, in such a way as to reduce or eliminate the political and economic disincentives that constitute obstacles in this regard.

On the subject of the route to follow in order to create such an instrument, the Commission clarifies first of all that it would be "established by secondary legislation" and that the "financial contributions necessary to the instrument could be based on a commitment of the euro area Member States or a legal obligation to that effect enshrined in the EU's own resources legislation. Contributions should be included in the EU budget as assigned revenues."<sup>75</sup>

The first element needing to be underlined therefore concerns the fact that, unlike what was proposed for the financial transaction tax, the creation of a convergence and competitiveness instrument able to contribute to the completion of the EMU would imply a derogation from the principle of universality of the EU budget, given that only the eurozone states would be involved in financing it and the resources would be included in the EU budget as assigned revenues. In this way the eurozone would have at its disposal additional resources that could be used to meet the needs of the states belonging to it.

This first step, as underlined by the Commission, could be taken without needing to modify the Treaties, and would be possible through

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<sup>75</sup> See also the Communication from the Commission to the European Parliament and the Council *Towards a deep and genuine economic and monetary union. The introduction of a convergence and competitiveness instrument*, COM(2013) 165 final.

recourse to either of two alternative legal provisions: Art. 136 TFEU or Art. 352 TFEU (“if necessary by enhanced cooperation”). Without attempting to examine this complex question here, it can nevertheless be remarked that, of the two routes indicated by the Commission, the first (recourse to Art. 136 TFEU) seems to be the one better suited to the prospect of a eurozone equipped with greater financial autonomy. One feature of this provision is, indeed, the fact that it already defines the framework — the euro area — in which certain measures concerning budgetary discipline, economic policy guidelines and, ultimately, a stability mechanism, may be adopted. For this reason, it seems to represent a sort of opening through which the eurozone could equip itself with the instruments necessary in order to complete the Economic and Monetary Union, with the sole condition that the economic policy guidelines drawn up by the Council acting in restricted composition should be compatible with those adopted for the Union as a whole. The enhanced cooperation,<sup>76</sup> on the other hand, is an instrument that seems better suited to forms of cooperation established in limited sectors between groups of states that will, each time, be different and that, precisely because it is conceived as an instrument to promote *à la carte* integration, is subject to a number of rather<sup>77</sup> strict limitations that could constitute an obstacle<sup>78</sup> in the way of consolidation of the eurozone.

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<sup>76</sup> On the other hand, the initiative to establish an enhanced cooperation can only come from the member states that are interested in this cooperation. The vision outlined by the Commission in the Communication mentioned above (use of Art. 352 of the TFEU if necessary by enhanced cooperation) could not therefore be the subject of a Commission proposal.

<sup>77</sup> Pursuant to Art. 20 TEU and Art. 326 and ff. TFEU, enhanced cooperations shall not concern areas of exclusive competence of the EU; they shall promote the realisation of the European Union’s goals, protect its interests and enhance its integration process; they shall involve at least nine member states and be established only if their goals cannot be achieved within a reasonable period of time by the Union as a whole; they shall comply with the Treaties and Union law; they shall not undermine the internal market or economic, social and territorial cohesion, nor constitute a discrimination in trade between member states, nor shall they distort competition between them; they shall respect the competences, rights and obligations of the member states not participating in them; they shall be open to all the member states that wish to participate.

<sup>78</sup> In this sense see J.-V. Louis, *Differentiation and the EMU*, in *The many faces of differentiation in EU law*, edited by B. De Witte, D. Hanf, E. Vos, Amsterdam-Oxford-New York, Intersentia, 2001, p. 43 and ff., in particular p. 62; O. Clerc, *La gouvernance... op. cit.*, p. 484 and ff., who points out, in particular, the difficulties in envisaging, through the instrument of enhanced cooperation, a strengthening of the role played by the Eurogroup.

# The “Spinelli Project” and its Legacy

MEHEMET CEVAT YILDIRIM

## Introduction

On 14<sup>th</sup> February 1984, the European Parliament (EP) approved the draft Treaty establishing the European Union (EUT), widely known as the “Spinelli Project”. The originality of the EUT lies in both the process of its creation and its far-reaching content. Despite the fact that the EUT was never ratified, subsequent EU Treaties have introduced the institutional reforms it envisaged. The success of the EUT is strictly due to the genuine political deliberation that gave rise to it.

The EUT story provides the first example of a treaty-making process evolving outside the diplomatic framework. Indeed, the initiative was launched and pursued entirely by MEPs. The originator of the EUT, Altiero Spinelli, had been one of the authors of the *Ventotene Manifesto* (1941) and was well known as a leading euro-federalist; moreover, he had been elected to the EP from the lists of the Italian Communist Party (PCI). Nevertheless, while preparing the EUT, instead of restricting it to federalist or leftist perspectives, Spinelli chose to adopt an approach that would embrace a vast spectrum of political views. This choice was a conscious one because the Treaty, to be adopted, had to be approved in plenary session by the EP. The participatory and deliberative nature of the debate on the EUT made it a genuine constitution-making process. From this perspective, the work of the first directly-elected EP can be seen as a remarkable victory of constitutionalism over intergovernmentalism.

The work of this legislature was fruitful in terms of the new ideas about the political system and functioning of the EU that it produced. While some of these ideas were ahead of their time, others could be implemented immediately. In the first years following the EP’s approval of the EUT, the national governments saw no need to establish a “Eu-

ropean Union”. Subsequently, however, the changes proposed in the EUT were progressively introduced. Now, looking back over the decades, we can clearly identify the influence of the EUT in successive Treaties and EU treaty proposals.

This essay is divided into two parts. The first focuses on the creation of the EUT, a process that saw the emergence of rival and opposing initiatives. The second looks at the content of the EUT and at how it subsequently influenced successive Treaties and reform proposals.

### **The Creation of the EUT**

In early 1980, the European Community were already suffering from structural problems: in December 1979, the EP had decided to exercise its right to reject the annual budget adopted by the Council of Ministers. However, this rejection by the Parliament did not prevent the Community from having recourse to the system of provisional twelfths in order to cover its expenses. This circumstance made it easier for the Council to insist on a new budget that would not need to be approved by the EP. Consequently, six months later (in May 1980), a budget “worse than the one rejected by the EP in December 1979”<sup>1</sup> was finally adopted.

In order to prevent a further budget crisis of this kind, the Council gave the Commission a mandate to revise the budgetary process and propose changes. Juliet Lodge notes that the very broad interpretation of this mandate by the Commission was a factor underlying the “temerity” shown by the EP in proposing its reform treaty (the EUT).<sup>2</sup>

Spinelli felt that it was a duty of the Parliament, being the only democratically legitimated EC institution, to discuss structural problems of any kind. On 25<sup>th</sup> June 1980, Spinelli sent an open letter to all the MEPs in which, analysing the crisis situation, he remarked that the Community, with its existing institutions, procedures and competences, was bound to go from one paralysing crisis to another.<sup>3</sup>

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<sup>1</sup> P.V. Dastoli, *L'azione del Club del Coccodrillo, I Movimenti per l'unità europea 1970-1986*. Tome I, edited by A. Landuyt and D. Preda, Bologna, Il Mulino, 2000, p. 562.

<sup>2</sup> J. Lodge, *European Union and the First elected Parliament: the Spinelli Initiative*, Journal of Common Market Studies, Vol. XXII, no. 4 (1984), p. 378.

<sup>3</sup> P.V. Dastoli, A. Pierucci, *Verso una Costituzione democratica per l'Europa*, Alessandria, Marietti, 1984, p. 38.

### *The Crocodile Club.*

The first meeting of the reformists took place nearly two weeks after Spinelli's first open letter to Europe's parliamentarians; it saw the participation of only nine MEPs who gathered at the Strasbourg restaurant "Au Crocodile" on 9<sup>th</sup> July 1980. Even though those responding to Spinelli's call were few in number, almost all the political families were represented in this initial group. In addition to Spinelli himself, the MEPs attending the meeting were: Richard Balfe (Labour/UK), Paola Gaiotti de Biase (CD/Italy), Brian M. Key (Labour/UK), Silvio Leonardi (COM/Italy), Hans August Lücker (CD/Germany), Stanley Johnson (CON/UK), Bruno Visentini (REP/Italy), and Karl von Wogau (CD/Germany). Spinelli particularly wanted to avoid giving this group a name that might discourage other MEPs from joining it. In other words, it was necessary to find a name with which any MEP of any political affiliation and from any nation would feel comfortable. Finally, the reformers, drawing inspiration from the name of the restaurant where they had first met, decided to call themselves "the Crocodile Club".

The initial absence of socialists in the group was remedied by the participation of Willy Brandt, who brought with him Rudi Arndt, Bruno Friedrich (Vice-President of the European Parliament) and Horst Seefeld from the German socialist group. Socialists from other countries joined the club as well: Mario Didò, Carlo Ripa di Meana and Giorgio Ruffolo from Italy; Lucien Radoux, Karel Van Miert and Anne Marie Lizin from Belgium, and Derek Enright from the UK. The participation of Christian Democrats was reinforced by the addition of Maria Luisa Cassanmagnano Cerretti and Alfredo Diana, both from Italy, while Susanna Agnelli (Italy) and Hans Nord (Netherlands) strengthened the liberal presence in the club. The conservative presence was soon strengthened by Derek Prag (UK) and Christopher Jackson (UK).<sup>4</sup> Thus, at the end of its first month, the Crocodile Club had almost 30 members.

In October 1980, Altiero Spinelli, Felice Ippolito and Spinelli's assistant Pier Virgilio Dastoli set up a periodical called *Crocodile: Letter to the Members of European Parliament*. This journal was published until June 1983 and served as the main vehicle of information about the reformers' discussions. On 19<sup>th</sup> November, nearly a hundred members of the Crocodile Club prepared a petition addressed to the EP in which

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<sup>4</sup> P.V. Dastoli, A. Pierucci, *op. cit.*, p. 39.

they called for the drafting of a reform treaty. By the time Simone Veil, the President of the European Parliament, signed this petition on 10<sup>th</sup> February 1981, 170 MEPs had already signed it.

An overview of the general purposes and motivations of the EUT might make it easier to appreciate the debate that took place between the opposing groups in the Parliament. Altiero Spinelli himself, in his speeches and writings, set out the reasons why the Crocodile Club had launched the initiative, as did many EC officials sharing his concerns. The overall aim of the initiative was not a new one: the member state governments had been declaring their will to create a treaty establishing a European Union based on the European Communities ever since the 1972 Paris summit. Indeed, many reform proposals (the Tindemans Report among others) had been presented since that time. However, none of these had sparked a genuine political debate, even though the problems facing the EC were all urgent, and all beyond the capacity of its institutions. The effects of the oil crisis were still being felt in the Community markets, which were vulnerable on account of not being completely integrated. Customs duties between member states had been eliminated, but many trade barriers remained, such as frontier controls, exchange transaction costs, legal barriers to the free movement of services, and so on. The EC needed a more effective foreign policy than could be implemented under the European Political Cooperation (EPC), especially at a time when tension between the world's two opposing blocs was growing once again. In almost every speech he made, Spinelli also underlined Europe's responsibility towards the world's "developing countries". All these were urgent issues and they all demanded serious institutional reforms.

The Crocodile Club was convinced that such problems could not be tackled without changing the institutional framework of the Community, which was based on intergovernmental cooperation. Instead of the intergovernmental model, the members of the Club were asking for a political union, founded on carefully balanced institutions operating within a constitutional framework.

As the members of the Crocodile Club were gathering MEPs' signatures for the reform treaty initiative, the first rival initiative was being mounted by the Christian Democratic European People's Party (EPP). Dastoli interprets the endeavour of the EPP's German MEPs as a sign of their lack of enthusiasm for the reformers' ambitious targets. Differently, Lodge suggests that the German Christian Democrats, who also harboured federalist aspirations, were driven mainly by a feeling of bitter

jealousy towards the Crocodile Club initiative, led by a “Communist”.<sup>5</sup>

In any case, such opposition, wherever it came from (the EPP or the member states), was a productive source of alternative proposals. Burgess considers the draft constitution text prepared by EPP members Rudolf Ruster and Gero Pfennig as a rival project<sup>6</sup> (although its writers deny this). Similarly, Dastoli and Pierucci regard the Genscher/Colombo plan (mentioned in more detail later on) as an alternative to the EUT. It has to be pointed out, however, that the position of the various opponents of the Crocodile Club initiative differed greatly: some deemed it too ambitious, whereas others wanted to pursue the same objectives as the Crocodile Club, but advocated a gradualist approach.

Even though the German EPP members also wanted to see the establishment of a European Union, they had different ideas on how to go about it. These MEPs were not convinced that the EP, even now it was directly elected, should be given a mandate to draft an international treaty. They believed, instead, that this was work that should fall to the governments, as in the case of the Paris and Rome Treaties, and moreover they felt that building the European Union should be a gradual process. The German EPP members (who either never joined the Crocodile Club or left it in its first months) sought to concentrate their efforts within the sub-committee on institutional problems of the EP’s Political Affairs Committee. This sub-committee was much more reluctant to give the EP the role of a constituent assembly and favoured the same gradual integration approach advocated by the EPP. In a letter to MEPs in April 1981, Altiero Spinelli, Felice Ippolito and Pier Virgilio Dastoli criticised this cautious stance and called the MEPs to immediate action: “The proposals related to the small steps strategy, under review by the Political Affairs Committee of the European Parliament, do not and could not address the central problem of the constitutional crisis of the Community, which can be summarised as follows: the Community needs to be governed, but it does not have a real government; it needs to have laws, but it does not have its own real legislative powers; it needs public participation in its initiatives, but it does not have political mechanisms allowing it to develop its initiatives in a coherent and consistent manner.”<sup>7</sup>

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<sup>5</sup> J. Lodge, *op. cit.*, p. 379.

<sup>6</sup> M. Burgess, *Federalism and European Union: The Building of Europe, 1950-2000*, London, Routledge, 2000, p. 142.

<sup>7</sup> P.V. Dastoli, A. Pierucci, *op. cit.*, p. 44.

In the same letter, Spinelli and his colleagues also recalled that there existed no written rule, either in the Paris and Rome Treaties or elsewhere, stipulating that the EUT had to be drafted by an intergovernmental conference (IGC). Moreover, the constitutions of existing federal states like Germany, the USA and Switzerland had been drawn up and approved by these countries' parliaments. Therefore, the directly elected EP constituted the right place for creating the EUT. However, given that drawing up the text of the EUT would have been too lengthy a process for any existing EP committee to undertake, the Crocodile Club wanted a new *ad hoc* committee to be created and entrusted exclusively with this task. Accordingly, the Crocodile Club spent the first half of 1981 pressing for the adoption of a parliamentary resolution establishing a Committee on Institutional Affairs.

The reformers achieved their objective on 9<sup>th</sup> July 1981, when the EP in plenary session adopted the resolution establishing the Committee on Institutional Affairs.<sup>8</sup> The battle of the Crocodile Club had also spurred on the rival initiatives. Indeed, the EPP-led sub-committee's resolutions on inter-institutional relations were put to the vote on the same day.<sup>9</sup>

#### *The Committee on Institutional Affairs.*

Spinelli's immediate concern after 9<sup>th</sup> July was not the content of the new treaty. Drawing on his lifetime's experience of Community affairs (including six years as a member of the Commission), he was more interested in ensuring the adoption and ratification of the EUT. He knew, from experience, that a strictly federalist endeavour would have no chance of success. Spinelli had played a crucial role first in the campaign to give a constituent mandate to the Council of Europe's Parliamentary Assembly in the late 1940s, and then in the European Political Community project in the mid-1950s.<sup>10</sup> Both had failed and shown that the intergovernmental nature of relations between European states would be difficult to overcome. Even though there was support for creating a European "Union", which obviously meant something beyond the intergovernmental "Community", its founding treaty would have to be ratified by member state governments before it could come into existence. To prevent the failure of the EUT project, the Committee on In-

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<sup>8</sup> European Parliament's *Resolution Setting up a Committee on Institutional Problems*, OJ C 234 of 14.9.1981, p. 48.

<sup>9</sup> J. Lodge, *op. cit.*, p.379.

<sup>10</sup> S. Pistone, *The Union of European Federalists*, Milan, Giuffrè, 2008.

stitutional Affairs, in its work, needed to be open to all views from all political parties and from all countries. Only in this way, Spinelli believed, would it be possible to obtain a sufficient level of participation in the vote in the EP and thus secure the adoption of the proposal. Thereafter, the treaty would have to be submitted for ratification by each member state and, to this end (and in order get round any opposition on the part of the governments), it would be sent directly to the national parliaments. The treaty would enter into force upon its ratification by the majority of the member states, without waiting for its ratification by all of them. This latter suggestion from Spinelli drew a critical reaction from the EPP. Thus, the process of developing the EUT became a struggle between parliamentary constitutionalism and intergovernmentalism.

On the one hand, the EP's self-given mandate as a constituent assembly was highly controversial and raised objections. On the other, alternative initiatives in the intergovernmental mould continued to be fruitless. German liberal MEP Martin Bangemann (from the same party as Hans-Dietrich Genscher) proposed that the vote on the treaty should take place not in the EP, but rather in an *ad hoc* joint parliamentary assembly composed of MEPs and national MPs. Bangemann argued that the treaty, to enter into force, should then be ratified by *all* the member states.<sup>11</sup> Both propositions aimed to give the treaty an intergovernmental character.

In November 1981, the German Foreign Minister Hans-Dietrich Genscher sent a letter to the member states and to the EC Commission. Italy's Foreign Minister, Emilio Colombo, was also involved in this initiative and the two ministers together drafted a series of principles known as the Genscher/Colombo plan. On 19<sup>th</sup> November, the plan was presented both to the member state governments and to the EP plenary. However, thereafter no further steps were taken for two years. Not surprisingly, the Genscher/Colombo plan was for an EU designed along intergovernmental lines.

The Committee on Institutional Affairs began its work in February 1982 and succeeded in reaching an agreement on the principles that would underlie the content of the EUT and also on the method of its creation. According to the resolution adopted on 6<sup>th</sup> July 1982,<sup>12</sup> the EU would be based on the existing EC institutions and would operate in respect of the following principles: "subsidiarity, separation of powers, legitimacy, democratic accountability, participation of member

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<sup>11</sup> P.V. Dastoli, A. Pierucci, *op. cit.*

<sup>12</sup> European Parliament's *Resolution on the European Parliament's Position Concerning the Reform of the Treaties and the Achievement of European Union*, OJ C 238, 13.9.1982, p. 25.

states in decisions, and improvements in decision-making capacity and functioning of the Community.”<sup>13</sup>

The work was shared between six working groups, each focusing on a specific area. Spinelli was nominated as the coordinator and Mauro Ferri, an Italian social democrat, as the chairman. The reports of the six working groups would together constitute the basis of the EUT. The specific areas and rapporteurs of these groups were as follows: “Legal Structure of the Union” (Belgian liberal Karel De Gucht, later Commissioner for Trade); “Economic Union” (French socialist Jacques Moreau); “Policies for Society” (German Christian Democrat Gero Pfennig); “International Relations” (British Conservative Derek Prag); “Union Finances” (French Gaullist Michel Junot until 12.01.1983, succeeded by German Social Democrat Hans Joachim Seeler) and “Union Institutions” (Italian Christian Democrat Ortensio Zecchino).

The work of the latter group was particularly lengthy because it concerned the main changes that needed to be made in order to allow the EU to emerge from the ashes of the EC. It dealt with issues relating to the institutional equilibrium: the designation of the Commission, the vote of investiture and motion of censure, the role of the Council in the legislative process, the EP’s role in budgetary affairs, legislative procedures, etc. However, it seems that the rapporteur of this working group did not help to make its task any easier: “Ortensio Zecchino, the EPP rapporteur responsible for institutional aspects of the EUT in the Committee on Institutional Affairs, was particularly troublesome in his eccentric insistence upon floating new proposals and using overtly federalist rhetoric which was far too ambitious and divisive. The Italian lawyer and university professor even managed to exasperate Spinelli, who regarded his temporary absence from the committee during the final voting on institutions as ‘divine intervention’ in their favour.”<sup>14</sup>

Zecchino was, indeed, not the only one to harbour more ambitious federalist aspirations. Andrea Chiti-Batelli, of the Italian Federalist Movement, severely criticised the EUT project from its outset, arguing that it did not have a popular basis. According to Chiti-Batelli, the Crocodile initiative was nothing but “putting the cart before the horse”<sup>15</sup> and Spinelli was trying to conduct a revolution without revolutionaries, as he had tried to do before.

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<sup>13</sup> P.V. Dastoli, A. Pierucci, *op. cit.*, p. 52.

<sup>14</sup> M. Burgess, *op. cit.*, p. 142.

<sup>15</sup> A. Chiti-Batelli, *Il Tramonto del “Coccodrillo” e la fine di una strategia federa-*

Once the working groups had completed their work and the text of the draft treaty had been approved by the Committee on Institutional Affairs on 5<sup>th</sup> July 1983, it took a further two and a half months to bring the proposal before the EP plenary. In the meantime, more than 250 amendment proposals were discussed and “some amendments to the detail but not the substance of the draft resolution were accepted”.<sup>16</sup> Addressing the EP on 13<sup>th</sup> September, Commission President Gaston Thorn described the work of the Committee as “a lesson in dynamism and what I shall call true political realism...”.<sup>17</sup> Thorn strongly supported the draft treaty because it shared several principles with the Commission’s previous proposals such as “the principle of subsidiarity, the various types of competence (exclusive, concurrent and potential), legislative powers shared by Parliament and the Council, and the Commission’s power to initiate legislation and its executive role.”<sup>18</sup>

The preliminary version of the draft treaty was approved, with a vast majority, by the EP in plenary session on 14<sup>th</sup> September 1983: 201 votes were in favour, 37 were against and there were 72 abstentions, particularly among the conservatives, the Danes and the French socialists, with the exception of Jacques Moreau and Pierre Bernard.<sup>19</sup> The level of participation was excellent, just as Spinelli had hoped.

In order to ensure the legal quality of the treaty text, a committee of four legal experts (including Jean-Paul Jacqu e, then Rector of Strasbourg University) was appointed. This group completed its work very rapidly and the draft treaty was adopted by the Committee on 9<sup>th</sup> December.

### *The Stuttgart Declaration and the Vote on the EUT in the European Parliament.*

While the Committee on Institutional Affairs was racing against time in order to put the treaty to the plenary vote in the Parliament before the 1984 EP elections, member state governments were looking for a way of resuscitating the Genscher/Colombo plan.

At this time, Spinelli was severely criticising the intergovernmen-

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*lista*, Martinafranca, Pamphlets Lacaita, 1985.

<sup>16</sup> J. Lodge, *op. cit.*, p. 380.

<sup>17</sup> G. Thorn, Address given by Gaston Thorn (13 September 1983), [http://www.cv-ce.eu/obj/address\\_given\\_by\\_gaston\\_thorn\\_13\\_september\\_1983-en20c7b260-4051-4940-840e-0e723e801ad6.html](http://www.cv-ce.eu/obj/address_given_by_gaston_thorn_13_september_1983-en20c7b260-4051-4940-840e-0e723e801ad6.html), 01.11.2012, p. 2.

<sup>18</sup> G. Thorn, *ibid.*, p. 2.

<sup>19</sup> P.V. Dastoli, A. Pierucci, *op. cit.*, p. 61.

tal reform proposals, first and foremost the Genscher/Colombo plan. According to him, the distinctive feature of the EUT was its constitutional character – a feature that an intergovernmental solution could never have. “As a rule, it is parliamentary assemblies that vote on constitutions, because it is in parliamentary assemblies that the different political families to which the citizens belong freely exchange their views, and freely find the convergences around which the greatest possible degrees of consensus can be gathered. There is no reason why the Constitution of the European Union should not come into being in the same way, through this kind of coming together, this kind of quest to find points of convergence and consensus, particularly since the Union is the product of the natural maturation and metamorphosis of the Community, that is to say, of a political body already distinct from the states, in existence for over thirty years, and equipped with its own, directly elected parliament. (...) Our governments are all convinced of the need to move Europe forward, but are incapable of putting together a few ideas in order to get it effectively on its way, because they draw all their ideas from the intellectual arsenal of their diplomatic services, that is to say, from a source that proposes only futile intergovernmental action.”<sup>20</sup>

On 19<sup>th</sup> June 1983, a few days before the Committee on Institutional Affairs working groups completed their work, the leaders of the member states gathered in the European Council in Stuttgart and adopted a “Solemn Declaration on EU”, which was based on the Genscher/Colombo plan.<sup>21</sup> In this short constitution, the European Council was defined as the main decision-making body, while no provision was made for tangible improvements to the powers either of the EP or of the Commission. However, it should be underlined that the Stuttgart Declaration seems to have been surprisingly far-sighted as regards the eventuality of an economic crisis related to structural imbalances between national economies. And despite being only a brief text, it aimed to provide the Union with social and economic policy tools for addressing such crises. In this respect, the Stuttgart Declaration may be deemed better equipped than the Spinelli Project.

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<sup>20</sup> A. Spinelli, *Towards the European Union*, text of the lecture given on 13<sup>th</sup> June 1983, as part of the “Jean Monnet Lectures”, organised each year by the European University Institute in Florence, under the presidency of Professor Maihofer, published in *The Federalist*, 48, n. 2 (2006), p. 135.

<sup>21</sup> R.A. Cangelosi, *Dal Progetto di Trattato Spinelli all'Atto Unico Europeo, Cronaca di una riforma mancata*. Milan, Franco Angeli, 1987, pp. 35-45.

Another initiative competing with the EUT was the EPP's constitution, which was approved on 14<sup>th</sup> September 1983, the same day as the vote on the preliminary version of the EUT. This text was more far-reaching in terms of human rights; Burgess notes that "... it is significant that in the Luster/Pfennig proposal cited above, there had been a whole section devoted to listing basic human rights and freedoms – something absent from the EUT."<sup>22</sup> With more than 50 signatures gathered, this text proved that the EUT was not without alternatives in the EP. It is worth mentioning that another grouping in the EP was the "Kangaroo Group" initiated by Basil de Ferranti (CON/UK), Karl von Wogau (CD/Germany), Kai Nyborg (Progress/Denmark) and Dieter Rogalla (SD/Germany). The main interest of this group was to increase awareness, within the EP, of the importance of achieving the internal market.<sup>23</sup>

Therefore, in late 1983 and early 1984, Spinelli's EUT initiative was not the only treaty proposal on the table, nor necessarily the best in all regards. But its particular significance lay in the widespread political support that it enjoyed at the time. This support was the result of Spinelli's strategic choice to embrace all political views in the treaty-making process. Indeed, it proved to be a fruitful strategy: in the plenary vote on 14<sup>th</sup> February 1984, 237 of the 311 votes were in favour of the EUT, while only 31 were against, with 43 abstentions. These results show that the proposal was adopted also with the support of rival groups such as the EPP.<sup>24</sup>

On 14<sup>th</sup> February, after the vote, Spinelli addressed the MEPs to emphasise that his role had been simply that of an intermediary. In his words: "If the ideas within this text had never existed in the minds of the great majority of this Parliament, I would not have been able to put them in. I have simply practised, as Socrates, the art of maieutics. I was the midwife who helped to give life to this child."<sup>25</sup>

The EUT was rich in terms of ideas, however the question of whether to adopt or reject the text was in the hands of the national governments. They did neither. In following months and years, the EUT did not appear on the agendas of the member states. The governments

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<sup>22</sup> M. Burgess, *op. cit.*, p. 142.

<sup>23</sup> [www.kangaroorogroup.eu](http://www.kangaroorogroup.eu), 02.11.2012.

<sup>24</sup> J. Lodge, *op. cit.*, p. 396, who provides detailed data on the vote on the EUT.

<sup>25</sup> G. Montani, *Towards a European Constitution*, speech given at La Sapienza University, 6 December 2006.

preferred simply to ignore it. Despite this, these same governments were aware of the immediate need to reform the Community, as they showed at the Fontainebleau summit in June 1984. In the end, the Single European Act (SEA) was signed on 17<sup>th</sup> February 1986 in Luxembourg. The SEA was based on proposals that had been advanced in the Stuttgart Declaration, in the EUT, and in the Commission's White Paper on the internal market. Constituting a modest revision of Community Treaties, it was indeed just an attempt to address, to the minimum degree possible, the need for reform and to preserve the intergovernmental nature of the Community.

Spinelli was elected as an MEP for the last time in 1984. Only two years later, he was envisaging a kind of small steps strategy to reform the Treaties. In a speech he gave before the EP just a few months before he died, he announced possible new strategies to be pursued thereafter: "We can improve the European Parliament only with a precise strategy. Two strategies seem possible: within two years, in 1988, thus one year before the 1989 EP elections, the SEA would probably have shown its inadequacy. In the meantime we can prepare and propose a brief, minimal treaty including necessary reforms that would allow the Community to function. Obviously, the reforms proposed in this treaty would not be enough either, but this brief treaty would be a step towards our treaty establishing the EU. As the problems in technology, social policy, ecology and foreign policy issues will grow in time, the Community will be duty bound to take further steps. The second strategy is to work to provide the Parliament that will be elected in 1989 with the mandate to achieve Community reform and political cooperation and to have the capacity to adopt the produced text with a majority of two thirds."<sup>26</sup>

The years that followed saw several further initiatives that, adopting both these strategies, followed in Spinelli's footsteps.

### The Legacy of the EUT

The first attempt to dust off the EUT project was the EP's July 1990 resolution on guidelines for a draft constitution for Europe.<sup>27</sup> Specifically recalling the work done by the first elected EP, this resolution referred to the TEU in the first sentence of its preamble. It noted the Parliament's

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<sup>26</sup> A. Spinelli, *La nuova strategia del Parlamento europeo per realizzare l'Unione europea*, speech given at the EP in Brussels on 4th February 1986, in *Una Strategia per gli Stati Uniti d'Europa*, S. Pistone (ed.), Bologna, Il Mulino, 1989, p. 253.

<sup>27</sup> European Parliament's *Resolution on the European Parliament's Guidelines for a*

intention to transform the Community into a genuine European Union on the basis of a draft constitution to be prepared by the EP, and stated explicitly that this text had to be based on the treaty proposal adopted by the Parliament on 14<sup>th</sup> February 1984. In this way, no one could be left in any doubt about the connection between the planned constitution and the EUT project. The chairman of the working group that wrote the 1990 resolution was the former French President Valéry Giscard d'Estaing, who in fact continued to press for a European constitution during his time as chairman of 2002-2003 European Convention.

In 1994, during the same parliamentary term, the EP, dissatisfied with the 1992 Maastricht Treaty, which had introduced amendments to the previous Treaties and established the EU (Treaty on the EU/TEU), adopted the Herman Report.<sup>28</sup> This corresponded, essentially, to the draft constitution mentioned in the 1990 resolution. The Herman Report (named after its rapporteur Fernand H.J. Herman of the Belgian Social Christian Party) claimed in its preamble that the TEU did not meet the requirements of a democracy, did not make the EU efficient, and did not contain a plan to draw up a constitution effectively addressing the institutional problems. It proposed, instead, to establish a European convention, composed of MEPs and members of the national parliaments, that would be entrusted with drawing up a draft constitution ahead of the 1996 IGC. Not surprisingly, the Herman Report included many of the provisions contained in the EUT, but on one particular issue it went further. Indeed, Art. 20 of the resolution, which dealt with voting in the Council, defined the qualified majority vote as the votes of two thirds of the member states representing two thirds of the population. Another feature of the 1994 draft constitution was its Title VIII, which listed the human rights that would be guaranteed by the Union. Like the EUT, both the 1990 and the 1994 resolutions stated that the entry into force of the constitution would not require its ratification by all of the member states.

### *The Maastricht Treaty and other Reform Treaties.*

The Maastricht Treaty (TEU), signed on 7<sup>th</sup> February 1992, represented a step forward, albeit a modest one in comparison with what was envisaged by the EUT. For instance, the Maastricht Treaty (Art. 1) es-

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*Draft Constitution for the European Union*, OJ C 231, 17.9.1990, p. 91.

<sup>28</sup> European Parliament's *Resolution on the Constitution of the European Union*, OJ C 61, 28.2.1994, p. 155.

established the EU but without giving it a legal personality, as was instead envisaged by Art. 6 of the EUT. It is obvious that the EUT was one of the sources of inspiration for the Maastricht Treaty. Nevertheless, it would be wrong to assume that every similarity between the EUT and the Maastricht Treaty reflects a direct influence of the former on the latter. Some important provisions of the TEU had indeed already been included in projects and reports on the EU other than the EUT. For example, the idea of establishing a European Union had appeared in numerous plans for reform dating back to the 1975 Tindemans Report; similarly, the road to follow in order to create the Economic and Monetary Union had been described more detail in the 1988 Delors Report than it was in the EUT. In the same way, the second pillar on Common Foreign and Security Policy (CFSP – TEU, Title 5) was essentially included under the third title of the EUT, which dealt with “International Relations of the Union” (Art.s 63-69), but the idea actually originated much earlier, in the 1970 Davignon Report.

Therefore the direct influence of the EUT on the Maastricht Treaty can be found in the ideas that were peculiar to the EUT. Indeed, the principle of subsidiarity, EU citizenship, the co-decision procedure and provisions on the institutional equilibrium were some of the distinctive features of the EUT that reappeared in the Maastricht Treaty. These ideas were subsequently taken up and developed in the Amsterdam, Nice and Lisbon Treaties.

The subsidiarity principle, derived from the principles governing the organisation of the Catholic Church, has always had an important place in federalism theories. This principle is defined in Art. 12 of the EUT: “The Union shall only act to carry out those tasks which may be undertaken more effectively in common than by the Member States acting separately, in particular those whose execution requires action by the Union because their dimension or effects extend beyond national frontiers.”<sup>29</sup>

This brief definition presupposes at least two levels of government, which may share competences in some fields of action, although priority is given to the member states. This is the working principle of a Swiss-type federation. The Maastricht Treaty, wording the concept in a very similar way, included the subsidiarity principle, thereby amending Art. 5 of the EEC Treaty: “(...) the Community shall take action, in ac-

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<sup>29</sup> *Draft Treaty Establishing the European Union (EUT)*, [www.spinellisfootsteps.info](http://www.spinellisfootsteps.info), 10.11.2012, art. 12.

cordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.”<sup>30</sup>

Although the subsidiarity principle gave priority to the member states, it was nevertheless expected that it would serve as a tool to increase the competences of the EU. The EUT, in Art. 10, envisaged two methods of action: (intergovernmental) cooperation and (supranational) common action. Article 11 stated that, if necessary, a matter subject to the method of cooperation could become the subject of common action, but not the reverse. Consequently, since its introduction with the Maastricht Treaty, the subsidiarity principle has worked in only one direction: to shift competences from the States to the EU.

As regards the issue of EU citizenship, contrary to what we have seen in relation to the subsidiarity principle, the 1992 TEU provided far more detail than the 1984 EUT had done. In Art. 3, the EUT defined a complementary citizenship that would be dependent upon citizenship of a member state and noted that EU citizens would participate in the political life of the Union. Similarly, the Maastricht Treaty (Art.s 17-22) provided an explanation of the rights arising from EU citizenship and strengthened the channels that allow the citizens to address the EU institutions directly. The definition of citizenship and the rights of EU citizens are aspects that the Maastricht Treaty covered in detail; this probably stemmed from a perceived need to compensate for the undemocratic character of the EU’s institutional framework as set out in the TEU.

Another original feature of the EUT that influenced the Maastricht Treaty is the co-decision procedure. Article 189b of the Maastricht Treaty dealt with the issue of the “procedure to apply to adopt an act”. The authors of the EUT had instead proposed an institutional equilibrium, based on a balance between the democratically elected EP and the Council of Ministers and designed in such a way that these would be, respectively, the lower and upper chambers of a bicameral legislative body. The co-decision legislative procedure, defined in Art. 38 of the EUT, was based on the idea that a draft law should be adopted by both bodies. To this end, the EP would examine and approve the law, after which the Council could adopt it by absolute majority, reject it by unanimity, or propose amendments to it. In the event of the necessary majorities not being reached in the Council, or the Council proposing

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<sup>30</sup> Treaty on European Union (Maastricht Treaty), OJ C 191, 29.7.1992, p. 1.

amendments, a conciliation procedure would be opened and the Conciliation Committee would have the facility to adopt a joint text within three months or reject the draft law. A simplified version of the co-decision procedure, termed “cooperation procedure”, was also adopted in the SEA; in this case, the last word on legislation remained in the hands of the Council. Like the entire SEA, this was just a transitory solution. As noted by Paolo Ponzano, the difference compared with the Maastricht version of the co-decision procedure lay in the fact that it gave the Council rather than the EP the first opportunity to read a draft act.<sup>31</sup> Despite this change of precedence, the co-decision procedure, as defined in the Maastricht Treaty, functions as the primary institutional balancing tool, favouring equality between the EP and the Council.

While the co-decision procedure was initially intended only as a secondary way of introducing legislation, the 1997 Amsterdam Treaty enlarged its field of application to nearly forty policy areas, and the 2000 Nice Treaty to more than eighty areas. Article 294 of the Lisbon Treaty<sup>32</sup> renamed the co-decision procedure the “ordinary legislative procedure”. The strengthening of the co-decision procedure in the institutional framework of the EU provides a clear indication of the growing role of the EP.

The co-decision procedure was not the only example of a provision meant to increase the powers of the EP in the EU. Other important provisions with the same purpose were present in the EUT, particularly related to the investiture and accountability of the Commission. In Arts 25 to 29, the EUT set rules about the appointment, the functions and the responsibility of the Commission. Under the EUT, the EP would have been given monitoring powers relating to the investiture of the Commission (Art. 25) and the faculty to adopt a motion of censure by a qualified majority (Art. 29). In addition, the Commission’s term of office would have been extended to five years so as to synchronise it with the legislative term of the European Parliament. These provisions, which were largely overlooked in the Maastricht Treaty, were subsequently progressively introduced by the Amsterdam, Nice and Lisbon Treaties. The amendment to TEC Art. 214 contained in the Amsterdam Treaty states that the assignment of the Commission shall be approved by the EP and Art. 201 sets the rules for the motion of censure. Article

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<sup>31</sup> P. Ponzano, *The ‘Spinelli’ Treaty of February 1984*, *The Federalist Debate*, n. 3 (November 2007), pp. 43-47.

<sup>32</sup> *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community*, OJ C 306, 17.12.2007, p. 1.

17 of the Lisbon Treaty goes a step further and specifies that the European Council *proposes* a nominee and the EP *elects* the candidate.

Parliamentary control of the executive is a cornerstone of any liberal democracy. Accordingly, if the Commission is to be seen as a government, the EP's powers of control over it assume fundamental importance. Making the Commission relatively more dependent on the EP was a conscious choice made not only to render the EU more democratic, but also to limit the powers of the Council in the institutional equilibrium. Juliet Lodge notes that "The relationship between legislative superiority and executive accountability is not without import" and "the EP's position vis-à-vis the Council [was] further enhanced."<sup>33</sup>

The purpose of the EUT provisions on EP/Commission relations, on the other hand, was to increase the democratic legitimacy of the Commission. This was particularly important to Spinelli, because he regarded the Commission as "a real nucleus of a European government."<sup>34</sup> Burgess recalls that: "The Commission, not the EP, which was central to his [i.e. – Spinelli's] conception of European Union. (...) By strengthening the Commission, the EP would also be strengthened. Hence by altering the Community's institutional balance in favour of the Commission and the EP, the two main pivots of supranationalism, the 'common elaboration' would be released to develop and determine itself."<sup>35</sup>

### *The Constitutional Treaty.*

One of the strategies proposed by Spinelli shortly before he died was to prepare a "minimal treaty" as a stepping stone towards the treaty establishing the EU. The idea was that, in this way, the member states would be forced to confront the need to make the further reforms required to tackle new problems. It was therefore a realistic strategy that since then, of course, has seen the member state governments, in the setting of IGCs, playing a central role in the process of revising the Treaties. Naturally, this method initially led to many important advances for the EU; however, concluding and ratifying the reform Treaties proved more difficult with each attempt. As the number of member states increased and the problems to solve at EU level became more complicated, the EU remained incapable of tackling them effec-

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<sup>33</sup> J. Lodge, *op. cit.*, pp. 390-391.

<sup>34</sup> M. Burgess, *op. cit.*, p. 145.

<sup>35</sup> M. Burgess, *op. cit.*, p. 145.

tively. Difficulties during the ratification of the Maastricht, Nice and Lisbon Treaties and the Amsterdam and Nice IGCs' weak responses to the challenges of enlargement exposed the limits of the intergovernmental approach to Treaty revision.

The second strategy proposed by Spinelli, even though it had already failed many times since the late 1940s, was to create a democratic constitution. His idea was to entrust the EP, once again, with the task of drafting the EU constitution, which basically meant repeating the work already done by the Committee on Institutional Affairs. A text produced by this method would certainly have been constitutional in nature and not a revision of existing Treaties, which would therefore have made it the more democratic strategy; however, as long as the unanimity rule for the ratification of the Constitution remained in place, its chances of success were limited. Nevertheless, this is what came to mind when the intergovernmental method proved unable to satisfy the need for reform. We have already mentioned the call for a European convention to be convened ahead of the 1996 IGC (i.e. before the Amsterdam Treaty), proposed in the 1994 Herman Report. While the European Convention was still waiting for its time to come, Europe nevertheless had its first convention experience – we refer to the meeting that, convened by the June 1999 Cologne summit, prepared the “Charter of Fundamental Rights of the European Union”.<sup>36</sup> Article 4 of the EUT had stated that within a period of five years “the Union shall adopt its own declaration on fundamental rights”, but had not listed the basic rights and freedoms concerned. The Charter of Fundamental Rights was declared in December 2000 at the Nice summit without being included in the Nice Treaty. It did not become binding until 2009, after the entry into force of the Lisbon Treaty, which referred to the Charter in its Art. 6.

Disappointed by the failure of Amsterdam and Nice Treaties to find efficient solutions to the challenges of enlargement, the heads of state or government, meeting in Laeken in 2001, convened a “Convention on the Future of Europe”, to be entrusted with the task of drawing up a “Treaty Establishing a Constitution for Europe”. This event represented a remarkable shift in the national governments' attitude, as it was the first time member states had chosen to use a method other than the IGC in order to reform the EU. The risky nature of the intergovernmental

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<sup>36</sup> *Charter of Fundamental Rights of the European Union*, OJ C 364/01, 18.12.2000, p. 1.

method had indeed already become clear through the first Danish referendum on the Maastricht Treaty and the first Irish referendum on the Nice Treaty early in 2001. In both these referendums the EU Treaties had been rejected, making it necessary to hold, in each case, a second referendum to obtain the “yes” vote needed to satisfy the unanimity requirement. Today, even though the method has changed considerably, the process for developing Treaties retains an intergovernmental character, albeit less pronounced than before.

The Convention was formed of 102 members (representatives of the member states, members of national parliaments, MEPs, Commission members and others) and it was chaired by the former French President Valéry Giscard d’Estaing. It completed its work in less than two years. Just like the method used, the final outcome of this attempt to reform the EU was essentially different from what had been seen with previous Treaties. The Constitutional Treaty was a constitution in essence but had the legal form of a treaty. The text, written in the style of a constitution, amounted to a readable summary of the founding Treaties. In this respect, it was similar to the 1984 EUT. While this was the most important similarity between the EUT and the Constitutional Treaty, it was not the only one. The influence of the EUT on the 2003 Constitution emerges in elements such as the definition of the legal personality of the EU, the use of the term “laws” to define the acts of the Union, and the transformation of the European Council into a formal institution.

Article 6 of the EUT states that the “Union shall have legal personality” and notes that it “shall enjoy the most extensive legal capacity accorded to legal persons under national legislation.” The Constitutional Treaty, in its Art. 6, contains the same provision, establishing, in a single sentence, the legal personality of the EU. Following the rejection of the Constitutional Treaty, the EU actually did not acquire legal personality until the entry into force of the Lisbon Treaty, which contained the same short sentence in its Art. 47. Since, under the Lisbon Treaty, the European Community merged with the EU, the EU enjoys all the legal capacity that was enjoyed by the EC.

Article 34 of the EUT provides a definition of “laws”, a term meant to refer to different legal acts of the EC. Similarly, the Constitutional Treaty (Art.s 32-38) defines the legislative acts of the EU as “European laws” and “European framework laws”. Article 288 of the Lisbon Treaty, on the other hand, lists the binding legal acts of the EU as regulations, directives and decisions without using the word “law”.

Articles 31 and 32 of the EUT deal with the composition and functions of the European Council meetings (summits of heads of state or government) without making any significant changes to existing practice. Articles 20-21 of the Constitutional Treaty and Art. 15 of the Lisbon Treaty touch on the same subject. Defining the European Council as an EU institution constituted an important advance for two reasons: first because European Council decisions taken subsequently constituted legal acts and not just political orientations, and second because it brought these decisions under the jurisdiction of the Court of Justice, just like any legal act.

Even though it had already been ratified by 16 member states, the Constitutional Treaty was rejected in the French and Dutch referendums held in 2005. From one perspective, this rejection can be interpreted as yet another illustration of the limits of democratic constitutionalism as a Union-building strategy, at least in the absence of changes to the unanimity rule for the adoption of the text (and the chances of the unanimity rule being overcome remain small due to the member states' understandable fear of being outvoted). From a different perspective, considering the significant public and political support mobilised between 2001 and 2005 for a European Constitution, this moment can be seen as a glorious moment and a noble defeat in a battle fought in the name of European constitutionalism.

Two years after the referendums of 2005, the member state governments convened another IGC with a view to concluding a new reform treaty. The Lisbon Treaty, which was signed in 2007 and entered into force in 2009, partially compensated for the failure of the Constitutional Treaty. As mentioned above, the 1984 EUT had some influence on the Lisbon Treaty, as can be seen in the provisions concerning the application of the co-decision procedure, the investiture of the Commission, the legal personality of the EU, and the institutionalisation of the European Council. Another similarity between the EUT and the Lisbon Treaty is that both made provision for postponing votes in the Council in situations in which a vital national interest of a member state was jeopardised. To allow the member states time to adapt to the new voting rules, Art. 23 of the EUT stipulated that this possibility should remain open for a transition period of ten years. Similarly, a document (Declaration no. 7) was annexed to the final act of the Lisbon IGC making provision for a transition period with regard to the voting rules, a mechanism known as the "Ioannina compromise".<sup>37</sup>

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<sup>37</sup> *Declaration of Article 9C, paragraph 4, of the Treaty on European Union and Ar-*

The most recent initiative undertaken to breathe new life into the constitutional ideas of the Spinelli Project is the work of the Spinelli Group, launched in 2010 by a group of MEPs with federalist aspirations.<sup>38</sup> The Spinelli Group currently enjoys the support of more than 100 MEPs, as well as many leading politicians and EU experts.

## Conclusion

The EUT is a tangible legacy of Altiero Spinelli's lifelong efforts to promote the building of a united and democratic Europe. This project was neither the first nor the only one of its kind, and should indeed be considered in the context of several concurrent projects. The distinctive feature of Spinelli's project, however, is the manner of its creation: the EUT remains the only project to have been developed by a directly elected Parliament, with the democratic participation of a group of individuals together representing the full spectrum of political views and through a process of genuine political deliberation. The adoption of the EUT by the EP on 14<sup>th</sup> February 1984 was a victory of parliamentary constitutionalism over intergovernmentalism. This does not make the EUT necessarily the best project in all respects, but it makes it the most democratically legitimate and the most broadly supported one.

The text of the EUT may be seen as a sort of recapitulation of all the ideas on reform that had emerged up until that point; therefore it was remarkably rich in content. Although the EUT was ignored by the member state governments, successive reform treaties and treaty proposals have contained many important provisions deriving from it. However, the process of reforming the EU did not prove easy. Only a few months prior to his death, Altiero Spinelli identified two possible new strategies for reforming the EU. The first was to draw up an EU treaty, subject to subsequent revision as necessary. The second was to attempt, once again, a democratic constitution-making process.

Now, nearly thirty years since the writing of the EUT, we can remark that, despite the various difficulties, both strategies were implemented and have helped to shape today's EU: the Maastricht, Amsterdam, Nice and Lisbon Treaties shaped its political system, while

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*title 205, paragraph 2, of the Treaty on the Functioning of the European Union*, OJ C 306, 17.12.2007, p. 250.

<sup>38</sup> <https://www.spinelligroup.eu/about-us>, 27.02.2014.

the EP's resolutions and the failed Constitutional Treaty, both products of a process of political deliberation that was a rich source of new ideas, clarified the roadmap for the reform process. It remains to be seen whether these strategies will contribute to future reforms as well.

# Ukraine Caught Between East and West

STEFANO SPOLTORE

The dramatic events in Ukraine that began to unfold at the end of 2013 raise some serious questions about the future geopolitical scenarios in Europe and in the world. The Ukrainian crisis is not just a regional crisis, given that one of the countries most deeply involved, Russia, is currently making a forceful return to the political arena, apparently determined to be, as in the recent past, a key player on the international stage. For the Europeans it is crucial, for their own survival, to understand the process that is under way.

## *A Summary of the Facts.*

The decision by the Ukrainian President Yanukovich not to sign the Association Agreement with the European Union in November 2013<sup>1</sup> sparked a series of protests. These, which began in the capital Kiev but progressively spread to other cities in Ukraine, degenerated into a civil war with implications and consequences that were inconceivable at the start of the crisis. The announcement of the decision to halt preparations to sign the agreement was a dramatic and unexpected turn of events that caught the EU totally unprepared and provided further confirmation of the cavalier and unorthodox behaviour of the ruling class currently in power in Ukraine. Furthermore, Ukraine's decision not to sign the Association Agreement coincided with its acceptance of an offer of substantial economic and financial aid from Russia, which, through Ukraine, was looking to strengthen its pro-

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<sup>1</sup> The third Eastern Partnership summit between the heads of state or government from the EU member states and those of the six Eastern Partnership countries was held on 28 and 29 November 2013 in Vilnius. In order to meet the conditions allowing it to sign the agreement, Ukraine had been requested to implement judicial reform and to release former Prime Minister Tymoshenko from jail.

posed customs union with former Soviet republics. Ukraine's failure to join the EU's Eastern Partnership triggered protests that, although initially peaceful, soon evolved into an open and violent protest against the ruling class, which was rightly accused of corruption, nepotism and inability to manage the public good. As the violence took hold, President Yanukovich was forced to flee to Russia. Ukraine was thus plunged into a severe crisis that the interim government, failing to rein in the protest, proved totally incapable of managing. Despite the appointment of an entirely new Cabinet of Ministers, the central square in Kiev remained occupied by the most extreme factions of the nationalist right wing, which forced the new government, as its first act on coming to power, to abolish Russian as an official language. Furthermore, the new Prosecutor General was appointed from the ranks of the Svoboda party whose ideologists include Bandera, the leader of the Nazi Party of Ukraine at the time of the German occupation during the Second World War. In the meantime, monuments to Lenin and to the Soviet soldiers who died during the war against the Nazi invaders were torn down in many cities in central and western Ukraine. Conversely, in eastern regions of the country committees were formed to defend former Soviet monuments and to show support for Russian policy.

In this context, the new government in Ukraine came in for increasingly harsh criticism from the Russian government, which accused it of being illegitimate and fascist and of failing to protect the Russian-speaking minority in the country: Russian speakers account for 20 per cent of the population (and for more than 80 per cent in eastern regions). The protests mounted in eastern Ukraine achieved their objective, namely withdrawal of the law against the use of Russian as an official language alongside Ukrainian. But the cost was a worsening of the climate of mutual mistrust that saw one part of the population accusing the other of fomenting visceral anti-Russian feeling, and the other replicating with accusations of anti-Western hatred. In setting, there began to emerge a strong and increasing current of Ukrainian nationalism that rejects both Russia and the European Union as models.

The question that must be asked, therefore, is whether the Ukrainian crisis stems solely from the limits of the ruling class that led, and still leads, that country, or whether it is, instead, rooted in deeper structural causes and whether the European Union played some part in triggering the tension and unrest.

*The Roots of the Crisis.*

Ukraine as an independent state came into being in 1991, following the collapse of the Soviet Union. This vast area has actually been the subject of bitter territorial disputes since ancient times, but prior to 1991, it had never existed as a single state. For centuries, the western and central parts of Ukraine were under the political and military control of foreign powers: the kingdom of Sweden and Poland-Lithuania, the Austro-Hungarian Empire, and the Ottoman Empire. Instead, the more eastern areas and the Crimean peninsula (often disputed) were historically under Russian control. This explains the two identities of modern Ukraine: the central and western provinces feel historically and culturally closer to Western Europe, while the eastern provinces have more affinity with Russia.

This dual personality has been strongly opposed since Czarist times, and this was particularly evident during the Soviet era. Indeed, the 1920s and 1930s saw the imposition of mass migration programmes in an attempt to Russianise the entire region; furthermore, in 1932 and 1933, to ensure compliance with excessively high agricultural production quotas, the Soviet government imposed the seizure of Ukraine's entire production of wheat, a move whose tragic outcome was the death from hunger of millions of Ukrainians. These events, still alive in the memories of local people, continue to be cited today by nationalists, and others, to counter pro-Russian sympathies.

It is important to remember that agricultural production is concentrated in the central and western regions of the country. The Ukraine is a major producer and exporter of wheat and a country rich in coal mines and iron.<sup>2</sup> But on gaining its independence, the new state immediately found itself plunged into a deep crisis that, far from encouraging growth, led to the collapse of its entire economic system. Over a period lasting more than two decades, the mining industry (concentrated in the East of the country) and the agri-food industry (in the western central regions) experienced a gradual decline that in some cases culminated in a halt in industrial production due to a lack of technological updating, or simply a lack of spare parts. After the collapse of the Soviet Union the managers of the largest companies, previously appointed by the Communist Party, found themselves the owners of entire companies and, as a consequence, millionaires.<sup>3</sup> These oligarchs vied

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<sup>2</sup> It is still today the ninth largest producer of wheat.

<sup>3</sup> This is true of former Ukrainian prime minister Yulia Tymoshenko, who was an of-

and indeed still vie for power. The struggle between the various aspiring leaders was at times extremely bitter, and as early as 2004<sup>4</sup> Independence Square in Kiev, which has recently become even more famous as Maidan Square, was occupied by protesters opposed to the election of Yanukovich as president, the same Yanukovich that we find mired in controversy in November 2013.

The Ukraine, where political struggle is perpetual, corruption rife<sup>5</sup> and the economy stagnant due to a lack of investments, was forced, despite its considerable mineral wealth, to depend heavily on imports from Russia, primarily of gas in order to guarantee not only heating for its cities but also the operation of its obsolete metalworking factories and its mines. At the same time, the country's central bank, up to the end of 2013, continued to draw on its reserves in an attempt to maintain a surreal parity with both the dollar and the euro; as a result, as these reserves dried up, the state was forced to delay the payment of pensions and to oblige many state employees to take leave without pay.<sup>6</sup>

The Ukraine's desperate need for money was, therefore, one factor underlying its failure to sign the Association Agreement. In November 2013, the Ukrainian central bank estimated that it needed 15 billion dollars in order to pay its debts due by March 2014. At this point a political crisis was only months away. To prevent matters from getting out of hand, the European Union was requested to provide the necessary financial aid in exchange for, on the part of Ukraine, signature of the Association Agreement. In early December, Europe responded, through EU High Representative for Foreign Affairs and Security Policy Catherine Ashton, with an offer of 1 billion USD. This figure was totally inadequate and was contemptuously dismissed by the government in Kiev as little more than a handout. In the meantime, the Russian government had stepped in with an offer of 15 billion USD and a hefty additional discount on the price of gas in force at the time.<sup>7</sup>

The break with the EU in favour of the agreement with Russia was,

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ficial in the state natural gas company.

<sup>4</sup> The events and protests of 2004 have gone down in history as the Orange Revolution, a reference to the colour of the protesters' flags.

<sup>5</sup> The Ukraine has been ranked 134<sup>th</sup> out of 178 countries for its level of corruption. Source: Transparency International 2013.

<sup>6</sup> Under the Ukrainian social security system rules, salaries are not paid during holidays.

<sup>7</sup> The price was reduced to \$265 per 1,000 cubic metres (as against the \$380 paid by European countries importing gas from Russia).

therefore, the event that triggered the overwhelming crisis that progressively spread from Kiev to the other western regions opposed to what was perceived as pro-Russian servility on the part of the government. On the other hand, in the eastern Donbass regions, and in Crimea, demonstrations were held in favour of the agreement with Russia. Furthermore, this area of the country also saw strikes by miners who, in addition to demanding better working conditions and wages, were also protesting against the interim government's request to impose a 10 per cent tax on workers' salaries to fund the reconstruction of buildings (both government and non-government ones) in Kiev that had been destroyed during the protests.<sup>8</sup>

The country thus found itself in the midst of a civil war that had taken everyone by surprise, primarily the European Union, which, at the start of 2014, still did not know what stance to adopt. This situation provided, yet again, confirmation of the powerlessness of today's divided Europe, which is incapable of developing a coherent political line or even of predicting — let alone preventing — explosions of tensions on its own borders.

#### *Ukraine, or Little Russia, and Big Russia.*

The crisis in Ukraine revived, in Russia, strong feelings of resentment towards the rest of the world, and saw President Putin immediately stepping in, in person, to manage the situation. But to really understand the importance of Ukraine in the context of Russia's power politics, and also to avoid falling into the trap of simplistically seeing Russia as eager only to restore the boundaries of the former USSR, a few points need to be clarified.

Ukraine is the region from which Russia itself developed. This is why it is also known as Little Russia, while Big Russia refers to the country governed by Moscow. It was from Kiev that, in around the 9<sup>th</sup> century, the Principality of Rus first expanded, before going on to conquer the regions on the Baltic Sea.<sup>9</sup> It was, indeed, the Principality of Rus that gave Russia its name. In short, the seed of the future Russia was planted in Ukraine. The legendary Cossacks of the Czar, still a special corps of the Russian army, originated in Ukraine in the eastern re-

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<sup>8</sup> The average wage of an office worker or a miner in Ukraine is about €300, a third of that paid to their Russian counterparts. The miners' strikes ran from April 22 to April 24.

<sup>9</sup> R. Bartlett, *Storia della Russia*, Milan, Rizzoli, 2007, pp. 17-35.

gion of Zaporizhya. Furthermore, Chersonesus, in Ukraine, is where the ancient Russians embraced Byzantine (Eastern) Christianity.<sup>10</sup>

Even though the roots of Russia's history lie in Ukraine, the reasons that prompted it to become a key player in the region were of a more political nature and linked to the national interest. There is no question that President Putin aspires to return Russia to its position as a leading player on the world stage, and he is known to have repeatedly declared that the collapse of the Soviet Union was a tragedy.<sup>11</sup> The Russian government has, on a number of occasions since the start of the Ukrainian crisis, harshly criticised the mass demonstrations and the violence that followed the flight of President Yanukovich, as well as the appointment of the interim President Yatsenyuk pending early elections. Its main argument was that a democratically elected president had, in fact, been deposed and that the ongoing violence in the country was driven by anti-Russian feeling that left the country's Russian minority vulnerable. Furthermore, the country found itself hostage to the demands of protesters that were effectively in the hands of neo-fascist movements (Svoboda and Right Sector).<sup>12</sup>

In this context, the Russian government was quick to back the idea of a referendum in those regions of Ukraine asking to return to the Russian Federation, such as Crimea that, in fact, is now an integral part of Russia despite the refusal of the entire Western world to accept the outcome of the referendum there. But in addition to these events within Ukraine there are several general policy issues that led Russia to adopt a firm line. So firm was this line that it prompted the Ukrainian government and the whole of the Western world to accuse Russia of aggression and of encouraging the split within the country. There thus began a long dispute with each side accusing the other of interference. The declaration by Russian Foreign Minister Sergej Lavrov ("an attack on Russian citizens is an attack on the Russian Federation") triggered further controversy and risked causing a widening of the conflict given that these words, if taken literally, would allow Russia to intervene mil-

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<sup>10</sup> V. Strada, *Europe*, Venice, Marsilio, 2014, p. 33.

<sup>11</sup> Speech at the plenary session of the Duma voting the recognition of the Crimea referendum.

<sup>12</sup> Among the many violent actions, it is worth recalling the incident in which some representatives of the Svoboda Party raided the state television headquarters in Kiev, beating up the director live on TV and calling for his resignation for having broadcasted Putin's speech in full; and the attack on two presidential candidates, who were considered guilty for having been born in the Donbass region and being native Russian speakers.

itarily anywhere along its current borders;<sup>13</sup> one need only think back to its intervention in Chechnya.

The point is that the Russian government regarded Ukraine's potential association with the European Union as a serious threat, and the EU — supported and encouraged by the USA in this sense — did nothing to refute this idea, despite the fact that Russia is a close (albeit awkward) neighbour and trading partner of Europe, especially in the energy field. The Partnership Agreement proposed to Ukraine included a series of articles in the economic field that would have precluded its membership of Russia's proposed customs union. Reinforcing this anti-Russian line, the text of the Agreement also included entire articles devoted to cooperation in the area of common foreign and security policy, to promote gradual convergence on foreign and security matters with the aim of Ukraine's ever deeper involvement in the European security area and to deepen cooperation between the Parties in the field of security and defence. Article 10 of the agreement envisaged the participation of Ukraine in the development of civilian and military crisis management operations. Cautiously, at the signing in April 2013, Ukraine opted not to initial this part of the agreement, but the fact remains that Europe's ambiguous stance over the evolution of relations between Russia and the Ukraine was undoubtedly one of the factors responsible for triggering the crisis.

### *The United States.*

The attitude adopted by the European Union is largely attributable to its lack of autonomy from the foreign policy of the United States. Ever since the collapse of the Soviet Union, the US policy towards the former Soviet bloc countries has been to favour any local policy and leader likely to hinder a rapprochement with the new Russia.<sup>14</sup> However, the USA has actually gone further than this, supporting the application of many of these countries to become full members of NATO, with the aim of reducing the area of influence of its old adversary and, at the same time, of establishing a defence axis able to protect the new democratic republics that, in the meantime, had become members of

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<sup>13</sup> Declaration made during an interview on the SophieCo. show on RT.TV, broadcast on April 24.

<sup>14</sup> A clear analysis of the possibility of Russia re-emerging as a world power can be found in the article *The Ukraine and the Global Equilibrium*, F. Rossolillo, *The Federalist*, n. 1, 2005, pp. 31-36.

the European Union.<sup>15</sup> The Russians, however, saw this policy as an attempt to surround them, not only politically but also militarily, and the United States did nothing to refute this interpretation. In December 2013, while Ukraine was seeing the first, sometimes violent, demonstrations against the government, some American Republican representatives, led by Senator McCain, were in Kiev in order to lend their support to the country's association with the European Union.<sup>16</sup> At the same time, the US Secretary of State John Kerry was arguing that Moldova, Georgia and also Ukraine needed to be granted entry to NATO.<sup>17</sup> From Moscow's point of view, all these initiatives amounted to a form of provocation, as well as direct interference by the USA in the Ukrainian crisis. Added to this, in April 2014, the Director of the CIA John Brennan was in Kiev, and at this point the situation became clear to Moscow: behind the demonstrators and the anti-Russian attitudes lay the manoeuvring of the US-backed Western world.<sup>18</sup> Thus, while Russia was accusing the Westerners of interference, the Western governments were, on the basis of solid evidence, accusing Russian militants of being behind the pro-Russian demonstrations in the Donbass region and in Crimea, where a referendum held in March had determined the region's detachment from Ukraine and its integration into the Russian Federation.

In this climate of mutual accusation, any attempts at mediation by the parties involved in the crisis were rejected, all immediately dismissed as acts of interference.

### *The European Union.*

While it is true that the Ukrainian crisis erupted because the Association Agreement was not signed, it is also true that the Ukraine was already heading for a crisis on account of its critical financial situation: it would, in any case, have been a matter of only months. Moreover, it is also true that while Ukraine's rulers revealed themselves to be incompetent and corrupt, the European Union, for its part, showed that it had absolutely no understanding of the internal situation of the country

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<sup>15</sup> In 1999, the Czech Republic, Poland and Hungary officially became members of NATO. In 2004, the whole Warsaw Pact bloc — Latvia, Estonia, Lithuania, Romania, Bulgaria, Slovakia and Slovenia — officially joined NATO, followed by Croatia and Albania in 2009.

<sup>16</sup> *Corriere della Sera*, Milan, December 15, 2013.

<sup>17</sup> *Corriere della Sera*, Milan, February 27, 2014.

<sup>18</sup> *Ansa*, April 14, 2014.

it was inviting to be its partner. In addition, over the last few months, the EU, victim of its own internal divisions, has played an absolutely marginal role. Seeking to reconcile different views and demands, it has found itself caught between its member states pressing for a policy of firm condemnation and interruption of all relations with Russia (in particular Poland, the Baltic Republics and Sweden, all of which in the distant past were conquerors of entire regions in Ukraine) and those more willing to attempt mediation.

As a result, the EU's role in the management of the crisis (which, with its short-sighted partnership policy, it had actually helped to bring about) was absolutely insignificant. On several occasions, it was even excluded from the direct negotiations between Russia and the USA: an example is the Paris summit between the US Secretary of State Kerry and the Russian Minister for Foreign Affairs Lavrov, which however failed to find a solution.<sup>19</sup>

Thus, during this crisis, the European Union has once again provided confirmation of its political weakness. On several occasions, in the course of various negotiations undertaken in an effort to find a way out of the crisis, President Putin, well aware that the German position was the only credible one in the whole of the EU, preferred to call Chancellor Merkel directly. It should also be pointed out that the European Union only partly supported the USA's appeals for economic sanctions against Russia. The reason for this is that the EU, together with its many other inefficiencies, does not have an internal energy policy and imports, on average, 30 per cent of its gas from Russia, through pipelines that cross Ukraine (the percentage is much higher in individual countries: 100 per cent in Bulgaria, 80 per cent in Romania and 70 per cent in the Baltic states); this is why the Bulgarian and Romanian governments were both vehemently opposed to financial sanctions against Russia. Gas exports are, for Russia, an extraordinary political instrument. The European Union could free itself from its dependence on Russian gas imports, but not before 2020 at the earliest, and even then only if it immediately starts adapting its storage facilities to the different quality of the American gas; but even if it did this, it would only be swapping its dependence on Russia for dependence on the USA. Gas prices, too, constitute a political instrument for Russia, which, immediately after the fall of President Yanukovich, it exploited to put pressure on the Kiev government, increasing the sale price per

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<sup>19</sup> *Il Sole 24Ore*, Milan, March 31, 2014.

1,000 cubic metres from 265 to 385.5 USD. In addition, the Russian Energy Ministry demanded that Ukraine pay arrears which, because of the country's financial crisis, had grown to over 1.7 billion USD, threatening to suspend gas deliveries if it failed to do so. In order to avoid energy shortages, the new Ukrainian government requested the help of the EU and of the IMF, both of which agreed to intervene, also in their own interests given that an interruption of gas exports towards Ukraine would have left a large part of the European Union without gas.<sup>20</sup> The Ukrainian government, moreover, also fears a 10 per cent increase in the cost of Russian gas transit to the EU.

It is worth noting that Russia's adoption of this price policy towards Ukraine, and indirectly towards the European Union (which coincided with the intensification of the Crimean crisis and the approach of the secession referendum), was supported by the BRICS countries:<sup>21</sup> this may be seen as another sign that something is changing in the international political landscape, and that power is no longer only in the hands of the United States. Unfortunately, Europe does not feature in this landscape and cannot be seen as a reliable political partner.

### *China.*

One of the BRICS countries, China, played a silent role in the Ukrainian crisis. Despite on several occasions reiterating its desire to retain a neutral stance on the crisis, by abstaining during the UN sessions it actually seemed to support Russia's positions. China's trade with Ukraine is worth 10 billion USD, but their relationship hinges, crucially, on the existence between them of agri-food supply agreements worth a total of 3 billion USD and of a land-lease agreement that puts 10,000 hectares of farmland in Ukraine at China's disposal for growing wheat. And here is the crux of the problem: Ukraine failed to deliver the quantity of grain it had agreed to supply. As a result of Ukraine's breach of their loan-for-grain agreement, the Chinese government brought a case against Ukraine before the London Court of International Arbitration. Furthermore, as the European Union and the USA were discussing possible sanctions against Russia, China was signing, with Russia, a 30-year gas import plan worth a total of 400 billion USD. In this way, Russia and China responded to the commercial

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<sup>20</sup> *Il Sole 24Ore*, Milan, April 2, 2014.

<sup>21</sup> *Washington Post*, April 1, 2014.

threats of the Western countries by sealing an economic agreement that, in the near future, will inevitably have repercussions in the political and military sphere.

### *The Ukrainian Dilemma.*

The complex situation in Ukraine, characterised by the development of now radical political divergences throughout country that led to military clashes in the eastern areas (partly fomented by Russian militants), and the annexation of Crimea and its integration into the Russian Federation make it hard to see any prospect of peace. The presidential elections held in May 2014, won by the oligarch Poroshenko,<sup>22</sup> have not been sufficient to lessen the political tensions: in fact, the armed clashes in the Donbass region have intensified. After all, the election of the billionaire President, known as the “king of chocolate”, highlighted once again all the contradictions that have characterised Ukraine in recent times. The newly elected President is the first oligarch to have supported the Euromaidan movement from the outset, even though in the past he funded the Party of Regions of President Yanukovich (now in Russia) and, before that, was a leading figure in the Orange Revolution triggered, in 2005, by Yulia Tymoshenko, who was his rival in the latest presidential elections.

Ukraine’s geopolitical fracture could be healed by adopting a federal institutional model and providing regional authorities with wide margins of autonomy. But this proposal, which moreover came from Russia, met with a negative response by the new Ukrainian government, as well considerable scepticism on the part of the USA and the European Union. The fundamental reason for Ukraine’s rejection of this proposal is that the parties involved in the events in Ukraine do not trust each other. The only way out might be a peace conference held in a neutral country, which, bringing the four players in the crisis — Ukraine, the European Union, Russia and the United States — around the same table, should act as guarantor during the peace talks. The difficult internal situation leaves Ukraine only two options: either to adopt a neutral stance towards both Russia and the European Union, by signing non-exclusive commercial and political agreements, or to see its territory further fragmented and meet the tragic fate of the former Yugoslavia.

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<sup>22</sup> *Internazionale*, May 26, 2014.

*The Decline of the West.*

In 1918, Oswald Spengler published a book which was an immediate success and, translated into different languages, was read worldwide: *The Decline of the West*. In Russia, where the Revolution was at its peak, the title of the book was translated as *The Decline of Europe*.<sup>23</sup> The Russian edition was the only one to use a different title, which emphasised that the crisis dealt with in the book was a crisis not so much one of the Western countries as of Europe and implied that Russia was not to be considered a part of Europe. Indeed, given its geographical location and the fact that has boundaries on the Pacific Ocean, the Baltic Sea, the Black Sea and the Mediterranean, Russia's role and politics cannot be shaped by the West alone. Viewed from Moscow, with one's back to the Kremlin, Western Europe certainly appears to be a weak, divided and powerless peninsula.

The tragedy and the internal division of Ukraine, destined to deepen as the civil war goes on, surely constitute, first of all, a defeat for the political élite of this young nation. But they also constitute yet another defeat for Europe which, without a government and without a common foreign and defence policy, is destined to remain in thrall to events that it does not understand and is not equipped to tackle or help to address. Europe looks destined to become an open-air museum, just like the Republic of Venice after the discovery of the Americas: initially marginalised, then economically and financially weakened, and ultimately reduced to a museum of beauty and decadence.

Maybe, in the Russia of 1918, there was already an understanding of the destiny that awaited Europe. So the point now is: should the European Union resign itself to its own gradual decline or instead show a surge of pride? Might we not rightly expect to see at least those countries that created the monetary union making a political quantum leap and fighting for the creation of a political power within the eurozone?

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<sup>23</sup> V. Strada, *op. cit.*, p. 13.

# Notes

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## **INTERNET AND POLITICS: A DOUBLE-EDGED SWORD**

The innovation introduced by the internet lies essentially in the fact that it has eliminated the factors of time and distance in the transmission of information. This is a change that has had a profound effect on the nature of the economy, society and lifestyles, and also on the kind of challenges facing governments globally.

A great deal has already been written on this topic, but there have actually been very few accurate analyses of the internet phenomenon. The tendency, often, is to try and evaluate its effects on the basis of simple impressions alone. One of the few scholars to have addressed this issue using scientific criteria is Eugene Morozov, and we recall, in particular, his book *The Net Delusion: the dark side of internet freedom*. According to the data he collected and the analysis that followed, the function of the internet, particularly in relation to participation in politics and in the evolution of democracy, tends to be interpreted from two distorted perspectives: Morozov calls these cyber-utopianism and cyber-centrism. Those who believe that the internet has the power to make politics gradually more transparent and egalitarian may be defined as cyber-utopians, while cyber-centrism is a more radical category embracing the interpretations of all those who think that the internet has profoundly changed the nature of political participation and, above all, of political organisations. Their view is based on the idea that the internet, eliminating the costs of spreading messages and sharing ideas, also eliminates the differences between large and small parties.

This illusion is further fuelled by ideological interpretations of the

end of the bipolar world order and the collapse of the Soviet Union. In the 1990s the idea took hold, almost unchallenged, that the course of history, from that moment on, would be uncomplicated, with the market and science acting as automatic driving forces of peace and of progressive global democratisation. In this period, the potential freedom offered by the internet to all citizens seemed to confirm such a trend. Subsequently, other factors — the difficulties that started to weaken the hegemonic role of the United States and the emergence of new powers in areas of the world that until a few years previously had been considered depressed — began to nourish the hope that the internet might become an instrument of liberation for peoples subjected to dictatorships that enjoyed, or had enjoyed, the protection of the Americans.

These utopian ideas are encapsulated perfectly in the iconic slogans (such as “drop tweets, not bombs”) that, spreading like wild fire, strengthened the hope that the internet could really prove to be a means of advancing democracy. The widely held interpretation of the role of social networks, Twitter in particular, in the 2009 uprising of the Green Movement in Iran provides an important example of this mystification. The popular view was that the protest had been made possible, and organised on a wide scale, thanks to a “spreading of the word” via social networks. In truth, however, the number of tweets registered in Iran totaled just 19,235, which means that the phenomenon involved, at most (assuming one post per person), only 0.027 per cent of the population. Therefore, the data to hand show that the “Twitter revolution” or “drop tweets, not bombs” revolution, was undoubtedly an exaggeration by journalists.<sup>1</sup> And its effects — as has since been seen — were not at all what they were trumpeted to be. Worldwide, tweets on the elections and protests in Iran numbered as many as three million — mostly celebrating the role of the internet in fuelling the uprising — and many politicians, including government members, were clearly under the illusion that Twitter and social networks would help democracy to triumph against dictatorship. The failure of the uprising shows that these were, unfortunately, false hopes. Despite this, they had been shared by a number of prominent figures, including Hillary Clinton — then US Secretary of State —, all of whom fell into the trap of accepting, as true, sensational news that spreads before it has been verified.

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<sup>1</sup> Eugene Morozov, *The Net Delusion: the dark side of internet freedom*, New York, Public Affairs, 2011, p. 15.

*Cyber-Utopianism, Authoritarian Regimes and Democracy.*

Morozov's book contains a large case series illustrating the strategies used by authoritarian regimes to control and monitor internet use, and thus to largely nullify the advantages of this apparently free, universal and egalitarian instrument that, with its blogs and social networks, many hope to see promoting radical changes in the direction of the principles of the liberal democratic state.

In China, for example, contrary to what is commonly believed, the use of social networks is extremely widespread: many Chinese use them and are actually at the forefront of this field, both in terms of the way it has shaped lifestyles and in terms of the production of these networks. The level of connection to the online universe is strong in China. The world's most popular social networks include RenRen (also linked to Chinese mobile phones and smartphones), which is used mainly by Chinese adolescents, and Kaixin which is more geared towards professionals. In Russia, too, the culture of online entertainment is very prevalent; 82 per cent of the population is registered with the country's most popular social networks (like *odnoklassniki*, *vKontakte* and *MoiMir*) and for the most part rejects Western equivalents such as Facebook, even though these are available.<sup>2</sup> These are, therefore, two examples of societies that are interconnected, internally, thanks to the internet, while nevertheless remaining in tune with the authoritarian regimes that govern them and without, at least for the moment, showing any sign of a willingness to break with the existing institutions. The same thing might be said of the BRICS and the MINT countries and all the other emerging countries. Therefore, in the absence of the classic elements that trigger economic and social crises, the internet *per se* does not appear to play any role in promoting democratisation. Even though we have moved from a situation, in the 1990s, in which the internet had several million users, to today's situation in which it has several billion, the dynamics regulating political processes do not appear to have changed.<sup>3</sup>

In authoritarian regimes or in oligarchies such as China, Russia, Venezuela and Vietnam, to mention the main ones, the internet is a tool also widely used by governments, which pour considerable resources, human and financial, into efforts to exploit its advantages to the full.

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<sup>2</sup> <http://www.demnet.eu/it/182-dei-russi-usano-social-network-scopriamo-quali/>.

<sup>3</sup> <http://www.parlamento.it/application/xmanager/projects/parlamento/file/repository/affariinternazionali/osservatorio/approfondimenti/PI0040App.pdf>.

The internet can be used as a monitoring tool, as a means of censorship, and as a propaganda instrument. In the first case, the web is used to detect and monitor anti-government movements. Whereas prior to the advent of the internet this task, carried out by the secret services, was very costly and required a considerable amount of time in order to get results, today a simple virus infiltrating the computer system of a single agitator is all it takes to control information, log onto his network, and gather information that can lead to arrests. Another possibility as regards the use of the internet for monitoring purposes is the recruitment of pro-government bloggers, or even simple citizens, who are then paid by the regime to identify individuals suspected of destabilising the state.

Censorship is already a more familiar issue, especially as regards the People's Republic of China. It is known that, in China, many websites are blocked and replaced by domestic versions. China, however, is not the only country to make use of this practice. A regime can intervene at different levels, from social networks to blogs, search engine toolbars to websites, and can also control and censor websites that are very popular in the West such as Facebook or Wikipedia, ensuring that the amount of information reaching the citizens is limited. At the same time, the government can study citizens' web searches, cataloguing them, by subject matter or user geographical area, so as better to exploit this information, again for monitoring and control purposes.

Finally, authoritarian regimes use the internet as a low-cost propaganda tool capable of reaching a vast audience. There exist, as mentioned, paid bloggers who peddle the government's line and, at the same time, monitor blog posts generally in order to pick up on possible anti-government stances. The internet is also a vehicle for spreading videos, even ones seeking to justify conflicts. This was seen in the case of the conflict between Russia and Georgia; the video in question, widely promoted by the Russian government at the time of the invasion, is still accessible. One prominent figure, among those who have frequently used the internet for propaganda purposes ("spinternet"), is Ugo Chavez who, for a long time, was the person most followed on social networks in Venezuela.

This instrumental use of social networks by governing regimes was also seen during the so-called Arab Spring. At that time, newspapers and television channels, in a propagandistic way, attributed the "success" of the Arab Spring to Facebook and the internet. In reality, however, even though there was, from the earliest stages of the uprising, a certain use of social networks for the communication of information

and the exchanging of files between citizens — especially on Facebook and Twitter —, an important role was also played by the pan-Arab television stations. These were actually more influential than the internet, which, conversely, was used to a limited extent. The figures relating to the use of Facebook, which is the most popular social network among citizens of North African countries, are the following: at the start of the protests, membership of Facebook, expressed as a percentage of the population, was quite low: 5.5 per cent in Egypt, 4.3 per cent in Libya, and 18.8 per cent in Tunisia.<sup>4</sup> However, these rates increased during the course of the uprising, by 29 per cent in Egypt and by 17 per cent in Tunisia, whereas in Libya there was a decline in Facebook use. As for Twitter, the total number of users in Egypt, Tunisia and Yemen is around 14,000: this must be considered in the context of a population that, in Egypt alone, amounts to around 80 million people.<sup>5</sup> It can thus be seen that the social network phenomenon, if we compare it to the number of insurgents on the streets, actually remained confined to an élite. The attempted revolution certainly did not stem from the internet; rather, the internet served as a sounding board contributing to the spread of information. This was particularly true following the public suicide of Mohamed Bouazizi, the Tunisian who set himself alight in the streets in protest against his country's authorities. The fact that the internet was closed down in several Egyptian cities, including the capital Cairo, is one of the reasons why the role of social networks was overestimated and overplayed; in reality the internet played a minor role; what is more, the circulation of information on the internet was exploited by the regime in Egypt in order to glean news directly from the bloggers who were helping to coordinate the protests. In this way it was better able to prevent and control the movements of the insurgents on the streets.

One aspect to consider, in order to understand why social networks continue to play an only marginal role in revolutions, is the nature of the bonds that are created between insurgents. The bond created through the shared experience of a demonstration on the streets or through a personal relationship forged within a political organisation is a strong one, especially when it is based on a mutual belief in the importance of the cause, or when it is underpinned by a sense of a considerable common risk. Social networks lack this feature, which is in-

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<sup>4</sup> *ibid.*

<sup>5</sup> *ibid.*

dispensable for cementing a revolutionary political force. Generally speaking, social networks are more likely to contain light-hearted language and content; they often encourage narcissistic tendencies (appearance and attractiveness are core elements in Facebook and they are systematically exploited), and they favour the development of rather shallow relationships. While it is certainly true that the immediate, bold and sensationalistic type of expression favoured by the internet is capable of stirring up waves of intense excitement and hope, as well as alarmism, it is also true that these are often transitory “mobilisation” phenomena. Subsequently, when analyses and indications turn out to be wrong, it remains incredibly difficult to ensure that the necessary denials and corrections are spread at the same rate and achieve the same level of penetration.

*Use of the Internet in Democracies.*

In democracies, too, the internet is used more for advertising, commercial and entertainment purposes than for political purposes. The internet and, above all, the social networks are a sort of huge container of information used by a myriad of subjects — often commercial entities — to bombard the web’s countless users with information or propaganda, seeking to influence them. Citizens thus find themselves faced with an immense amount of data and messages from which to choose, and it is inevitable that those that are more prominent in society are also more present and visible online.

When used as a vehicle of political propaganda, the web carries some specific “user warnings”: the highly simplified nature of online communication encourages messages that are appealing (at the expense of content), answers that are offensive rather than thoughtful, and the intervention of those who want to provoke rather than encourage reflection. The internet certainly does not foster rational and in-depth exchanges of ideas. What we see, therefore, is a behavioural regression which, manifesting itself as so-called flaming, encourages an immature tendency to posture, to be too ready with insults, and to interact, narcissistically, with computers.<sup>6</sup> These attitudes have become entrenched precisely because, in this form of communication, there is no face and no simultaneity, but instead an anonymity that removes all sense of responsibility, an uncontrolled desire to appear, and the possibility of communication that is entirely one-way.

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<sup>6</sup> <http://users.rider.edu/~suler/psycyber/holland.html>.

This explains why political campaigns mounted on the web are often linked to the pursuit of quite simple and direct objectives. They may be organised, for example, to promote petitions on issues that have a strong emotional impact, or serve as awareness-raising instruments generally. Instead, the battles undertaken to bring about major political-institutional change, or that accompany profound clashes of cultures, are not ones that can be won thanks to the internet or in which the internet can play a decisive role. The internet, in such battles, can play only a subordinate role; contrary to what the cyber-centrists like to think, the web cannot replace political parties or political organisations. Morozov, in this regard, recalls Kierkegaard's view of the café debates that became fashionable at the start of the twentieth century: he considered them a frivolous, empty form of communication, because they addressed all issues, and always in a superficial way. Being willing to talk about anything is the same as being willing to engage in prattle. The parallel with what we see on the internet is clearly evident. Even though cyber-centrism tries to equate online debate with real debate, they are not the same: in the former, there is no structure and everyone communicates in one direction, without being inclined to listen. Furthermore, online debate is punctuated by all kinds of messages, for advertising or purely recreational purposes, which divert attention away from the issue in hand. Finally, the political issues most likely to take hold online are those with a strong populist appeal and a high emotional impact.

The success, often cited, of the internet campaign mounted by Obama and the Democratic Party in the run-up to the 2012 presidential elections, confirms this assessment. The campaign was considered a great success for two reasons: because it contributed to Obama's victory and because of the funds that it raised. But the real strength of Obama's electoral campaign was actually the mobilisation of tens of thousands of volunteers who were prepared to go from house to house, knocking on the doors of citizens who were undecided, or not planning to vote, in order to speak to them individually and try to convince them. A study<sup>7</sup> has shown that the effectiveness of efforts to convince voters can vary greatly and depends on the method chosen: one citizen in 10 for door-to-door campaigning and around one in 100,000 for campaigning using flyers and e-mails; the effectiveness of telephone

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<sup>7</sup> Guillaume Liegey, Arthur Muller, Vincent Pons, *Frapper aux portes - ou comment mobiliser pour les prochaines élections*, Laboratoire des Idées du Parti Socialiste, October 2010.

campaigning was found to be controversial and the use of electoral posters did not seem to have any influence. Most (80 per cent) of the efforts of Obama's team were devoted to the first of these methods and it is specified in the campaign report<sup>8</sup> that the primary objective of the campaign was to mobilise people who had expressed their support on social networks, getting them to become active volunteers in the field.

From the funding point of view, the electoral campaign was undoubtedly a huge success, made possible by the web. The campaign was paid for entirely by voluntary online donations, each of up to a maximum of \$200, from ordinary citizens. This strategic choice allowed Obama to avoid relying on large loans from business tycoons who could have imposed conditions that might have influenced his future choices. The overall figures are impressive: 3 million donors, 13 million e-mails sent, 5 million "friends" and contacts on social networks (especially Facebook), 8.5 visits to the website MyBarackObama.com and 80 million official electoral video viewings. But the fact remains that this remarkable success was possible because there was not a single American citizen who had not already heard of Obama; indeed, Obama's popularity was absolutely crucial.

The case of the Five Star Movement (M5S) in Italy, too, highlights the fact that it is actually a person's popularity that increases his or her visibility on the web. Despite efforts to paint the success of the M5S — especially in the February 2013 elections — as a resounding victory for online communication, heralding an alternative, web-based, democratic model, the truth is that much of the consensus won by the M5S, as well as being linked to political factors typical of times of crisis, like the emergence of forms of populism, was due largely to the media and to traditional methods of communication. Through public rallies and extensive media coverage, on television and in newspapers, the success of the M5S was, in reality, strongly driven by the "old media", which frequently quoted and extensively diffused Beppe Grillo's blog posts. Instead, the weaknesses and limitations inherent in the idea that a political force can be built, without an organisational structure, on the basis of the "free" online participation of citizens very quickly became apparent and the whole enterprise turned out to be a dismal failure, in terms of internal democracy at least.

What the case of the M5S shows, however, is that cyber-utopianism

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<sup>8</sup> Barak Obama and Joe Biden, *2012 Obama Campaign Legacy Report*, <http://secure.assets.bostatic.com/frontend/projects/legacy/legacy-report.pdf>.

and cyber-centralism can become tainted with populism. And while the internet has yet to prove able to undermine the structure of traditional political organisations, what can be said of it is that it has the capacity to promote charismatic leaders and contribute to the spread of chaos in periods of crisis. Without the development of a strong critical and civic awareness, which is necessary in order to be able to adopt a selective approach to the content available on the internet, the internet may prove to a double-edged sword that further distances the citizens from democratic life, leaving them at the mercy of private entities that are not always easily identifiable and that have an interest in conveying highly destructive messages.

*Nelson Belloni*

## **THE ROLE OF THE STATE IN THE GLOBAL ECONOMY**

The state is the main promoter and regulator of the economic processes that occur within its boundaries. However, a country's continuous and balanced economic development is based mainly on its international trade in goods and services. This has become even truer since the relative stability of international politics, the opening up of national markets, the removal of customs barriers, and the digital and communications revolution created the conditions that allowed the so-called global economy to take shape.

Over the past two decades, during which some scholars have instead preferred to talk of the "semi-global economy" (referring to a world in which no nation is either totally isolated from or totally integrated with the other nations, and in which the influence of boundaries, borders and geographical and cultural distances continues to be far from insignificant<sup>1</sup>), the idea has emerged in liberalist thought that the state has no useful role to play and that there should be no state intervention in the economy. This has led to a rejection of the role of government industrial policy, and to the view that even mere regulation of

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<sup>1</sup> Claudio Dematté, Fabrizio Perretti, *Strategie di internazionalizzazione*, Milan, Egea, 2003.

the markets by political authorities is harmful. On the other hand, the economic and financial crisis that began in 2008 has exposed the contradictions inherent in this model, requiring states to step in once again to support the economy through incentives of different kinds and the promotion of trade policies designed to improve exports of goods and services and reduce imports. However, this has not been a uniform trend worldwide and it has become clear that whereas some countries have the means and the capacity to sustain their economic systems, others are unable to do so.

States use two types of interventions to try and protect their economies against the vagaries of international trade, while at the same time seeking to exploit its advantages. Import controls are the first type, and the best known instrument in this regard is the placing of customs barriers on imported products. This serves to discourage the sale of these products on the domestic market and thus to promote domestic production. The application of customs duties is often associated with the implementation of a system of import and export quotas, in other words the fixing of limits beyond which a given product can no longer be imported or exported. Other instruments designed to restrict foreign trade include checks and assessment tests to determine whether a given product meets the requirements to enter the domestic market: the purpose of such tests is sometimes to delay the entry into the market of products that are highly competitive compared with domestic ones. The second category of interventions, designed to support exports, includes the provision of export credits, various types of insurance, support for companies undertaking internationalisation processes, and the granting of subsidies to exporting companies.

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Since the start of the crisis in 2008, many developed countries have taken steps to protect their struggling manufacturing industries against foreign commercial penetration. There has also been a general realisation that the practice of moving production activities abroad (offshoring) entails the transfer of a significant portion of knowledge that, once yielded, eventually accumulates in the places to which these manufacturing processes have been relocated. This is the mechanism that has allowed the new emerging economies to develop their manufacturing industries and, at the same time, has left many developed countries, due to this relinquishing of proprietary knowledge, less able to pursue and develop their technological objectives. It is recognition of this strategic error that lies behind the emergence of a new industrial poli-

cy trend, namely to tie the development of the manufacturing sector to specific geographical territories in accordance with the national interest. Generally speaking, in the larger developed countries industrial policy is once again being used as a normal instrument of economic governance, on an equal footing with both fiscal and monetary policy.<sup>2</sup>

Today, however, contrary to what was seen with the cyclical crises of the past, the developing countries, too, are players in the field and they are proving to be less open to foreign trade than in the past, a sign that they are conscious of their new, higher position in the ranking of economic and trade powers. The European Commission's *Trade and Investment Barriers Reports* to the European Council make interesting reading in this regard. These reports draw attention (at political level) to the shared commitment (on the part of the EU and the member states) that is necessary in order to overcome a series of obstacles that are preventing European countries from exporting to, or investing in, the markets of third countries. These reports which, in accordance with an undertaking contained in the Europe 2020 strategy, have been issued annually since the first one in 2011, focus on 21 identified obstacles that demand an urgent and concerted action by the Commission and the member states and they examine, in particular, the position of strategic partners such as China, India, Japan, Brazil, Argentina, Russia and the United States.

In the United States, for example — the US is Europe's most important strategic partner, receiving exports of goods and services worth 242.2 billion euros in 2010 —, numerous "Buy American" clauses were included in the country's post-2008 stimulus package. Historically, such clauses were first introduced in the field of federal public procurement of services in the building sector in the wake of the 1929 economic collapse, i.e. with the "Buy American Act", adopted in 1933, whose aim was to promote domestic manufacturing and try and exclude foreign goods and suppliers from tenders issued by public bodies. Although provisions of this kind were partly withdrawn in 1996, in the wake of the United States' entry into the WTO, the spirit of this law is maintained in numerous legal acts that affect tenders issued by public bodies and organisations that have nothing at all to do with the building sector. Most such provisions are also applicable to activities funded from the United States' national budget. For example, it is compulsory to use US air carriers for flights funded from the federal bud-

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<sup>2</sup> Centro Studi di Confindustria, *In Italia la manifattura si restringe. I Paesi avanzati puntano sul territorio*, Scenari industriali, n. 6, June 2014.

get, which means that all officials or Members of Congress on mission, and even students receiving public funding, are required to use US-owned air carriers. These protectionist measures are costly for the American taxpayer and they introduce inefficiency and unfair competition in many economic sectors.<sup>3</sup> Moreover, in the wake of the 2008 crisis, they were reinforced in the field of infrastructures by the introduction of two “Buy American” provisions relating to the American Economic Recovery and Reinvestment Act (ARRA). These provisions specify that funds appropriated by ARRA may be used 1) for projects for the construction, alteration, maintenance or repair of public buildings, providing all the iron, steel and manufactured goods are US produced; and 2) for the procurement by the Department of Homeland Security of a detailed list of textile products (clothing, tents, cotton and natural fibers, etc.), providing the item in question is grown and processed in the United States.<sup>4</sup>

Since the start of the economic crisis, protectionist measures have also been adopted by the main economies of Latin America, namely Brazil and Argentina. These have been introduced in the context of strategic industrial plans designed to boost national production by replacing imports and raising customs barriers. Argentina has a policy of re-industrialisation and import substitution that discriminates against imports. Foreign companies are further penalised by restrictions on transfer of foreign currency, dividends and royalties, while importers are obliged to comply with rules requiring them to balance their imports with exports<sup>5</sup> (for example, a company is allowed to import automotive parts providing this can be offset by the exportation of any product produced in Argentina, such as wine). In recent years, the Argentinian government has worked actively to get certain sectors and industries to increase the domestic content of their production processes. As a result, numerous sectors and industries are now subject to domestic content requirements, including in particular the mining sector, the automotive industry, the footwear industry, farming, machinery, building materials, medicines, chemicals and textiles. This government policy is also strongly felt in the service sector (banking, insurance and

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<sup>3</sup> European parliamentary questions of 29 January 2004, E-3601/2003, Answer given by Mr Lamy on behalf of the Commission. <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2003-3601&language=EN>.

<sup>4</sup> The European Commission’s *Trade and Investment Barriers Report 2012* to the European Council, p. 7.

<sup>5</sup> *ibid.*, p. 13.

media). Finally, it should be underlined that in April 2012, the Argentinian government decided to expropriate 51 per cent of the shares in the oil company YPF, all of which were held by the Spanish company Repsol, in order to pursue its goal of energy self-sufficiency.

In Brazil, on the other hand, access to public contracts has been made more difficult in the field of information and communication technology, as well as in the health and high-tech equipment sectors. Furthermore, Brazil has also implemented a programme supporting local production of automotive components (the *Inovar-Auto* programme for the period 2013-2017) under which tax relief is granted only to manufacturers who invest in R&D and to those who undertake to execute an increasing number of manufacturing steps in Brazil. These fiscal practices are accompanied by the application of national regulations and specific procedures for certifying vehicle parts, despite the fact that Brazil is party to a multilateral agreement on the mutual recognition of national motor vehicle approvals (UNECE agreement of 1958). Finally, both in 2012 and in 2013 import duties were raised on 100 tariff lines, thereby establishing specific exceptions to the Mercosur Common Tariff.

Chinese industry, too, is feeling the effects of the global crisis. For the first time in seven years its exports have fallen, by 2.2 per cent, while its imports have plunged by 21.3 per cent, the worst performance of the past decade. The sectors hardest hit by this trade slowdown are the very ones on which China has built its fortune: light industry, industrial machinery and electronics, which together account for a third of the country's exports. The increases in the cost of labour per employee (which in 2003 averaged 1,740 dollars a year, but in 2009 topped the 4,000 dollar mark) and in the cost of transport (customs duties on containers from China have increased fivefold) have led American and European companies to find new areas in which to outsource production. For this reason, China is raising higher and higher trade barriers to shore up its domestic economy against foreign commercial penetration: this is in line with China's national industrial strategy, which is aimed at achieving autonomy and primacy in all strategic economic sectors (especially the high-tech ones).<sup>6</sup>

A clear example of this orientation was China's adoption, in 2011, of a mechanism allowing it to control mergers and acquisitions in-

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<sup>6</sup> Daniele Cellamare, Nima Baheli, *La penetrazione cinese in Africa*, Rivista Militare, 2013, p. 15. [http://www.difesa.it/SMD\\_/CASD/IM/IASD/65sessioneordinaria/Documents/La\\_penetrazione\\_cinese\\_in\\_Africa.pdf](http://www.difesa.it/SMD_/CASD/IM/IASD/65sessioneordinaria/Documents/La_penetrazione_cinese_in_Africa.pdf).

volving foreign investors; this mechanism gives it the capacity to block foreign acquisitions for reasons of national security. The problem, however, is not so much the adoption of this mechanism *per se* — mechanisms of this kind also exist in some EU member states — but rather the breadth of its application (both in terms of sectors, and the definition of national security), which goes well beyond the agreed OECD principles. Furthermore, China, like Brazil, Argentina and India, tends to apply domestic content requirements in the sector of industrial production, but without rendering them public in national or local legislation, and making them far more sophisticated and less visible than in the past. In recent years, public procurement has also become a problem area. In China this sector is essentially regulated by two laws: the Government Procurement Law (covering contracts with an estimated market value of 183 billion dollars) and the Tendering and Bidding Law (estimated market value: 1135 billion dollars). In some cases, local authorities have stipulated domestic content requirements as high as 70 per cent. In practice, the “domestic products” requirements in tender documentation and the lack of clear guidance on what constitutes such products have prevented foreign-owned companies established in China from having equal access to public contracts.

Finally, in a world in which fossil energy resources are running out, it is becoming crucial to possess both the technology for renewable energy, and the necessary raw materials. These include rare metals (a group of 17 chemical elements better known as rare earth metals or REMs), which are indispensable in modern industry, the energy sectors, the formulation of new materials, energy saving, environmental protection, and the aeronautical and space travel industries, as well as for furnishing information and data in electronic format. China, with its share of 97 per cent, is currently the world’s largest producer of REMs. Bayan Obo, situated in the highlands of Mongolia and controlled by the Chinese army, is the world’s largest rare earth mine. The Americans and the Europeans, on the other hand, have opted not to produce these types of metals because the mines are highly labour intensive and the extraction process has been found to be environmentally polluting. Indeed, the USA, the EU and Japan depend entirely on Chinese imports.

Having become the world’s leading REM producer, the People’s Republic of China declared this a strategic field, thereby restricting the entry of foreign companies into the sector. And to make sure domestic demand can be met, the Chinese government has established a maxi-

mum annual quota for the exportation of rare earths and, in 2011, sharply increased the level of taxation on them.

According to data collected in 2012 by the European Commission, the EU depends entirely on China for 16 of the 17 REMs. This means that Beijing can also control export prices in this sector, which are usually at least 100% higher than the domestic prices paid by Chinese companies. Indeed, in the past decade, the prices in this field have soared, recording increases ranging from 500 per cent to 1,000 per cent. This phenomenon has led many European businesses to choose to stop producing certain articles, or to relocate to China so as to have easier access to the necessary raw materials and benefit from lower production costs (the American company Apple is a case in point). The USA, India, Australia, EU and Japan have all taken steps to break China's monopoly of this production sector, looking for new mines (Afghanistan, Malaysia, Australia) and promoting recycling. China, on the other hand, anticipating a situation of increasing demand and decreasing supply, and wanting to prepare strategic reserves of these minerals, is stepping up its controls and taking over small companies.<sup>7</sup>

The European Commission, in its *Trade and Investment Barriers Report 2012*, claimed that the measures identified as obstacles to European foreign trade were introduced in 2008-2009 as a result of the need to counteract the negative effect, on global demand, of the financial and economic crisis. Instead, the recent wave of restrictive measures, especially in the emerging economies, has to be interpreted differently. These measures are part of long-term national industrial plans that are "aimed at structurally changing the production pattern of national economies".<sup>8</sup>

In March 2011, China adopted its 12<sup>th</sup> Five Year Plan in which it attaches priority importance to the provision of public support to certain "strategic" sectors (clean energy, electrical vehicles, ICT and broadband, pharmaceuticals industries), also "through steering investment (often in the form of mandatory requirements for technology transfer) and financing".<sup>9</sup> India has introduced a new National Manufacturing Policy through which it aims to reshape the country's "economic and employment landscape" by increasing the manufacturing industry's share of the

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<sup>7</sup> Daniele Cellamare, Nima Baheli, *op. cit.*, pp. 24-27.

<sup>8</sup> European Commission, *Trade and Investment Barriers Report 2013 to the European Council*, p. 13.

<sup>9</sup> *ibid.*, p. 14.

GDP from 16 per cent to 25 per cent by 2022 and focusing on indigenous production. National industrialisation plans have also been adopted in Brazil (*Plano Brasil Maior*), Argentina (*Plano Estratégico Industrial 2020*), and Russia (limited to the automotive sector).<sup>10</sup>

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The 2008-2013 economic and financial crisis has reduced both the capacity of the banking system to provide credit to businesses (especially for long-term investments) and, above all, domestic demand: businesses are actually hit harder by lack of customers and clients than by lack of credit. This is why all countries combine their industrial plans with aggressive foreign trade policies: in times of crisis, it becomes essential to conquer and consolidate new markets in order to drive economic recovery through exports. Industrialised and emerging countries are starting to engage in a (for the moment silent) competition, fielding institutional players that had remained quiescent in the pre-crisis period.

These institutions are known as export credit agencies (ECAs) and while they assume different forms in different countries (government agencies, publicly or privately owned insurance companies), they all exist to fulfil the same specific purpose: to support and protect national exports by issuing guarantees — covered by the state budget — where private institutions are unable to do so (often for large infrastructure investments in depressed parts of the world, or for supplies of aircraft, ships and military equipment).

The first such agency was founded in the UK (ECGD, Export Credit Guarantee Department) after the First World War, to support the re-conversion of the war economy and respond to the collapse in domestic demand: the first area of public intervention was that of the provision of export credit insurance, i.e. guarantees covered by the state budget for those exporting on credit. All the industrialised economies soon followed the British example, equipping themselves with public agencies or insurance companies (COFACE in France, Euler-Hermes in Germany, Export-Import USA Bank in the United States, Atradius Dutch Company in the Netherlands, SACE in Italy, and so on) as a means of stimulating foreign demand through the granting of credit or simply the provision of private credit insurance backed by state budget

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<sup>10</sup> European Commission, *Trade and Investment Barriers Report 2013 to the European Council*, p. 15.

guarantees. It must be clear, from the outset, that this is a service that states provide in the absence of private operators able to fulfil similar functions. Historically, ECAs played a decisive role only in the wake of the Second World War, the period of the Bretton Woods agreements and the general global economic recovery, supporting large companies in their international expansion processes. The economic growth of the 1960s, however, concealed the danger that ECAs might be used as means of indirectly subsidising domestic enterprises with low-cost loans and insurance. Eventually, numerous multilateral conferences led some OECD member countries to sign several agreements to restrict or regulate the action of ECAs.

Within the European Economic Community, it was quickly realised that the actions of ECAs conflicted with the rules on state aid in intra-community trade and with the EC's common external trade policy. Nevertheless, the process of regulating the sector proved long and arduous, due to the governments' unwillingness to relinquish control, and limit the scope, of a valuable instrument of foreign trade policy. In the early 1990s, satisfactory results in intra-Community trade had been achieved only in the short-term credit market (i.e. that of loans with terms of under two years), with the states prohibited from financially supporting ECAs, thereby leaving the credit insurance market to private operators. The states nevertheless retained the faculty to intervene in their own markets in the event of a lack of private operators. Instead, in external trade and the provision of medium- to long-term credit (especially for large infrastructure projects), the EU member states continued to enjoy almost total autonomy in managing their ECAs. This latter situation reflects the lack of any European institutional power in matters of foreign policy, which, were it present, would be the natural basis for a common external trade policy equipped with its own instruments.

In the 1990s and 2000s the world economy underwent a period of tremendous growth. Different countries began aspiring to become regional, if not global, economic powers. But the 2008 crisis brought this growth to an abrupt halt (especially in the advanced countries) and the first manifestation of the crisis was the insufficiency of the credit supplied by banks for trade and investment.

According to a 2010 report by the European Parliament's Committee on International Trade "ECAs collectively account for the world's largest source of official financing for private-sector projects. ECAs' underwriting of large industrial and infrastructure projects in develop-

ing countries topples several times the combined annual funding of all Multilateral Development Banks. Regarding short term financing (below two years; mainly the financing of trade operations), ECAs in 2007 supported about 10 per cent of world trade, representing about 1.4 trillion USD in transactions and investments.”<sup>11</sup> However, whereas export support programmes were once the preserve of OECD countries (United States, EU, Japan, South Korea and Australia), the economic crisis triggered a rapid growth of new international players and new programmes supporting the internationalisation of businesses, which soon outweighed the OECD countries’ ECAs, both in number and influence.

An alternative sphere of action for the OECD countries is represented by all these countries’ programmes for export support funding and foreign direct investments (FDIs) that are not regulated within the OECD itself. The globalisation of the world economy has led to a radical change in the meaning of the term “exportation”. In the past, the production of goods was concentrated in a geographical sense and vertically integrated within companies. The division of labour took place within the company or within its single facilities. Instead, in the new paradigm, manufacturing processes are increasingly broken down into separate steps, which are carried out by different companies in different countries. For this reason, logistics strategy and planning are becoming increasingly important: this is shown by the increasing evolution of global value chains (GVCs). In this setting, FDIs acquire considerable importance as a tool for the acquisition of foreign companies in accordance with the value chain strategy.

The activities of EDC (Canadian), KfW IPEX (German), and NEXI and JBIC (both Japanese) are part of the alternative sphere of action mentioned above. These organisations provide foreign investment support within their respective economies by acting as global market players, i.e. by providing their own companies abroad with support and assistance in foreign markets. Activities of this kind amounted to a value of approximately 110 billion US dollars in 2012. The Canadian government, for example, introduced a new trade creation programme; in other words, the Canadian ECA, named Export Development Canada (EDC), was given the powers necessary to develop three areas consid-

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<sup>11</sup> *Working document on Application of certain guidelines in the field of officially supported export credits*. Committee on International Trade of the European Parliament. Rapporteur: Yannick Jadot, 24 June 2010.

ered strategic for domestic companies: the aviation industry, clean technology and infrastructures. “In the aviation industry, EDC will provide support for the new Bombardier C-Series aircraft. In the clean technology field, it will be required to identify international players, especially in developing countries, that need clean technologies. Finally, as regards infrastructures, EDC will focus on the benefits offered by the plan for infrastructure development in India.”<sup>12</sup>

The United States on the other hand, through its ECA (EX-IM USA), supports its exporting companies by opening lines of credit that have been denied by the banks (thus stepping outside the field of simple guarantees and insurance): in 2011-2012 it provided loans worth 30 billion dollars through direct lending activities.

A second alternative sphere of action, in this case for countries outside the OECD (Russia, China, India and Brazil), is that of the ECAs of these emerging countries. In 2012, these new agencies provided financing and export credit insurance worth an estimated 70 billion US dollars.

Together, the activities of these two alternative spheres far exceed the activities of the regulated ECAs operating within the OECD countries (around 120 billion US dollars), which include the provision of export credit insurance.<sup>13</sup>

The most alarming data, however, come from China. According to the European Commission, China, despite having joined the WTO, has refused to sign the OECD agreements on export credits, even though the WTO agreements require its members to comply with the provisions of the OECD. During the 2008-2013 crisis, the Chinese government, due to the slump in its exports, made extensive use of “export credits not in conformity with the OECD/WTO disciplines to boost its national champions’ exports in capital-intensive, often high-tech sectors”. Furthermore, many industries in China “are subsidised in a non-transparent way, including through the activities of state-owned enterprises (SOEs) and banks, as well as through the provision of subsidised land, materials and energy.”<sup>14</sup>

One of the economic sectors most heavily subsidised by the Chi-

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<sup>12</sup> Various authors, *Il paradigma della nuova internazionalizzazione in Italia. Il ruolo di SACE*, 2013, SACE working paper n. 16 p. 28.

<sup>13</sup> Data and considerations drawn from Export-Import Bank of the United States, *Report to the U.S. Congress on Export Credit Competition and the Export-Import Bank of the United States. June 2013*, Washington D.C., pp. 139 onwards.

<sup>14</sup> European Commission, *Trade and Investment Barriers Report 2012 to the European Council*, p. 12.

nese government is the steel industry. Chinese steel production tripled between 2000 and 2005. Data updated in 2009 showed that China produced nearly 50 per cent of the world's steel; but the latest 2013 estimate showed that Chinese production amounted to over seven times the steel produced in the United States. The lack of transparency makes it difficult to arrive at a precise estimate, in quantity terms, of the Chinese regime's subsidy of the steel sector. However, a study conducted by Usha Haley and George Haley and published in the *Harvard Business Review* in 2013 revealed that since its entry into the WTO, China has annually subsidised 20 per cent of its entire production capacity. According to these authors, between 2000 and 2007 the Chinese regime provided 20 billion euros in energy subsidies to its steel industry. Because it is subsidised, "Chinese steel is sold for 25 percent less than US and European steel".<sup>15</sup>

China also attaches considerable importance to the destination, in terms of geographical areas, of its credit and financing. Africa certainly has a preferential role in China's external industrial and trade policies.

The China Exim (Export Import) Bank provided Africa with 5 billion dollars in loans from 2007 to 2009 alone, whilst loans from Exim (the Chinese ECA) totalled 20 billion dollars. For its part, the China Development Bank announced, in September 2010, that it had already earmarked 5.6 billion dollars to fund projects in over thirty African states, while its loans, in total, probably exceed the 10 billion dollar mark.

Beijing's growing attention to Africa is part of its market penetration plan, whose aim is both to guarantee China's access to new markets and to acquire control of Africa's considerable mineral and agricultural resources. The Chinese plan can be summed up as aid for trade: "aiding" the infrastructural development of Africa while securing "trade" for Chinese products. Chinese export credits are channelled into the construction of infrastructures in African countries that are emerging from wars and periods of endemic violence; the other side of the coin is that these infrastructures (roads, bridges, railways, government buildings, etc.) are built largely (70 per cent) by Chinese construction firms and Chinese workers. To secure the repayment of these debts, China often asks these countries to sign off-take agreements.

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<sup>15</sup> Data cited by Heide B. Malhotra, *Commercio mondiale, Cina vuole imporre le sue regole*, EpochTimes Italia, <http://epochtimes.it/news/commercio-mondiale-la-cina-vuole-imporre-le-sue-regole>—125214.

This is a technique commonly referred to as the “Angola model”,<sup>16</sup> countries signing off-take agreements agree to repay the loan they have received through the supply of primary goods that they produce, such as oil. In Angola, the China Exim Bank undertook to provide around 14.5 billion dollars in funding (to be repaid in oil) for the country’s post-war reconstruction. The programme included around a hundred projects in the fields of energy, water, health, education, telecommunications, fisheries and public works.

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The EU, in the present crisis situation, cannot act in the same way as the United States and China because it has neither the structure nor the powers to implement external trade policies of this kind. In fact, the EU’s confederal structure creates two problems for its member states. First of all, there is the technical impossibility of setting up a European system of ECAs on account of the direct relationship that exists between ECAs and state budgets. Indeed, the value of the activities carried out by ECAs (the provision of loans, insurance and guarantees) increases proportionally to the size and quality of the state budgets that back them. Therefore, if a European ECA were to be established now it would have to be created either using the meagre EU budget (entirely insufficient to cope with this task), or by pooling the state budgets of the member states belonging to a network of reinsurance treaties, which would reduce its operational effectiveness. Second, the political division of the European countries has exposed them to the negative effects of the sovereign debt crisis — only temporarily overcome — and forced the peripheral eurozone countries to endure soaring interest rates on their public debts, a situation that has further aggravated their debt crisis. Furthermore, the sovereign debt crisis in the peripheral countries has spilled over into the banking system and therefore had a considerable impact on the cost of credit: all this has progressively undermined the capacity of the states hit by this type of crisis both to support exports with public resources, and to provide export guarantees covered by their own budgets (due to falling sovereign ratings). The changed economic scenario has created large differences in credit availability as it has reintroduced elements of competitive disadvantage between the European countries and within the OECD area. Countries like Italy and Spain have seen their export shares decreas-

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<sup>16</sup> Daniele Cellamare, Nima Baheli, *op. cit.*, p. 118.

ing, to the benefit of those of countries such as Germany and the Nordic countries which are favoured by their better financial situation. In this context, the European institutions have found themselves to be powerless, given that neither the rules on state aid, nor those on the common trade policy, as formulated in the Lisbon Treaty, are sufficient to correct this situation.

In conclusion, it would be desirable, in Europe, to see the immediate establishment of a European ECA in order to overcome the problems set out above: both to ensure that exporting companies have equal access to foreign markets, and to give Europe an institutional player with the same powers of intervention as those of the USA and China. But to achieve these objectives it is necessary to resolve the political problem that lies upstream, namely the creation of a eurozone federal budget funded with own resources, politically controlled by federal political institutions, and able, replacing the role of the member states' national budgets, to provide export credit guarantees.

*Davide Negri*

## Discussions

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### **A “EUROPEAN SOLIDARITY MECHANISM” FOR THE EUROPEAN CITIZENS**

*A primary objective of the new European Parliament and the new Commission must be to introduce, within their term of office, the second of the unions envisaged in the Commission’s Blueprint, namely the fiscal union. This will be a decisive transition for ushering in political and economic union, and thus for the establishment of Europe’s first federal core. Juncker has embraced this programme and the October European Council could represent an opportunity to take the first step forward. With the present document, the federalists aim to introduce into the debate a proposal for initiating the creation of a European fiscal pillar.*

1. Today, we still cannot talk of a *European* economy in the same way as we can talk of the *American* economy. The European *market* and *currency*, by themselves, do not create a *European economy*, even though the former played a key role in the negative integration phase and the latter has been important in consolidating the eurozone internal market. Europe still has 28 national economies and it was only with the birth of the euro that it started to be possible to talk of the creation of European instruments of governance for the eurozone. In this regard, the eurozone, driven by the economic and financial crisis, has taken some important steps forward, strengthening itself through the establishment, for the first time, of solidarity mechanisms such as the European Stability Mechanism, the ECB’s Outright Monetary Transactions, and the Single Resolution Fund (the first example of risk sharing on a European scale). These measures have stabilised the financial system and, indirectly, the real economy. However, no solidarity measures have, as yet, been developed for the European citizens as such, and Eu-

rope continues to lack autonomous policies for growth. Indeed, as clearly shown by the history of the USA which, with its *New Deal* and *Social Security Act*, can be said to have passed the test of solidarity between the citizens of different states, a *European* economy will be able to emerge only when it is the subject of a European *public* policy capable of providing the citizens with public goods and of setting the economic system on a European course.

2. The national governments, in the misguided belief that economic growth depends on them alone, think mainly of national solutions, such as requesting more flexible interpretation of the fiscal compact. At best, they suggest large-scale European interventions which, however, never come to fruition. As previously pointed out by Tommaso Padoa-Schioppa, Europe should be responsible for growth policy and the states for economic recovery policy. Today, it has to be added that Europe as a whole — and not just the states — should take responsibility for addressing the difficulties of the European citizens hardest hit by the crisis, and also underlined that *the crucial point is not the size of the interventions, but rather the European procedure that must be followed in order to fund them and get them started, thereby restoring a climate of trust in Europe.*

3. As federalists, we believe that the eurozone *plus* must give the European citizens a sign of solidarity, financially sustainable, by creating a *Eurozone Unemployment Insurance System* complementary to the national ones. At the same time, by *directly* promoting investment projects, it must give the market a sign that there exists a European leadership not just of the monetary economy, but also of the real economy. To that end, the EU budget needs to set up a special budget heading called *European Solidarity Mechanism*, specifically for the eurozone *plus*. This heading, not subject to the constraints of the EU's multiannual financial framework, should envisage two separate funds for the two types of intervention mentioned above. This is an idea whose political foundations lie in the legitimation, through the European elections, of the new President of the European Commission.

4. The American experience, with regard to its policy of support for the unemployed, provides a useful point of reference. First of all, it shows that the problem is not one of achieving uniformity of social legislation across the continent: in the USA there exist as many as 53 different legislations which, moreover, differ on essential points. Second,

it is not even, within certain limits, a problem of the amount of funding to be set aside at federal level. In 2013, benefits paid from the US Unemployment Compensation Fund were covered in part by the federal government (5.3 billion dollars), while most of these payments (50.7 billion dollars) was met by the states. The US federal government intervenes with supplementary measures (Extended Benefits) when the rate of unemployment in one or more states exceeds 5 per cent. In this circumstance, the Federal Treasury, for a limited number of weeks, covers 50 per cent of the additional cost. In 2010, the year in which spending on unemployment benefits peaked, the USA, following a decision by the Congress, spent around €117 billion on benefits, and 60 per cent of this was met by the federal government. In the same year, the governments of the eurozone alone paid €143 billion in benefits.

5. As long ago as 1975, a European Commission report entitled “*Economic and Monetary Union 1980*” (the Marjolin Report) stated that, in creating the EMU, provision should be made for the establishment of a European unemployment benefits scheme, not just to win support among the citizens for the European project, but also to mitigate, through European measures, the effects of the corporate restructuring encouraged by the internal market and the single currency, whose costs would be borne solely by the single states. More recently, this idea has been taken up by the Commission in its *Blueprint for a Deep and Genuine EMU*, and by the European Council in its report *Towards a Genuine Economic and Monetary Union*. These contributions are in agreement as regards the nature of the proposed European intervention, which should be temporary and limited to the short-term unemployed. This European intervention, consisting of a minimum per-capita contribution complementing the national contribution, would be implemented by the eurozone *plus* in two circumstances: a) as support for the short-term unemployed in countries in which the level of short-term unemployment, in the two years leading up to the granting of the subsidy, exceeded a given threshold, possibly 10 per cent, which is already twice that applied in the USA; b) as support for the short-term unemployed in countries that agree to a programme of reforms. In this latter case, if the country in question failed to implement the reforms, the subsidies would be converted into a loan which would then have to be repaid. In a country meeting both of the conditions for the granting of support (i.e. exceeding the unemployment threshold and agreeing to reforms), both types of intervention would be applied.

6. As regards the financing of these interventions, the federalists suggest that, until such time as the eurozone has worked out a basic unemployment insurance scheme and the method of financing the European share through a European tax, the proceeds of the financial transaction tax (FTT) could be used. This would, however, have to be the result of a democratically legitimated European decision. In other words, following a proposal from the Commission, *the splitting, between European and national level, of the revenue from this tax would have to be subject to a binding vote, by the European Parliament as well as the national parliaments*. The measure would come into force following its approval by the majority of the national parliaments of the states representing a majority of the population of the participating countries. Eurozone countries not adhering to the FTT directive would, in order to qualify for unemployment support, have to adhere to it; this would be a binding condition. The estimated outlay, which varies depending on the assumptions taken into account, is €5-15 billion, considerably less than the expected revenue from the FTT, which the European Commission estimates to be €30-35 billion. *It is possible that the implementation of this mechanism will require an amendment of the Treaties. Nevertheless, it is deemed that the simplified revision procedure could be used, as it was for the establishment of the European Stability Mechanism. Should the unanimity requirement prove to be a stumbling block, it would be possible to go down the route that led to the establishment of the Fiscal compact, without detriment to the role of the European Parliament mentioned above.*

7. The second type of intervention is that of activating a European investment plan. For this to constitute a reversal of trend compared with the initiatives envisaged to date, which are compromises between different national priorities, this Plan must be promoted and managed by the Commission on the basis of European priorities, as a sign to the market that the European economy is governed by European institutions. One of the federalists' proposals, in line with the investment plan announced by Juncker, is to establish *a European Joint Undertaking in the energy sector, with the task of investing in R&D and in the missing links, and a Strategic Reserve in the oil and gas sector, along the lines of the Strategic Petroleum Reserve implemented by the Americans and the Chinese*, so as to be able to promote a European energy transition policy. The investment projects should encourage the implementation of a "European energy union" and, therefore, solidarity and security of energy supply among the participating countries. The European Com-

mission should hold the absolute majority (51 per cent) of the new Joint Undertaking, and of its corporate bodies, so as to ensure that the common European interest, *de jure* and *de facto*, prevails. This request is, after all, justified by the democratic legitimation enjoyed by the current President of the Commission. The capital of the Joint Undertaking should amount to €10-20 billion, making it possible, with acceptable financial leverage (compared with current levels), to mobilise €100-200 billion. The return on equity and the debt service would be guaranteed, as will be the case with the “Galileo” Joint Undertaking, by the charging of a fee for the use of the energy infrastructures. The Commission’s share of equity could be funded by the revenue from the FFT. In this case too, countries willing to take part in the investment plan should be required to join the TTF Directive if they have not already done so. The start of the Joint Undertaking in the energy sector requires no Treaty amendment and can be decided by a majority, whereas its funding may require modification of the Treaties (simplified revision procedures).

*Domenico Moro*

# Documents

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## FOUNDING THE EUROPEAN STATE

### *Examination and documentation of De Gasperi's attempt in 1951 and current prospects\**

MARIO ALBERTINI

#### *Introductory Remarks.*

We here publish two documents and a 1951 text from the archives of the MFE (Spinelli's *Memorandum* on the *Rapport intérimaire* drawn up by the Conference for the organisation of a European Defence Community, EDC) that illustrate the two decisions through which, exploiting the possibilities created and the problems raised by the EDC Conference, a small group of people succeeded in laying the foundations for the building of a European political community — a community with an army, a parliament directly elected by the Europeans, and a government, albeit in an imperfect form (in other words, a state, assuming this term is not taken to refer only to the unitary and centralised type of state). The first of the two documents, which has come into our possession and never previously been published, is the “Minutes of the

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\* These documents, together with the introductory remarks and commentary by Mario Albertini, were originally circulated within the MFE in November 1974, and published in *Il Federalista*, 19, n. 1 (1977) ahead of the first European elections. *The Federalist* is proposing them again here as a tribute to Alcide De Gasperi and his European action in the year of the 60<sup>th</sup> anniversary of his death. With the issue of the founding of a European state, through the creation of tax, economic and political unions for the eurozone, once again on the table, their re-publication is also meant to serve as a reminder to the Italian government, during its six-month presidency of the European Union, of the role that Italy has played in the process of European unification and of its capacity in the past — a capacity it could again show today — to advance the federal option at crucial moments.

meeting of the six foreign ministers of the Conference on the European army held in Strasbourg on December 11, 1951” (clearly drafted hastily and by Italian hands). This is the meeting during which De Gasperi managed to get Schuman to decide, and the other ministers to accept, that the creation of a European army demanded the building of a political community. The second document is the formal act by which, on September 10, 1952, the six foreign ministers entrusted the enlarged Assembly of the European Coal and Steel Community (ECSC) with the task of drafting the statute of the future political community. Like others, this document shows that the decision to build the political community was prompted by a request from Italy and therefore endorses in essence, if not in precise detail, the contents of the first document.

To allow a better understanding of these texts it is necessary to recall, albeit briefly, the events that constituted the background to them. Towards the end of 1950, the USA and the UK raised, within NATO, the problem of the rebuilding of the German army. The French government, for obvious reasons, was against this, but lacked the strength to impose its opposition. Thus, in France, there began to take shape the idea of using the political-institutional model devised with the creation of the ECSC in order to create a European army, the objective being to re-arm the Germans yet without rebuilding the German national army. On February 26, 1951 the French government invited the European countries that had signed the North Atlantic Treaty, as well as the Federal Republic of Germany, to the EDC Conference. Belgium, Germany, Luxembourg and Italy accepted immediately. The other governments opted to send observers. Subsequently, the Netherlands also agreed to participate.

These facts are well known; less so the fact that on July 27, 1951 the delegations of the participating countries, believing an acceptable design for a European army to have been reached, sent their governments a *Rapport intérimaire* which practically amounted to a draft treaty. It has to be remarked that this contained absolutely no reference to the idea of a political community based on the votes of the Europeans: in line with the original French idea, the institutions envisaged were similar to those of the ECSC, with a Commissioner in place of the High Authority.

Even less well known are the events that unfolded after this. The MFE (Italian) presented the Italian government with a *Memorandum* on the *Rapport intérimaire*, written by Altiero Spinelli. Commenting on the work of the conference, Spinelli pointed out that, as an effect of the contradiction inherent in creating a European army that would exist in

the absence of a state, some delegations would inevitably tend to settle for a mediocre result, i.e. integration starting from army corps commands. And he showed: 1) that this integration could not lead to the creation of a European army, merely to a military coalition of national armies, which would result in the very thing that was meant to be avoided: a rebirth of the German army; and 2) that, in any case, this army or coalition, no longer depending solely on the nation states, and being organised by the European Commissioner but put at the disposal of NATO, would end up coming under the control of its military commander, and would thus assume the character of a set of troops provided by tributary states (Spinelli wrote: “not having wanted to create a European sovereign body, the Conference is tacitly suggesting that Europe’s sovereign figure should be the American general”). Having made these remarks, Spinelli, to frame the issue of the European army in its true terms, examined the institutions and the military organisation proposed by the *Rapport*, highlighting their glaring functional contradictions. Analysing them one by one, he showed that they all led back to the same basic contradiction: that of an army without a state. At the end of his *Memorandum* he indicated the method that needed to be adopted, remarking: 1) that the governments would be unable to “reach the true unification” rendered necessary by the European army issue without “a text clearly defining the European bodies, the powers to be transferred to them, and the relationships that will exist between the nation states and the new European state”; 2) that “this text will be a treaty or pact between the states until such time as they have ratified it, and it shall become the supreme constitutional law of the new state as from the moment in which it has been ratified and the envisaged bodies have been created”; and 3) that the organ with the requisites to draft this text could only be a constituent assembly “that, strictly speaking, should be based on a direct vote by the citizens, but, for reasons of speed and convenience, may be elected by the parliaments, which are the custodians of popular sovereignty.”

The method Spinelli proposed was the one that prevailed. De Gasperi read the *Memorandum*, became convinced that this was, indeed, the way forward, and set to work (the rationale for the creation of the EDC had already led him to confront the need to create a European state, prompting him, on that occasion, to observe: “so the federalists were right”). It is not possible here to give a blow-by-blow account of all that followed. Suffice it to recall that De Gasperi gave the Italian delegation, hitherto one of the most ardent in its defence of national

sovereignty, clear instructions to raise the political community question at the Conference; and that in the meeting on December 11, 1951, as is clear from the *Minutes*, he managed to get his point of view across. Reading the *Minutes*, it becomes clear that this question was his sole concern: each time he intervened on specific issues, his purpose was to bring the discussion back to the key problem.

The next step, following this initial victory, was to establish the procedure for creating a statute for the political community. Just as they do today, the governments at the time tended to entrust even tasks of this nature to officials. But De Gasperi knew what needed to be done and, thanks to the decisive contribution of Spaak, he succeeded in getting this task assigned to the (enlarged) assembly of the ECSC, which, for this purpose, was renamed the ad hoc Assembly (it is perhaps worth remembering that one of its members, De Menthon, had suggested the name *constituent assembly* and others *pre-constituent assembly*).

The third step, ratification, was never taken. Because of the way events had evolved, i.e. the way the EDC and the political community issues had become intertwined, the priority had to be ratification of the EDC Treaty. But following its ratification by Belgium, Germany, Luxembourg and the Netherlands, on August 30, 1954 the French National Assembly rejected the EDC Treaty on the basis of a *question préalable* tabled by General Aumeran, member for Algiers and representative of a majority that included, alongside diehard nationalists and the colonialists who cropped up everywhere, Gaullists, Communists and about half of the socialists. Thus, the political community initiative ended with the collapse of the EDC. Jacques Fauvet, who, like *Le Monde*, had battled against the EDC project wrote: "It can be argued that in 1952 and even in 1953, the Treaty would have been ratified had it been put to the vote of the Assembly" and he explained: "Domestic politics has killed off European politics".<sup>1</sup> How right he was. The Assembly that rejected the EDC had previously approved the ECSC; but between these two events there had been a major change in French na-

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<sup>1</sup> See Jacques Fauvet, *Naissance et mort d'un Traité*, in *La querelle de la CED*, edited by Raymond Aron and Daniel Lerner, Paris, Armand Colin, 1956, pp. 29 and 57. It must also be recalled, contrary to the assertion that the EDC collapsed because it was too advanced a European project, that on February 19, 1952, the French National Assembly – the same one that voted on August 30, 1954 – had approved, by 327 votes to 287, the principle of the European army, setting entirely reasonable conditions that had already found, or were about to find, solutions (British and US guarantees, military integration at the lowest possible level, subordination of the European army to a "supranational political power", and so on).

tional politics: the socialists were now the opposition while the Gaullists had become the political power in government.

The fact is that many men proved unequal to the task they faced. The “lukewarm defenders” of European unity had initially sought an easy solution to a difficult problem; subsequently, forced to follow a more difficult route, they trusted solely in the “beneficial effects of time”. But time did not work in their favour. Incapable of acting as the circumstances required, they – and Europe with them – finally came to the conclusion that the only virtue to be exercised, in matters relating to Europe, was caution. Even today, many still draw this simplistic conclusion from the EDC story. But the real lesson to be learned from the EDC affair is a different one. What matters is that the strong defenders of European unity succeeded in bringing the issue of a European army within the sphere of the crucial political community question, and in so doing made the first attempt to found a European state. Luck was not on their side and they were defeated. But a great and valiant defeat is infinitely more valuable than numerous mediocre victories. Thanks to the battle waged by this handful of men, a battle in which caution went hand in hand with courage and clear-sightedness, we now know what is the right way to unite Europe; on the other hand, the mediocre victories of the Common Market, much celebrated until recently, have left Europe divided, at the mercy of events and of the major powers.

#### *Political Commentary.*

I. – As we have said, in the period between the second half of 1951 and August 30, 1954, Western Europe came very close to founding a federal state. The MFE’s *Memorandum* and the minutes of December 11, 1951 are enough to show that this historical fact came about because two men — Spinelli (then secretary of the MFE) and De Gasperi — realised that this objective was attainable and worked out an appropriate action through which to pursue it.

Despite the very gradual evolution of these events, the outcry created by the EDC issue, the public nature of the various decisions taken (all clearly directed towards the founding of a European state), which culminated in the ad hoc Assembly’s adoption of the Statute of the European Political Community, and the clarity of De Gasperi’s arguments concerning the impossibility of creating a European army without also creating a European fatherland, the profound significance of the moment — let us not forget that we are talking about creating a European state — was virtually ignored by the press and escaped the compre-

hension of the political, social and cultural forces that, never having grasped it, now have no memory of it. But we should not really find this surprising. Indeed, right until the eve of the founding of the Italian state, Cavour believed and declared that Italian unity — in the strong sense of the term — was “folly”.<sup>2</sup> This fact is recalled for two reasons: first, because it illustrates the extent to which nation states, like any state, can blinker the political, social and cultural forces when it is the state itself that is in question; and second, because, by highlighting the realism of the 1951 attempt, it stops us from resorting to the lazy conviction that founding a European state is an impossible undertaking and therefore not worthy of examination or practical effort. It should, however, be pointed out that founding a European state — and thus completing the process of integration — means dismantling the exclusive sovereignty of the old states and creating a new state on the area that they covered; it is therefore a historically unprecedented undertaking which cannot be understood or implemented within the framework of the normal standards of political action.

II. — Having said that, it must immediately be underlined that, at the present time, nothing can be considered more important than examining the possibility that presented itself in 1951, and the way in which it was exploited, because Europe today finds itself, for the second and possibly the last time, in a similar circumstance, i.e. faced with the possibility of founding a federal state.

As in 1951, Europe is under pressure from all the political and economic forces of the global system. As in 1951, France, driven by national interests, is looking for a European solution within the Atlantic setting. In 1951, the solution envisaged (a European army) was one that would guarantee military autonomy; today, it is one that will guarantee economic autonomy, and it thus has a range of implications — institutional, political and social. Furthermore, again reflecting the 1951 situation, it is France that has taken the initiative, coming up with a range of proposals, a main one being to fix the date of the European elections. Finally, France is beset by the same difficulties and contradictions that were apparent then.

All this serves to illustrate that, albeit differing in content, the elements that created the conditions for the attempt to found a European state in 1951 are present once again, namely: 1) a situation that could

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<sup>2</sup> Camillo Cavour, *Lettere edite e inedite*, edited by Luigi Chiala, Turin, L. Roux e C., 1884, vol. II, p. 429.

render the states of Western Europe, if they continue to act in a disparate manner (this time within the economic and monetary sphere), subordinate to the USA; 2) a proposal from France, Europe's least malleable state, of the only autonomous solution possible: the European solution. And to avoid the mistake of accepting the distorted version of events as they are presented from the national perspective, it must be appreciated that, contrary to what is generally believed, the acutely difficult situation Europe now finds itself in does not depend only on the way in which the Western European states and their economies have reacted to the changes in the international political and economic equilibrium.

The situation has been complicated by the integration of the Western European states within the Community system and by the partial replacement of the national markets with the European Common Market. Europe's existence as an imperfect customs and agricultural union influences both the situation of the states that belong to the union and the international political situation. The peculiar condition of Europe, which is advanced yet also exposed, has had a number of effects, generating: 1) the transatlantic tensions (especially economic) that led to the suspension of the dollar's convertibility into gold, the crisis of the international monetary system, and the emergence of brutal economic power relations between the USA and the European Community; 2) the different, but ultimately equally serious, difficulties of the Western European countries, which in Italy are acute because of the fact that the country's economy and society have been inserted into the European economic framework in the absence of corrective measures in the form of an adequate European economic and social policy (impossible without a European currency backed by a democratic European government);<sup>3</sup> and 3) the expectations, among all countries wanting to see an attenuation of or an end to the bipolar world equilibrium, that there will emerge autonomous European solutions.

The rise in oil prices, i.e. the exercising of the power acquired by several Third World countries, has brought these problems brutally to the fore and somehow linked them together, as problems that require answers in the short or medium term. It has thus imposed a rigid time frame for choosing between the European solution to the crisis, to be agreed with the USA but on an equal footing, and a purely American solution that would instead set the seal on the impotence and division

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<sup>3</sup> This is what the most serious economists now say. See, for example, Giorgio Fuà, *Occupazione e capacità produttive: la realtà italiana*, Bologna, Il Mulino, 1976, p. 84.

of the European states, and have disastrous consequences for North America itself and for the global equilibrium.

A European solution will not be easy to find. Europe does not yet have a government, while its capacity to act still depends solely on the strength of the integration process, and this process is in severe difficulty. Indeed, having achieved the customs union, all that remains to be done is continue down the monetary and economic union route, but in this field, as in the military field in 1951, there can be no further advances without also creating a European state. And this is precisely the European solution that is needed, because it is a pipe dream to think that the problems mentioned above (the economic relations with the USA, the Italian crisis and the relations with third countries) can be tackled in a European way yet without a European economic sovereign entity; moreover, it should be remarked that the European solution is difficult, but not impossible; after all, France has not given up. Just as it did in 1951, France has proposed a European solution to the problems on the table, as well as, albeit somewhat confusedly, the adoption of political-institutional means to support this solution (direct election of the European Parliament and strengthening of the European executive power). Weakness, which mistakes the difficult for the impossible, and cannot wish for new institutions because it is only able to conceive of action using the visible and existing ones, remains a prisoner of the nation state, and of the only solution that is possible with the existing means of action: submission to the American government. But the game is not over, because even submission is difficult.

III. – These same conclusions are reached, and more directly, if one compares the 1951 and the current situations from the perspective of the nature of the action through which the founding of the European state might be attempted. Obviously we must first change our framework of observation so as to appreciate that the possibility of acting depends on all the forces of the global system, and that it is a fact to be ascertained, not merely something to be desired. The action itself, on the other hand, demands not only knowledge but also will and determination; and in its early phases it does not immediately deploy the full range of forces, but rather individuals who, moreover, must appreciate that they are embarking on a project that, ultimately, can be entrusted to the only truly decisive forces, those of the peoples.

It is also necessary to bear in mind the difference between European politics and normal politics. It is sufficient in this regard, and for the purposes of this commentary, to consider the question of the lever-

age point to exploit, i.e. the place or centre in which to take the first decisions — and obtain the first gathering of forces — that will pave the way for subsequent decisions, based on an ever greater level of commitment from the political and social forces, thereby starting a process that will finally bring us to the point at which the forces are equal to the objective (i.e. that will culminate in the mobilisation of all the political and social forces in Europe, given that it is not possible to establish the European state without the intervention of the European people).<sup>4</sup>

For politics as it is normally designed, this is not an issue. The state, which is a single unit but also a complex structure made up of central and peripheral locations, constitutes a network of leverage points that are exploited not only by normal politics but also by revolutionary politics, which until now has never moved beyond the conquest of the state (obviously always remaining a prisoner of it, until the instructive case of the Bolshevik Revolution). For European politics, on the other hand, this is the main issue. Europe is not built by conquering an already established power. The difficulty of the struggle for Europe lies precisely in the fact that the places or centres in which there occur the turning points and the events that determine advances or setbacks on its path to unity are to be found everywhere and acquire different degrees of importance depending on the situation; they are therefore not fixed but mobile, linked to the given situation, and invisible to most.

This also applies to the centre of decision of interest to us here, the one through which it is possible to take the first preliminary steps towards founding the European state. It should be recalled that the decision to create the political community and the decision to entrust the drafting of its statute to the European Assembly were both taken by meetings of foreign ministers (in the presence of their heads of government, and with the consent of practically all of them). And it should be remarked: 1) that these are decisions of the kind that can, in theory, be taken only by a meeting of heads of government or foreign ministers

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<sup>4</sup> This is the progressive series of decisions produced at the time of the EDC, whose consequences would indeed have led, had it not been for the defeat of August 30, 1954, to the electoral mobilisation of the European people with a view to completion of the work of the constituent assembly. This is what was formally established by the last official texts, some using almost the same terms as the present author. For example, the Italian bill for the ratification of the EDC Treaty read: “Finally, attention is drawn to the competence that Art. 38 confers on the Assembly within *what may be defined a European preconstituent function*” (*Acts of Parliament, Chamber of Deputies, bill no. 3077, session of December 13, 1952. The italics appear in the original text*).

with a special mandate, 2) that the centre of decision constituted by these meetings was able to take them only because it was required to solve the problems related to the creation of a European army, and 3) that the European army issue brought the sovereignty of the European states into play (and this is the key point because otherwise it is not possible to explain the decision by the highest representatives of the national sovereignties to create a European sovereign entity). The precedent of 1951 thus allows us to conclude: a) that the normal centres of decision, being precisely that, are no use (either because they do not bring together the highest authorities of all the countries, or because opportunities allowing the decisions of the kind we are discussing here do not normally arise within them), b) that what is needed is an “occasional centre of decision” (the highest authorities plus the right opportunity), and c) that the right opportunity can manifest itself only in the presence of a mechanism of action generated by a problem that — like that of the creation of a European army — puts the national sovereignties at stake.

We need add nothing more in order to show that, following the French proposal to fix the date of the European elections, just such a mechanism of action is in motion once again (*Memorandum* of 15 October 1974). In fact, the issue of European elections — like, and indeed more than, that of the European army — is one that brings the sovereignty of the European states into play.

IV. — Spinelli, in his 1951 *Memorandum* made it clear that three decisions are needed in order to found the European state: the one through which the states express their will to create a European state (will is not necessarily the same as awareness of the moment, which is often a factor missing in historical revolutions), the one assigning a body with the task of drawing up the constitution, and finally the one through which the constitution is ratified by the current holders of sovereignty (and it is immaterial whether the federal state will be called European Community and its constitution *statute*, *fundamental law*, or some other name).

Accordingly, there must be three centres of decision: 1) the European Parliament, which can draw up the constitution; 2) the national peoples, which can ratify it (by referendum or through their parliamentary representatives); and 3) the centre of decision that, making the initial decision, sets the process in motion and carries out the part, eminently procedural, that falls within its competence (the occasional centre of decision mentioned earlier). We have already seen, moreover, that the European elections may create a centre of this kind. Therefore, we can say that we have, before us, the possibility of founding the European state.

At this point there should be nothing left to add. It was a case of examining a possibility: in political action there is nothing other than this, given that all that is certain does not belong to the realm of political action. Consequently, having said that the mechanism of action is under way once again, that the possibility has presented itself for a second time, one has said everything. The rest is not to be written, but to be done.

There is, however, one aspect that needs to be clarified on account of the “incredulity of men, who do not believe the truth of new things, unless they witness the emergence of solid experience”. In reality, hardly anyone thinks the European elections have the potentiality described in this comment. But the fact is that hardly anyone truly is able to conceive of the European elections in all their aspects, or of their inevitable reality. Holding European elections does not mean holding them only once; it means holding them a first time, followed by a second time, and then a third, and so on. Barring catastrophes, it will in fact be very difficult not to hold the second European elections having held the first, and even more difficult not to hold the third having held the second, and so forth. And this is surely enough to be able to assert that one can imagine anything, but not a situation in which every four or five years the European people are called to the vote even though there continues to be no European government or process of creating a European government.

## MEMORANDUM ON THE *RAPPORT INTÉRIMAIRE* PRESENTED IN JULY 1951 BY THE CONFERENCE FOR THE ORGANISATION OF A EUROPEAN DEFENCE COMMUNITY

### *The Structure of this Memorandum.*

This memorandum is divided into three parts. The first part examines the conclusions reached in the *Rapport intérimaire* (Report). The topics will be covered in the same order in which they are dealt with in the Report itself. For this reason there will inevitably be some repetition, and discussion of some topics may sometimes have to be suspended, before being returned to subsequently in connection with a different aspect.

It was not possible to adopt a more concise method, because the intention is to provide a guide for those who, required to read and study the Report, will be obliged to follow it as it was drafted.

The second part proposes a course of action for a delegation intending to act, within the Conference, in such a way as to promote an ever more effective and real unification of continental Europe.

The third part sets out a number of particular considerations on the position and on the scope for action of the Italian delegation.

## PART I

### CHAPTER I – *Objectives and General Principles*

#### *The Principle of Unification of the Armed Forces.*

The Report has established, as an objective, the merging of the armed forces of the European Community countries. With the exception of the police forces and the units needed to defend the overseas territories, which must remain national, the European armed forces should completely replace the national ones, in such a way that NATO has at its disposal three sets of armed forces: the American, the British and the European ones.

The creation of a European army<sup>1</sup> raises, with the very first attempt to address the issue seriously, all kinds of enormous difficulties. As the Conference increasingly came to appreciate this fact, there spread among some delegations a sense of real dismay, which led to the emergence of a tendency to want to renounce this objective and fall back, instead, on a so-called “modest solution”, i.e. a declaration that a single army will be created at some undefined future time, but that for the moment the troops, defence ministries, budgets and national flags should all remain national, and we should settle for unification only of the military leadership. European commands should be formed starting from the level of army corps commands. A relatively small amount of funds would, in this case, be sufficient to meet the needs of the European organisation.

This “modest solution” must be rejected for the following reasons:

1. It implies the rebuilding of the German army, whereas it is in the interests of European solidarity and of a sound German democracy that Western Europe have an organisation in which the Germans participate on equal terms with all other countries, but in which there no longer exist autonomous German armed forces.

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<sup>1</sup> For the sake of simplicity, the term “European army” is used to denote the European land, sea and air armed forces; only when expressly stated does the term refer specifically to land forces.

2. The European armed forces would remain at the military coalition stage, where each country actually thinks only in terms of its national defence.
3. Keeping the national armies would mean keeping the current military inefficiency of the individual European armies.

The full unification of the armed forces is an objective that must remain absolutely unwavering.

Every time obstacles to its achievement are encountered — and we will look at the nature of these shortly — the conclusion we must reach is that the obstacle must be removed and not that, because of the obstacle, we must turn back and forgo a European army.

### *Who Would the European Army Belong to?*

It has to be noted that in the formulation of the objectives and principles that should serve as the basis for the subsequent development of its ideas, there is a serious flaw in the Report that affects all the proposals it contains.

The Conference seems to have completely overlooked that fact that, today, armed forces cannot belong to military commanders as they could do in the times when recourse was had to mercenary forces, but must belong to a state. For the purpose of military operations, they are under the command of a general, assisted by a general staff, but they must be organised and controlled by the government of a state. It is governments, and not military commanders, that decide foreign, economic and fiscal policy and, in relation to these policy choices, decide the military effort that is required, the number of soldiers needed, and how they should be used. Military policy cannot be separated from foreign, economic and fiscal policy because they are strictly interdependent. This observation has two consequences: a) the Ministry of Defence, i.e. the body that ensures all that is necessary for the army, is always an organ of the state to which the army belongs; b) the supreme commander, to whom the army is entrusted for the performance of operations, is appointed by the competent organs of the state to which the army belongs, receives the necessary directives from these organs, and is fully accountable to them.

In an alliance, the different armies can be brought, for operational purposes, under a single commander, but they continue to belong to the single states, while the supreme commander is accountable to the collective body in which the individual states are represented and jointly decide a common military policy.

The authors of the Report think that it is possible to create a single European army without creating a European state. The European Defence Community is undoubtedly meant to be an essential step towards the formation of a united Europe (i.e. a European state), but it is believed that the subsequent steps can be taken at some other time; in the meantime, all that is needed is to set up a European army.

At this point, the problem arises immediately: who would this European army belong to?

It would not belong to the nation states that would be required to contribute, in terms of both men and money, to its creation, yet have no power to decide how it is used.

It would not belong to the European state, given that the Report does not envisage the creation of a European state. In fact, it is envisaged that the Commissioner should have the technical capacity to create the European army, but no jurisdiction for deciding on its use. Thus, the European army would be organised by the Commissioner with the means and the men provided by the individual states, but made available to the Atlantic Commander: in reality it would belong only to the Atlantic Commander, as a collection of troops from subordinate states that are, therefore, no longer truly sovereign.

Having lacked the courage to tackle the problem of the creation of a European state for fear of breaking the taboo of national sovereignty, while nevertheless envisaging that the armies, i.e. the key element in the construction of any state's sovereignty, would be taken away from the nation states, the Report reaches the strange conclusion that Europe's effective sovereign figure would be a non-European general: the Atlantic Commander.

To then discover that this Atlantic Commander is, in turn, accountable to the North Atlantic Council would actually make little difference.

The authority and sovereignty of the American state and of the British state would remain intact in the bosom of the North Atlantic Council and also before the general; this is because their respective troops would continue to belong unequivocally to America and to Great Britain. But the European states would sit on the Council as subordinate states, required to provide troops, but having no sovereignty over them.

In the absence of a European state, there would be, within the North Atlantic Council, no European foreign minister to say what Europe's foreign policy is and to coordinate it with the US and British foreign policy, no European treasury minister to say what financial contribution can be sustained and to coordinate it with the British and Ameri-

can ones, and no European minister of the economy to say what economic policy Europe intends to follow and to coordinate it with the American and British ones.

In this setting, the single states that wanted jealously to hold onto these powers would have lost them, and would be able to do nothing other than follow orders. They would retain a certain independence, but only to the extent that the mechanism set out in the Report allows them to execute these orders badly.

These brief considerations show that to accomplish European military unification it is not enough simply to create armed forces with the same uniform and to give them a single flag; it is necessary to decide, not as some future step, but as a measure inextricably linked to military unification, to opt for the creation of a European state, which as a sovereign body, will be equipped with a European army and with the capacity to implement, together, all the foreign, economic, fiscal and military policy measures necessary to obtain a free and effective defence community, which are necessarily interdependent.

Only by keeping this objective in mind will it prove possible to free the Conference from the shallows in which it has now run aground.

#### *Appendix.*

It is worth underlining that serious problems are also raised by the two exceptions to the plan for military unification specified in the Report, namely the overseas forces and police forces, which would continue to belong to the single states.

Indeed, the exemption of overseas forces implies that France and Belgium, but France in particular, would be able to keep an army of their own. In the long run, it is unsustainable for a country to have overseas territories elsewhere in the world, which it defends independently, while at the same time being part of a Community in Europe. Indeed, on the one hand, the state in question could, because of a certain colonial policy, drag the entire Community into complex international situations, without the Community ever having had the opportunity to take decisions on the matter. On the other hand, the state with colonial troops finds itself, from a military perspective, in an advantaged position compared with the others, and this contravenes the principle of equal rights that is the basis of any democratic community. However, given that, at the current historical juncture, there can be no question of pooling the French colonial empire, as this would probably trigger an anti-European reaction in France, this anomaly may perhaps be accepted. But it needs to be set within precise limits, establishing for exam-

ple that colonial troops cannot be stationed in Europe without the consent of the European political authority, and that the costs for their formation and deployment may not be invoked as a reason to reduce the contribution to the formation of the European army.

As far as the police is concerned, it should be borne in mind that when a revolutionary situation arises in a country, the police force alone is not enough to maintain public order, and it becomes necessary for the army to intervene. If the army is European, the European authority must ultimately be responsible also for deciding if and when it is necessary to use the armed forces for the purpose of keeping public order.

## CHAPTER II – *The Institutions*

### *A Single or a Collegial Commissioner.*

The first institution envisaged in the Report is the so-called European Authority, or defence Commissioner.

The Conference failed to agree on whether to propose a single or a collegial Commissioner. This disagreement was clearly underpinned by the German and Italian concern that, in the case of a single Commissioner, the citizens of these two formerly defeated countries would be virtually excluded from this office. On the other hand, opting for a collegial Commissioner would undoubtedly reduce both the efficiency of the work done and the level of responsibility shouldered. However, nobody framed the problem in its correct terms. Nobody asked whether or not the functions to be fulfilled by the Commissioner would entail a splitting of the work, and thus a plurality of responsibilities. As we shall see, it is necessary to answer in the affirmative. Only in this way would it be possible, even through a tacit unwritten law, to arrive at a distribution of functions that takes into account the needs of national pride.

### *The Commissioner as Defence Minister?*

The Report attributes the Commissioner with functions that are essentially those of a defence ministry; in practice, the international organ led by the Commissioner should replace only the national defence ministries.

The Conference does not seem to have realised that a defence ministry is only one piece of the state, and that in order to work it has to be connected closely with all the other pieces.

As envisaged by the Report, the Commissioner would have no jurisdiction over Community foreign policy, and therefore would not know who the Community's enemies and friends were; the individual national

foreign ministries, on the other hand, do know who their enemies and friends are, and may even have divergent ideas in this regard. The Commissioner, therefore, would not be equipped to determine how many men might be needed, how they should be armed, or how the troops should be distributed geographically. All these are, in fact, decisions that can differ greatly, depending on the foreign policy being conducted.

The Commissioner, not being responsible for economic and fiscal policy, would not know how resources, production capacity and savings should be allocated between civil and military needs. Therefore he would not reasonably be able to draw up spending plans.

Moreover, following the creation of European army, the single states, no longer having the use of the armed forces, would no longer be able to establish what foreign, economic and tax policies should, as regards the armed forces, be in place in their in their country.

The only authority equipped to establish these things (i.e. how many men and means Europe must supply, what it must produce, how the troops should be arranged, and what enemies they should be preparing for) would actually be, as already mentioned, the Atlantic Commander.

According to the model envisaged by the Report, events should unfold in the following way: a) The Atlantic Commander receives instructions from the North Atlantic Council, on which the individual European states sit as tributary states (without authority because they lack their own armed forces); b) Each year the Commander invites the Commissioner to put at his disposal a certain number of soldiers, trained, armed and positioned in whatever way, as well as a certain amount of money; c) The Commissioner asks the Community member states for money (we will see how in a moment); d) The states provide it (again, we will look at the manner in which they will do this); e) The Commissioner equips the armed forces and puts them at the disposal of the Atlantic Commander; f) The Atlantic Commander employs them according to the directives he receives from the North Atlantic Council.

The Commissioner, as head of a war ministry, is a technical body. Everything that does not directly concern the formation of the armed forces escapes him. Having failed to formulate its objective properly at the outset, the Conference thus proposes the creation of an executive body that is devoid of sovereignty and obliged to take orders from outside. But a community cannot manage without a sovereign body. Not having wanted to create a European sovereign body, the Conference tacitly suggests that the European sovereign figure is the American General.

This is not to say that the Conference intends to turn the Atlantic

Commander into a mighty ruler. General Eisenhower is rumoured to have likened himself to a new Washington, grappling with the rebellious Confederate states. The Report proposes little to change this state of affairs. It surreptitiously turns Eisenhower into not only NATO's Washington, but also the Holy Roman Emperor of Europe. And immediately afterwards, as a reaction to this abdication, it proposes a series of measures designed to allow the governments of the nation states to evade the orders of the Atlantic Commander (just as the feudal lords of the Holy Roman Empire did), thereby basically leaving him empty handed. But this aspect will be discussed later on. Let us return to the Commissioner.

*The Commissioner Must Embody the Sovereignty of the Community.*

The Commissioner, assuming that this name is to be retained, cannot be a mere war minister. If the Commissioner is meant to be an organ of the Community, he must be invested with all the sovereign powers that must necessarily be taken away from the states and transferred to the Community in order for this to become a true defence Community.

The Commissioner must be the supreme commander of the European armed forces, just as the American President and the Swiss Federal Council are the supreme commanders of their armed forces. Given that the European Community is linked to the North Atlantic Pact, he may delegate all or part of this function to the Atlantic Commander; but legally the troops must continue to belong to him. The Commissioner must have: 1) a Community foreign policy department, to work out guidelines for his action in international relations, and to represent him abroad, and, in particular, within the Atlantic Council; 2) a finance department, to estimate costs and collect taxes; and 3) a department responsible for the overall economy of the Community, to develop and impose the fundamental economic measures necessary to make the defence Community work.

The example of the Schuman Plan misled the Conference into believing that it would be possible to create an "Authority specialised in defence", along the lines of the High Authority of the European Coal and Steel Community. But such a body would, in reality, totally transform the entire system of sovereignty and therefore cannot be any other than the supreme political authority: the European state.

Once this is understood, it becomes clear that the problem of the single Commissioner is ill-posed. There are at least four roles — head of state, foreign minister, defence minister, finance and economy min-

ister — and they need to be fulfilled by at least four men. In this way, all the needs of national pride would be met. It would be possible to use the American formula (a president who chooses his ministers) or the Swiss formula (an executive council of the Community, elected as a whole, which, in accordance with the necessary rules, shares the four roles).

*The Council of Ministers Paralyzes Everything.*

The second institution envisaged by the Report is the Council of Ministers, which is the equivalent of the Congress of the American Confederation, or the Reichstag of the Holy Roman Empire. It is the representative body of the states as such, each of which would send a minister. Its tasks would be to give the Commissioner general directives, to harmonise the action of the Commissioner with that of the individual national governments, and to monitor his work on the basis of periodic reports. Above all, it would be required to approve, and therefore bring into force, the draft budget. But the whole financial side will be discussed later on.

Strangely, it is not stated anywhere in the Report who would be responsible for deciding the number of soldiers that each country should provide and the recruitment criteria that should be followed. Initially, recruitment would remain a national responsibility, although subsequently it would be performed by the Community. It is clear, however, that in both the first and the second stage, the directives in this regard would have to be given by the Community, and it is to be supposed that the Report considers that they should come from the Council of Ministers.

The Council, in short, emerges as the permanent diplomatic conference of the Community member states, responsible for reaching the agreements necessary in order to attain the common objective of creating a single army.

Neither the Commissioner, nor even the Council, would have the jurisdiction to discuss Community foreign policy and overall economic policy; according to the Report, this falls outside the Community's planned scope.

No agreement was reached on the question of whether the Council, to lay down general directives and approve the budget, must vote unanimously or by a majority. As usual, the Conference ground to a halt on encountering a procedural issue, ignoring the underlying problem.

It is, in fact, necessary, first of all, to look at what the real powers of the Council should be. Only after having established this does it be-

come possible to address the issue of the voting method.

We recall that, under the institutional system envisaged by the Report, requests would be submitted by the Atlantic Commander to the Commissioner, who would translate these into proposals concerning conscriptions of soldiers to be recruited, funds to be raised, and production programmes to be implemented in the different Community member states. This is the point at which the Council of Ministers would intervene. The ministers of the various countries would together discuss whether to accept or modify the proposals concerning the contributions required from different member states. Naturally, pressure could be exerted covertly from high places (from the true sovereign entity) and may be so forceful as to amount to orders. But in general it can be expected that, as happens today within all NATO committees, a “noble” struggle would ensue with everyone competing to contribute fewer men and less money. Clearly, with defence having ceased to be a national matter, the ministers would no longer appreciate the need for their country’s contribution, while they would continue to understand perfectly well the weight of the sacrifices that their country is being asked to make and would be concerned about the discontent that these would stir up among their fellow citizens. One need only read accounts of the meetings of the Reichstag of the Holy Roman Empire in the fifteenth century, or of the US Congress before 1787, to be convinced that the Council of Ministers of the European Community would be no exception to this rule.

However, at a certain point an agreement may, more or less willingly, be found. This agreement would be enforceable providing it concerned an action that the Commissioner could carry out with his own means. But as regards the contributions in men, weapons and money (means without which the Commissioner and the Atlantic Command, with the best will in the world, can do nothing), it would be the states making the necessary decisions. Indeed, until such time as the states truly delegate sovereignty to the Community, the Council of Ministers of the Community, would remain, in practice, unable to make decisions regarding contributions of men and money, but able only to issue recommendations, as always occurs in so-called confederations.

What real importance can it have that the recommendation, to be valid, must be accepted unanimously or by a majority decision? In the first case, the minister, on returning to his own country, would obviously always be able to tell his government and parliament that he had approved the recommendation; in the second, he may sometimes have to say that while he did not approve it, he nevertheless undertook to

submit it to them. But in both cases, it is the constitutional bodies of the individual member states that would be responsible for converting the recommendation into a decision. In other words, in practice, the unanimity rule would always be respected. And it cannot be otherwise, as long as the absolute sovereignty of the nation states continues to be formally preserved. So what would happen if a national parliament chose not to approve the contribution, in men and money, that it was asked to make, or decided to reduce it? or if, after the securing of parliamentary approval, the government did actually not implement what was decided? Should one or more states fail to honour their commitments, or honour them only in part, what would the others do? What means would the Commissioner have to enforce them?

It is sufficient to raise these questions in order to understand that that the Council of Ministers (a conference of sovereign states), despite being the fundamental political institution of the Community, would be unable to perform the tasks that it is planned to entrust to it. Surely, the inefficiency displayed by the committees of NATO member states should make us question whether it is worth forming another similar one at continental European level.

The envisaged Council of Ministers is not an instrument of unification. It is the nationalist rectification through which the Report seeks to counter the tacit transfer of the European states' sovereignty to the Atlantic Commander. While the latter would determine the lines of Europe's foreign and military policy, the individual states, with their lack of discipline, would prevent him from actually implementing a foreign and military policy.

In a true federal community, it is perfectly natural for the popular assembly to be flanked by an assembly or council of states (witness the American, Swiss, German, Canadian and Australian constitutions). But a council of states represents one of the houses of a parliament, and not a diplomatic conference, as is envisaged in the Report. The scheme proposed by the Report is instead, the very same one that, with necessary monotony, has been repeatedly used in the past, from the time of the confederations of Greek cities to the League of Nations and the UN – in other words, whenever it was desired to achieve unity of action among states, yet without impairing their sovereignty. And the result has always been the same: paralysis of the community that it was desired to establish.

*The Assembly, a Bodiless Shadow.*

The third institution envisaged by the Treaty is the Assembly, which is born of the idea that it is necessary to create an international body

that is representative of the people, or, rather, the people of Europe. But the Conference, defending national sovereignty with almost religious zeal, afforded it neither prestige, nor any real power. Indeed, it is envisaged that the Assembly be made up of chosen representatives from the national parliaments, in other words individuals who spend the whole year thinking about national problems in their own parliaments and who, in their spare time, would also think about the European Assembly. This body would be too small to be able to be truly representative of the main currents existing in the various countries, and it would not be able to meet for any more than a month in each year, which is clearly an insufficient amount of time to allow it to control the action of the Commissioner.

The Assembly would have no legislative power, even though it is clear that the running of an institutional machine the size of the planned defence Community demands adequate European legislation. (We will look later at the insignificant rights it is wanted to confer on it in the financial sphere).

The Assembly would not have the right to choose the Commissioner, nor, by voting, to issue him guidelines. It would have the power only to bring a vote of no confidence against the Commissioner, and thus to force him to resign.

It should be noted that this arrangement is constructed in such a way as to render the Community more impenetrable to the European peoples. The Assembly, despite being the spokesman of the people, would have no opportunity to make a positive contribution to its work, only the right to exert its influence as a negative force. Indeed, despite having no serious responsibility in the establishment of the Community, it would nevertheless have the right, from time to time, to decapitate it.

#### *The Court.*

There is no point dwelling here on the powers of the Court, because it is clear that they are closely related to the actual functions of the Community.

### CHAPTER III – *Military Questions*

#### *The Size of the National Units.*

The discussion on the size of the national units in the European army carries an underlying implication that must be clearly grasped.

The larger the homogenous national units within a newly-formed European army are, the more national, rather than European, they are

going to feel. Similarly, the less robust the Community is, the more the states participating in it will do so with the secret desire to retain the practical possibility of breaking away from it in the event of extreme necessity (as the Germans did in the Battle of Leipzig, the French in 1940, and the Italians in 1943), and the more they will want the national units to be large.

A satisfactory solution to the different viewpoints of the French and Germans may be found not on a technical, but on a political level. As long as we remain within the framework of a community of sovereign states, the French are inevitably going to fear the establishment of German units large enough to allow Germany, at a certain point, to step outside the Community framework, while the Germans are inevitably going to be wary of the establishment of units so small as to be effectively removed from the sphere of national influence.

#### *A European Army or European Divisions?*

The most serious consequence of the lack of clarity in the outlining of the objectives of the Community is that there is much talk of European armed forces, as a unit, when in reality what is envisaged is not a European army at all, only the setting up of divisions to be made available to the Atlantic Commander.

In fact, from a formal perspective, the European armed forces would not constitute a unit, given that they would be neither subject to a European command, nor required to swear loyalty to Europe. They would merely be a set of units placed at the disposal of the Atlantic Commander.

From the substance point of view, the profound significance of the principle of balanced forces in a coalition, like the North Atlantic Pact, was not taken into account at all.

The single regions within a state furnish men, money and goods, but no consideration need be given to the regional balance within the state's army, because the military defence of individual regions is not a problem that exists. In a coalition, on the other hand, the armed forces of each ally must, overall, be balanced in such a way as to be basically equipped to defend that single allied state. Nevertheless, the allies may opt to balance their military forces at the level of the alliance, and this may be done in two ways:

1. There is a form of balancing that we might define natural, since it is, for example, clear that America will have more ships and more aircraft, while Europe will have more men. When the alliance corresponds

to a deep community of interests, this community is manifested, among other things, in the complementarity of their armed forces and the consequent balancing that occurs.

2. Alternatively, in certain precise and limited areas, the allies could decide to forgo their attachment to military autonomy in some areas of their armed forces and instead form armed forces proper, balanced at the level of the alliance and not at the level of individual allied states.

In both cases, the bulk of the forces of each allied state is, however, always organised essentially according to its structure and its foreign policy problems.

Within the Atlantic Pact, this rule applies to Great Britain and America. The Conference has forgotten that it must also apply to Europe. The result, otherwise, is that the fundamental composition of the European armed forces will be established by a power outside Europe, and Europe will not be an ally, but a satellite.

It is indicative that the Conference does not even seem to have noticed this problem, and that it has contemplated the European army as a unitary entity only with regard to certain aspects: uniforms, arms and flag. Leaving aside these exterior aspects, the Report does not actually envisage a European army, but rather European divisions, more or less large and more or less numerous, which would be part of an Atlantic army, stationed in Europe.

Let us not beat around the bush: under the terms of the Report, Europe would supply auxiliary troops to Eisenhower's army, in the same way as the Indian rajah supplied auxiliary troops to the British army and the *reguli* supplied them to the Roman army.

A European army, worthy of the name, must have a European general staff. Thereafter, it is also right that, on the basis of the NATO alliance, balances be introduced and the European army be made available, fully or partially, to the Atlantic Commander.

## CHAPTER IV – *Financial Questions*

### *The Stumbling Block.*

While the Conference “brushed past” the problems examined thus far without even seeing them, there could be no ignoring the financial issue, given that the creation, organisation, equipping, maintenance and use of the armed forces imply significant spending on a daily basis.

If the Community assumes the duty of defending all European citizens, it must have the right to impose taxes on them.

Because it failed to see that the very act of intervening on national sovereignty in the military sphere inevitably means intervening on national sovereignty also in the field of taxation, the Conference found itself stuck in a blind alley, and having to ask the governments for new instructions in order to get out of it. Let us examine in detail the problems that arose.

*How to Establish the Estimate of Expenditure (état prévisionnel des dépenses).*

The Commissioner was identified as the organ best qualified to present the estimate of expenditure to the competent Community organs for approval. We have already said that, as long as no provision is made to give the Commissioner responsibility for foreign policy, overall economic policy and fiscal policy, we will be left with a system characterised by more unknown than known factors. No one can solve this problem.

But, as we have already seen, the unknowns could be formulated by the Atlantic General. He could also draw up an estimate of expenditure. As far as Europe is concerned, this is a disgrace; it would only serve to ramp up tensions between Europe and America, rather than boosting their friendship, but it would be the only way of formulating a preliminary budget. The Commissioner, in fact, could not do it, but would be forced to limit himself to proposing its subdivision between the states.

There were some in the Conference who proposed that the overall budget should merely be the sum of the contributions that each state would declare itself able to pay. It is obvious that such a method would, a priori, make it impossible for the Commissioner to function. The first year, each state would probably (for decency's sake at least) maintain the appropriations established the previous year for its own army. Immediately afterwards, however, each would come up with a hundred and one reasons why it could no longer manage this, and was obliged to pay less and less. In short, the overall total can be approved only by the Community's competent bodies.

Some delegations suggested that the budget proposed by the Commissioner should be approved unanimously by the Council, maintaining the *liberum veto* principle. Other delegations proposed that it be approved first by the Council with a two-thirds majority and then by the Assembly; the Assembly, however, might only decrease the total amount approved by the Council. In this case, the draft would go back to the Council, which could unanimously decide that it should be restored to what it was initially.

In either case, these would still be nothing more than drafts and recommendations, given that everything would still depend on the will of the national parliamentarians. It would, in fact, be up to the parliamentarians to decide whether or not to pay, and, even if they did decide in favour, it would remain to be seen whether the states actually made the payments.

*How to Share the Costs Between Countries.*

The lengthy discussions on the sharing of the costs produced only the statement that the breakdown should be “fair”. However, this suggestion does not seem to be of much practical use. Military spending accounts for such a considerable proportion of the taxes paid by citizens that it is not possible to establish a military levy without also establishing a general economic and social policy. Only in the framework of a general economic policy is it possible to request a levy that is so much per head, in each country, but related to individual income, with the quota decreased or increased for poorer or richer taxpayers according to specially calculated coefficients.

*The Collection of Taxes.*

Although this is an essential issue, the Report ignores it. Indeed, under the proposals, once the Community has established the sum that a country or the citizen of a country should pay, we nevertheless remain within the ambit of recommendations, given that the levy would have to be put to the vote of the national parliament. The absurdity of the system is immediately obvious. Basically, the idea is that every year it would be necessary to ratify a new international Treaty between the member states of the Community binding them, for that year, to pay the given sum. In the event of a national parliament rejecting or even only changing the sum requested of it, all the commitments made by the other countries would become uncertain, leaving the cumbersome Community machine forced to start drawing up... a new recommendation!

It needs to be stated quite clearly that by entering into the Community the parliaments would cease to have any rights over the budget chapters relevant to defence and the functioning of all the organs of the Community.

Month by month or quarter by quarter, the amounts established by the Community would have to be drawn, as a priority, from the nation states' coffers, pending the creation, by the Community, of its own tax laws that would allow it to establish and collect directly, through its own fiscal agents, taxes from citizens.

Given that, in modern states, only a parliament can establish taxes, it is clear that the European Parliament is the only European institution that can legitimately impose a European tax.

The national parliaments will never relinquish this power to a Council of Ministers, whether it votes unanimously or by a majority.

*European Economic and Monetary Policy.*

The whole mechanism of European taxes would be unworkable without giving competent European bodies broad and flexible powers that make it possible to guarantee free convertibility of currencies (pending the reaching of a single currency) and, in line with the Schuman plan, the free movement of capital, goods and labour.

Otherwise, a state would be able to devalue its currency at will, completely upsetting the Community's budgetary estimates, or withdraw into autarchy, which would preclude the use of its economy in the interests of common defence.

The Report fails to tackle any of the monetary, credit and customs problems that are related to the establishment of a defence Community.

*Conclusion.*

All the good intentions notwithstanding, the proposals made in the Report are inadequate for the purpose of creating a unified armed forces. If the Conference were to persist in developing this scheme, the contradictions would pile up and inevitably result in failure.

False or unattainable solutions would be set down on paper, and a transitional period would have to be established during which, in reality, everything would remain the same as before, and this transitional period would go on indefinitely.

## PART II

*A Constructive Solution.*

The first part of this memorandum indicates the problems that the Conference must solve if it is to conclude in a positive manner. Nevertheless, we feel that it is worth setting out specifically the attitude that, in our view, should be adopted by a delegation that wants to act in such a way as to promote more effective and truer European unification.

The Conference should succeed in drafting a document to be sent to the governments. This document should be made up of five parts:

1. – Presentation of the problems that must be solved if the aim is to achieve unification of the European armed forces.

2. – A statement of its own lack of jurisdiction to solve these problems.
3. – Indication of the method to be adopted in order to solve them.
4. – Military measures to be taken in the event that the above-mentioned problems are effectively addressed and resolved.
5. – Interim measures.

Such is the weight of authority of the Conference that, were it to advance reasonable proposals, the governments would find it very difficult to avoid accepting them.

*1. – Presentation of the Problems that Must be Solved to Achieve Unification of the European Armed Forces.*

This part of the final document must contain a coherent analysis of the question of defence and the problems to which it gives rise.

It must therefore, first of all, reaffirm, against the trend in favour of maintaining the military status quo, that the defence of democratic Europe and the proper functioning of the Atlantic Pact demand the complete unification of the armed forces that defend land, sea and sky (a European army).

Therefore, it must be declared that:

a) the European army must be completely subordinated to a European state, in the sense that it owes it absolute loyalty, receives orders from it and is paid and equipped by it.

b) It is the European state that appoints the supreme commander of the European army and that decides, within the framework of the North Atlantic Pact commitments, the ways in which European troops should be made available to the Atlantic Commander.

c) First, the European state must be composed of a European government divided into various ministries, namely: a foreign ministry responsible for handling the affairs of the Community within the North Atlantic Pact and generally for managing relations with countries that are not part of the European Community; a finance ministry, responsible for collecting, in the various countries, the taxes established by the Community, and for distributing the revenues among the Community's different activities; a ministry for general economic policy, responsible for taking the steps, in terms of unification and economic coordination, that prove to be necessary in order to make military unification possible and effective.

The total or partial transfer of these functions from the nation states to the European state implies the need for a complete set of constitutional rules.

d) Second, the European state must include among its institutions a parliament authorised to elect and control the actions of the government, and to approve, within the field of the functions transferred to the Community, the necessary laws, and to vote on the budget of the European state. Given the need to have, within the European Parliament, a body representing the peoples and one representing the states, the parliament will be composed of a chamber of representatives of the states and a chamber of representatives of the peoples.

It remains to be established what procedures should be used for setting up these chambers and what their specific competences should be.

e) Third, the European state must have a High Court of Justice to protect the rights of citizens, the Community and the member states.

Without properly establishing these organs, and without determining the corresponding portions of sovereignty that must be transferred from the nation states to the European federal state, it will not be possible to form the European army, other than as a set of auxiliary troops provided by weak and quarrelsome tributary states — as has already been extensively shown in the first part of this memorandum.

## 2. – *Statement of the Conference's Inability to Solve the Problems Related to Military Unification.*

The armed forces do not represent a special sphere of activity of a sovereign state, but rather the very embodiment of its sovereignty. Unifying armed forces therefore means unifying the most important functions of sovereignty. The Conference, to accomplish its mandate, should draw up a document that amounts to nothing more, nor less, than the text of a European federal constitution.

However, while the Conference may come to understand the need to create a European state as a *sine qua non* condition for the creation of a European army, it cannot draw up the constitution.

First of all, it has not received a mandate to do so from the member states. Second, because of the way it is composed, it is equipped to tackle diplomatic and technical issues. And what we are faced with here is, above all, the need to make Europe's constitutional laws.

## 3. – *Indication of the Method to be Adopted.*

Even the states most inclined to reach true unification will never be able, freely, to resolve to do so unless they have before them a text that clearly defines the European bodies, the powers to be transferred to them, and the relationships that will exist between the nation states and

the new European state. This text will be a treaty or pact between the states until such time as they have ratified it, and it shall become the supreme constitutional law of the new state as from the moment in which it has been ratified and the envisaged bodies have been created.

The states, whilst reserving the right to decide whether or not ratify the pact, must therefore agree to set up an international body that has a full mandate to draw up a pact that contains the definition of the European state and that defines its functions.

This body cannot be anything other than a European federal constituent assembly that, strictly speaking, should be based on a direct vote by the citizens, but, for reasons of speed and convenience, may be elected by the parliaments, which are the custodians of popular sovereignty.

In order to found the American federal state, the Philadelphia Convention took four months to draw up its constitution. To found the German federal state, the German constituent assembly took six months.

If promptly convened, a European constituent assembly could draw up the text of a federal union pact in a similar period of time. Indeed, its task would not be to make the laws of the European Community, but to set up the organs that would subsequently be able to legislate.

The Conference on the European army may therefore make this proposal without having any concerns at all, because far from wasting time, it is actually a means of gaining time. The establishment of a European army will, in any case and without doubt, be a slower process than the establishment of the European political bodies.

While it is possible, pending the creation of a European political power, to start the process of creating a European army, as we have seen, this process cannot be completed without having first formed a European political power. The European constituent assembly thus represents the quickest way to establish the European army. Eminent jurists and politicians from different countries have already prepared a draft statute of the European constituent assembly that could be used as a working tool if it is desired to proceed rapidly with convening this assembly.

#### *4. – Military Measures to be Taken in the Event that the Above-Mentioned Problems are Effectively Resolved.*

The Conference may continue its work effectively only if the governments, accepting the proposal to convene the European constituent assembly, assign the Conference with the purely technical task of studying and proposing how military unification might be implemented, in the event of the European federal state being created.

Were it indeed to be assigned this task, the Conference would not have to concern itself with the political institutions and modalities that the existence of a European army implies (Commissioner, Council, Assembly, Court, their composition, their manner of voting, European finances, etc.). It should assume that the answers to these questions will be provided by the European constituent assembly, and focus instead on studying the technical procedures that would ensure the proper functioning of a European army. Issues such as language, the size of the combat units, the organisation of military commands, recruitment methods, education, military schools, and so on, are the Conference's particular field of work. However, to be able to work effectively, the Conference should know, in advance, whether or not the states have decided to entrust to a more competent body the task of identifying and establishing the European political authority to which the European army would belong.

#### 5. – *Interim Measures.*

The interim measures to cover the transition from the national armies to the European army can be determined only according to the structure of the European state and thus upon the conclusion of the work of the European constituent assembly.

Until that time comes, there is only one serious issue, demanding interim measures, that the Conference needs to tackle, namely that of German rearmament.

All the countries other than Germany already have national armies that, for better or worse, are set within the framework of NATO. Until the European army and European state have been created, they will remain virtually as they are.

Germany, on the other hand, still does not have an army, and the Conference must come up with some proposals in this regard. Until such time as Europe has its own army and its own state, there are several possible courses of action:

a) Germany rebuilds an army of its own that is subsequently handed over, together with all the others, to the European state.

b) The North Atlantic Commander or a provisional European authority recruits German troops that are subsequently handed over to the European state, or, if this is not created, to the German state.

c) Germany remains disarmed until the formation of the European state and European army.

None of these three alternatives is particularly palatable. The sec-

ond is perhaps the lesser evil, provided of course that no time is lost convening the constituent assembly. The first solution would exacerbate international diffidence and make it more difficult to arrive at the conclusion of the federal union pact. The third, which amounts to maintenance of the status quo, is becoming more untenable by the day.

The best solution would probably be to keep Germany unarmed until a certain date (e.g. up to three months after the convening of the European constituent assembly) and begin international recruitment of German soldiers once the work of the constituent assembly has reached quite an advanced stage.

### PART III

#### *The Activity of the Italian Delegation.*

The Report reveals that the attitude of the Italian delegation was characterised throughout by diffidence towards the question of military unification and by a tendency to defend sovereignty. This is particularly surprising when one considers that the Italian government has constantly claimed to be favourably disposed towards limitations of sovereignty on a reciprocal basis.

The Italian government is, justifiably, looking for a foreign policy that will ensure it some successes. A federalist approach offers the right solution to the diffidence on the part of the French and Germans, and it is supported by the United States. It therefore has great chances of success. To develop it, the head of the Italian delegation needs not only to be granted, by the government, a free hand to act in this sense, but also to surround himself with experts and advisers who understand the problems of federal unification, instead of officials who, faced with the problems of unification, are both incompetent and sceptical.

This is perhaps the first time since the end of the War that Italy has found itself with an opportunity to reconnect its foreign policy with the tradition of the Risorgimento, in other words to support the same principles of freedom and solidarity that guided the unification of our country.

It is to be hoped that the leader of the delegation realises that his role is not to carry out a routine administrative task, but rather to undertake an action whose success or failure could decree the salvation or decline of democratic Europe, and thus of the Italian Republic too.

MINUTES OF THE MEETING OF THE  
SIX FOREIGN MINISTERS  
OF THE CONFERENCE ON THE EUROPEAN ARMY  
HELD IN STRASBOURG ON DECEMBER 11, 1951

*Morning Session* (10 a.m. – 1 p.m.)

1. – *Agenda.*

*Schuman:* Proposes an agenda based on a chronological criterion: i.e. first, examination of the problems relating to the creation of a European army (recruitment, incorporation of troops, appointments to ranks) and then those concerning its operation (budget, armament plans, allocation of external aid).

*De Gasperi:* Given the limited time available, considers that it would be preferable to eliminate all technical issues and focus instead on the more strictly political and important ones, in particular on the matter of the budget.

*Schuman:* Clarifies that it is, indeed, his intention to deal only with the political aspects of the various issues he indicated.

*De Gasperi:* Declares that he is willing to accept the proposed agenda in the light of this clarification, whilst recalling that the budget is, in his opinion, the fundamental question.

2. – *Recruitment of European Troops.*

*Schuman:* Notes that with regard to recruitment, two different situations must be considered: as regards Germany, it will be a case of recruiting troops *ex novo*, whereas for the other countries, it will instead be a case of incorporating, into the European army, troops that already exist. The proposals of the experts of the Paris Conference suggest that recruitment should be the task of the national authorities, carried out, however, under the supervision of the Commissioner, and in accordance with general rules applicable to all, established as an annex to the Treaty.

In answer to a question from Bech, specifies that the duration of military service would be the same for all, but that the member states would be free to decide on exemptions and other secondary rules.

In reply to Sticker, specifies that the Commissioner would be authorised to recruit directly in the different countries only after the establishment of a true European confederation.

After noting that there do not seem to be serious differences of opinion on the subject, concludes by saying that the principles set out above can be considered accepted.

*Sticker*: Asks whether the agreement on the length of military service must be reached unanimously.

*Schuman*: Points out that, since the length will be established in the Treaty or in a protocol, unanimity is obviously necessary. Nevertheless, it remains undecided whether unanimity is also required in order to establish subsequent changes to the length of service. The issue could be submitted to the experts for examination.

*De Gasperi*: While noting that an agreement seems to have been reached, recalls that the governments are not yet firmly committed on this point. A final decision may be taken only when the governments can examine the whole Treaty.

### 3. – *Incorporation of the Troops.*

*Schuman*: Reports that the committee of experts has proposed the complete incorporation of the national forces into the European army, with a few exceptions (see article 6 of the draft Treaty: colonial forces, police, occupying forces in Berlin and in Austria).

*De Gasperi*: Feels that there may be difficulties with regard to the occupying forces in Berlin and in Austria. Asks what would happen if the French troops in Berlin or in Austria were to be attacked. Would the Community then enter into war?

*Schuman*: Explains the reasons why it was deemed necessary, at the express request of Germany, to make the exceptions of Berlin and Austria and, moving on to talk about colonial troops, sets out France's situation in Indochina, recalling that France needs to be able to guarantee replacements for contingents that suffer heavy losses there.

*De Gasperi*: Has no objection to the exception of the Indochina troops but raises the problem of the proportion between the quantity of these troops and the quantity made available to the European army. How many contingents would need to be reserved for such replacements in Indochina? Stresses that the question is important, particularly on a psychological level, because in this way France would, in fact, albeit for understandable reasons, get to keep a national army, unlike the other countries.

*Schuman*: Indicates that a reserve of two divisions is envisaged for Indochina.

*Van Zeeland*: In his view, an agreement could be possible on the following bases: all the contingents included and listed in the Treaty

would be denoted European, while all the other contingents, including the police, the colonial troops and those used for international duties, would remain outside the European army.

*Sticker*: To avoid misunderstandings, notes that together with the police it would be necessary to include, contrary to what Schuman said, homeland defence forces.

*Schuman*: Feels that there is a considerable difference between his position and Van Zeeland's. For Van Zeeland it is a question of establishing, in the Treaty, which contingents are included in the European army; for him, on the other hand, it is a question of establishing which are excluded. In both cases, it can be presumed that all that is not specifically mentioned is, respectively, excluded or included. In the first case, this presumption would work in favour of the nations and in the second case in Europe's favour.

*Van Zeeland*: Acknowledges that his proposal is a compromise between the arguments presented and, therefore, the Treaty will list both the contingents included in the European army and those that are to remain national. For example, the anti-parachute and internal defence forces will be specifically indicated as having a national character.

*Adenauer*: Agrees with Schuman. If Van Zeeland's line were followed, the political design of the European Community would disappear.

*Van Zeeland*: Is willing to forgo the criterion of presumption, to which Schuman alluded, in both on one side and on the other, in other words, there will be no presumption either in favour of the national armies or in favour of the European army. Proposes, therefore, that the experts draw up a complete and exhaustive list of the European forces and the national forces.

*Adenauer*: Hesitates to accept Van Zeeland's proposal. It would be detrimental to European integration and would weaken the European idea. And if new forces (e.g. atomic forces) were to be created, it would not be known which category they should be put in.

*Schuman*: Despite there being two quite different positions, considers that a common solution may be reached. Proposes, and the other ministers accept, that a text should be drawn up by the experts in which the points of agreement and disagreement are recorded.

#### 4. – *Ranking (Appointment of Officials).*

*Van Zeeland*: Sets out the Belgian position as follows: the basic rules for appointments and advancements within the European army must be common. However, within homogeneous national groups, these rules

must be applied in accordance with national constitutions and by national bodies; i.e. accepts that officers within the European forces should be appointed by the Commissioner, but states that this should not be the case for national divisions, as this would go against the Belgian Constitution.

*Adenauer*: Cannot accept Van Zeeland's view which seems incompatible with the European character of the Community. The only possible exception is the monarch's guard.

*Sticker and Bech*: Align with Van Zeeland's position.

*De Gasperi*: Remarks that every issue that arises also raises the basic problem, i.e. the fact that the creation of a European army is not possible without altering basic laws of the member states and without resolving the fundamental political question: the character of the Community.

*Schuman*: Sets out a transnational proposal from France: in the countries that are monarchies, appointments would be made by the national authorities on the proposal of the Commissioner; the reverse would happen in the republics, where appointments would be made by the Commissioner in agreement with the national authorities. The system would be temporary, pending the establishment of further, federative formulas.

Adds that care would need to be taken to ensure that the final text did not show embarrassing differences between the situation of the monarchies and the republics.

Is convinced that an agreement can be reached.

*De Gasperi*: Points out that this is not an easy issue for the republics either, as there is a risk that a republic might be made to seem to defend the national character less well than a monarchy. The problem is particularly serious in the case of republics that do not have ancient traditions.

*Adenauer*: Expresses support for De Gasperi and asks to what extent, in Schuman's proposal, each of the two parties would be obliged to confirm the appointment proposed by the other party.

*Schuman*: Judges that in both cases there would have to be agreement. In other words, both the Commissioner and the national authorities would have a right of veto.

*Van Zeeland, Sticker and Bech*: Accept Schuman's proposal, which represents the very most they are prepared to concede.

*Schuman*: Notes that an agreement has been outlined and shall instruct the experts to draw up a text.

### 5. – *Education.*

*Schuman:* Is of the opinion that education in the army should be based on common principles, and moreover should be organised in a European framework and under the control of the Commissioner. Knows, however, that on this point, some delegations have expressed reservations.

*Van Zeeland:* States that, in the Community, the essential goals must be common to all, but that the creation and application of the general rules should remain the remit of national authorities, albeit leaving the Commissioner rights of inspection and control. Believes, therefore, that the first phase of military education should continue to be national, and that in the second phase there must be common European schools. The European spirit must not suppress the national spirit.

*De Gasperi:* Notes that it is difficult to make a decision on this subject when the role of Commissioner is still to be defined.

*Sticker:* Presses for acceptance of a solution along the lines of Van Zeeland's proposal.

*Schuman:* Shall instruct the experts to try and draw up a text.

*Afternoon Session (3 p.m. - 8 p.m.)*

### 6. – *Powers of the Commissioner and Fundamental Political Question.*

*De Gasperi:* Italy is ready to transfer extensive powers to a European Community provided that it is democratically organised in such a way as to offer guarantees of being able to thrive and develop. Does not deny that there may be a transitional period, but considers it necessary that when the Treaty is presented to the parliaments, the will to create common political institutions, able to ensure the life of the organisation, must already have been plainly stated. Recognises that an integrated Europe will not immediately manage to have a political organisation, but deems that there has to be, from the outset, the certainty that this organisation will, at a given point, come into being. If the entire army is to be transferred to a European power, the parliaments and the peoples need to know how this power will be organised, how will it handle its functions, and how it will be controlled.

For this reason, considers the presence of an Assembly within the European structure to be essential; there needs to be a representative body in the European Community, and this may even be formed through the delegation of powers by the national parliaments.

The European executive, which he believes should be collegial,

would be accountable to this European representative body. The executive body should have a president, to be named Commissioner or otherwise. (The word Commissioner may not be readily accepted by Italians because it is a term that recalls the police authorities, or by Germans because it recalls the high commissioners of the occupation). This name is a secondary issue, however; the important thing is that what is envisaged is a commissariat and not a single specific individual. In this collegial body, the presidency, for example, could be held by rotation.

Understands that the creation of a representative Assembly could cause some concern among the smaller countries, whose representation would inevitably be limited, although this may find a remedy in the Council of Ministers, wherein each country would have equal representation, as in a council of states.

Then there is the matter of creating the European army. In the North Atlantic Pact there is, in theory at least, no automatism. With regard to the European army, it would be necessary, in determining the powers of the assembly and the Council of States, to find a formula that allows these organs to be consulted.

In any case, to succeed it is necessary to create something that is attractive to European youth; to launch an appeal to which young people can respond. How can the transfer of such important parts of national sovereignty to common organs be justified without, at the same time, giving the people the hope of realising new ideas? This is the only way to fight resurgent nationalism.

*Schuman:* While substantially in agreement, contends that De Gasperi's comments concern a later stage. Today, it is necessary to restrict the examination to what needs to be done immediately.

*De Gasperi:* Fears that there has been a misunderstanding and that he has failed to express himself clearly. In order to present the Treaty to the parliaments it is necessary not only to say what will be done during the transitory stage, but also to state the goal that it is desired to pursue and that must be reached, albeit without going into detail. It is therefore indispensable to establish, in the Treaty, several principles or general idea. This may be done in just few lines, as long as they are clear and binding. Moreover, it is not difficult to rapidly create an Assembly made up of delegates of national parliaments; this Assembly, however, must have real and clearly defined powers.

It is not with the intention of delaying the conclusion of the Treaty that he demands this. One need only think of the considerable danger

to which Italy is exposed on account of its geographical position to understand that, for the Italian part, there can certainly be no question of wanting to employ delaying tactics in the organisation of defence. Considers it necessary, however, that the European Defence Community amount to something more than that which has already been established in NATO, otherwise it would be useless and ineffective.

There is at this point a digression on the *automatism* question following an interjection by *Van Zeeland*, who says that he is prepared to accept within the European Community the automatism which is not provided for within NATO.

*Sticker*: Is somewhat unsure about accepting Van Zeeland's proposal. Feels that the problem of setting the European Defence Community in motion must be decided in agreement with NATO and therefore cannot be resolved in the present setting.

*Schuman*: Notes that there are two aspects to the automatism problem: first, as it relates to the European Community – and in his view among the Six the automatism system must be adopted –, and second as it relates to NATO. A reciprocal automatism could perhaps be established between NATO and the European Community, but this is a problem to be resolved with NATO.

At this point the discussion returns to the subject of the general political problem.

*Schuman*: Has no difficulty outlining, even now, the future political institutions that will characterise the definitive stage of the Community, but recalls that some common organs need to be created immediately, to address the urgent problem of the organisation of the Community. Takes the view that, in the immediate term, the European Community could not be headed by the Council of Ministers, which seems to be the Belgian view, because only a Commissioner could guarantee the rapid and streamlined management that is required.

*De Gasperi*: Insists that it must be established immediately what the representative bodies in the definitive period will be. Only having established this will it be possible to go on to work out those for the interim period.

*Schuman*: Proposes that the task of designing the definitive institutions should be left to the experts.

*Sticker*: Refuses to make a decision today on the question of the definitive institutions. The experts at the Paris Conference have, as yet, not received any instructions on this matter and the problem has not been discussed at all.

*De Gasperi:* Recalls that the Italian delegation in Paris advanced concrete proposals in a memorandum dated 9 October. The issue, therefore, is not a new one. It was discussed at the Paris Conference, but not resolved.

*Adenauer:* Agrees that the issue of the definitive institutions was, indeed, raised and discussed in Paris.

*Schuman:* Appreciates De Gasperi's wishes and would not be opposed to the Treaty affirming the will to reach a politically organised Europe, possibly with an elected assembly, a second chamber and an executive. But today it is necessary to focus on the immediate problems, first and foremost *that of the budget* (how, while there is no European political union, a common army might be financed).

The ministers, while not abandoning their discussion of the basic political problem, turn their attention to the budget.

*Alphand:* Sets out the situation as regards the work of the experts on this subject, drawing attention in particular to the latest French proposal.

*Van Zeeland:* Stating that the common budget must be limited (i.e. cover only a set of certain, truly common, expenses), expresses the view that it should be prepared by the Commissioner and approved unanimously by the Council of Ministers. As regards a possible intervention on the part of the Assembly in approving the budget, is not really in favour, but is prepared to accept it, on condition that the Assembly can only make recommendations.

In general, can accept the proposal made by the Dutch experts at the Paris Conference. Adds, as a concession to the French position, that the divisions, once they have been equipped by the national budget, should — at this point being ready —, be transferred to the Community and thus gradually brought under the common budget.

*Sticker:* Agrees with Van Zeeland, specifying that the above refers to a transitional period that should automatically come to an end upon the expiry of the medium-term programme.

*Schuman:* Again raises the doubt that a common army can be operated in the absence of a common budget.

*Adenauer:* Agrees with Schuman. A common fund is necessary above all for Germany, which will have to spend forty-eight billion marks to equip its twelve divisions. Remarks that this is clearly impossible without American aid, but believes that the United States would more readily give aid for a common fund than to single countries.

*Schuman:* Raises the issue of armament plans in relation to the common budget. Within NATO it has not proved possible to achieve stan-

andardisation. This might be achieved within the European Community, but only if there is a common budget and only if the Commissioner has, albeit through the intervention of the Council, the power to outline these plans and to oblige the member countries to implement them.

*Sticker*: Points out that each country has already established national armament plans: their modification by the Commissioner would be detrimental. Moreover, the national authorities are essential for the execution of the said plans.

*De Gasperi*: Proposes that the consultation should be extended to the defence ministers.

*Schuman*: Recognises that this is a political and financial problem on the one hand and a technical and military one on the other. It is therefore appropriate that both the aforementioned ministers be consulted.

*Van Zeeland*: Retuning to the question of the budget, states that the system of a single and totalitarian budget may be adopted only at the end of the transitory period. As regards the transitory period, feels that there is not a huge difference between the French and Dutch proposals. More than anything it is a question of establishing by common accord the extent to which national authorities may intervene in the execution of the armament plans. This is a question that could be examined by the experts.

*De Gasperi*: Remarks that it must be quite clear that the problem is solely that of the budget during the transitional period, but fears that the transitional would be likely to develop into the virtually definitive. Asks, therefore, that the experts be clearly instructed to give substance to the formulas already provided for by art. 7 H of the draft Treaty on the powers of the Assembly. This would eliminate the dubious and problematic character that the transitory period would otherwise have.

*Adenauer*: Agrees that the fundamental principles referred to by De Gasperi must be formulated without delay.

*Schuman*: Whilst reaffirming his attachment to the European idea, does not feel that on such a serious topic it is possible, in the present session, to specify instructions for the experts.

*De Gasperi*: Finds the opposition to his idea surprising. All have expressed support for the idea of European political integration, but the delegations' subsequent attitudes suggest that, in reality, there is a desire to establish the provisional as the definitive.

*Sticker*: Warns that the above would be dangerous as it could give rise to unfounded illusions about the possibility of a rapid European integration.

*De Gasperi:* Proposes a text in which, taking up and modifying somewhat Article 7 H of the draft Treaty, instructions are given to the experts to study and respond promptly on the ways in which, in the definitive period, a representative Assembly should be created and on the powers it should have, especially with regard to the voting and control of the budget and the creation of European taxes.

*Schuman:* Is reluctant to accept the proposal. What De Gasperi is demanding would entail changes to the French Constitution. He cannot commit himself at present.

*De Gasperi:* Is sure that in France, too, the Treaty on the European army would be more readily accepted by the national parliament if it envisaged a federated organisation. If the proposed text regarding the instructions to the experts cannot be accepted, deems it essential that Article 7 H of the draft Treaty be duly strengthened.

*Adenauer:* Supports de Gasperi but fears that experts will not be able to draw up proposals by February 2, as would be necessary. This work could be done by the provisional Assembly of the organisation, establishing a reasonable deadline for its work.

*De Gasperi:* Strongly reaffirms that, at the very least, it is indispensable that, in the evolution of the Community, the presence of a representative Assembly be clearly visible.

*Evening Session (10 p.m. – 1 a.m.)*

During the break, the experts prepared texts on the topics covered in previous sessions, as instructed by the president, Schuman.

*Alphand:* Reads the agreed text on recruitment. The text reads as follows: “Le recrutement sera effectué par les organisations nationales sous le contrôle du Commissaire et en application des règles communes établies dans un protocole annexe au Traité. En particulier la durée uniforme du service devra être fixée dans le protocole. Dans la mesure où le protocole le permettra les gouvernements et les Parlements nationaux resteront libres d’établir certaines dispositions particulières (par exemple en matière de sanctions). Ces principes sont sujets à adaptation le jour où il aura été créée une organisation confédérale entre les Etats membres. Les experts devront étudier la question de la modification éventuelle du protocole annexe notamment sur les points de la durée du service.”

*Bech:* Expresses some difficulty accepting that the duration of military service should be uniform, i.e. the same for everyone.

*Sticker*: Recalls that, going by what was said during the morning on the duration of service, the decision must be unanimous. Given that it will be inserted in a protocol, even its possible modification must be decided unanimously.

*Adenauer*: Believes that uniformity of the duration of service is an essential and fundamental point.

*Bech*: Is under the impression that the agreements of the morning were different and that exceptions had been established.

*Schuman*: Acknowledges that the duration of service should differ according to the category, and proposes, to satisfy Bech, an amendment.

The six ministers agree to amend the above text by adding the words: "pour chaque catégorie d'armes" to the last line in paragraph I, which is thus modified as follows: "En particulier la durée uniforme du service, pour chaque catégorie d'armes, devra être fixée dans le protocole".

*Alphand*: Reads the agreed text on the appointment of officials: "A titre provisoire une formule transactionnelle sur la nomination des officiers est établie. Il est convenu que les grades dans les unités de nationalité homogène des forces européennes de défense sont conférés: par décision du Commissaire, sur proposition des autorités nationales, en ce qui concerne le personnel d'origine allemande, française, italienne; sur recommandation du Commissaire, transmise aux autorités nationales, en ce qui concerne le personnel d'origine belge, luxembourgeoise et néerlandaise. Il est entendu que les autorités nationales et le Commissaire ont le droit de veto. Les Ministres des affaires étrangères doivent toutefois réserver la position de leurs gouvernements au sujet de l'acceptation de cette formule transactionnelle. Les grades supérieurs à ceux de commandant d'unité de base de nationalité homogène, sont conférés par décision du Commissaire dans les conditions de l'art. 33. Les emplois sont conférés par décision du Commissaire."

The text is approved.

*Alphand*: Reads the agreed text on the incorporation of the troops. (The text is supplementary to what is established in art. 6 of the draft Treaty). "1) Ajouter parmi les forces demeurant nationales: a) les troupes servant à la garde personnelle des Chefs d'Etat, b) les gendarmeries nationales; 2) indiquer dans un protocole annexe qu'à titre provisoire et jusqu'à une date fixée d'un commun accord par les gouvernements des Etats membres, des forces armées nationales pourront être recrutées et entretenues par le Royaume de Belgique jusqu'à concurrence de deux régiments."

*Van Zeeland*: At the request of Adenauer explains that Belgium needs

to keep two regiments for special security services internally and, again at the request of Adenauer, specifies that the retention of two national regiments will not prevent Belgium from supplying the European army with the quotas established in the Treaty.

*Adenauer:* Points out the difficulty that would derive from reserving special treatment for Belgium, while leaving Germany without any national forces at all.

*De Gasperi:* Remarks that Van Zeeland's request would also constitute a difficulty for Italy, where local defence and the maintenance of security are an even more serious problem than they are in Belgium.

*Sticker:* Recalls that there are three categories of forces – anti-aircraft forces, internal security forces and naval forces – that are not available to the SHAPE and whose situation, as regards their position in the European army is still uncertain.

*Adenauer:* Considers this to compound the Belgian request: were the problems indicated by Sticker be resolved, Belgium, in addition to the two regiments already mentioned, could go on to claim that other contingents should remain national. Were Belgium to insist in this claim, Germany, in order to preserve the ratio between what is transferred to the European army and what remains national, should demand to retain twelve regiments at the disposal of the federal government. Points out that is a serious issue also because of its psychological repercussions.

*De Gasperi:* Concludes that the Belgian formula as presented in the text under discussion is barely acceptable, but thinks that the experts will manage to find another that, substantially satisfying Belgium, will not create problems of form for the other countries.

*Schuman:* Has to note that, for the moment, it is not possible to reach an agreement on the proposed text, but hopes that an agreement will be reached after a more detailed examination of the question, as indicated by De Gasperi.

## 7. – Powers of the Assembly.

*Schuman:* Returns to the question of the powers of the Assembly. States that, during the break between sessions, he realised the need to meet De Gasperi's demands. To this end, proposes the adoption of a new wording of Art. 7 H of the draft Treaty, hoping that it will meet with the approval of both De Gasperi and the other ministers.

*Alphad:* Reads the following text: "L'Assemblée étudie, pendant la période transitoire: a) la constitution d'une Assemblée de la Communauté européenne de défense, spécialement élue sur la base du suffrage

universel; b) les pouvoirs qui seraient dévolus à une telle Assemblée, y compris celui de voter des impôts de la Communauté; c) les modifications qui devraient éventuellement être apportées aux dispositions du Traité relatives aux autres institutions de la Communauté, notamment en vue de sauvegarder une représentation appropriée des Etats.

Dans ses études, l'Assemblée s'inspirera des principes suivants: l'organisation de caractère définitif qui prendra la place de la présente organisation provisoire devra avoir une structure confédérale. Elle devra comprendre notamment une Assemblée bicamérale et un pouvoir exécutif. Les propositions de l'Assemblée à cet égard seront soumises au Conseil. Avec l'avis du Conseil, ces propositions seront ensuite transmises par le président de l'Assemblée aux gouvernements des Etats membres."

*Sticker*: Strongly refuses to approve a text of which, until this point, he had no knowledge.

*Schuman*: Says he was struck by what De Gasperi told him, namely that De Gasperi would have very serious difficulty getting the Treaty accepted by his parliament unless it included a commitment of the kind embodied by the proposed text. Asks Sticker whether the inclusion of such a text in the Treaty would create difficulties for him vis-à-vis his parliament.

*Sticker*: Says he has no problems of this kind: the Dutch Parliament is driven by vital pro-European sentiments. But it seems to him unfair to request approval of a text that has been sprung as a surprise. Is willing to concede only that the text be passed to the experts for examination.

*De Gasperi*: Rejects Sticker's objection. It is not his intention to take anyone by surprise. On the contrary, he has raised the issue in question from the start of the meeting and has not failed to raise it again each time, in the course of the discussion, it has recurred in connection with other topics (in reality all of them). He made a proposal earlier, to give the experts certain mandatory instructions, a proposal that he dropped after Adenauer remarked that the experts could not complete the work by 2 February. Now feels he must insist. The text in question is the least he is asking; trusts that he will not now be told that it is too late in the evening and Van Zeeland has a train to catch. The problem is of fundamental importance. If he stays, or is prepared to stay until tomorrow, it is because it is absolutely necessary to arrive at an agreed formula. Should a formula of the kind proposed, which for him is already too weak, fail to be accepted, then there is, in his view, much reason to be fearful. It would be bitterly disappointing to conclude in this manner

and sincerely hopes that his colleagues will allow him to continue to hope that an agreement might be reached.

*Bech* (clearly under orders from Sticker): Says he agrees with Sticker. Observes that, moreover, the text is unclear and raises a thousand questions; for example, what it meant by universal suffrage?

*Van Zeeland* (after De Gasperi's intervention, has decided not to leave declaring that he has now missed his train): Despite having some doubts, wishes to make an effort to mitigate De Gasperi's feelings of bitterness. Proposes accepting the text, although not as a final text, while giving instructions to the experts to review it taking into account the comments of Sticker and Bech.

*De Gasperi*: Is absolutely unable to accept this. Having amended his initial proposals (those regarding the mandatory instructions for the experts) in order to take into account his colleagues' observations, now finds that Sticker and Bech are reproaching him for the very concessions he made.

If there are difficulties over the reference to "universal suffrage", is ready to agree to its deletion from the text.

Is amazed that, after hearing everyone speak out in favour of a European confederation, so many difficulties should now arise over such a weak text. The objections that have been raised make him truly doubt that it will be possible to achieve something constructive. Urges his colleagues not to put him in a position in which he is obliged to withdraw the consent he has given to the on texts approved previously, warning that it must be clearly understood that this consent was conditional.

*Schuman*: Proposes an amended text which reads as follows: "L'Assemblée étudie pendant la période transitoire: a) la constitution d'une Assemblée de la Communauté européenne de défense spécialement élue sur une base démocratique; b) les pouvoirs qui seraient dévolus à une telle Assemblée; c) les modifications qui devraient éventuellement être apportées aux dispositions du Traité relatives aux autres institutions de la Communauté, notamment en vue de sauvegarder une représentation appropriée des Etats. Dans ces études l'Assemblée s'inspirera des principes suivants: l'organisation de caractère définitif qui prendra la place de la présente organisation provisoire devrait avoir une structure fédérale ou confédérale... (the rest of the text is unchanged)."

*Sticker*: Fears that the Conference has taken a turn for the worse: De Gasperi has talked of feeling bitter and hinted at the possibility of a split. In truth the only thing dividing everyone is whether they must ap-

prove the text now or first have it examined by the experts. He is tired; it has been a long night. Requests a few minutes for reflection.

*Schuman*: With a few conciliatory words, acknowledges the difficulty of the discussion and the difficulties deriving from the fact that everyone is extremely tired.

*De Gasperi*: Is certain that Sticker is driven by the desire to reach an agreement, but simply wishes to remind him and his colleagues that this is the kind of passing opportunity that is lost if it is not seized. States that he feels the full weight of the responsibility of the moment and is sure that the others feel it too.

*Bech*: Declares that he is willing to adopt the amended text as proposed by Schuman.

*Sticker*: Thanks De Gasperi for his words and, while declaring that he is not happy with the proposed text, accepts it to show his good will.

*Schuman*: Welcoming the agreement that has been reached on his conciliation text, closes the meeting remarking that various issues remain unresolved, including the very basic one of the budget. Thus proposes that, as soon as possible, there should be a further meeting of the foreign ministers, possibly together with the finance and defence ministers.

The ministers, after a discussion, agree that the said meeting shall take place in Paris on December 27, 28 and 29 (possibly also December 30); at the beginning the meeting will also see the participation of the finance ministers and subsequently, separately, the defence ministers.

## RESOLUTION ADOPTEE LE 10 SEPTEMBRE 1952 A LUXEMBOURG PAR LES SIX MINISTRES DES AFFAIRES ETRANGERES

Considérant que l'objectif final des six gouvernements a été et demeure d'aboutir à la constitution d'une Communauté politique européenne aussi étendue que possible;

Constatant que, à la demande du gouvernement italien, a été inséré dans le Traité instituant une Communauté européenne de défense et signé le 27 mai 1952, un article 38 qui a pour objet de confier à l'Assemblée de ladite Communauté l'étude de la constitution d'une nouvelle Assemblée élue sur une base démocratique de manière à pouvoir constituer un des éléments d'une structure fédérale ou confédérale ultérieure, fondée sur le principe de la séparation de pouvoirs et comportant, en particulier, un système représentatif bicaméral;

Rappelant que dans sa résolution n. 14, adoptée le 30 mai 1952, l'Assemblée consultative du Conseil de l'Europe a demandé que les gouvernements des Etats membres de la Communauté européenne de défense fassent choix, en tenant compte de la procédure la plus rapide, de l'Assemblée qui serait chargée d'élaborer le statut d'une Communauté politique de caractère supranational, ouverte à tous les Etats membres du Conseil de l'Europe, et offrant des possibilités d'associations à ceux de ces Etats qui n'adhéreraient pas à cette Communauté;

Conscients que la constitution d'une Communauté politique européenne de structure fédérale ou confédérale est liée à l'établissement de bases communes de développement économique et à une fusion des intérêts essentiels des Etats membres;

Les six Ministres des affaires étrangères de la Communauté du charbon et de l'acier, réunis à Luxembourg le 10 septembre 1952, ont pris la décision suivante, qui tient compte des considérations précédentes ainsi que de leur désir de hâter l'étude du projet envisagé, en lui assurant le maximum d'autorité:

A. – Les membres de l'Assemblée charbon-acier sont invités, en s'inspirant des principes de l'article 38 du Traité instituant la Communauté européenne de défense et sans préjudice des dispositions de ce Traité, à élaborer un projet de Traité instituant une Communauté politique européenne. A cet effet, les membres de l'Assemblée, groupés par délégations nationales, désigneront par cooptation, parmi les délégués de l'Assemblée consultative qui ne sont pas déjà membres de l'Assemblée charbon-acier, autant de membres supplémentaires qu'il sera nécessaire pour que soit atteint un effectif égal à celui prévu pour chaque pays à l'Assemblée de la Communauté européenne de défense;

B. – L'Assemblée ainsi composée et complétée à cette fin se réunira en séances plénières au siège du Conseil de l'Europe. Elle pourra également se réunir en séances de commission.

Elle déterminera les conditions dans lesquelles des représentants d'autres pays, et notamment de ceux qui sont membres du Conseil de l'Europe, pourront être associés à ces travaux en qualité d'observateurs.

Elle fera périodiquement rapport à l'Assemblée consultative sur l'état et l'avancement de ces travaux.

C. – Les Ministres des affaires étrangères réunis dans le Conseil de la Communauté européenne du charbon et de l'acier seront associés aux travaux de l'Assemblée dans les conditions qui seront fixées d'un commun accord.

Afin de faciliter ces travaux, ils formuleront des questions qui seront soumises à l'Assemblée et qui porteront sur des sujets tels que: les domaines dans lesquels les institutions de la Communauté politique européenne exerceront leur compétence; les mesures nécessaires pour assurer une fusion des intérêts des Etats membres dans ces domaines; les pouvoirs à attribuer à ces institutions.

Les Ministres feront périodiquement rapport au Comité des ministres du Conseil de l'Europe;

D. – Dans un délai de six mois, à dater de la convocation de l'Assemblée charbon-acier, c'est-à-dire le 10 mars 1953, les résultats des études prévues ci-dessus seront communiqués à l'Assemblée de la Communauté européenne de défense, chargée des tâches visées à l'article 38 du Traité instituant la Communauté européenne de défense, ainsi qu'aux Ministres des affaires étrangères des six pays;

E. – Les gouvernements déclarent expressément s'inspirer des propositions du gouvernement britannique qui tendent à l'établissement de liens aussi étroits que possible entre la future Communauté politique et le Conseil de l'Europe.

C'est à cet effet que l'élaboration du statut de cette Communauté devra être entreprise et poursuivie en liaison permanente avec les organismes du Conseil de l'Europe.

F. – L'Assemblée consultative du Conseil de l'Europe sera informée de la décision qui précède;

G. – La procédure prévue ci-dessus ne préjuge en rien le Traité instituant la Communauté européenne de défense.

# Federalist Action

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## PREPARING FOR ACTION IN THE NEW EUROPEAN LEGISLATURE AND IN ANTICIPATION OF THE ITALIAN SEMESTER\*

### **The Forces in Favour of Europe are Still in the Majority, but they Have no Time Left to Lose**

The results of the European elections confirmed the growth of anti-European and pro-nationalist movements in different EU member states. They revealed the existence of a sovereignist hard core in France and a strengthening, in the UK, of an anti-European movement that topped the polls in that country. Yet the forces saying they want to keep Europe are still very much in the majority in the European Parliament, as well as in the public opinion and governments of the main eurozone countries, such as Germany, Italy, Greece and even France. The problem is that these forces, if they are to be credible, now need to declare how and within what deadline they want to create a unified Europe, finally resolving the paradoxical situation of having created a currency without the indispensable framework of a political union. Because the reality is that either this European legislature succeeds in creating the institutions needed to govern the euro and promote economic policies able to foster development and create employment, or the forces pushing the Union towards disintegration will become unstoppable and uncontrollable. This fact, evoked in the draft programme for Italy's six-month presidency of the EU, has also been raised in recent days in the context of the European Council meeting and the discussions between

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\* Presentation given by Secretary-General of the MFE, Franco Spoltore, at the meeting of the National Executive Bureau on 31 May 2014.

the leaders of the main political groups over choice of president of the European Commission. The best starting point, however, is the Italian government's draft programme as this document reveals a clear awareness — shared, on other occasions, also by representatives of the German government — that:

a) no advances are possible without institutional reform, not even through recourse, on the initiative of the Italians and Germans, to a new ad hoc Treaty;

b) the time has come to involve representatives of the European citizens in a new European constituent phase, by convening a convention (even though it remains to be established how this should be done and on the basis of what mandate);

c) the discussions under way between the national governments and the European institutions on the form and content of the proposed *partnerships for growth, jobs and competitiveness* will be the first test of the will to set the eurozone on a new economic course, combining national reforms with European incentives.

The MFE's federalist demands and the pressure it has been applying on Europe's politicians for some time now (since its Milan congress) revolve around these very same points, which also formed the basis of its *Campaign for the European Federation*. This campaign, launched last October ahead of the European elections and in anticipation of Italy's imminent presidency of the EU, was characterised by a widespread action that spread to over sixty Italian cities, involved dozens of initiatives, and saw the participation of thousands of citizens. Commitment to these points was also subsequently expressed by the JEF and the UEF. Thus, for the first time, we saw Europe's federalists mounting a common European action during an election campaign, using the same slogans and tools to call for European federation and highlight the need to resolve the issue of the democratic governance of the euro. Moreover, this action targeted candidates/leading figures from all the main political groupings and managed to secure commitment to a federalist declaration (in its European and/or Italian version) from around 250 of them (around seventy of whom were subsequently elected). This is no mean feat, given the electoral climate that emerged.

Not even at the time of the campaigns to obtain the direct election of the European Parliament and the single currency was federalist action on the strategic points crucial to Europe's future able to count on such broad consensus on the part of the JEF and the UEF. What we need to do now, fully aware of the urgency of the federalists' demands, which

are the fruit of a convergence of analyses within the movement and have become part of European debate, is cultivate this consensus and translate it into actions. Let us briefly recall these demands, summed up in the text of the MFE's latest action-postcard, not least to remind ourselves of the extent to which, while still lacking solutions, they have penetrated the awareness of Europe's parliaments and governments, and now feature, as problems to be addressed, on their agendas:

“With the aim of establishing a government of the eurozone by 2015, the citizens demand:

- the creation of an autonomous budget for the eurozone to be financed with own resources (like the tax on financial transactions and the carbon tax and the issuing of eurobonds) and adopted and monitored by the eurozone MEPs;
- the signing, by the eurozone countries, of a “pre-constitutional” agreement (also open to other countries wishing to participate) in which they will undertake to create a democratic, federal government that will be responsible for currency, taxation and the economy of the economic and monetary union;
- the convening of a conference of European and national parliamentarians, to start discussions on the reform of the European institutions;
- the convening, after the European elections, of a European constituent assembly with a mandate to draw up a federal constitution and lay down rules to regulate the relations between the eurozone countries and the rest of the EU.”

In the wake of the crisis, no other political organisation (Italian or European), outside the framework of organised federalism, has succeeded in identifying so clearly and so rapidly the obstacles needing to be overcome in order to consolidate the monetary union through the creation of a political union. Most have merely adopted pessimistic stances, resorting to populism and demagoguery to exploit the difficult situation in the hope of getting rid of the euro, or hung onto the optimism of those who still have too much faith in the idea that European integration will be easy. The MFE, once again, has shown that it is more capable than everyone else of producing an accurate analysis of the facts and proposing solutions. For us, this is a far from insignificant consideration: after all, it is precisely our ability to be more right that, over time and ultimately, is the foundation of the credibility and power we are able to win both in public opinion and among politicians.

The thing that once again emerged clearly in Italy, as confirmed by the various public discussions with candidates and parties, was the con-

siderable importance of the federalist presence in the electoral campaign as a means of linking problems of growth and development with political and institutional issues (through the use of instruments like the UEF Manifesto, the postcard and the Declaration of Commitment, all of which this time had European value). On an organisational level, the work done by the movement's militants and sections in the past year has been truly remarkable. Recently, in response to a request from the UEF secretariat, we tried to quantify the movement's recent activities by copying and pasting, into a separate file, all those mentioned in past six-seven months on the MFE's Facebook page. The resulting list ran to several dozen pages.

The end of the European elections marks the start of a new phase of action, which will inevitably unfold along two converging lines:

- the first line of action will target the Italian government and Italian politicians, to ensure that they channel the aspirations and hopes of those who want to change Europe, and specifically the governance the eurozone and its economy which is the current priority, in a federal direction;
- the second will aim to ensure the development, within the European Parliament, of an initiative to resolve the democratic legitimacy issue.

### **Italy's Task:**

#### **to Direct European Change Towards the Federal Solution**

Today, we are faced with not only the need but also a real opportunity to take decisive steps towards the realisation of European federation. Europe's federalists, both in Italy and across Europe, must use all the means at their disposal to get this message across within the parties, in public opinion and in the media. For our part, we can and must continue to do this through our *Campaign for the European Federation*. Most of the eurozone governments are not yet in favour of taking the road towards federal union. But the economic crisis and the consequences it has had, both on a social level and as regards the functioning of the European Union and the relationships within and between its member states, have laid the foundations and created the conditions for new advances. It is worth remembering that Schuman and Adenauer, in 1951, considered it unthinkable to link the formation of a European army to the construction of a political community, but ended up accepting the idea thanks to the dogged insistence of De Gasperi and the federalists. Similarly, it is worth pointing out that the drive to obtain di-

rect elections of the European Parliament stemmed from Italy (specifically from the MFE); and that it was the insistence of the Italian government, urged on by the MFE, that proved crucial in the decision to create the single currency, when other governments wanted limit themselves to establishing a parallel currency.

What is the state of play today? In answer to this question we can make three considerations:

1. It has now become essential to establish when and how to consolidate the monetary union through the creation of a political union. Unless Italy's main political leaders adopt a decisive and unequivocal stance on this issue, it will be impossible for Italy to influence the position of the other European governments, first and foremost the French and German ones: the French government has declared that it is ready to support the idea of a eurozone budget, but it is rather resistant to institutional change, while the German government would like to see the European institutions evolving in a federal direction, but is unwilling to pool its resources. Put bluntly, the absence of progress on this front will deprive the Renzi government of the conditions it needs in order to maintain the broad consensus it has won and translate it into the power to get things done.

2. It is now crucial, if there is to be any real chance of making progress on the European front, to move from the phase that saw the institutionalisation of the stability mechanism (necessary in order to save the euro and restore confidence among the member states) to one that will see the institutionalisation of a solidarity mechanism linked to the launch of the *partnerships for growth, jobs and competitiveness*, which are indispensable for promoting reforms in the different countries and thus for stimulating growth and employment. We know that decisions in this regard are due to be taken at European level in October. And the challenges that they must inevitably address are of three different types:

- historical, because a future of progress will become inconceivable if the EU is allowed to remain for much longer in the pre-federal stage in so many crucial fields, given the risk that, in the meantime, the growing divergences between and within the member countries could become unsustainable politically, socially and economically;
- political, because it is necessary to go beyond inefficient and highly unstable intergovernmental and national solutions;
- democratic, because today's global challenges demand that democracy be given a supranational dimension, ensuring the involvement of members of the national parliaments and of MEPs, as representatives of the European people, in Europe's political revival.

3. The creation of the solidarity mechanism and of the *partnerships for growth, jobs and competitiveness* is the area in which, over the next few years, Italy's political class will win or lose its credibility and its capacity to act at national and European level. The strength of the position adopted by Italy and by its representatives in the different institutions, and the capacity of this position to build consensus around an evolutionary line, will depend on the extent to which it gives concrete expression to the will to ensure that the creation of this mechanism and these partnerships is subject to supranational constraints and linked to supranational institutions and to resources that are, as far as possible, supranational, and that it is achieved within a certain deadline. This means expressing support, openly and without delay, for the creation of an additional fiscal capacity for the eurozone and a separate budget for the eurozone that will be democratically controlled by the European Parliament operating in a differentiated manner. If, instead, Italy merely attempts to exploit the solidarity mechanism debate to negotiate, as ends in themselves, different and less binding agreements regarding the objectives of the national budgets, then its position will be a weak one that offers no way out.

In the immediate future, the struggle over the European solidarity mechanism question and over the need to resolve the problem of ensuring supranational democratic control over economic and fiscal policies, in the manner set out briefly above, may come to resemble certain battles fought within, and from, Italy in the past. As long as:

- a) those in a position to lead this battle — the leaders of the national and European institutions and political forces — shoulder responsibility for doing so;
- b) the MFE continues to put pressure on Italy's politicians in relation to the above issues.

### **The Task of the European Parliament: to Give this Legislature Constituent Value**

Laying the foundations for transforming the economic and monetary union into a federal political union means, for the governments, accepting the need to establish a pre-constitutional agreement between the eurozone countries so that the eurozone can be given additional fiscal capacity and a separate budget. But to ensure that the government of the euro and of the future economic and fiscal policies linked to it is controlled through the representatives of the citizens of countries adopting the euro, and does not remain at intergovernmental level — that is at the

level of more or less voluntary cooperation between the member states —, it is necessary to resolve to the problem of how the European Parliament should function in a framework of differentiated integration. It would, in fact, go against all democratic logic to extend the scope of the European Parliament's legislative intervention and participation in decision-making on fiscal, budgetary and economic policies to matters relating to the government of the euro, without first establishing differentiated operating and voting rules (along the lines of what already happens within the European Council, where countries that have secured certain opt-outs from EU policies do not vote when it comes to deciding on these policies). This is far from a theoretical problem. Indeed, when the current European Parliament is called upon to vote on issues that require its involvement, about 30-35 per cent of its members will, even in the wake of the new Treaties, continue to have the right to vote despite coming from countries that have not adopted the euro or that have ruled out its adoption (see Nicolai von Ondarza, *Strengthening the Core or Splitting Europe?*, SWP Research Paper, March 2013). What kind of Parliament can accept as democratic votes on monetary and economic issues in which more than a third of those voting are parliamentarians representing the citizens of areas or regions that use a different currency?

Interestingly, this is actually a problem that has already been addressed in the context of British culture and parliamentary tradition. We can cite two circumstances that are emblematic in this regard: first, the debate triggered in the early twentieth century by Lionel Curtis (*The Problem of the Commonwealth*, 1915) on the possible transformation of the British Empire into a federation (the idea was that the proposed federation would have its own Commonwealth Parliament and would operate according to a variable geometry in such a way that only the members of the British Parliament would participate in decisions to be taken by the British government, while all the parliamentarians would participate in decisions of interest to the Commonwealth as a whole); and second, the fact that provision is already made for British Parliament to work as a "Committee of the Whole" (embracing all members and deciding on common issues) or as "Grand Committees" (made up of members of specific regional groupings of MPs).

### *The Terms of the Problem.*

The question of democratic legitimacy, particularly that of the European Parliament, has been raised by Germany's Federal Constitutional Court on a number of occasions in the past twenty years. For Europe, it is an unavoidable and essential issue; the European and national in-

stitutions and political parties need to find an answer to the basic problem raised by the judges of the Federal Court in Karlsruhe when it ruled in favour of Germany's ratification of the Maastricht Treaty (1992). In that ruling it was stated that, as long as the EU retained the characteristics of a compound of states (*Staatenverbund*), its legitimation would continue to rest primarily with the national peoples through their respective parliaments, to which however it might have been better to add: to an extent that shall increase in proportion to the deepening of the level of interdependence between the European nations. According to the German Constitutional Court, the Federal Republic of Germany, like the other countries that ratified the Maastricht Treaty, were not subjecting themselves "to an uncontrollable, unforeseeable process which [would] lead inexorably towards monetary union".<sup>1</sup> They were implicitly recognising that the Treaty paved "the way for gradual further integration" and that *every further step along this way [was] dependent either upon conditions being fulfilled by the parliament which can already be foreseen, or upon further consent from the Federal Government, which consent is subject to parliamentary influence*" (italics added). The fact is that these conditions and this consent are still lacking, given that any process of genuine political union among states must, sooner or later, involve the transition from a confederal to a federal system through: a) a constituent moment in which a prominent role is played by representatives of the citizens of the member states wanting to deepen the union; b) the conferral, on the representatives of the citizens of those same member states, of legislative power in the fiscal field — on both the expenditure and the revenue side —, as well as control over the budget and over economic governance.

This problem is so acute and real that it has once again started to feature on government and parliamentary agendas and in political debate (see the repeated references to this issue by German finance minister Schäuble, by Italian under-secretary of state for European affairs Gozi in his recent book, and by his German counterpart Roth; and also by groups of prominent individuals who have, in the meantime, signed various manifestoes and appeals).

### *The Possible Options.*

In a European institutional framework that has become progressively more complex, the question of the democratic legitimacy of tax, bud-

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<sup>1</sup> [http://www.judicialstudies.unr.edu/JS\\_Summer09/JSP\\_Week\\_1/German%20ConstCourt%20Maastricht.pdf](http://www.judicialstudies.unr.edu/JS_Summer09/JSP_Week_1/German%20ConstCourt%20Maastricht.pdf).

getary and economic decisions concerning 18 of the 28 EU member states is one that is difficult to resolve. However, it should not be forgotten that the complexity of the framework is a consequence, not the cause, of a lack of willingness (and therefore of the decision) to implement a genuinely federal design. To date, attempts to overcome this situation have failed because they were not part of a coherent plan for institutional reform. One such attempt was made in the years following the creation of the single currency, as can be seen from the 1994 European parliamentary debate on the Herman report (*Resolution on the Constitution of the European Union*, 10 February 1994<sup>2</sup>), which included the following articles:

“Article 46: Final provisions

Member States which so desire may adopt among themselves provisions enabling them to advance further and more quickly towards European integration, provided that this process remains open at all times to any Member State wishing to join it and that the provisions adopted remain compatible with the objectives of the Union and the principles of its Constitution.

In particular, with regard to matters coming under Titles V and VI of the Treaty on European Union, they may adopt other provisions which are binding only on themselves.

*Members of the European Parliament, the Council and the Commission from the other Member States shall abstain during discussions and votes on decisions adopted under these provisions”* (italics added).

“Article 47: Entry into force

The Constitution shall be considered adopted and shall come into force when it has been ratified by a majority of Member States representing four-fifths of the total population (Art. 82 of Spinelli’s draft Treaty on European Union in 1984 had envisaged a two-thirds majority, editor’s note). Member States which have not been able to deposit the instruments of ratification within the time limit established shall be obliged to choose between leaving the Union and remaining within the Union on the new basis. Should one of these States decide to leave the Union, specific agreements shall be concluded, designed to grant it preferential status in its relations with the Union.”

However, not only was this report immediately buried, but the process of EU enlargement proceeded at such a rapid pace, out of proportion with the scope for deepening the union, that it became impossible to reopen the question.

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<sup>2</sup> <http://www.cvce.eu/viewer/-/content/6b3f12d2-3309-4e04-8084-41d227432996/en>.

More recently, in the midst of the economic and financial crisis, MEP Pervenche Beres suggested setting up a subcommittee within the European Parliament, in which “only euro members would vote to reflect the general trend in the EU towards a political and policy-making split between euro and non-euro member states (17-11-2011)”. She warned that if the European Parliament failed to implement this initiative promptly, the proposal would inevitably be taken up by the national governments and parliaments, as indeed occurred with several proposals advanced by the French government of the time and by the former German foreign minister Joschka Fischer, who began to suggest creating a eurozone parliament made up of MEPs appointed by the national parliaments to serve as the legislative control body of a eurozone government.

It was only towards the end of the last legislature that the European Parliament began to make some counter-proposals in this regard. It did so partly because the European Parliament’s involvement in the management of the crisis and of the various bodies set up, or to be set up, in order to deal with it, had rendered increasingly apparent the institutional limits of its functioning and of the framework of relations between the European Parliament, the national parliaments, the European commission and the national governments. Thus, in December 2013, the European Parliament adopted a resolution in which it reiterated its support for the plan presented by Presidents Van Rompuy, Juncker, Barroso and Draghi in their report entitled *Towards a Genuine Economic and Monetary Union*, and welcomed “the Commission communication of 28 November 2012 entitled ‘A blueprint for a deep and genuine economic and monetary union - Launching a European debate’”, calling “on the Commission to make legislative proposals as soon as possible, under codecision where legally possible, for its implementation without delay, including further budgetary coordination, the extension of deeper policy coordination in the field of taxation and employment, and the creation of a proper fiscal capacity for the EMU to support the implementation of the policy choices.”<sup>3</sup> It went on to stress that “some of these elements will require amending the Treaties”. Furthermore, significantly, it stated that the European Parliament considers “differentiation to be a useful and appropriate tool to promote deeper integration, which, to the extent that it safeguards the integrity of the

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<sup>3</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2013-0598+0+DOC+XML+V0/EN>.

EU, can prove essential to achieving a genuine EMU within the Union” — differentiation that should now cover the functioning of the European Parliament itself, whose members represent citizens both of states that have adopted the euro and of states that have not yet adopted it or will not adopt it in the foreseeable future. This is necessary, specified the European Parliament, in order to ensure “an appropriate accountability mechanism for the current euro area and the Member States committed to joining”, given that the Union has established an economic and monetary union whose currency is the euro, and the Protocol on the Euro Group refers to “the need to lay down special provisions for enhanced dialogue between the Member States whose currency is the euro, pending the euro becoming the currency of all Member States of the Union”.

At this point it falls to the newly elected European Parliament, and in particular to the forces that, within it, represent the vast majority of citizens who are in favour of Europe, especially the group of MEPs who signed the MFE’s Declaration of Commitment, to develop a draft manifesto for institutional reform in order to:

- a) resolve the problem of the economic and political governance of the eurozone, so as to boost development and employment in a context of democratic legitimacy;
- b) reconcile the coexistence, within the EU, of the ever closer union of the eurozone countries and the countries that do not intend to adopt the euro.

A draft manifesto of this kind could provide the basis for requesting the convening of a constitutional convention with the task of drafting a federal constitution along the lines requested by the federalists.

### **The Federalists’ Role**

In this difficult phase, it is worth recalling a passage from a circular to militants written by Albertini in an equally crucial phase: “Those who understand what is at stake for Europe, and fear losing everything, can indulge in pessimism... But true fighters have no time for pessimism or optimism, which are only for spectators, not key players” (15 February 1974). Our primary role is, in every circumstance, to arrive at an, as far as possible, true assessment of the facts and the positions and, on this basis, decide whether or not our tools and approaches are still valid.

In the light of all that has been said above, I believe that our current tools and approaches — the use of action-postcards to appeal to Italy’s politicians and the securing of a declaration of commitment from MEPs

—, are indeed still valid for carrying forward our new phase of action, and that we can, and indeed must, continue to exploit them. In the coming weeks there will be plenty of opportunities and places in which to do so. Therefore, continuing to apply our tried and tested methods, it is important that the sections:

- make sure the government is sent, ahead of the main deadlines, new batches of action-postcards; if, instead, all those used in recent weeks to gather signatures already have been dispatched and there are no plans to gather new ones, they can send government a letter recalling the main political points raised by the initiative;
- send letters to the MEPs, to remind those who signed the Declaration of Commitment to remain faithful to it or to seek to obtain the commitment of those who have not already pledged it.

## **FEDERALIST ACTION IN THE PHASE OF DIFFERENTIATED INTEGRATION\***

The historical phase we are living through in Europe confirms the federalists' analysis that the monetary union has not been, is not, and cannot be the final stage in the process of European unification, but is, rather, a turning point, given that its failure would mark the definitive end of this process and usher in a return of nationalism and a crisis of democracy in Europe. The economic and monetary union is thus the framework that can and must be taken as the starting point for the construction of a federal political union in Europe.

The monetary union, although initially conceived as a framework that coincided with that of the European Union (albeit making provision for temporary derogations for some of the states, pending their attainment of the necessary requisites), has actually gradually been converted into a subsystem within the EU, due to the determination of some states to remain outside it. This has introduced a new complication into the battle to achieve the federal objective: that of the need to govern (and institutionalise) the *differentiation* existing within the EU framework.

The problems created by the member states' different levels of po-

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\* This is a report delivered by Franco Spoltore at the UEF Federal Committee Meeting in Brussels on December 13<sup>th</sup>, 2014 as an introduction to the work of the UEF Political Commission on "UEF strategy and future of Europe".

litical will to deepen their reciprocal integration actually date back to Great Britain's entry into the European Community. But it was with the birth of the monetary union and the start of the process of enlargement to the countries of Central and Eastern Europe that they became so great as to force the EU to start seeking to address them in institutional terms in the Treaties. For the purposes of the federalist battle it is therefore crucial, first of all, to specify what is meant by *differentiation* (and what different types of differentiation should be taken into consideration); and to get rid of the ambiguity — and inaccuracy — created by the use and exploitation, in not only the legal but also the political field, of the different forms of differentiation and flexibility provided for in the Lisbon Treaty.

### *The Different Models of Flexibility.*

As Giulia Rossolillo explained in a recent article,<sup>1</sup> ever since the time of the Maastricht Treaty, the differentiation debate within the EU has focused essentially on two different models, which reflect two different visions of the process of integration. The first, which finds its fullest expression in the Schäuble-Lamers report presented to the Bundestag by the CDU/CSU parliamentary group in 1994, sees flexibility as an appropriate instrument for ensuring that a homogeneous group of states, determined to take concrete steps towards greater integration, is able to create a kind of core within the EU, and therefore potentially to act as a vanguard (open to all states wanting to be part of it) spearheading the integration process. The second model, illustrated in the same year by the then British Prime Minister John Major, envisages a kind of *à la carte* European Union, given that it interprets flexibility as an instrument allowing each member state to choose, in each field, whether to cooperate more closely with the other states or avoid more advanced forms of integration.<sup>2</sup>

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<sup>1</sup> See, in this regard, Giulia Rossolillo, *Financial Autonomy and Differentiated Integration*, *The Federalist*, 56 (2014), pp. 9-32. See also Giulia Rossolillo, *Cooperazione rafforzata e unione economica e monetaria: modelli di flessibilità a confronto*, *Rivista di Diritto Internazionale*, 97, n. 2 (2014), pp. 359-360. Also interesting in this regard are the reflections by Thierry Chopin, *Reforming the European Union: Which Methods? Which Options?*, *Questions d'Europe/European Issues* (Policy Papers of the Schuman Foundation), n. 320, 7 July 2014.

<sup>2</sup> The latter is a strategy set out in no uncertain terms by the British government at the end of the Thatcher years. Margaret Thatcher had been rebuked by her own party for not having served the Britain's best interests in choosing to openly oppose every single development within Europe rather than seeking to exert a negative influence from within (Conservative Party conference, 11 October 1991).

The first model assumes that the states interested in differentiation will always be the same ones, even though the core group will remain open to new members; it also assumes that this group will, to an extent, be able to act independently of the states outside it. The second model, on the other hand, far from being based on the idea of giving rise to a sort of subsystem within the EU, seems, rather, to be driven solely by the intention of rendering the EU's decision-making mechanisms more efficient, i.e. able to circumvent the right of veto that may be exercised by one or more states on specific matters.

This debate unfolded largely during the negotiation of the Treaty of Amsterdam and, as shown by the idea and definition of enhanced co-operations introduced by that Treaty, the second model is the one that prevailed: indeed, enhanced co-operations do not refer to a single pre-established group (each enhanced cooperation concerns a specific group of states); they must be authorised by the Council, and may be implemented only as a last resort, i.e. after having first exhausted every effort to reach an agreement among all 28 member states; enhanced co-operations must remain strictly within the spheres of competence of the EU; finally, they must preserve the existing institutional structure of the EU and therefore cannot create new organs. It is these characteristics, which remained the same in the Lisbon Treaty, that make enhanced co-operations instruments more useful for getting around the problem of unanimity in certain areas than for creating a subsystem within the EU. The Lisbon Treaty, by getting rid of the "last resort" condition, a kind of power of veto, actually facilitated the use of enhanced co-operations.<sup>3</sup>

Furthermore, the fact is that had the member states wanted to accept a model of differentiated integration that allowed the formation, within the Union, of a more closely integrated core group of states, they would have included in the Treaties provisions much more similar to those contained in the draft Constitution of the European Union presented to the European Parliament by the Institutional Committee in 1994 (the so-called Herman draft), which in fact was based on the establishment of a more integrated group of states within the Union and contained the provisions necessary for achieving this.

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<sup>3</sup> Wishing to deal, above all, with the aspects of unification most closely linked to the possibilities for creating a union starting from the eurozone, no reference is made here to the enhanced cooperation proposed in the field of foreign policy — which, in turn, differs in scope for startup and operation from the one proposed in the military field. These two types of cooperation, which are unconnected, may indeed still fit into an intergovernmental schema.

As regards the monetary union, on the other hand, the drafters of the Maastricht Treaty seem to have been inspired by this latter model of flexibility, designed to accommodate a stable group of states ready to “advance more and go further” than the others. This choice was determined largely by the fact that the flexibility envisaged for the monetary union, as indicated earlier, was meant to be *temporary* (whereas enhanced cooperations are designed to be *permanent*); indeed, the EMU was an exception to the principle of institutional unity which enhanced cooperations instead are designed to respect: the thinking was that the institutions created for the management of monetary policy would, in due course, embrace all the EU member states, thus restoring the EU’s institutional unity. However, as it became clear, over the years, that some states would never be prepared to give up their monetary sovereignty, and thus that the third phase of EMU was never going to include all the member states, there emerged a growing trend towards the establishment of an institutional structure specifically for the eurozone (as shown by the creation of the Eurogroup, the establishment of the ESM, the questions raised by the European Commission’s Blueprint in 2012 and by subsequent communications, as well as the resolution adopted by the EP in December 2013).

#### *Reflections on a Political Level.*

Following the indications on the completion of monetary union contained in the Commission’s Blueprint and in the plan drawn up by the four European presidents, there can no longer be any excuses for not knowing what needs to be done in order to turn the eurozone into an economic and political union. But the will to implement the four unions road map within a specific time frame continues to be lacking, and to date there is still no coherent plan for addressing the problems of how to create a fiscal union (now recognised as the necessary first step that will make it possible to start the process of consolidation/completion of the EMU) and ensure that this is democratically controlled. Unless this will emerges and an adequate plan is developed, the eurozone, faced with the internal and global challenges of the future, will find itself totally devoid of substance and credibility.

The basic problem is that every form of cooperation between states, once the drive to establish the minimum conditions for establishing and strengthening mutual trust has been exhausted and unless it serves to pave the way for significant transfers of power, ultimately comes down to nothing more than a *modus vivendi* whose sole function is to keep

sovereignty at national level in a classic framework of international collaboration. This is nothing new to federalists. It is the lesson taught by Kant in his *Perpetual Peace*: the Preliminary Articles cannot contribute to the organisation of peace unless they have, as their ultimate objective, the Definitive Articles whose aim is to establish peace between states. Kenneth Wheare, reflecting on the “constitutional” nature of the Commonwealth would have reached the same conclusions: at the start of the last century, the members of the Commonwealth, in deciding that the institutional development of their community of states should be based on permanent voluntary cooperation, implicitly ruled out any prospect of evolving towards a federal model.<sup>4</sup>

Returning to the issues and problems of interest to us here, it is no coincidence that in the 1990s the Europeans, in order to create the single currency, i.e. to transfer to European level a key national power yet without creating a new state, had to go beyond the logic of simple cooperation. In short, decisions were taken, outside the framework of the EMS agreements reached in the course of the previous decade, which impacted on an area central to the lives of individuals and of states: the exercise of monetary sovereignty.

*The New Dynamics of the Process of European Integration.*

As we have already said, although the EMU was conceived as a temporary differentiation within the EU, it has taken on the characteristics of permanence: the idea was that all of the member states would — indeed should — eventually join it, but it is now clear that this will not happen in the foreseeable future. And this is precisely why, without constant exceptions to the principle of institutional unity, the present differentiated union will never be able to work in the long term (and indeed would already be unworkable now). This aspect of the single currency experience has become so central to the survival not just of the eurozone, but also of the countries whose economies are linked to it, that it is greatly undermining Great Britain’s braking strategy: put quite simply, a strengthening of the eurozone’s institutional framework is now in the UK’s interests too.

All this explains the various developments that there have been in the past three years in terms of Treaty modifications, new Treaties, the introduction of new institutions and bodies, the actions of the ECB, and

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<sup>4</sup> Kenneth C. Wheare, *The Constitutional Structure of the Commonwealth*, London, Oxford University Press, 1963, pp. 128-129 and 135-136.

the UK's increasing self-exclusion from any new moves towards deeper integration.

It also explains why enhanced cooperations, which have actually been applied to a very limited extent and in areas not critical to the exercise of national sovereignty, offered little help in handling the emergencies thrown up by the crisis and now look unlikely to be a determining factor in defining in the new institutional framework. They have shown themselves for what they are: tools allowing the implementation of differentiations that may indeed be permanent, but that refer to single policy issues; furthermore, these cooperations remain open to all the member states, even those that could potentially wish to sabotage them. Thus, what they actually represent is the point of convergence of the will and interests of different groups countries: those interested in getting around the unanimity problem in order to press ahead more quickly, but without surrendering sovereignty; the many that did not want to see a consolidation of the principle of institutional differentiation that was introduced with the EMU; and those that, like the UK, wanted to go on exerting their influence, from within the European institutions, in order to curb any federal acceleration, yet without being again pushed out of the frame. Designed to preserve the institutional unity of the EU without resolving the problem of sovereignty in crucial areas, they leave the states, both those that participate in them and those that do not, plenty of scope for working around them, and they are not designed to promote the construction of institutionally homogeneous subgroups within the EU. Indeed, under the Treaty provisions on enhanced cooperations (Art. 327 TFEU), it is still possible for a single state to denounce any undue impact, on its national policies, of policies pursued in the framework of an enhanced cooperation. For example, in the case of enhanced cooperations on fiscal matters, i.e. the crucial area whose developments will determine the future of the EU as a whole, all the MEPs would continue to be required to vote on all legislative proposals, including those relevant only to the countries sharing the single currency. Furthermore, under the current Treaties, the MEPs elected from eurozone countries would continue to be unable to decide independently, i.e. without the involvement of all the other MEPs, on changes to the EU rules applicable only to the euro area. It would thus take an amendment of the Treaties in order to introduce differentiated voting rights (either through recourse to the simplified Treaty revision procedure, which would allow further intervention on Art. 136 or some protocol

changes; or through a profound revision of the Treaties) and/or a new Treaty and a Convention.<sup>5</sup>

*What Tools are Needed in Order to Advance on the Path to Union?*

To identify — when the appropriate time comes, but in any case within this European parliamentary term — the instruments that need to be used in order to move forward, it is worth recalling once again the two key points that still constitute the main goals that should guide the action of the European governments and institutions in tackling and managing the crisis. The first of these points, as we have said, is the objective of the four unions, which are increasingly emerging as the differentiated institutional solution for the economic and monetary union. The second is, instead, the need to create an additional fiscal capacity for the eurozone (with all that this implies in terms of creating a related *ad hoc* budget/fund and in terms of democratic legitimacy). It is in this context that it becomes possible to fight:

- to transfer a part of national sovereignty to the European level (as requested by the President of the ECB, Mario Draghi<sup>6</sup>);
- to resolve the question of the democratic legitimacy of the European Parliament within the context of differentiated integration.<sup>7</sup>

The debate on these issues is very advanced at European level, both among certain government leaders (such as Schäuble), and within think tanks such as the Eiffel Group and the Egmont Institute.<sup>8</sup>

<sup>5</sup> The problem was in fact already clear in the mid-nineties, both at the level of the governments (Karl Lamers and Wolfgang Schäuble, *More integration is still the right goal for Europe*, Financial Times, 31 August 2014) and within the European Parliament, as shown by the project (not approved) connected to the Herman Report: *Resolution on the Constitution of the European Union*, 10 February 1994.

<sup>6</sup> Mario Draghi, *Memorial lecture in honour of Tommaso Padoa-Schioppa*, London, 9 July 2014.

<sup>7</sup> European Parliament resolution of 12 December 2013 on constitutional problems of a multitier governance in the European Union (2012/2078(INI)).

<sup>8</sup> Interesting, in this regard, are the observations made by the former representative of the Belgian Government to the European Union Philippe de Schoutheete, when presenting a voluminous study by the Egmont Institute published in *Studia Diplomatica*, 66, n. 3 (2013), as indeed are the considerations of Stijn Verhelst, also of the Egmont Institute, set out in eloquently entitled studies, such as: *Variable geometry union: how differentiated integration is shaping the EU*, *The sense and nonsense of Eurozone-specific Parliamentary scrutiny*, *A Eurozone Subcommittee in the European Parliament: High hopes, low results?* These are available at the following links: [http://www.egmontinstitute.be/publication\\_article/vol-lxvi-issue-3-2013-variable-geometry-union-how-differentiated-integration-is-shaping-the-eu](http://www.egmontinstitute.be/publication_article/vol-lxvi-issue-3-2013-variable-geometry-union-how-differentiated-integration-is-shaping-the-eu); [http://www.uaces.org/documents/papers/1401/verhelst\\_s.pdf](http://www.uaces.org/documents/papers/1401/verhelst_s.pdf); [http://www.egmontinstitute.be/publication\\_article/a-beginners-guide-to-differentiated-integration-in-the-eu/](http://www.egmontinstitute.be/publication_article/a-beginners-guide-to-differentiated-integration-in-the-eu/). It

For this reason, federalist militants and the UEF sections must equip themselves with the theoretical and technical tools needed to obtain a deeper understanding of the nature of this debate, so that they can try and help to clarify, at different levels, the ends and the means, in the full awareness that:

- the future does not depend on the EU Treaties alone (a solution to the sovereign debt crisis was sought and has been implemented outside this framework);
- the working of the economic and monetary union cannot be based on a single institutional framework at European level (the bodies of the ECB and the ESM act without the involvement of all the member states, as does the Eurogroup);
- the consolidation over the past twenty years of different levels of state participation in the EMU (i.e. with/without opt-outs and special status), added to the process of enlargement, has made it indispensable to pursue a deepening of the institutions through strong differentiation within the EU.

#### *Towards Federal Union.*

The guidelines decided by the Congress of the EUF and the collaboration with the JEF are the ideal channels through which to translate these reflections into actions. The guidelines, it should be recalled, sum up the issues and challenges on the table:

- the creation of a federal union starting with the eurozone (the objective to be pursued in the present historical phase);
- the creation of an *ad hoc* budget for the eurozone financed by genuinely autonomous own resources and subject to democratic control by the eurozone MEPs (the means to be used);
- the convening of a constitutional convention with a mandate to draft a federal constitution and to establish rules to govern relations between the countries of the eurozone and the rest of the European Union (the method for ensuring the involvement, in the process, of the citizens and their representatives in the national and European institutions).

And, precisely because the question of the action to be taken cannot today be reduced simplistically to a series of choices — between acting within or outside the framework of the Treaties, between supporting or not supporting cooperation in specific areas, and between

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is also worth consulting the interventions of Janis Emmanouillidis, <http://www.emmanouillidis.eu/topics/differentiated-integration.php>.

calling a convention with or without a constitutional mandate —, we have to be ready to propose and exploit all possible means that might bind the states, governments and institutions to specific commitments *to transfer to European level a part of national power in the fiscal field, and to do so within a definite deadline, thereby defining the manner and the time frame of the transition to federal union.*

And we must do this knowing that in the battle to consolidate the monetary union through its transformation into a full, federal union, what is at stake as the Europeans face what is perhaps their last chance to play a leading role, is not only Europe's destiny but also a part of that of the world.

# Thirty Years Ago

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## WAR CULTURE AND PEACE CULTURE\*

MARIO ALBERTINI

*1. — A premise concerning the question of method. Political science and political realism. The search for a guiding thread to establish a connection among both war and peace facts.*

I do not intend to examine the problem of peace from a strictly scientific standpoint. When we consider major political problems, if we claim to provide the analysis with a rigorously scientific method, insuperable difficulties arise. In the present situation of uncertainty of political science and sociology, in order to attain this goal it would be necessary to justify almost every term used, and it is clear that, therefore, it would be impossible to focus properly on one single theme (whether peace or another subject).<sup>1</sup> Thus, I shall limit myself to saying that the

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\* This paper was first published in *The Federalist*, 26, n. 1 (1984), p. 9.

<sup>1</sup> *The problem of political science.* The first problem of political science is whether a political science already exists (otherwise the space dedicated by the literature of this discipline to epistemology rather than to itself would be inexplicable). It seems reasonable to think that our time is still that of its foundation, rather than that of its normalisation (cumulative development, practical applications, etc.). It is not easy to assert the contrary. For example, Sartori, a scholar who asks the question clearly and answers in the affirmative, recognizes nevertheless that “no scientific knowledge was ever born without having ordered its language and given it precision, because it is terminology that supplies the legs on which a science then walks”; and he notices that “a babel of languages spreads through the social sciences to the point where we can hardly understand each other”.

This babel of languages, which in my opinion ought to suggest a negative reply to the question of the existence of a science of politics, is anyhow what forces us to redefine the meaning of every important term we use, if we aim at taking it out of common language and bring it into the language of science. This was indeed Giulio Preti's suggestion when he proposed using in this context the method of *explication*, theorized by Carnap and Hempel (a kind of *real definition* of the terms already in use, achieved by re-

problem of peace ought to be looked at from four viewpoints (the non existence of a peace culture, the situation of peace, the existence or otherwise of a process working towards this situation, the way in which peace is conceived in political action) and also to tackle here the first aspect which to my mind seems crucial when studying peace as an aspect of cultural process, while trying only, as far as my way of approaching the question is concerned, not to depart from the tradition of political realism.<sup>2</sup> As regards my own outlook, I must say that it en-

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stricting their vague and ambiguous meaning for the purpose of making them “suited to an unequivocal and rigorous scientific speech”). But Preti points out also that “*explication* ought to make it possible to formulate a sound theoretical system”. Thus he entirely recasts the problem of the foundation of the science of politics, because a theoretical system cannot be built up by means of a haphazard collection of *explications* (however, these remain very useful, and necessary when the question is about exploring the ground whenever the issues are clearly circumscribed). See Giovanni Sartori, *La Politica*, Milan, SugarCo, 1979, pp. I and 45, and Giulio Preti, *Preface* to Felix E. Oppenheim, *Dimensioni della libertà*, Milan, Feltrinelli, 1969, pp. XII-XIII).

<sup>2</sup> *Political realism*. Political realism is a cultural datum that has a clear-cut physiognomy only in the field of the history of ideas (in that of the history of political theory it has a less clear identity). In this respect, there can be no doubt that with Machiavelli there began a new, independent way of looking at the specific nature of politics, and that this way of thinking has had some historical development, albeit amidst considerable uncertainty, with the idea of *raison d’Etat* (and with the criteria of *Realpolitik* and the balance of power). But in every other cultural context, the question of political realism is still quite open. At one end of the spectrum is the fact that political realism (which was the same thing as political science until well into the last century, and which is still to-day one of the most significant streams of thought of academic political science in the field of international politics) in no way presents the characteristics of a science (taken in a broad sense, as including, for example, economic science) nor those of an ordered set of well elaborated concepts. At the opposite end of the spectrum is the fact that, despite this, when it is adopted as a standpoint (i.e. when one adopts the trend of thought of its major authors, first of all Machiavelli) it is possible to describe, explain and sometimes foresee some important aspects of the political process which are otherwise concealed or obscured. Ascertaining this becomes so much more important if we keep in mind, as Waltz asserts in a greatly esteemed handbook of political science, that “from Machiavelli through Meinecke and Morgenthau, the elements of the approach and the reasoning remain constant (Kenneth N. Waltz, *Theory of International Relations*, in *Handbook of Political Science*, vol. VIII, *International Politics*, ed. by Fred J. Greenstein and Nelson W. Polsby, Reading, Massachusetts, Addison-Wesley, 1975, p. 35. This essay by Waltz is also very useful as to the question of the existence of the science of politics).

Perhaps the most reasonable thing that can be said (and which is at the same time a criterion for good usage) is that political realism is closely identified with the century-old effort to achieve a positive and practically effective knowledge of politics; and that it still does not have a satisfactory theoretical arrangement (in much the same way that the academic science of politics, which tries to use a rigorous terminology, still lacks an adequate power of description and explanation) precisely because this course of thought has not yet achieved results that are at least equal to those achieved by Adam Smith in his understanding of economic facts.

As regards the terminology used in my essay, I should like to point out that, if we

tirely coincides with the outlook of those who deem that peace should be made the supreme goal of political struggle, since war is now equated with the possibility of self-destruction of mankind.<sup>3</sup> I must say too

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take on a pattern of political realism, then we have to use our terminology with greater freedom than is allowed by contemporary methodological thought.

<sup>3</sup> *War and the risk of the extermination of the human race.* However one may try to play it down, the fundamental fact is the following. There is no mechanism preventing wars, and none forcing the belligerents not to use nuclear weapons. It follows that either wars are abolished or else we live with the risk of war, which, in its turn, entails the risk of the destruction of the human race. Every other consideration is secondary and irrelevant. There are essentially two loopholes: either it is suggested that not everybody would die in a nuclear war or that nuclear weapons will never be used because of the effectiveness of the deterrent.

The first loophole, apart from being wrong, is revolting. It is revolting because the experts who support this thesis put forward horrendously large death figures, and when they present them they act as if the violent death of tens or hundreds of millions of people were a normal war prospect that is acceptable. And it is wrong because, while all (or nearly all) agree that the stock of nuclear weapons is sufficient to destroy mankind, nobody is able to foresee the way a nuclear war would go, the number of weapons used, and so on (war is the least controllable of all human situations, and nuclear war is by hypothesis even less controllable, since it removes the very idea of victory, and hence the essential operative criterion). On the other hand, these experts do not take into consideration two essential factors. Firstly, they fail to realize that we must not merely count the one or the other stock of weapons, but that we need to think of the capacity to produce them. Secondly, they fail to appreciate that the destructive potential of these weapons (and of others, like biological and chemical, weapons, and those of other kinds) is constantly increasing, because international politics compel every state to maximize its power, and will always compel every state to do so, until it becomes possible to achieve by peaceful means what can now be obtained only by weapons (like independence, etc.).

The second loophole is deterrence. In this case it is argued that nuclear weapons will never be used, because the intended purpose is not to use them, but to make people fear that they will be used. There is an obvious lack of logic in this argument; if it were positively certain that these arms would never be used, then the deterrence itself — i.e. the possibility of exploiting, in order to discourage a nuclear attack, the fear that they would be used, would disappear too. The truth is elsewhere. The real deterrent factor is independent of any strategy and concerns both the first strike, the second strike and any other assumption of desk strategists, because it resides only in the harsh immediacy of the fact, i.e. in the diabolic nature of the decision to carry out a nuclear strike (whatever the so-called defence or attack situation). And when this is clear, it is easy to conclude that this guarantee (the presumed impossibility of such a diabolic decision) is not sufficient. Indeed it is clear that it is foolish to accept a situation of this kind and not to aim at changing it, i.e. at removing the danger of war once and for ever. Only with this purpose can the prospect of deterrence be made reasonable, both because of its transitory nature (the risk would only last for a limited period) and because the decision I called “diaboli- cal” would become much more difficult, and perhaps quite impossible, to take in a world directed towards the creation of perpetual peace and international justice in a credible way.

One other observation. The problem of nuclear war should never lead us to forget both the barbaric nature of total war (which in our century has reached inhuman levels, without which fascism would have had no possibility to develop and seize power in Italy and Germany) and the relation of political and cultural continuity between total war and nuclear war. This too confirms that the true problem is the complete abolition of war.

that the various difficulties that I have encountered have affected the style of this paper. The first difficulty lies in the fact that what we are acquainted with (*bekannt*) — war and peace — is indeed not properly known (*erkannt*) (we believe we know what war and peace are, but beyond the empirical evidence of a few isolated facts, there is no acceptable theory, and therefore no effective technique for avoiding war, etc.). The second difficulty lies in the fact that both war and peace are collective behaviour, i.e. events and situations which not only relate to theories, but also to beliefs, customs and so on. It follows that we must examine collective ways of thinking, i.e., in the last instance, cultural facts. And it is precisely here that the difficulty becomes clear since war culture does not exist as a specific view of the world but it exists as a certain connection between institutions, facts, beliefs, customs, fragments of ideas, etc., which are not always as such consciously related to war. The problem lies in searching for a guiding thread to establish a connection among all the facts of the sphere of war — regardless of the form they take in common thought — and, as far as possible, all the facts of the sphere of peace. Naturally this entails a certain degree of abstraction. And there is a further complication. As a guiding thread emerges, many historical and political problems appear in a new light, but, in order to avoid breaking the continuity of data to be connected to establish the guiding thread, these problems will be analysed separately in the notes that follow (also in the form of clarifications).

2. — *The lack of a peace culture. Kant's philosophy of history as the historical explanation of the non-development of a peace culture.*

I believe that we are making no mistake when we state that a peace culture does not as yet exist.<sup>4</sup> The dominating idea of the state as a closed national exclusive and armed society certainly does not belong to the world of peace. Nor should we overlook the fact that liberalism,

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<sup>4</sup> *Regarding the term "culture".* The term "culture" is often nowadays used inappropriately. But where the most important orientations in human society are concerned I feel that it is appropriate to use it because in these circumstances what is at stake is the collection of beliefs, knowledge, customs, etc. Naturally the exact meaning of the term depends in every case on the context in question because the idea of the unity of culture (or of society and so on) has not the value of a scientific theory, but only of a limiting concept, a regulatory criterion and not an accepted theoretical situation. In the case of this essay, which deals with peace and war, the term "culture" refers to beliefs and the like, inasmuch as they have the effect of orientating men towards war or peace (effective influence on social processes), and does not imply that where there is an orientation towards war there is only a war culture.

democracy and socialism (Marxism too), which make up a great part of modern political thought, were, particularly in their creative periods, openly hostile to peace as a priority. That peace is denied the status of a priority is often apparent even in Utopian thinking (Thomas More in certain ways and Proudhon in other ways, and so on). Indeed, it can be reasonably argued that beyond this denial, there is little left. There is, to consider it properly, only the traditional pacifism, i.e. a Utopian viewpoint, lacking metaphysical vigour or historical sense, easily converted into a purely individual denial of war (conscientious objection) or the Manichean decision to fight war with war, which always finds an alibi in the idea that one's own war is the last war.<sup>5</sup>

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<sup>5</sup> *The case of Teodoro Moneta.* The case of the Italian Nobel Peace Prize winner for 1907, Teodoro Moneta, is an example. Born in 1833, as a boy he witnessed the five-day insurrection in Milan and actively participated in all aspects of Italian unification (he had been a member of Mazzini's and Pallavicino's Società Nazionale Italiana). Like many other Italians of his time, he associated both the feeling of European unity and the ideal of peace with Italian national feeling. Indeed, he opposed the first Italian expeditions in Africa and in particular the continuation of war after the battle of Adua in 1896. He did not hesitate to recall in public, whether in Italy or abroad, that the pacifist opposition to the war had gone so far as to sabotage the railways so as to prevent the departure of reinforcements for Africa (See *L'Italia e la conferenza dell'Aja*, a speech delivered by E. Teodoro Moneta in Vienna on May 5th 1907, published by the Società internazionale per la pace, Unione Lombarda, Milan, 1911, p. 8).

His pacifism, it should be recalled, was not incidental, the result of passing emotions. He claimed a cosmopolitical character for Italian culture, was influenced by Carlo Cattaneo's federalism and identified the cause of peace with the struggle for "European federation as a step towards a world federation". But in 1911 he not only failed to oppose Italy's war with Turkey for the conquest of Libya, but even went so far as to support it. Criticised by a number of friends, he defended himself by saying that "after the kind of protectorate acquired by France in Morocco, Italy was compelled to safeguard its future not to become shut off, as had been repeatedly stated, in the Mediterranean" and by reminding people that: "since the world judges peoples by their fortunes in war, so Italy for a long time was judged as a nation that was simply unwarlike. And more than once, apart from what was written in the foreign press, words of scorn were expressed by Bismarck towards Italy. If I have dwelt on these facts it is because the immense pain they induced in me is what has ever since that time been what has decided my entire political conduct" (See E. Teodoro Moneta, *Patria e umanità*, Milano, Ufficio della Società Internazionale per la Pace, Unione Lombarda, 1912, pp. 13 and 23).

Moneta's case has been repeated umpteen times both individually and collectively. It demonstrates that when pacifism, as so far developed without any positive theory of peace, comes to the crunch, it ends up preferring war to peace every time that one's own nation's interests are affected. This brings out the latent contradiction between the will to have peace and the limitation of one's actual political behaviour to the national framework i.e. to the decisions regarding one's own nation's future. And we would be mistaken if we were led into thinking that this was a matter of the past. To take an example, Agnes Heller and Ferenc Fehér wrote in relation to the Falkland-Malvinas war "it is a fact that Great Britain, which not a moment before had been the noisiest battleground (together with West Germany) for two apparently identical pacifist and anti-nuclear move-

The reality underlying this situation of political thought was analysed very clearly by Kant, who is very often wrongly included in the ranks of ingenuous pacifists. Peace is certainly one of the major themes of his political philosophy, but it should be recalled that he believed a radical change in the form of the historical process to be a presupposition of peace, and conceived this change as the transition from the state (still current) of a process exclusively guided by the natural characteristics of mankind to a process controlled by the will of all humanity (on the basis of the “equality of all reasonable beings”).<sup>6</sup>

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ments, was suddenly overcome by almost universal patriotic fury. With the exception of Tony Benn’s maximalistic tiny minority, the British anti-nuclear movement did not offer the slightest resistance to Mrs. Thatcher’s war policy” (Agnes Heller, Ferenc Fehér, *Gli autoinganni del pacifismo*, Mondo Operaio, 1/2, 1983). For the limits of pacifism see Lord Lothian, *Pacifism is not enough*, London, O.U.P., 1935.

<sup>6</sup> *World government and the control of the historical process*. There can obviously be no control over the historical process without a world government. This observation is trivial on its own but is otherwise quite useful inasmuch as it enables us to clarify a number of features of the notion of the historical process. When we consider the historical process as it has manifested itself so far, we notice that it has never been wanted, never been planned and never thought of as such. So far its direction has merely been the result of efforts made by each nation (or other historical types of political community) to exploit the international situation to its advantage, i.e. the resultant of the international clash of national wills and dominant national forces. In terms of decisions, nothing more than the unorganized total of uncoordinated national political decisions.

So far with these observations we have pointed out actual facts. But if the idea of a world government is missing, (i.e. if the idea of controlling the historical process is unthinkable) a pseudo-theory (i.e. an unproved and unprovable theory) creeps into this statement of fact because we are no longer merely ascertaining facts but are at the same time led to the idea that this situation is eternal. The historical process thus appears as the blind turning of the wheel of time, as a necessity that thought can only recognize and in the face of which every will must bend. (This is in fact the historical outlook of political realism and the reason why in Machiavelli’s language “necessity” and “*fortuna*”, in addition to “*virtù*”, are crucial terms). And if thought attempts to explain this obscure destiny in some way, it is forced to conceive of history as a process dependent on some metaphysical or natural cause (both these explanations are to be found in Meinecke’s thinking: see in particular the introduction to *Die Idee der Staatsräson in der neueren Geschichte*).

The only alternative to this is not to think, i.e. to remove this reality from one’s awareness and to replace it with an illusion (which is easily done because it is impossible to think of politics, in particular international politics, without setting objectives, nor is it possible to set up objectives without deluding oneself that one is able to control the world situation, with some degree of autonomy). But everything changes if, with the idea of world government, we acquire the possibility of conceiving not only the idea of an uncontrolled historical process, but also that of a controlled historical process. In the latter case the historical process takes the form of a set of co-ordinated political decisions, within which the *general will*, which now takes shape also at the world level, will no longer be subordinate to *necessity* (taken as the international clash of national wills). Political will thus pass from the sphere of heteronomy to that of autonomy. And this entails at the same time the passage from history characterised by determinism to history guided by freedom. This trans-

Kant's statements and conjectures about war and peace are very terse. He placed peace in a future context in which "civilisation (God knows when) will have reached perfection", the only time when "a permanent peace would be possible and salutary for us". He held, indeed, that, "given the degree of progress which human civilisation has reached, war is an indispensable means to make it advance". Without war there would be neither the transition "from barbarism to culture, which consists in the social worth of man", nor the constant development of human society ("the danger of war is the only factor that mitigates despotism"). Finally, he stated that it will put an end to itself, causing the "lawless state of savages" in the relations among the states to be overcome, "after at first inadequate and tentative attempts", through a "union of peoples (*Völkerbund*)".<sup>7</sup>

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formation was studied as regards its philosophical meaning by Kant, whose philosophy of history has in common with that of Marx the concept of historical determinism for the segment of history reaching up to world government, while remaining very different in its rational, severe and far from uncritical examination of the world of freedom.

After stressing the fact that we cannot conceive world government, i.e. peace, without at the same time conceiving control of the historical process, I would like to analyse briefly the significance of these observations for the theory of historiography. If we ask ourselves, for example, what aspects of the historical process would be directly controlled by a world government, we can reply that, more or less, they would be those that national governments delude themselves that they control. And if, after giving this reply, we recall that among these aspects there are some which have or could take on the character of regularity, of constant repetition, etc. then we can begin to see that a new type of relationship between this type of situation and political decisions begins to emerge.

We can consider these aspects from Braudel's point of view. In this case we find ourselves faced with "*longue durée*", and we can, case by case, try to establish whether and how far the "*longue durée*" depends on political decisions. Alternatively, we can consider these situations from the points of view of historical materialism and *raison d'Etat*. In these cases we find ourselves facing the facts made up by the necessary linkages between the relations of production and of the evolution of the world balance of power. We can easily verify that events of the sphere of *raison d'Etat* would be superseded by the decision of the world government, and that the events of the sphere of material production could leave an increasing scope for free decisions of a world government and of the other coordinated governments as scientific and technical production replaces classic industrial production.

We should also, finally, consider that world government would put an end to history as the history of wars. And that raises the problem of histories that come to an end and, more generally, the problem of the unity of history as a limiting concept of all histories, to be studied with different criteria in as much as they are dependent on different laws of development.

<sup>7</sup> *Kant and the contradiction between human nature and civilisation*. See Immanuel Kant, *Werke*, Frankfurt a.M., Insel Verlag, 6. Band, pp. 91, 99-100, 38, 98, 42-43. I would like to recall at least that Kant, when speaking about Rousseau, states that "he clearly shows the contradiction existing between civilisation and the nature of the human race" and he goes on to explain: "Indeed, from this contradiction all serious evils are born

3. — *The culture we have inherited is a war culture. Clausewitz and the incapacity to conceive the unity of politics and war. Logic and forms of war culture.*

I have recalled this usually neglected aspect of Kant's thinking because of the clear way in which it outlines the historical picture of the non-development of a peace culture.<sup>8</sup> However, this is what most concerns us here. If it is true that no peace culture exists then it is also true that the culture that we have inherited, the one within which political and social forces think and act, is a war culture and a war-masking culture, i.e. a culture incapable not only of thinking peace, but also of bringing into the sphere of knowledge, in their true nature, all those facts which, though not having yet the external form of war facts, are nevertheless related in a non-fortuitous way with war.

Among these the first fact that needs to be taken into consideration is that war is always present in one way or another. It is not always present, of course, as a current war. (Every current war is a unique event, sited in a particular place and time, an episode). But it is always present in the

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which cause suffering in human life and which also cause all vices which dishonour life, since civilisation, based on the true principles of man's and citizen's upbringing, has perhaps not even begun and therefore is far from being achieved. The inclinations and tendencies that lead us to evil habits, and which are therefore blamed in this account, are, however, good in themselves and, as such, conform to the purposes of nature; but, as they were geared with the state of nature as such, they are impaired by the progress of civilisation and impair it in their turn, up to the point where art, having reached perfection, becomes nature again, which is the ultimate goal of the destiny of mankind". (*Op. cit.*, pp. 93-95).

<sup>8</sup> *The reason for the non-development of a peace culture.* According to Kant war belongs not to the world of metaphysics or biology but to the world of history. It exists together with a number of facts, and therefore, at least hypothetically could disappear with the disappearance of these facts. We are, quite clearly, in the realm of conjecture, but of reasonable conjecture that Kant distinguishes from the various vain ones. See Immanuel Kant, *op. cit.*, pp. 85-86, 42-43, 47-49, and generally all works of the philosophy of history. Now I think that only through this historical conception of war is it possible to explain the failure of peace culture to develop. The crucial fact is this: until our times peace has never been a priority because war has always been a necessary means to resolve the problems posed by the historical process i.e. to affirm the values that in turn prove to be possible. The consequence of this on the theoretical plan is evident. Since the elimination of war has never been posed as a practical problem, thought has always been based on war as an aspect of reality, or on the masking of war. In this context when peace appears to the conscience as a practical aspiration (struggle for peace) or as a theoretical problem, it remains quite separate and isolated from any other fact or theory, and never appears as one aspect, one part of the historical process, thus being doomed to abstraction or impotence. This is why not only is there no peace culture, but people are not in fact even aware of its absence. Peace is usually talked of as if it were something well-known to everybody and that without looking at the need to enrich our thoughts with those of great thinkers who have been concerned with the subject.

shape of the *world of war*, i.e. as a situation that makes this series of events (single wars) possible and inevitable. This situation has never been interrupted and is very clear and easy to see. War is always present in the shape of military preparation, as defence expenditure, as a constitutional obligation and so on, i.e., briefly, as one of the permanent and basic aspects of everybody's life.<sup>9</sup> And it must be said that this trivial observation takes on its full meaning, and poses problems that are far from resolved, if it is formulated more carefully, namely if we say that war is always potentially and often actually present, because the world of states (as well as the entire world of politics, in a sense to be established in a more precise manner) is based on war: *it is the world of war*. War is really, and so far always has been, the means by which supreme decisions, affecting the fate of nations and humanity itself, have always been taken.

The joint presence of politics and war is certainly one of the major causes (perhaps the greatest) of the difficulty there is in fully understanding both. I believe that this difficulty appears in a very precise manner, even at the verbal level, in the most advanced attempt at conceiving war: the attempt made by Clausewitz. What is meant by the phrase *war is the continuation of politics by other means*? Does it signify that politics no longer resorts to its means and therefore is sub-

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<sup>9</sup> *The refusal to deal with war*. After asserting that war is a feature of human behaviour, Cyril Falls states that aversion to "the brutality and irrationality of war" can be turned "into puerile attempts to minimize its importance and refusal to concern (oneself) with it". (Cyril Falls, Introductory to *The Art of War, from the Age of Napoleon to the Present Day*, London-New-York-Toronto, O.U.P., 1961. Falls is pointing his sights at English historians of the end of the nineteenth century and the beginning of the twentieth century, but the observation is more widely applicable). Thus both the influence of wars fought in the past on the customs of peoples and the fact that some sort of war is always planned in all countries (including neutral countries) even when no war is actually taking place, are matters which are left in the shade. In reality, defence is nothing more than a defensive war plan established and constantly adjusted by governments and military authorities with the agreement, active or passive, of citizens without exception (whence the importance of examples of military valour and warlike capacities in the rites of the State, in the nationalistic perversion of history and so on).

There can be no doubt about the existence of this agreement, although it is true that it is manifested more passively than actively and much more unconsciously than consciously. The fact is that generally men, apart from fascists, although proud of the military virtues of the people they belong to, prefer to think of themselves in a different way. This either removes awareness of individual military responsibilities, i.e. war responsibilities, or when international politics puts these facts harshly within everyone's gaze, puts the responsibility of the tension and the threat of use of force, and so on, onto the foreigners of the rival camp who, since they are enemies, in this way cease to be human beings. When this happens their death may be viewed with satisfaction and even with joy, and does not provoke any feeling other than pride in the readers of apologies or pseudo-histories of national wars.

stantially no longer politics but only war? No, according to Clausewitz, because he always emphasises that war is the means and politics the end and he does not fail to point out that it is impossible to conceive the means without conceiving the end. But why then “other means” and not, simply, one particular means (or a specific set of means)?

Effectively Clausewitz’s formulation brings us to the crisis point in war culture: the fact that we recognise the unity existing between war and politics empirically but we are unable to reproduce this unity with clarity of thought.<sup>10</sup> The first datum (unity of politics and war) shows that it is the normal political behaviour of all men that gives rise to the world of war and keeps it going. The second datum (the imprecise translation into thought of the unity of politics and war) shows that the limit of war culture lies in the incapacity both to specify what aspect of political behaviour it is that connects politics to war, and even to pose the problem in these terms. The ensuing obscurity makes it impossible not only to act effectively for peace but also to decide whether a world of peace is feasible or not. There is in fact no real possibility of establishing whether the world of war is an inevitable fate inexorably affecting men and their behaviour or whether, at least under certain conditions, it depends on man’s will, until we know what aspect of the political behaviour lies behind war.

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<sup>10</sup> *Unity of and distinction between politics and war.* The necessity to acknowledge the unity of politics and war and the difficulty of conceiving it depend on objective factors. In some ways, politics and war are inseparable: wars are the fruit of political decisions, and the possibility of carrying them out (armaments, military service etc.) is in its turn the result of an ever-present political praxis. In other respects, on the other hand, they rule each other out. Common sense tells us that this is so whenever we hear that wars occur when there is no room left for political solutions. In this case, politics coincides with peace: it is the opposite of war and the means by which efforts are made to avoid it. And what should be noticed is that although this interpretation is denied by the facts (the decision to go to war is always a political decision), it is not entirely arbitrary, at least as a projection on all the sphere of politics of certain characteristics of politics that are, quite reasonably, considered to be essential.

Indeed, it is true that states are a political creation and *it is true that within each state politics is precisely the activity by which conflicts are peacefully resolved* (just as it is true, on the other hand that, despite a number of steps backwards, history presents a constant tendency towards an extension of the size of states i.e. the transformation of previous war zones into zones of internal peace). Now pushing this interpretation to the limit, politics may be interpreted as a gradual process of elimination of wars; and thus war may be interpreted as the expression of the imperfection of politics, and peace as the expression of the perfection of politics. In this way, it is possible to conceive the historical and present unity of politics and war without arbitrarily assuming the eternal unity of politics and war (which makes it possible to think of all the ways in which politics and war are different). In support of this interpretation is the fact that politics as action towards peace coincides with the most developed aspect of political thought and with the most conscious forms of participation of citizens in political life.

The logic and forms of war culture derive from this obscurity where thought, at least in part, loses contact with facts. If thought dwells upon the event “war” then it can only conceive it as a necessity, natural or metaphysical, because, as we have seen, it cannot ascribe it to any defined form of political action (at the limit: if in thought there is war, then there is not action); on the contrary, if thought dwells upon the event “action”, then it must mask the world of war, because it cannot ascribe it exclusively to the principles of political action without perverting them (at the limit: if in thought there is action, then there is not war). In their concrete manifestations these forms of thinking entail, to a certain extent, a splitting of consciousness, an oscillation between two poles (either by nature or because of other people’s fault wars always occur under the guise of necessity) as well as self-mystification. It should not, however, be overlooked that these forms of thinking (as long as we use them in a critical and realistic way) make it possible to recognise and examine real aspects of the historical process and politics, aspects which are, moreover, of great significance for the problem of peace.

In fact, with the idea of action, i.e. with the cultural heritage of the great traditional ideologies — liberalism, democracy, and socialism — history is viewed as an unceasing transformation of political behaviour and its social base. Equally the growth of the collective capacity to orientate individual actions with such values as liberty, justice and equality can be seen. What needs to be emphasised here, however, is the relationship of these values to war and peace. In a certain sense, these values belong to the realm of war, without which they could not have emerged historically against despotism and subordination of political power to class privileges. In another sense, however, they belong to the realm of peace inasmuch as they are a premise to it (peace cannot be constructed nor, indeed, pursued while despotic powers and class privileges exist, which can only be removed by war), and inasmuch as they inevitably suffer a process of nationalistic degeneration that may reach the excesses manifested by Fascism and Stalinism, unless universal peace is assured.<sup>11</sup>

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<sup>11</sup> *Development and crisis in ideologies.* In the discussion on the crisis in ideologies (now hitting Marxism also) a very pertinent observation made by Lionel Robbins has never been taken into proper consideration. As regards liberalism, he states that “international liberalism is not a plan which has been tried and failed. It is a plan which has never been carried through — a revolution crushed by reaction ere it had time to be fully tested”: and he extends (virtually) this observation to socialism. The adjustment thereby made to the framework of discussion is obvious. If this is the case, the worst evils in our century in international, national and social policy must obviously be ascribed to what is not yet liberal and/or socialist, and not to liberalism and socialism as such, since,

On the other hand with the idea of *raison d'Etat* which is the most advanced theoretical expression of political realism, the world of power can really be seen for what it is. It becomes apparent that there is no

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because they are not fully developed, they have not had a chance to prove their full validity (they should appropriately be re-assessed only if it were possible to show that their complete development is impossible).

Robbins's reasoning is unassailable. In a nutshell, and put in another form, it can be expressed as follows. He notices that with the current international system, based on the absolute and exclusive sovereignty of national states, any economic plan (in the sense that he ascribes to the term i.e. including a liberal plan) can only be national; and then he shows easily how these plans cannot fail to contain very strong elements of protectionism and corporatism because national governments (i.e. the centres of decision that formulate such plans and handle them) are supported by a balance of power that includes all protectionist and corporatist interests and excludes an increasing portion of the liberal and socialist ones (those which have their seat in the framework of the nation but which can be enforced only on the international plan because their scale of realization is international). The ultimate reason for this lies in the fact that, while the lot of the protectionist and corporatist interests depends exclusively on the respective national governments, that of the liberal and socialist interests in question depends on the contrary on the behaviour of many governments (in the limit of all of them) and not only on that of one's own, i.e. on a power situation escaping direct electoral control of the citizens. This is why a national vote is effective in the former case, ineffective in the latter. In fact only in the former case do favourable or unfavourable governmental decisions appear altogether as gains and losses of votes and support for the party (or parties) in power. It follows that liberalism and socialism can only develop fully with an international (world) plan, and that an international plan can be implemented only by a world government (See Lionel Robbins, *Economic Planning and International Order*, London, MacMillan, 1937, p. 238 for the precise quotation. See also, by Robbins, *The Economic Causes of War*, London, Jonathan Cape, 1939 and, for the international failure of socialism, Barbara Wootton, *Socialism and Federalism*, in *Studies in Federal Planning*, ed. by Patrik Ransome, London, MacMillan, pp. 269-298. I would like to note in passing that the fact that this is not common knowledge is because of the continuance, even now, of errors that the "early liberals" made according to Robbins: i.e. (i) the tendency to describe the liberal market in terms of spontaneity, without giving equal consideration to the liberal plan as the system of political, legal, administrative and economic bonds making such spontaneity possible, and, (ii) the naive trust in the possibility of a liberal international market functioning without a world power).

Robbins's analysis is important also because it makes it possible to obtain results that in his work are only implicit. One such result is the possibility of distinguishing, for each of the ideologies in question, its *historical affirmation* (which has already been obtained) from its *complete realisation* (which has not yet begun), and the consequent possibility of asking whether the complete development of these ideologies goes through identifiable phases. The second result makes it possible to reply affirmatively to this question. It derives from the (already established) relationship between international liberal and/or socialist plan (*complete realisation*) and world government (peace), i.e. the *relationship between peace and the last phase of development of these ideologies*; and it lies in the possibility of establishing analogous relationships for the other phases. Indeed, in the same way that we must make assumptions about peace to be able to conceive the last stage of development, *in much the same way we have to think about war to be able to conceive the first phase, that of the historical affirmation*, as a struggle against power situations based on the forcible and legal exclusion of individual freedom and of the liberation of all classes (absolutism and/or subordination of political power to class privilege). And at this junct-

authority placed above the states, and that, therefore, World Reason is the *raison d'Etat*, and that the world is governed by war and by force. It also becomes apparent that even negotiations belong to the sphere

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ture an intermediary phase between the first and the last becomes apparent, *that of a (partial) development within a legal framework*. In this phase development can neither be complete nor immune from the risk of a relapse into the previous illegality, but it is, nevertheless, as the facts show, sufficient to consolidate the historical affirmation of the ideologies in question to the point where their values become indestructible, at least as concerns ideas. This is why a real revolution, once made, is made for ever. *This phase also has a clear relationship with a typical war and/or peace situation: namely the transition from the world of war to peace*. This is demonstrated by the fact that war becomes once again a primary objective whenever such values as freedom, justice and equality are trampled on. In this negative rather than positive sense, albeit very real, it may be said that liberalism, democracy and socialism are the premises needed for peace.

This conclusion demands a brief comment. Indeed, the fact that liberalism, democracy and socialism are really the concrete political premises to peace (a different reasoning would be in order if the matter were about religious and moral premises) has led to the erroneous assumption that they are also the means by which peace can be achieved. But rather the opposite is true. In reality, whilst the *historical affirmation* of each of these ideologies is one of the premises to peace, peace (as world government) in its turn is the necessary premise for *their complete realisation* and this immediately shows that it is not possible to construct peace by merely strengthening these ideologies. But this aspect has remained in the dark; and this obscurity has brought about both unilateral pseudo-theories of peace (i.e. peace identified with a side's own success: opposing economic theories of peace put forward by liberals and marxists, and national democratic theories of peace put forward by democrats), and, as regards the field of action specifically, an ideological reflex: the masking of war (which is inevitable since in theory nothing denies liberalism, democracy and socialism more than war).

These consequences — as well as the internal structure of these ideologies and their present situation — can be easily appreciated if we remember that the passage from the *historical affirmation* phase to the *legal development* phase coincides with the passage from offensive to defensive. The reasons for this transition are clear. The liberals could not fail to defend individual liberty after they had achieved it by struggling against absolutism, and the aristocratic monopoly of power and the same is true for democrats as regards political liberty and for socialists regarding economic and social liberty. But what matters most, as regards our theme, is also the fact that these victories were achieved by means of the struggle of one class (on each occasion the class which could not free itself without affirming one of these aspects of freedom and which was at the same time able to support it institutionally) and by means of a specific form of state (the state which was compatible with individual freedom and the liberation of classes i.e. the national state). Hence, by passing from the offensive to the defensive, liberals, democrats and socialists not only respectively defended individual, political and social liberty but also, a class and a form of state.

This class limitation, which has become static as a result of a defensive position, explains the (often observed) fact that democratic action was necessary to enlarge the domain of individual liberty, and socialist action to enlarge the domain of democratic liberty. On the other hand, this state limitation, which had become static in its turn for the very same reason, explains why liberals, democrats and socialists accepted the world of war (even though this took place more through the masking of war than through the recognition of its normality in a world of national states).

The following then is the situation: once class freedom has been achieved, advances

which culminates with war because they are based exclusively on armed force relations between states, allow only decisions which are compatible with the scale of force relations, and therefore reduce the independence of medium and small states, if not completely to a mere fiction, at least to something not far short of this. Finally, we can see in the world political process the true force, still blind, on which all political events and the internal constitution of states itself depend.<sup>12</sup>

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can be made only in the field of the liberation of individuals as such and only by means of a new ideology: the ideology of peace (federalism). It is vital to recall that class freedom has entailed an increase in, but not complete development of, individual, political and social liberty which is still subordinate both to corporative limits (in the framework of the dissolution of classes) and also to the supreme negation of liberty by the duty to kill and die for the state (nation). The struggle for peace thus coincides with that for enlarging the sphere of individual, political and social liberty, by means of the full liberty of man as such. This requires liberals, democrats and socialists to overcome their ideological limitations. And it also means that each of them has to develop a positive theory of peace and a strategy that makes peace, and not merely good fortune for one's own nation, the supreme goal of political struggle.

<sup>12</sup> *Raison d'Etat and the political system.* A constitution is commonly interpreted as the highest expression of a people's autonomy, as the basic expression of its character, etc. But the opposite is also true. It cannot be denied that Ranke was right when he wrote: "The degree of independence gives a state its position in the world; and imposes at the same time the necessity upon it, to shape its internal relations in view of the objective of its affirmation. This is its basic law." But this common sense truth is not easy to admit (in spite of its conspicuousness: consider the constitutions of almost all European states after the Second World War), simply because, owing to the fact that it partially disagrees with the facts, it is not possible to admit the principle adopted to explain it, namely the primacy of foreign policy over domestic policy.

It is thus necessary, in particular, to recall that, although Ranke had stressed the fact that the constitution of individual states depends on the international balance of power, he did not give up thinking about the state in terms of autonomy. In the very same essay he wrote: "Our country is not the place where we have managed to live best. Our fatherland is inside us and with us... This secret something, which fills both the humblest and highest things alike — this spiritual aura which we aspire to and which we breathe in — precedes any constitution, enlivens and fills all its forms" (my italics. See Leopold von Ranke, *Politisches Gespräch*, in *Die großen Mächte. Politisches Gespräch*, Göttingen, Vandenhoeck & Ruprecht, 1958, pp. 60, 57 and, for the subsequent passage, p. 58. It should be noted, to avoid any misunderstanding, that according to Ranke it is not the fusion between state and nation that gives this spiritual character to states. He said that state and nation cannot coincide — in his opinion France itself did not include all Frenchmen — and he believed that the state is a "modification of human existence, just as much as it is a modification of national existence").

Ranke would thus have asserted both one thing (the state's autonomy) and its reverse (the state's heteronomy). The real point is that, expressed in this way, the problem is badly posed. In the first place, it is vital to observe that it is not possible to distinguish foreign policy and domestic policy without first having a theory of politics in its unity, i.e. without seeing how both are connected. In the second place, it is necessary to observe that if we do not specify the meaning and context of the discussion about the autonomy and heteronomy of states in relation to the world balance of power, we may end up by at-

4. — *The practical basis of war culture. The coincidence of national behaviour with normal political behaviour as a connection between politics and war.*

The recognition of the limitations of war culture makes it possible to establish the practical basis of this culture. In view of that we must return to the point at which the capacity of this culture to understand runs low and try to proceed further. As I have already remarked, war culture never poses itself the question as to what aspect of political behaviour it is that connects politics to war. It is, however, sufficient to pose this question to get the reply that this aspect is the national aspect (indeed it is not possible, with reference to this aspect, to find any solution of continuity between politics and war). And when we get to this point, it is sufficient to demonstrate that the national aspect is always present in the political behaviour of all human beings in order to resolve the problem put forward by Clausewitz, i.e. to establish that there is a continuity between politics and war (taken as a single event) because there is coincidence between customary political behaviour and the world of war (the world of states as closed, exclusive and armed national societies).

Before providing this proof, however, it is necessary to remove a verbal complication that hinders our discourse. It was appropriate at the outset to ask what aspect of normal political behaviour connects poli-

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tributing to *will* what from another point of view must be attributed to *necessity*. We can say for example that a state is able to react to external pressures with valour (autonomy of will) or that it *must* adapt to these circumstances (necessity).

To escape from this ambiguity it is necessary to consider that the principle of the primacy of foreign policy is merely the poor formulation of the fact that states are not political systems but subsystems, and that there is only one political system, the system of states (which has now been fully realised as the world system of states). When viewed in the light of this criterion, it becomes immediately clear that all political events (whether foreign or domestic policy) modify the world balance of power, and that all states have to adapt to these variations of the whole (as an illustration of this the lucid intuitions of Hamilton, and the historical works by Dehio and Hintze, are examples). Furthermore, it should be remembered that political analysis needs to be restricted to political facts. By this I mean that if we observe the political system, we can ascertain relationships between the variations in the system and the variation in the behaviour and/or in the institutions of states, and nothing more. Any talk about the genius of peoples or their character or their value, if it has any sense at all (and very often it has none: it is amazing that a statesman of the calibre of Schmidt could say that one German soldier was worth three Russian and five American soldiers in the Second World War. See Roberto Ducci, *Colloquio con Schmidt*, *Il Corriere della Sera*, December 30th, 1982) has sense only inasmuch as it is based on serious anthropological, sociological, and economic analyses and so on. In such cases it is anthropology, sociology, economics and so on which illuminate politics and not vice-versa.

tics with war because it is unreasonable to think that politics, in all its aspects, is connected to war. Nevertheless, if it is true that the national aspect is present in all political behaviour, then it is also true that to keep close to the facts it is both permissible and necessary to use the expression “national political behaviour” as a general frame of reference, and after that to specify other aspects present from time to time in actual manifestations of this behaviour. Indeed, with this frame of reference one is always in a position to specify who is acting and in what way, whereas that is not possible with frames of reference of the type “liberal” or “democratic” or “socialist behaviour”, etc., because in reality these types of behaviour do not exist, but only liberal, democratic or socialist aspects of national behaviour. Having stated this, I would like to say the following about the proof. If we break up normal political behaviour into its component parts we find: (a) that the formation of political will is always concretely manifested only as the formation of national will (i.e. as the will to resolve in this or that way national problems of government, of the regime and social structure); (b) that the general political line is always in actual fact developed merely as the analysis of the national balance of power and as the planning of national actions; (c) that the actual, and not merely apparent, mobilisation of forces always, in fact, concerns national forces only, and always stops at the boundaries of individual states without ever crossing them. It is, moreover, obvious that foreign policy never in any way goes beyond this national boundary. In this sphere of action there are no real international seats of decision-making, nor international means for the formation of common will. Foreign policy is decided in national bodies, is designed to safeguard national powers (independence) and provokes changes in the international situation only when there are changes in the national policies of states.

If I am not mistaken, it is thus proved that normal political behaviour coincides with national political behaviour and hence with the world of war. The usefulness of this specification lies in the fact that it enables us to identify the point at which an inversion of the trend of the political process is to be caused if we really want to attempt to eliminate war and construct peace. An example serves to illustrate this. Many writers — in Italy Luigi Einaudi with particular clarity — have repeatedly stated that the actual distinction between the friends and foes of peace corresponds precisely to that between those who are willing, and those who are not willing, to sacrifice part of the sovereignty of their state including military sovereignty. In the last analysis this is

true. But it is not enough. This truth has not become popular knowledge. Pacifists — and likewise, albeit with a different spirit, all those who believe they are acting “realistically” on behalf of peace — do not take this truth into account, and go on cherishing the dream of eliminating war without destroying the world of war, or believe that they are changing this simply because their purpose is to introduce more liberalism, democracy and socialism in their own nation state. The fact is that if normal (i.e. national) political behaviour coincides with the world of war the very distinction between the friends and foes of peace is between those trying to change normal political behaviour with a view to removing the aspect that connects it to war and those who do not wish to change it for nationalistic reasons, or only because they do not realise that this change is necessary, and thus effectively support the world of war in what they do even though they sincerely desire peace.

*5. — National thinking as the cause of war being regarded as an inescapable fate or masked. The transition from war politics to peace politics as a strategy to face the challenge of our time.*

These considerations are, however, only the first step towards outlining the framework for the transition from war politics to peace politics. We know what is the world of war and what we must not do in order not to perpetuate it, but we do not know yet what is the world of peace, nor if there is any sign that makes it possible for us to say whether we are experiencing a process that could be guided towards the world of peace. Before trying to face these matters, I would merely like to note that the recognition of the principles of action, which constitute the world of war, makes it possible to enlarge the field of our knowledge. In particular we can now state that war culture is the culture of national behaviour, and thus we can stress the fact that the theoretical limit of this culture (inability to conceive the unity of politics and war with the result that this aspect of reality becomes an inescapable fate or is masked) depends on the practical limitations of this behaviour (reduction of world politics to the sum of national politics, i.e. something that everybody undergoes but which nobody determines). But what is even more important is that by abandoning the viewpoint of national political behaviour, and by attempting to adopt the viewpoint of the struggle for peace, it is possible to start to perceive the essential political features of to-day's world darkened by war culture.

Humanity has never been in a position like the current one. Technological development has already led the human race to the verge of the

physical possibility of self-destruction through war or ecological catastrophe but, despite this, there has been absolutely no change in the way politics is carried out, is conceived of and studied. There are scientists designing increasingly destructive weapons and scientists attempting to make the world realise what the appalling dangers really are. But beyond these studies and information about the technical features of weapons there is nothing, and nothing about the political fact that building and exploiting them is a matter of political decision. The fact is that war culture, by anchoring thinking to ideas which no longer have any sense, nor evolutive character, nor even reality (the national state and its armed defence), has the effect of feeding thought with ghosts and prevents thinking from ascertaining that the radical change that has occurred in military technology is, *ipso facto*, an equally drastic change in the moral, political and institutional situation of all mankind.

Despite this, the state is still thought about with the conceptions of the time (the whole of past time) in which it was unthinkable and unforeseeable that mankind would have become completely his own master, albeit negatively and for the worse, i.e. capable of self-destruction. The result is that the frightful degeneration of states goes unnoticed, a degeneration that is transforming states from being life defence organisations into organisations that are deliberately creating (hegemonic states) or passively experiencing (satellite or neutral states) the risk of the extinction of the human species. If we accepted this as a permanent fact of the political world (and no political party has so far rejected this degenerate form of the state), deterioration into barbarity would certainly be unavoidable. Education, the feeling of social solidarity, and every moral and cultural value would, indeed, no longer have any sense or credibility.<sup>13</sup>

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<sup>13</sup> *The nuclear danger and human condition.* There is as yet insufficient awareness of the fact that, on the one hand, nuclear arms have shown the limitations of the current form of state, which has proved to be quite incapable of containing the nuclear threat, and, on the other, are causing its complete degradation (even to the point where the state's function as defender of life is being overthrown). In substance, there is passive acceptance, which gets us to consider as inevitable fate what is in fact a choice made by certain people and suffered by the others. We speak about nuclear weapons, but very little about the fact that political power has acquired the character of being the power to produce, install, and use arms of this kind. The consequences of nuclear war are widely studied and publicised by biologists, physicists, physicians and so on, but what is not considered are the consequences of the acceptance of a political world which has created, and recreates every day, the danger of extermination of mankind. Generally speaking, political scientists keep quiet about this.

There are two facets to the problem. One concerns the way in which mankind is like-

Similar considerations are true for the other global aspect of technological development, the positive one. It is becoming increasingly apparent that productive development with unceasing technological innovation is leading mankind to the verge of the complete elimination of purely physical and repetitive work and is providing mankind with the power to replace this type of work with intelligent and creative activities. But politicians, still confined to the national horizons of war culture, are only capable of projecting national policies (or “international” policies with national powers, which is the same thing) when the real task is to build progressively a world power and world policies designed to develop the Third World, policies which ought to be coordinated with the economic and, above all, the political and social transformation of the already industrialised countries.

The consequence of this is that good fortune — more things produced for less work, the achievement for everyman of the material possibility of spiritual freedom — is turned into the misfortune of corporatism, protectionism, unemployment and the uncertain future of the Third World.

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ly to live. This aspect of the problem has been thoroughly studied by Jonathan Shell. He observed that men are by now faced with a choice between the acceptance of the danger of destruction of mankind and the attempt to overcome the problem with the destruction of nuclear weapons and with a political world order which makes it impossible to build them again. He also noticed that this is a choice between two different overall ways of living. He also established very carefully the criterion by which to assess the meaning of the first alternative, fully illustrated by him. He wrote that “by threatening to cancel the future generations, the nuclear peril not only throws all our activities that count on their existence into disorder but also disturbs our relationship with the past generations”. And he went on to say: “The present is a fulcrum on which the future and the past lie balanced, and if the future is lost to us, then the past must fall away too”. (See Jonathan Shell, *The Fate of the Earth*, New York, Avon Books, 1982, pp. 165-166, and, generally speaking, all the chapter called *The Second Death*).

The second aspect of the problem is political because the choice between these two ways of living is a political choice. It is a question of choosing between two opposing conceptions of power and the state: on the one hand, to-day’s state, which attributes the power of building, installing and using any type of weapon to a number of people, on the other hand a new form of state, articulated and universal, which attributes to all mankind the monopoly over the legal control of physical force (failing which any attempt at disarmament would be destined to failure). This choice concerns the mighty ones of the earth as regards decisions, but also concerns all mankind as regards consent and dissent. And it should be pointed out that the campaigns to ward off this or that immediate risk of conflict or to reduce the number of missiles etc. are not enough. With these actions we remain in the framework of the world which has created, and recreates every day, the danger of nuclear catastrophe, without proposing either to destroy it or to tackle the problem of the new forms of power and state needed to give back to human life a sense of the future and of the past.

But what is not possible with war culture may become possible in the political and moral context of the construction of a peace culture. Taken from this viewpoint, we can already see that we are not faced with two different tasks, but merely one. War cannot be abolished, nor can the risk of ecological catastrophe be eliminated without control over military and ecological aspects of the production process (the only worthwhile disarmament is controlled disarmament). And if we achieve this sort of political control, this sort of power in other words, it is evident that we also achieve the capacity to govern the world market and organise society not only in view of market efficiency and production (i.e. merely economic considerations), but also with a view to quality of life, solidarity, freedom of an emancipated mankind, as is vital today if we are to base full employment on its only possible foundation and if we are to use human labour for the purposes of defending and protecting our ecological and cultural heritage.

Peace culture is a new culture and a new culture is a new world, that mankind will learn to understand as it is built (if it is going to be built). In this respect, I would like, however, to point out that Kant's philosophy of history already makes it possible to state that such an epochal transition is thinkable. Kant, as I have already recalled, held that it would be war itself, by becoming more and more destructive, that would pose the problem of its abolition. And we can in fact see that mankind has reached this point. Kant also thought that only a civilisation that had reached perfection would have been able to abolish war. And if we bear in mind that in these passages of Kant civilisation is culture as man's social value, we can in fact remark that mankind is entering a historical epoch in which politics can aim to completely develop the social value of every man and realise perpetual peace. Whether this will happen, we cannot say, because what is thinkable is not what is real. But we already know that man's will can and must make this choice because the alternative is catastrophe.

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