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## **THE EUROPEAN INTEGRATION EXPERIENCE: POSSIBLE INSTITUTIONAL REFERENCES FOR THE GRAN AND THE MERCOSUR**

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Paper presented for the conference on  
"Mercosur y el Grupo andino: perspectivas para su desarrollo institucional"  
Buenos Aires, 23-24 November 1995

IAI9526

**ISTITUTO AFFARI INTERNAZIONALI**

# THE EUROPEAN INTEGRATION EXPERIENCE: POSSIBLE INSTITUTIONAL REFERENCES FOR THE GRAN AND THE MERCOSUR

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## **1. Is the European Union a model for integration?**

After more than four decades of experience, the European Union (EU) has reached a remarkable stage in its integration process. In this chapter, we will report about that experience and on the variety of adjustments and modifications that the European governments have been adopting along the way towards integration (especially in the last ten years), in order to become more efficient and to answer the changing internal and external needs and challenges. We will also try to understand why a new reforming process is needed, after the last modification which took place in Maastricht in December 1991.

By judging about the failures and successes of the European experience, our aim is that of showing a possible path for integration in other regions of the world, particularly in Latin America.

As a starting assumption, in order to better clarify the limits of our analysis, we do not believe that the European "model" of integration could be fully applied outside the historical and geographical boundaries of the present of a future enlarged European Union. But we think that in an increasingly interdependent world, some practical measures and institutional set-ups can be universally applied and achieve the same results in terms of positive integration.

This is why we evaluate the politics of European integration as the master experience in the building of new "regimes of cooperation" in the rest of the world. (1) What, on the contrary, has to be rejected is any attempt to "sell" the European experience as "the absolute model" for those Regions of the world where attempts towards integration are under way.

One of the main reasons for this methodological point is also the fact that the European Union is far from constituting a well defined and stable cooperative system. On the contrary, today Europe too is witnessing a process of deep transformation and redefinition of the old concept of integration. A clear need to adapt EU institutions has again emerged. But the strategy to be followed is far from being clear. And again, also we europeans have to turn back to our past experiences.

## **2. The current state of institutional development in the EU**

At the beginning of the process of integration, at the time of the first forms of institutional set-ups, the European Coal and Steel Community (ECSC - 1952) and the European Economic Community (EEC - 1957), the events and the resolution of the actors determined the forms and the limits of the EC institutions.

After the failure of the proponents of a pure federal approach to the building of Western Europe (requested by the rejection of the European Defence Community in 1954), the way towards cooperation was marked by the choice of an ad hoc method, a compromise between federalism and intergovernmentalism, the so called neo-functionalism. (2)

The result was an original mixture of supranational and cooperative tools and policies, which did produce, after almost forty five years of activity, a number of common institutions and a great amount of laws.

This "acquis communautaire" represents today the basis from which to start any new reform dynamics and to condition all sorts of future plans.

At the same time, the external international environment, undergoing radical change, confronts the Union with new problems and demands and influences its role and future form.

Eventually, the past and the present, together with the internal and the external pressures, converge in demanding a different institutional arrangement for the European Union's system. (3)

As it is well known, the European experience with reference to the common decision-making process has developed a rather baroque system of institutions with which to balance Union and national interests.

First of all, we count on the cohabitation of different levels of executive powers distributed with different degrees of representability among the European Council, the Council of Ministers and the Coreper (Committee of Permanent Representatives) in defence of the Member States' interests; it is then the task of the European Commission to check all this power, both through its exclusive competence of initiative and its independent (from the government) status; but as history has shown, its ability to play an influential role largely depends on the existence of other procedural mechanisms: among them, the most important is the majority voting procedure within the Council, which essentially leaves the Commission the room to create a majority in favour of its legislative initiatives and attributes to it a kind of "political" role. In great part the institutional history of the EU rotates around the concession of this room for manoeuvre to the Commission, a room that was frozen for about twenty years, between 1966 (Luxembourg Compromise) and 1986 (Single European Act).

Other crucial elements in the life of the Union may be found in the structure of a budget, based on the own resources system (1970), which allows the EU a large autonomy with regard to the national budgets. This autonomy being reinforced by the budgetary powers granted at the beginning of the Seventies to the European Parliament, which step by step have been expanded in favour of prelegislative powers to great part of the Union's legislation. (4) Finally, the Court of Justice must be mentioned as the decisive organ in helping Union law prevail over national law and in fixing the confines of overlapping and frequently competing competencies among the many institutions of the Union.

This complex and unique system works reasonably well only if the relationships among institutions follow a balanced pattern of cooperation. At the Union level the need to reach

compromises is unavoidable, if the system is to produce decisions. When one institution wants to prevail over another, the consequence is usually paralysis. This means that a long period of time and repeated negotiations are among the basic criteria for the proper functioning of the Union, as the theory of international regimes of cooperation suggests. The relative advantage of the Union with respect to other international institutions is that of having reached a high degree of institutionalisation of its legal procedures and decision-making mechanisms. This fact helps to create a reasonable degree of certainty in the decisional system and a number of automatic passages from one stage to the other.

### **3. The need for reforming the old institutional system based on the Treaty of Rome**

The unsatisfactory application of the basic criteria of a balanced pattern of cooperation, which had followed the Luxembourg Compromise of 1966, gave birth during the Eighties and the beginning of the Nineties to an extraordinary and dynamic period of reforms.

It started with the Genscher-Colombo Plan drawn up by the two foreign ministers in 1981, who felt the need to integrate the then operating monetary system (EMS) of 1979, with better Community organisation in the fields of foreign policy (EPC) and, to some extent, to security policy. Institutional procedures, similar to those of the Community, were to be extended to these two sectors, which were strictly intergovernmental at the time. But the Solemn Declaration concluding the Italo-German Plan issued at the European Council in Stuttgart in June 1983 was a disappointment for everybody: the essential points of the plan concerning more binding decision-making procedures within EPC were shelved because of the opposition of France and other partners who wanted to maintain EPC's intergovernmental character. The time was not yet ripe for a substantial leap forward in those areas where national sovereignty was jealously guarded. (5)

After the Solemn Declaration of Stuttgart, pressure for reform of the Treaty intensified in view of the imminent enlargement of the Community to Spain and Portugal. All agreed that the errors made in 1973 during the first enlargement of the EC to Great Britain, Ireland and Denmark, when demands for deepening were largely ignored, were not to be repeated. The famous "deepening when enlarging" became a majoritarian political point in the European debate of that time. The most effective initiative to raise the question was taken by the European Parliament in 1984. Upon the pressure of Altiero Spinelli, it decided to draw up the Draft Treaty establishing the European Union. The plan set some fundamental criteria for future debates: unity of the economic, foreign and security policy aspects of the integration process; the principle of subsidiarity as the instrument for division of powers among the Community, States and the Regions; reintroduction of the majority voting system; democratic legitimation of the system and more transparent procedures. All those points maintain also today their innovative value at the eve of the third reform of the Treaty of Rome. But already in 1984, the Draft Treaty was one, perhaps the most important, element taken into consideration when the European governments undertook the first partial reform of the Treaty of Rome and approved the Single European Act (SEA) at the beginning of 1986. (6)

### **4. From paralysis to regeneration: The 1986 Single European Act.**

The consideration of some of the positive features of the SEA may be useful for the understanding of those factors that can help a "cooperative regime" to work effectively.

a. The principle of consistency.

The very name "Single Act" can be traced back to the need to bring together under one roof the various branches of European activity, from the EMS and the EPC to such bodies as the European Council, which were carefully taken outside the proper Community's camp in the name of intergovernmentalism. Thus, it embodied the *principle of consistency* among various activities in the integration process so often called for in prior plans, such as that of Belgian Premier Tindemans in 1976 and the 1981-83 Genscher-Colombo Plan, to mention only the better known. The idea behind was that a separation between external economic activities (EC competence) and foreign policy coordination (EPC) was no longer possible. (7)

This principle, which is still central to the debate on the future of the "European Union", as set down in the Maastricht Treaty, (especially when foreign and security policies are seen as a part of the EU and not as self-standing), was however, only incorporated into the SEA in a very elementary manner. In fact, the Single European Act did no more than register the foreign policies activities of the Twelve; it did not "communitarize" them, as it should have. This means that the decision-making procedures have not been changed, even though efforts have been made to bring them under the same roof. Consequently, the Community method applied to all matters provided for by the Treaty of Rome and to those added by the completion of the internal market in 1992; the intergovernmental method applied to all other matters, in particular, EPC. In other words, the SEA did not solve the question of what we could call "institutional consistency", but set down the political basis for its future application.

b. Back to majority voting.

Actually, the true novelty of the SEA was the elimination of an old taboo: the return of the qualified majority voting procedure to the Council. Although limited, the rehabilitation of this old procedure has made the Community decision-making procedure more efficient; it has greatly speeded up the approval of directives in all matters in which it is applied; and it has helped the Commission to restore its original political role towards the Council of Ministers.

Parallel to the reintroduction of the majority vote, the objectives and the methods for the most rapid achievement of legislative harmonization were defined more precisely. Unlike in the past, the Commission has returned to the practice of emanating rather broad directives, leaving their detailed implementation up to individual member states.

c. Mutual recognition and the Court of Justice.

This strategy was in keeping with another fundamental principle: equivalence. If complete harmonization as set down in art. 8a of the SEA were not achieved by 1992, art. 100b provided for the application of the criterion of equivalent provisions, in the sense that national provisions judged equivalent by the Commission and the Council could be considered valid in all member states during a transition period.

This was perfectly in line with another of the founding principles of the Treaty of Rome, rendered famous by its application in some cases before the Court of Justice. The principle is known as mutual recognition. Its constant application can greatly accelerate and simplify the harmonization process. Although application can obviously not be automatic, it nevertheless may have great potential if backed by an increasingly active and authoritative Court of Justice, the real federating element in Community law. (8)

In fact the Court has played a great role both to the conception of the SEA and to policy-making under it. The way in which the Court built the "Cassis" (by the famous case on which the Court expressed one of its more important sentence) doctrine of mutual recognition was a model for a key feature of the SEA. The same applies to the tax area, where the Court rewrote by interpretation a Community value added directive and this approach was then incorporated into the SEA. The same decisive role was played in the field of transport policy where the Council of Ministers felt obliged to give up all quantitative restrictions on truck licenses by 1992, the end date for the SEA to enter into full action.

#### d. More power to the European Parliament

The last interesting feature with an institutional deepening effect was the modification of the competencies of the European Parliament (EP). Although limited to the so-called cooperation procedure provided for in art. 149, the results have been better than expected. In matters pertaining to some relevant articles of the SEA - mostly concerning the internal market - the EP was given the power of influencing the legislative process by amending or rejecting the Council's common position during second readings. If the Council then wishes to override the decision of the Parliament supported by the Commission, it has to vote unanimously, and that is obviously no easy matter. This first reform has helped to further develop the EP's powers in the Maastricht Treaty, through the concession of co-decision competencies in the legislative field (art. 189b), a kind of veto power which allows the last word in the hands of the Parliament.

In conclusion, the experience gained from the first reform of the Treaty of Rome and, subsequently, from implementation of the SEA has provided important guidelines not only for the following drafting of the Maastricht Treaty but also for the present debate on its further future reforms. (9)

### **5. How an institutional reform can turn into a success**

Three political elements helped to turn the SEA into a positive result after the many failures of the past.

The first was, as mentioned above, the decision taken by the European governments to link the enlargement of the Community to its deepening. Ratification of the SEA took place at the same time as the entry into the Community of Spain and Portugal, thus avoiding a repetition of the errors made in 1973, when widening was undertaken without provisions for deepening; that is, contemporaneous reform of decision-making structures took place at the time in which the number of Community members had increased.

Another element which contributed to the achievement of consensus in Luxembourg in 1985 was the "package deal" strategy: rather than searching for agreement on individual measures of policy or institutional change, discussion centred on a set of policies and institutional improvements. In fact, in addition to approximately 300 directives on the completion of the internal market, the Commission suggested the introduction of some procedures streamlining decision making, a majority vote on most of the matters proposed. This mix of policies and procedures turned out to be a very dynamic factor and led to the swift implementation of most directives not requiring unanimity.

A third element, perhaps less apparent but no less important, was the fact that this reform sprang more from the "force" and perceptions of European society than from the goodwill of its political leaders. The 1992 deadline served as a rallying point in the economic and business worlds and, more generally, in the citizenry concerned with assessing what impact the date would have on various sectors of the economic and social life. Not even the launching of the EMS in 1978 generated the same kind of expectations and consensus in European society. Basically, the real supporters of 1992 were the people involved in business, in banking, etc. - the citizens; the politicians, on the contrary, were fearful of losing further terrain to European sovereignty. As we will see below the absence of public support has been one of the principal factors for undermining the results of the Maastricht Treaty.

## **6. Towards Maastricht: The emergence of new needs**

In principle the Maastricht Treaty of 1992 represented another step forward in the process of institutional reform.

In reality those positive lessons from the past, particularly the ones which had lead towards the SEA, were only partially reflected in the Treaty of Maastricht. A different political climate too, both internally and outside the Union, has contributed to a remarkably less convincing performance in the implementation of the Treaty itself.

This time, among endogenous elements, particular emphasis was placed on the need for: 1) completion of the single market of 1992, which called for a stronger convergence in the economic field (the famous macroeconomic criteria of Maastricht); 2) strong pressure to enlarge the Union to new members before having decided about its institutional reinforcement; and, finally, a rather new element, 3) creation of a clearer social and popular perception of the importance of the existence of the EU (to address the so-called democratic deficit).

Regarding exogenous factors, the most pertinent were as follows: 1) the growing role of regionalism in global affairs (i.e, more responsibility to Europe); 2) the progressive US disengagement from Europe; 3) the new concept and instruments of comprehensive security; 4) the qualitative different meaning of any future enlargement of the Union with respect to a reinforced foreign and security policy of the Twelve and; more generally, 5) the new role that the concept of integration is bound to play in the future pan-European architecture.

Only partially the Maastricht Treaty answered these new needs and challenges. (10) The

drafters were obliged to compromise on many innovative proposals put forward at the eve of the Maastricht European Council of December 1991. Nevertheless, the few elements which had survived were themselves indicative of the complexity of the evolution undertaken by the process of European integration. Among others, the Maastricht Treaty has paved the way towards the Economic and Monetary Union (EMU) and to its final target, the Single Currency; it has expanded the power of the European Parliament by adopting the co-decision procedure, another step towards the proper legislative powers; two other pillars, Common Foreign and Security Policy (CFSP) and Judicial and Home Affairs, have been fully inserted under the common roof of the European Union; for the first time defence policy and defence have been mentioned in a Treaty; the majority voting procedure has been reconfirmed in the first pillar (economic affairs) and has timidly spread into the common actions in the foreign policy field.

## **7. Reasons for a partial failure**

All these positive elements did not succeed to avoid a partial failure of the Maastricht Treaty. There are several reasons to explain the negative trend which has so far marked the implementation of its main provisions.

The first is the economic crisis of the beginning of the 1990s. In itself it is not sufficient to explain the collapse of public confidence in the process of economic integration. But, it is surely true that a positive economic cycle might favour the speed of those efforts which are addressed to the launching of policies of international cooperation, especially when they are so demanding as the ones requested by the EMU.

Another important element has to be taken into consideration: The general post-1989 crisis of the concept of multilateralism and, consequently, of its mechanisms of management. What appears to be paradoxical is not just the collapse of multilateral institutions and doctrines in the Eastern half of the old bipolar world, but the lasting difficulties for Western cooperative organisations to reorient their role and objectives to the new geostrategic situation.

Moreover, this lengthy process taking place during the last decade of this century happens to be occurring in a period in which a strong tendency towards the renationalisation of policies and actions of old and new states appears to be becoming the key political factor. And here again a phenomenon which has started to emerge in the East as a legitimate reaction against a forced pattern of integration has ended up penetrating into the West, affecting the policies of cooperation and the progress towards integration. The European Union itself, as the maximum expression of supranational experience, has suffered from this ebb of nationalism.

Add to these factors a subtle argument, supported by many politicians and intellectuals, which asserts that true democracy lies only at the national level, where Parliaments and political parties better protect the rights of individuals against the technocratic bureaucracy of Brussels, so distant from the social needs of people. Through this way of reasoning, the strict linkage which actually exists between integration and democracy is hidden and appears less evident; to deny the substantial democratic character of a voluntary integration among states and people, as a way of directing and controlling the effects of international interdependence, means to threaten the very basis of one of the most relevant postwar phenomena constituted by the



various forms of supranational cooperation.

All these reasons have contributed at different degrees to the collapse of public support of the Treaty, in particular, and of the concept of integration, in general. It was not just the first Danish refusal and the scarce electoral support in the French referendum which caused concern, but the general decline in the once widespread interest for the creation of an *ad hoc* supranational Europe. The ratification process has taken practically two years instead of one, and the revision process of the Treaty, due to happen in 1996 (art. N), has started practically before the full implementation of the many provisions adopted in Maastricht.

This slow and negative evolution of the Treaty contradicts the expectations created by the Single European Act (SEA) and the fateful date of 1992 which represented a Europe able to move quickly into an era of full freedom in the basic elements of our social life (capital, labour, trade and services). Strangely enough, in institutional terms the SEA was far less ambitious and complex than the successive Treaty. Nevertheless, as we have described above, it helped Europe to relaunch a process towards deeper integration, through the restoration of a few decision-making rules. (11)

## **8. A new dimension: Foreign Policy and Security**

One of the most complex issues on the table of the 1991 European Council of Maastricht was the need to give a more convincing answer to the request of a larger international role of the Union and of its security and defence policies. In a more instable world the role and the responsibility of the Union had to be extended to those new fields. The key question was on how to transform that need into an effective and credible institutional mechanism.

A first proposal was that of implementing the principle of consistency mentioned in art. 30, 5 of the SEA and extending it also to the institutional mechanism, through the "communitarization" of the new CFSP, in particular that part of CFSP dealing with foreign policy aspects of the Union's activities.

When we speak about "communitarization" we have in mind a combination of balanced dialogue among organs (essentially the Council, Commission, European Parliament) and regular recourse to the majority voting procedure.

Maastricht represents a clear example of the difficulty of applying the concept of "communitarization" to a variety of different fields of action and common policies, in other words, the progressive passage from a functional integration in the economic field to a similar form of procedures in the foreign policy camps.

In fact, Maastricht continues to maintain a different legal approach in the two fields, essentially leaving the CFSP in the realm of the classical intergovernmental approach (albeit with some minor concessions to the communitarian method). The risk is that of creating competitive decision-making processes in the two fields of cooperation and weakening the efficacy of the Community's external role, as has been largely shown in many diplomatic behaviour in the former Yugoslavia.

But, as we stated above, there is an urgent need to see Europe assume a greater share of the burdens and responsibility and a more clearly defined European Defence Identity emerge. This involves a strengthening of the Western European Union (WEU), which has been conceived in the Maastricht Treaty itself as a defence component of the EU.

That was the second important proposal issued in the Maastricht Treaty. For the first time, as we recalled above, defence policy and even defence became part of a European treaty. But, again, the European leaders refrained to give up a sufficient degree of their national sovereignty. First, the decision-making procedures in the field of security and defence policy remain strictly intergovernmental; in this field the partial "communitarization", which applies to foreign policy actions, does not work. Secondly, although the WEU is interpreted as the "military arm" of the EU, it continues to remain a fully separate institution, with its own organs and decision-making procedures. (12)

## **9. European Defence: A task for the future**

This leaves a great future responsibility in the hands of the European Council, which will have to rethink completely the security and defence policy of the Union. (13)

In fact, after this difficult period of implementation of the Maastricht Treaty, two critical dates will determine the future shape of the security and defence policy of the European Union: 1996, when the Revision Conference of the Treaty is scheduled, and 1998, when the WEU Treaty expires. The latter will be significant only if the WEU does not become an "integral part of the European Union" already in 1996, that is, if the WEU continues to be parallel to (meaning institutionally separate from) the EU - a scenario which would not fully respect the original spirit of Maastricht, as stated in art. J 4, comma 2 of the Treaty.

The post-1996 security and defence posture of the Union should in principle take account of certain basic factors which have recently clearly emerged:

- the growing diversity of risks and challenges against which nations and institutions must be prepared;
- the need to tackle new crisis with a comprehensive approach which uses a full combination of diplomatic, economic and military means;
- the question of the legitimacy of the use of force outside EU territory, not just for peacekeeping purposes;
- the increasing need for economising in view of diminishing resources (which implies a division of labour and transfers of sovereignty);
- the imperative for multinational structures as a hedge against renationalisation.

If an agreement can be reached on the validity of these new factors, the next question is how should the Revision of Maastricht be oriented to achieve an effective defence policy for the European Union.

A precondition for improved prospects for a common defence is a strong political will to rebalance the process of European integration in the direction of foreign policy and defence by

putting less emphasis on economic integration (which has been considered a priority since the establishment of the Community); politics must be brought into the forefront once again. This assumption leads towards the combination of a stronger defence identity with the expression "European Political Union".

A second essential orientation is that of strengthening the trend towards a progressive communitarization of the institutional procedures in the defence field, through joint actions by majority voting, a greater role for the European Parliament, common budgetary procedures, etc.

A third initiative should be that of improving the operational capability of common defence through the creation of a European WEU Command, the full integration and multilateralisation of the Eurocorp, the setting up of a European Armament Agency. In other words, there is a need for machinery capable of responding effectively to the new security and military engagements.

Fourthly, the Union should play an international role in the security field through the WEU, by promoting a policy of regional alliances with countries or groups of countries (e.g. the "group to group" policy of the EU and CFSP). Alliances could be formed with the Maghreb, Russia, the Gulf Council, Egypt, etc. Essential here is the role of external projection of a common defence policy, aiming to create confidence and cooperation among groups of countries.

Finally, the relationship between Europe and United States should be transformed into a new kind of special partnership both outside and within NATO (a "hard core" of WEU members and the US within NATO, the appointment of a European Permanent Representative for security policy to the White House). In particular the following should be ensured when reforming NATO: a) a high degree of cooperation between Europe and the US, b) status as the privileged Atlantic interlocutor of Russia and the CIS; c) logistic infrastructure for common out-of-area operations.

These transformations call for a strong reinforcement of the political character of the future European Union and could have a negative impact on the process of Union enlargement and even on the Union's present composition. Many countries would not accept the practical consequences of such a Union.

## **10. Towards a better division of competencies between Union, States and Regions**

For the first time, the Treaty of Maastricht mentions in art. 3.b the principle of subsidiarity. (14) The wording of the text is rather generic:

"In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action can not be sufficiently achieved by the Member States and can therefore, by reason of the scales or effects of the proposed action, be better achieved by the Community....."

and it does not add very much to the understanding of the traditional relationship between the national and European Union levels. Throughout the history of the Union, there has been a laborious application of different degrees of responsibilities at the two levels. In the past, others have tried to discipline the division between nation-state and the Union. The most significant effort was made by Altiero Spinelli in the drafting of the 1984 New Treaty, through the concept of exclusive and concurrent competencies (art. 12).

Since European Union institutions, more than any other multilateral institutions, are the most significant product of the transition from the old form of national state to a new form of cooperative state, it is clear that the principle of subsidiarity must be applied, if possible, in the most advanced meaning of the term: the Union must be assigned all tasks whose scope and effects go beyond national boundaries.

Moreover, unlike in the past, today a real innovation, when considering the principle of subsidiarity, is represented by the presence of a new, important and worried actor: the Regions, which are fiercely fighting to participate directly in the Community decision-making process. And through the enlargement of EU competencies to new fields of action (like environment), Maastricht has convinced the Regions to press for their involvement. As a sign of this pressure, the Treaty, for the first time, provides for a Committee of Regions, which for the time being has only consultative powers for a limited number of common policies.

But aside from this significant political innovation, the open question remains that of addressing the real substance of the concept of subsidiarity, that is:

- the political and institutional mechanisms which will provide clear decisions about the appropriate level for the new and old competencies - in other words, how the concept should be put into practice. This is something completely missing from the new Treaty and this absence is going to create future conflicts among institutions.

- the question of how to regulate the permanent contradiction between common interests and vital national interests. The latter continues to appear as strong as it was in the past, although the majority voting procedure has helped to moderate the recourse to veto power in certain fields. The resolution of this lasting contrast has, in any case, to do with the clarification of the concept of subsidiarity: only if and when a sharp distinction between the different levels of competencies exists, will the preeminence of national interest give up part of its political meaning.

- the application of the concept of subsidiarity to democracy and transparency. The argument that democracy works properly only at national level, largely depends on the confused implementation of the division of competencies between the different levels-- Union, national and regional. In this respect the European Parliament is still playing a complementary role to that of the national ones. And in Europe we are currently witnessing a pressing call by national parliaments for directly controlling the decision-making process at the European Union level. Here again the lack of clarity about the concept of subsidiarity constitutes a misleading factor in the correct application of normal Union rules. What is missing are well-structured relations between the European Parliament and the national parliaments.

## **11. The greatest challenge: Linking public opinion to Europe**

For too long, the process of European integration was considered a direct result of the application of the functional theory, which by definition neglects the importance of the political and sociological factors as basic elements necessary for the consolidation of the cooperative efforts made by the states. National and Union leaders have only partially posed the question of the role of public opinion in defining the direction of the process towards closer cooperation. As a result of this absence of a strategy to get public support for the integration of Europe, we have witnessed a growing negative attitude in public opinion in various countries.

There are therefore several questions that have to be settled if national and community leaders want to win public support in order to avoid isolating the process of European integration from the perceptions of people. In brief, the following topics must be taken into consideration:

- a clearer linkage between European electoral representation and the protection of individual interests at European Union level. It is very difficult for a European citizen to understand how much direct involvement he/she has in the political life of the Union; from this point of view, direct elections to the European Parliament have not helped to solve the problem--the solution of which largely depends on the degree of competencies and power attributed to the Parliament and on the existence of EU political parties. Both of them exist at a very low level of intensity and substance. (15)

- the complete absence of a well-functioning structure for mass media at the EU level and the subsequent lack of a formative mechanism to create a common European conscience; Union topics continue to be considered as subjects for specialists.

- information coming from EU institutions is also lacking, as is attention to public opinion; both are even less prominent than they were at the beginning of the process of European integration, when we witnessed a massive effort by the European Commission to spread information about the advantages of Union activities and on the steps to be taken to attain certain positive goals. Nothing like that exists today, and this has given national media more room to interpret EU events, (frequently in a critical way).

## **12. Making the Union larger**

As a last point we have to consider again the question of a growing number of members inside the Union. In fact, the problem of Union enlargement has become very serious. It is no longer a matter of giving a gradual and acceptable answer to two or three small, economic weak states: applications have come from Mediterranean countries and from a growing number of East European countries. This could lead to a doubling of the number of Union members in only a few years.

But the applicant countries are not homogeneous and have different reasons for applying for membership. We must in fact recall that the EFTA countries were basically motivated by economic considerations and felt less committed to political and security developments inside

the Union. On the contrary, the Eastern countries seek not only economic, but also political and security guarantees. The Mediterranean countries, situated in an area of potential conflict, are motivated by their quest for stability, as well as by economic factors, and thus desire formal linkage to Europe.

In this light, enlargement takes on a different dimension: contrary to the strategy pursued with the EFTA countries, it calls for a new concept of the policy of widening which has to date served simplistic and pragmatic ends. From now on, it will assume a strategic character, as general political and security (as well as military) considerations can no longer be overlooked. This means that a purely mechanical adaptation of the present institutional procedures, as is being done with EFTA countries, will not be sufficient to match the general political interests of the Union. There is therefore a need for new radical institutional changes.

### **13. Towards the Revision of the Maastricht Treaty**

The next Revision Conference, planned to start in 1996, will not solve the whole range of institutional and political problems that are on the table. It will be part of a continuous process for reforming that will mark the next years, well beyond the year 2000.

Nevertheless, although limited, the way in which the next Reform of the Treaty will be approached is going to determine the future direction of the EU and of its institutional character.

Therefore, in view of the Conference for Revision of the Maastricht Treaty, the fixing of a set of criteria for the long term is more important than the punctual suggestion of Treaty's modifications (or, in other words, it constitutes the necessary precondition).

The main questions, whose answers will determine everything else, pertain to the institutional framework (whether it is strengthened or not). In other words, the problem is how to deal with the following issues moving from the current institutional framework on:

- the general nature of the integration process: how far do Europeans want to go with the integration process and how much national sovereignty are they ready to concede.
- how can the European system be democratised, therefore more open to citizens' participation.
- the maintenance of a functioning and effective decision-making system, not just for "domestic" economic affairs but also for a more responsible European presence in the world
- the nature of relations with other candidates for EU admission (the issue of future enlargement).

In the light of the above considerations the next Revision Conference will have at the same time:

- to address the deficiencies of the Treaty of Maastricht;
- and to fix the basis for a longlasting strategy towards a Europe over year 2.000.

#### **A. Rationalise the system.**

First of all it is necessary to reduce the number of different procedures; adopt more transparent procedures inside the Union's organs; diminish the risk of blockages. Generally speaking a

rationalisation of the whole system is needed. (16)

The second need is that of following the principle of "institutional consistency", that is maintaining a strict decision-making linkage among the three pillars. The present inconsistency is badly affecting the decision-making credibility. A strengthening of the trend towards a progressive communitarization of the institutional procedures in the second and third pillar; for the second and third pillar qualitative majority voting has to become the normal rule; a need for a machinery capable of responding effectively to the new security and military engagements; the completion of a real "european citizen open territory" and the full protection of human rights. A direct involvement of the Court of Justice is needed for both pillars.

Finally, rationalisation has also to do with the launching of few, simple and clear messages sent to a public opinion far distant from the complexity of EU institutional machinery. Under this point of view, a just technical reforming of the Treaty will not gain the interest of a sceptical public opinion. Some powerful ideas are needed. In absence of them a new round of ratification procedures will risk to produce a number of bad surprises.

#### B. Democratise the system.

Regain the support of public opinion to the process of european integration. The strict linkage which actually exists between integration and democracy is hidden and appears less evident; to deny the substantial democratic character of a voluntary integration among states and people, as a way of directing and controlling the effects of international interdependence, means threatening the very basis of one of the most relevant post-war phenomena constituted by the various forms of supranational cooperation.

Another aspect has to be taken into consideration when we deal with the "public opinion" factor: the growing amount of legislation produced by Brussels. With the completion of the internal market and the plan for full economic union common legislation will inevitably have to limit progressively the room for manoeuvre and the autonomous decision-making power of member states. As a result, the Union will become increasingly responsible to its citizens. This raises two main problems:

- the first regards the democratic deficit, that is, the low level of legitimacy of the present Union decision-making process. Thus the powers of control and co-legislation of the European Parliament must also be increased. In other words the co-decision procedure has to become the major decision-making rule, at least for community's affairs.

- the second, those who are in search of stability, equity and security must be shown that the process of integration is the right answer. Thus, it is important to provide a political solution to the requests (especially those coming from the Eastern Countries) to be full members of the European Union; to guarantee small and weak states a reasonably equal status in the decision-making process.

More in general, if we want to reestablish the link between integration and democracy, we need: the extension of the qualified majority voting procedure to all social and economic legislation; increase the powers of control and co-legislation of the European Parliament; a

clearer linkage between European electoral representation and the protection of individual interests at European Union level through a greater degree of competencies and power attributed to the Parliament; a larger role attributed to the Court of Justice.

C. Make the system efficient (governing capacity).

The very first concern is about the governing capacity of the Union, with the extension of the qualified majority voting procedure to all social and economic legislation to streamline the decision making procedure. But governing means also maintaining the consistency among the three pillars: therefore procedures and organs have to be adapted to a "consistent" way of managing the whole of Union's affairs.

The second problem is the relationship between integration and subsidiarity; adopt the political and institutional mechanisms which will provide clear decisions about the appropriate level for the new and old competencies; a better distinction between the different levels of competencies, although it will be wise to accept a regime "des responsabilités partagées" in the place of exclusive competencies, as dictated by the theory of cooperative federalism; finally, clarification of competencies is needed in order to create fair relations between the European Parliament and National Parliament and to avoid competition on the legitimacy gap.

D. Differentiation and institutional homogeneity.

The real issue behind the stage will be differentiation and how to apply it to the present institutional framework.

Two possibilities can be considered: either differentiation within the Treaty or differentiation outside the EU ( but making it compatible with the EU).

The first solution appears the most appropriate. Create a coherent and homogeneous institutional base for all present and future members, as "a common institutional platform". Although a fairly complex institutional system involving a large number of actors at different government level will remain unavoidable, common and homogeneous institutional basis will be necessary precondition for any institutional improvement.

On this common institutional base it is possible to foresee forms of differentiations which will allow a single group of countries (and not more than "one" group, in order to avoid "l'Europe à-la-carte") to apply the whole of Union's policies and institutional procedures.

In fact, today many accept the idea that the current stage of European integration would require some further steps and that those countries "willing and able" to make such steps should not be prevented by others to move ahead.

The problem is how to form this group. A first criteria should be that of giving priority to those member states "willing" to participate to new forms of stricter integration. The second to give the "able" countries the full advantages and competencies inside the group, while the others "willing" but not "able" might be part of the group without exerting fully their share of decision power (e.g. partial voting power inside the Council) for a transition period.



Finally, differentiation should not be a source of discrimination with those countries nor willing nor able to participate to the single group: this is why an homogeneous institutional basis is necessary. In particular, while in the Council member states not participating should be prevented to vote on policies within the area of exclusion, in the Commission and the European Parliament, however, voting restrictions should not be allowed, since they are institutions not representing the member states as such.

E. Adopt the EMU model for the whole of the institutional system.

Following our considerations on the criteria for differentiation, what should be studied is the possibility of transferring (with the necessary adaptations) the institutional three stages model of EMU to the other pillars and to the whole Union in order to allow a single group of countries to proceed more quickly.

What we mean it is that possible hypothesis of "core Europe" should be prescribed by the Treaty itself. And, especially, that the "core" should be first political and then economic.

As we have just said, priority should be given to those member state "willing" to give up sovereignty in all fields and then "able" to implement the necessary requirements.

Something similar to what had happened with the signing of the Maastricht Treaty and with the "political" acceptance of the "three stage" model of EMU by a large number of countries, some of them probably unable to match the necessary requirements in due time.

#### **14. Lessons for Latin America**

From the above considerations it is clear that the European past experience and its possible future developments are far from representing a model which could be automatically transferred in other regions of the world.

On one side, its history, reasons and prospects are so specific and peculiar that we cannot imagine similar experiences outside the European context.

On the other side, regionalism represents an already well diffused phenomena in the world, even if its nature and degree of intensity vary largely from area to area.

We can therefore suggest that certain principles and institutional arrangements can properly work everywhere, and under this point of view the exceptional European experience has many indications to offer to anybody, in order to avoid certain mistakes and speed up the process of regional cooperation.

What we could suggest here is a kind of "decatalogue", a mixture of political aims, principles and basic procedures capable, when properly applied, to maintain homogeneity and consistency on the track towards integration. Before giving the "Tables", it is necessary to remember the dynamic character of any cooperative process, that is the need for a continuous reforming activity and institutional adaptation. For this reason, it is necessary from the very beginning, to

fix a clear strategy of institutional development: criteria and principles are sometimes more important than ad hoc measures and mechanisms, created for the solution of contingent problems. From this fundamental precondition, we can draw out the main points to be followed for any new integration experiences in other regions of the world.

I. A shared common political aim comes first. Under this point of view, the European experience is particularly rich of meaning. The Franco-German reconciliation still represents a basic value. But this aim is just peculiar to Europe. Today the real common issue is represented by the ideological struggle between integration and nationalism. This is a concept valid anywhere and it represents the true security and political challenge of today's world. To choose a cooperative system means to align with those who believe in an international regime largely based on regional groupings, as the proper answer against fragmentation and disruption of world relations.

II. A cooperative regime has to move as quickly as possible towards a more stable decisional pattern, through the establishment of a set of rules and institutions. This is a key passage from a simple system of negotiations to a more integrated regime where certainty and predictability become the main characteristics.

III. The EU institutional experience has emphasised the vital need of a governing capacity, through which to overcome the frequent stalemates of multilateral negotiation: at a certain point a breakthrough element is requested, in order to arrive at a final decision. As we have seen, two organs and one procedure can play this role. The Commission and the Court of Justice are those independent bodies which can provide the necessary support to the common interest either through the power of initiative or through the protection of the common law from the national influence. But the most important element for speeding up the decision-making process is the majority voting procedure in the Council of Ministers. The successful story of the Single European Act is a case in point.

IV. Keeping in touch with public opinion represents another decisive factor to help the process of integration in its development towards greater supranationality. Any further concession of national sovereignty has to be accompanied by a credible assessment of the costs and benefits to be calculated; but this operation cannot be limited to a pure mathematical trade-off; on the contrary, it has to enlighten the political motivations, which sometimes can propose to the public short term sacrifices in order to get long term advantages. An operation not easy to be carried on, but which might avoid unexpected counter-reactions as happened in the recent history of the Maastricht Treaty.

V. Linked to this criteria of transparency towards public opinion, is the parallel need to accompany any concession of sovereignty with additional democratic control. A search of instruments providing control on common activities has to be part of the starting set of institutions. Therefore an Assembly or a Parliament having power of control on budget and legislation is essential from the very beginning, in order to become a credible substitute to national Parliaments and, at the same time, reinforce the autonomous role of common institutions.

VI. The functional theory of starting a process of integration from the economic field has played

a great role throughout the years in leading the European Union to reach the present high stage of development. And this still constitutes a good model for other experiences. But again, here, the long term strategy cannot avoid to take into consideration the necessary passage to a more comprehensive concept of integration, where political and security considerations enter into the game. Limiting ourselves to the strict economic camp will prove to become at a certain point a factor of paralysis and draw back, as soon as the strictly economic balance between costs and benefits will start to change. Moving to the political, social and security (both internal and external) will be the only way for stabling the common advantages and interests.

VII. Other more technical principles should be established. The first one being the principle of mutual recognition (or its complementary equivalence). It helps to speed up the process of homogeneousness without obliging to produce for everything detailed and complex common laws. It is, also, a good brake towards the temptation of centralising too much the common legislation e give the impression of a technocratic dominance in the life of the Union.

VIII. In the struggle against excessive centralisation another principle has to be taken into consideration: subsidiarity. Its main value is that of clarifying the borders among common, national and regional competencies and, at the same time, of involving more participation at all levels in the process of integration.

IX. The same importance should be attributed to the principle of consistency not just between policies (i.e. between external economic activities and foreign policy actions), but also between institutional mechanisms and procedures. One of the main weaknesses in the EU experience has been represented by the institutional separation between activities having to reach a common result by following different and sometimes conflicting ways to reach a decision. Adopting homogeneous procedures seems to be the best solution for the effectiveness and external image of any multilateral institution.

X. The final point, on the contrary, has to do with differentiation. It could be necessary, at a certain stage of the process of integration to preserve its dynamism through the fixing of different levels of responsibility and participation: those countries "willing and able" to move further should not be prevented from doing so. But this differentiation must not become an element of division: therefore it has to maintain for everybody a common institutional base on which to build up stricter forms of integration and, at the same time, provide the means and the procedures for those who want to join the group at a later stage.

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