

Bucharest January 2007

Unfinished business

Two weeks into your membership of the European Union it would be a grave omission if I did not congratulate you on staying the long course which brought you there. The "screening" and ensuing negotiation of your accession was a long, long haul in which you could hardly have had a worse take-off point. I may quote one of your finance officials, writing in 1993:

"At the outbreak of the December 1989 Revolution, the Romanian economy was in a state of bankruptcy, on the brink of utter disaster....{It} was characterised by excessively long modernisation cycles, bottlenecks in the supply of intermediate goods, insufficient supply-side flexibility, infrastructural neglect and other shortcomings, all resulting in a productivity which is lagging well behind levels in the western industrialised nations" (Dumitru P Popescu)

What a catalogue, and that is only part of his diagnosis. You have come a long way, to comply with the stiff accession criteria.

Today I hope to outline to you that there is much, much more to do, but we are doing it together.

This will take me back into some history.

In 1957 the distinguished french official, later Commissioner and later European Parliamentarian, was called upon to compose the preamble to the Treaty establishing the European Economic Community. He was highly qualified, having been a member of the French team which participated in the Spaak Committee, charged with giving substance to the Schuman Plan, the Messina Declaration, and the Venice agreement. He seems to have found some inspiration in the preamble to the Convention establishing a decade earlier the Council of Europe, which used the word "unity". M Deniau invented the expression: "ever closer union". More recently, these words have incurred some disfavour, because they were held to imply creeping federalism, like the "more perfect Union" of the USA, or something even more evil. At the Convention called to establish a Constitution for Europe, the Secretary General, Sir John, now Lord Kerr, substituted the phrase "ever more closely united" which looks back to an achievement rather than forward to an aspiration.

12 years after the signature of the 1957 treaty, another high-ranking French official, M. Jean- Pierre Brunet of the Foreign Office, was required to give substance to the proceedings of the meeting in the Hague in December 1969 of the Heads of State and Government, as they were known before the European Council – itself another French contribution – was called into being. He composed the classic triptych to describe what the great men had decided: completing, widening, and deepening. The communiqué

Makes clear in the key words "As regards the completion of the Communities..." that at the time completing meant firming up the financing of the common agricultural policy. It was to do so in accordance with a model elaborated by France, and one which is not foreshadowed in Articles 38-43 of the 1957 Treaty. This area of completion was successfully achieved, using success in its bureaucratic connotation of a task fulfilled, and not that of the doctrine of effects obtained.

As time passed, completion was applied to other policies and programmes, depending on the work in hand. It might be called the Forth Bridge Painting Syndrome – as soon as you think you have finished, you begin again.

M. Brunet's **widening** addressed the enlargement of the Community, and especially the countries which had applied to join but had been frustrated. Two months earlier the Commission had updated its favourable Opinion on the outstanding applications. The Hague meeting agreed that preparatory work for establishing a basis for negotiation could be undertaken as soon as possible." They considered that enlargement would enable the Communities to "grow to dimensions" which must sound better in other languages than it does in English.

The British soon picked up the signal – France was now ready to accept British membership, on conditions yet to be established. The new Conservative government in Britain from June 1970 accepted the invitation by resurrecting the application which its predecessor had put in in May 1967 and which, according to the then Prime Minister, was still on the table.

Hence the first enlargement, followed by five more. I will come in a moment to 27 plus.

Deepening, **parachèvement**, by the time of the Hague meeting meant the creation of an economic and monetary union. This specific objective was expanded two years later at a summit meeting of the enlarged EEC. It confirmed the determination to make EMU but went on to affirm the intention to transform the whole complex of relations between the Member States into a European Union by 1979.

This date was missed. The oil price shocks and the Arab League embargo on the sale of oil to the Netherlands (alleviated by collusion among the oil companies) shook the solidarity of the Community. Member States went off unilaterally to make their accommodations with the oil producers, without undue regard to the effects on their partners. The advent of a Labour Government in Britain in February 1974, with a pledge to "renegotiate" the terms of membership was another destabilising factor for a year. Reports continued to be produced on European Union, although the European Court of Justice, in its contribution, regarded the term as imprecise. The Three Wise Men – Trois Sages, otherwise Trois Singes, from Britain, France and the Netherlands, in their Report of October 1979 skirted the problem by observing: "when we speak of European union, we are speaking not so much of a definite goal as of a direction of movement," which must be one of the great cop-outs.

However, one goal, of narrower ambition, was partly achieved, flowing from the Delors Report of 1989: the single currency and the transfer of responsibility for monetary policy from participating Central Banks to the European Central Bank, independent of national governments and of the intergovernmental institutions. It was not *parachèvement* because several Member States did not join. The fair play principle governing the agreement on the new institution and its policy was: no compulsion on the doubters to join; no veto on the willing joining. Whether the outsiders will join some day is not actual. Slovenia just has. Lithuania failed by a whisker – far less of margin than Belgium Italy and Greece were allowed to display.

Another achievement, but one which could not be selective in its support, was the launch in 1985 of the Cockfield Plan to transform the Common Market, which is a matter of quotas and tariffs, into the Single Market, which is about the single rather than multiple regulation – and possibly deregulation - of business. By the due date of 1992 it was up and running, but as we will see, it too was partial.

On the one occasion in which the founding EEC tried to covert itself into a military alliance the ~European Defence Community it failed, along with the parallel European Political Community. This shattering event made it disinclined to try again, until there was no longer a conventional enemy.

If I have taken up your time with a historical recital the reason is that I think that to know where we are, we need to know where we came from. From this you will infer that I now hope to look at where we may be going, possibly with some more backward looks. To do so and get the proportions right I need to reverse the order of the triptych and consider deepening, widening, completing.

Deepening

Today “deepening” primarily means the draft Constitution or such derivatives of it as will ultimately find their way into the *acquis communautaire*, or perhaps it should be said “*unioniste*”. For more than a year this aspect of the Union has been in stasis, apart from a steady stream of new ratifications of the draft, all by parliamentary process,

The sad truth is that the Constitutional Convention overreached itself. True, at least one Government – the British- had underestimated its role, describing the task as a “tidying-up operation.” And true, the same Government had adopted an unorthodox position by declaring *in limine* that several matters were unnegotiable, especially direct taxation. From a text which the then British foreign secretary looked forward to slipping into his pocket, the Convention, plus the ensuing Intergovernmental Conference, produced a document occupying 470 A4 pages in the Official Journal, with a word count of 1.3 million. The US Constitution, including all amendments passed over two centuries covers 13 booksize pages. Congratulations go to the legislators of all the countries, including Romania, which accepted the Draft Constitution for Europe. They must be all be quick readers, jointly with the voters who said no.

Last month what had been called the period of reflection and analysis which opened in the wake of the referendums in France and the Netherlands was formally concluded with the 18 ratifiers forming an Action Group to consider how to secure the adoption of the Constitution. They meet this month symbolically in Madrid, the capital of the only Member State where the Constitution was approved by popular referendum. In February they will meet the nine abstainers.

Preliminary ideas range from the way-out – a Europe-wide referendum, something like the European elections, but with a single count – to a sober look at the 120 Articles which are arguably new rather than the restatement, in all the other articles, sometimes in modified language, of what was already in the treaties which the framers of the Constitution decided to annul. There is additionally the consideration that the Union is committed to a radical review of its budgetary arrangements in 2008-2009, which could provide the basis for a re-think, especially about the structural reforms which enlargement has made overdue. In lay language, first decide how you want the body to run in order to do what you want it to do, then decide how and how much to pay for it

The prospects are unpromising and the signals are mixed. It is no surprise that according to the Eurobarometer survey conducted in November, the citizens of Ireland, Sweden and Britain were among the least favourable disposed – with 25%, 27% and 20% respectively for. But it is surprising that the Dutch people were the third keenest, at 63% and that the French, at 48% ,were on the EU average of 49%. 44% of those quizzed in Denmark were in favour of the Constitution. On the basis of this survey the Constitution narrowly fails to win a popular majority – but then there is no campaign either. Romania and Bulgaria were not included

There is one constitutional provision, outside the draft constitution, which is now in force but not in action. Under Article 2 of the Protocol on the Enlargement of the European Union attached to the Treaty of Nice of 2000 – a largely unreadable piece of the European *florilège* – when the Union consists of 27 states the number of members of the Commission shall be less than 27. This applies to the next Commission to be installed. It is one of the measures which was supposed to give effect to the hyperbolic second preamble of the Nice Treaty: “desiring to complete the process started by the Amsterdam Treaty of preparing the institutions of the Union to function in an enlarged Union.”

The Union is already in default of the Nice Treaty ,Article 3 . It provides that after signing the Accession Treaty of the 27th Member, the Council shall decide unanimously both on the number of Commissioners which is less than 27 and on the formula for “a rotation system based on the principle of equality” of all the Member States This will take us into the higher mathematics, joining the de Hondt system of proportional representation which I understand for all of the five minutes after it has been explained to me yet again. It is used to decide which parties in the European parliament get which chairmanships of which committees.

There seems to be agreement that the nice treaty article is unworkable. One suggested stratagem is to respect it but add “Deputy Commissioners” as a kind of consolation prize.

If I may venture a prediction, it will be concluded that no unanimity can be found for this part of the protocol and the issue will be remitted for further study in the context of the review of the constitution.

Widening

Widening at the present time is talking Turkey.

Widening starts from the eighth Preamble to the 1957 treaty: "calling upon the other peoples of Europe who share their ideal to join in their efforts,..." therefore not a call to states, some of which the Six would not have wanted to be seen dead with, but to peoples. It took 40 years for these ideals to become the common coin of the peoples of Europe, when they had risen to reject the warped ideologies of dictatorship. Which also explains why I am here today, joining you in your celebrations.

On 8 June 1959 Greece applied for membership of the EEC. On 31 July Turkey followed suit. The Six and the Commission did not want either as members of a body which was still finding its feet but they did want to show that they were not a closed community. Association was provided for in the ECSC Treaty and the UK had embraced it. Art 238 of the EEC treaty speaks of association "involving reciprocal rights and obligations..." association was offered and accepted. No promises were made, but there was a tacit understanding that the association of a European country, as distinct from a Free Trade Agreement with it, was a first step towards membership. Colloquially, it was often described as "associate membership." So it was with Greece, joining in 1981 after several hiccups. With Turkey the obstacles and EEC objections were more serious. In 1987, following the accession of Spain and Portugal, Turkey again applied for membership. The response was not to add Turkey to the list of countries with which negotiations would be opened, but to offer a series of "substantial measures" of help towards preparing for membership.

When membership negotiations finally opened, after further vicissitudes, and especially Greek opposition, they were hard going. Member States continued to grumble about Turkey being non-European, or worse. The British Presidency of 2005 had to quell a near-mutiny against continuing. This reached a new climax in December with differences over the opening of Turkish ports and airports to traffic from Cyprus and the EU boycott of the Turkish Republic of Northern Cyprus. The decision to "freeze" eight chapters of the screening of Turkish economic and social conditions is more symbolic than real. In a year only one unimportant chapter had been opened and closed. (It concerned science where Turkey was already involved, as a founder member of Eureka programme for scientific research – Europe's answer to President Reagan's Star Wars.)

Another problem area is the Eastern Balkans. Croatia is already in negotiation. On the horizon are Macedonia, Montenegro, possibly some day Serbia, possibly Kosovo – depending upon Moscow's Policy towards breakaway provinces. These are far off countries of which we know little, to borrow from Mr Neville Chamberlain's ill-chosen dismissal of Czechoslovakia in 1938. Just as you have a deeper understanding of Turkey, so also you in Bucharest I believe must play a key role in devising the

strategy which will determine the relationship between EU27 and your Western neighbours. It is significant that the Central and Eastern Europe Free Trade Area was signed last month here in Bucharest. I have heard post-Yugoslavia described as the new Schleswig-Holstein problem. Of it Lord Palmerston, the British statesman said:

“There are only three men who have ever understood it. One was Prince Albert, and he is dead, the second was a German professor who became mad, and I am the third and I have forgotten all about it.”

I do know something about Schleswig Holstein but the Western Balkans are terra incognita – like for that matter Transnistria.

Finally under widening, for the moment there are two component parts of the former Soviet Union having a status markedly different from the three which have already joined – the Ukraine and Georgia. Their expressions of interest in the EU are another part of the complex of relationships with Russia which certainly fall under the heading of business likely to be unfinished for a long way ahead.

Widening, one of the translations of *élargissement* is not commonly understood to refer to non-membership relationships with other countries and I will pass over neighbourhood programmes and the like.

The third panel of the tryptich, completing will by definition, never be completed. Among all the tasks, programmes, implementations and aspirations there are perhaps three which count as first order, which does not mean that they are any closer to conclusion than any of the other.

Two weeks ago, the Union was able to announce that it possessed the ability to deploy European Union Troops. Finland, the Netherlands and Germany provide one battle group each on stand-by. It has taken the Union the best part of a decade to get to that point and it represents a trimming down of plans which were more heady. There never was anything approaching the status of a European Army. Mention is still made of a Rapid Reaction Force, but it is not the 60,000 strong once projected. Under the more realistic arrangements now in force there will be 18 battle groups, totalling some 30,000 effectives. One of the countries providing the readiness units will assume control of any operation launched.

There are perhaps two matters continuing to require attention. Both the Defence Minister in the Finnish Presidency and his Polish colleague have acknowledged that only a first step has been taken. Neither knows what mission might be undertaken. Both almost certainly know that air and sea-lift to a theatre of operations are uncertain – although the Ukraine could probably if asked again offer aircraft on charter. All concerned certainly know that satellite intelligence is weak As was once said – “C’est magnifique, mais ce n’est pas la guerre”

A deeper problem than the logistics is the will. Although NATO has been in the business of integrated command for nearly 60 years, we saw in Afghanistan that its members were unable to respond to operational demands and ever that some of the contingents which they supplied were barred by their rules of engagement from using

armed force. Perhaps the safest principle is to conclude that the European Defence capability is in being rather than ready for action.

I do not need to say much about the global trade negotiations in which the EU was a major player. Despite repeated attempts at artificial respiration, the Doha Round has not responded and must now be regarded as terminal. The trading world seems to about to launch itself into a mass of bilateral more or less free trade agreements, some of which will probably take lightly the WTO rule which says that the whole of trade must be included. In this the central theme of the Development Round risks being lost. The EU appears to have nothing new to offer. Even if it had a bright idea the USA is not available. The hope is that in the longer run the labyrinth of bilaterals will prove to be inefficient and unremunerative and trade ministers and legislatures will realise that a new General Agreement on Trade – a GAT – is a must, with the normative principle of mfn treatment.

There is a fourth freedom to add to goods, people and capital – services. The Services Directive, even in its adulterated form is a crucial development. Alongside it there is the long-awaited breakthrough of the Markets in Financial Instruments Directive for the non-banking and non-insurance sectors. When MiFID comes into force in November it will be the single passport for the conduct of business which has for years been a Holy Grail. To say this is an act of faith. Success depends upon whether governments have made the strenuous effort to transpose the directive into national legislation, and have done so faithfully. The aim is nothing short of a single transparent market for financial services which operates under harmonised regulations. To quote the Commission :”Completing the single market for financial services is one of the pioneering, flagship areas for strengthening Europe’s future growth and jobs... the programme ..is a major and very ambitious task which will require enormous effort and dedication of resources from all concerned.“

One last word. Although there used to be a treaty about coal and there is a rarely used treaty about nuclear power there is no chapter in the 1957 treaty, and all its amendments, for energy. This has not prevented the Commission from possessing an Energy Directorate. The draft constitution provides the missing chapter, but life can go on without it. Internal energy supply is in principle but not in practice liberalised. This anomaly can doubtless be sorted as and when. But meanwhile there is urgent need for a collective policy towards external energy suppliers and especially in the near neighbourhood. There is the awful warning of the oil crises of 1973-74 when the then Community lost its solidarity in the rush for national security. It was the catalyst for the Eurosclerosis which lasted until Jacques Delors took office.

And all this in an environment in which the European Union is beset by the greatest risk to humanity which is climate change, by political instabilities and unpredictabilities which directly threaten the European homelands, by low growth and levels of unemployment now stretching into decades and ,for all we know, by pandemics which our advanced knowledge and technologies cannot contain within bearable proportions. The only answer lies in our being ever more closely united in the destiny in which henceforward you share.

In conclusion, there are four principal tasks on your agenda.

1. Having absorbed the 90,000 pages which enshrine the *acquis communautaire*, you will now apply the provisions in full, subject only to the temporal derogations in the Treaty of Accession. This is a heavy burden on your public services.
2. You will keep up with the tempo of the Brussels system. You need the means to evaluate new proposals, to carry out impact assessment, to consult affected parties, to adopt coherent positions and reserve room for compromise, to exchange opinions with your MEPs, to provide scrutiny in your own Assembly, to ensure public information, to interact with civil society, to manage responsibly projects with Union financing... This is not a complete list of the desiderata.
3. For this you need an administration which is a true collective, in which turf wars if they break out can be speedily resolved by constructive dialogue.
4. In this way your representatives resident in Brussels and your visiting experts can defend and serve your interests, building up the networks with partner states, and be given the elbow room to deploy the talents which earned them their appointments.

Welcome to the European project.