Fordham International Law Journal

Volume 31, *Issue* 5 2007 *Article* 3

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Abstract

The following sections outline four main phases in the history of European integration. First, this Article examines the decisive contribution that European integration made in the immediate postwar years to solving the German question and achieving Franco-German rapprochement. Second, it looks at the steps taken in the mid-1950s to launch the broader European Economic Community ("EEC"). The next section explains the difficulties encountered in completing the single market, which were eventually overcome in the late 1980s. The mixed record of the EU, launched in 1993 following ratification of the Treaty on European Union ("Maastricht Treaty"), is then examined. The final sections provide a brief assessment of the achievements of European integration and an overview of the integrative opportunities and individual initiatives that have characterized the process so far.

FIFTY YEARS OF EUROPEAN INTEGRATION: A REMARKABLE ACHIEVEMENT

*Desmond Dinan**

INTRODUCTION

Europe today is more peaceful and prosperous than at any time in history. Not coincidentally, it is also densely integrated politically and economically. The process of voluntary, highly institutionalized integration, epitomized by the European Union ("EU"), has generated intense transnational activity and changed the political and economic landscape in Europe. Without doubt, the EU and the process of integration for which it stands are the foundations of the exceptional openness of contemporary Europe, in stark contrast to the insecurity generally prevailing before 1945.

European integration has created a new level of governance with an elaborate and innovative institutional design. It no longer seems remarkable that heads of state or government of twenty-seven countries meet at least four times a year under the auspices of the European Council, the EU's most important decision-making body. The European Council was launched only in 1975, at a time when economic integration was fraying in the face of a global economic downturn and persistent stagflation. Regular summit meetings helped to focus national leaders' attention on the perniciousness of Euro-sclerosis and provided an indispensable forum at the highest political level for decisions in the mid-1980s to revive European integration. Before 1975, let alone before 1945, summit meetings of European leaders were rare and often fraught occasions. Now they are commonplace and are integral to the functioning of Europe as we know it.

The European Council is the tip of the EU institutional iceberg. Also visible above the surface is the Council of Ministers, whose regular meetings bring together in various configurations most government ministers from the Member States; the Commission, the EU's executive body, composed largely of senior politicians nominated by the Member States and approved by

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the European Parliament; and the European Parliament itself, whose members are directly elected across the EU every five years. Less well known but by no means less important, is the European Court of Justice. Together, these legislative, executive, and judicial bodies make up the governing structure of the EU. Beneath them, and forming the mass of the EU iceberg, are thousands of European civil servants—the cogs in the EU's institutional machinery.

The European level of governance, a novelty of the post-World War II period, does not exist in isolation but is deeply embedded in the national and sub-national levels. Government ministers embody the interconnectedness of these three levels; Commissioners act partly as transition belts between the EU and the countries from which they come; and the system of preliminary rulings links national judiciaries and the EU judiciary. Hundreds of expert committees and working groups, whose meetings dominate the EU calendar, bring together Commission and national officials. Plenary sessions and committee meetings of the European Parliament are opportunities for national and EU-level politicians and officials to interact with Europarliamentarians. National parliaments, hitherto marginalized by the deepening of European integration, will have new opportunities to participate in EU governance, thanks to important provisions in the Lisbon Treaty of 2007.[1] Representatives of sub-national governments meet in the Committee of the Regions, while representatives of the "social partners" (workers' and employers' organizations) meet in the Economic and Social Committee—two EU advisory bodies. A dense network of lawyers, lobbyists, consultants, experts, and academics buttresses the official apparatus of European integration.

While small compared to national governments, EU government is nonetheless impressive by virtue of its existence—it is the only system of supranational governance anywhere in the world—and of its effectiveness. The policy reach of the EU has grown dramatically since the early days of European integration, thanks to changing political and economic circumstances, "spillover" (the fact that action in one policy area often necessitates involvement as well in related policy areas), a growing range of

1. Treaty of Lisbon (Reform Treaty), O.J. C 306/01 (2007), *signed* Dec. 13, 2007 (not yet ratified).

national interests in an ever-enlarging EU, and policy entrepreneurship on the part of integration-minded politicians and officials. As a result, few areas of public policy lack a Brussels dimension.

Nevertheless, the EU's "competence" or power to regulate varies greatly across policy areas. Defining the nature and extent of EU involvement in a vast range of policies has preoccupied European leaders for some time, not least in the latest round of treaty reform. The Treaty of Lisbon, like the ill-fated Draft Treaty establishing a Constitution for Europe[2] ("Constitutional Treaty") from which it emerged, provides some clarity by identifying three categories of EU competence—exclusive; shared; and supporting, coordinating or complementary—and listing the policies covered by each one. Such a clarification sought to correct the misapprehension that competences were creeping inexorably upward to the EU level, and to help apply the principle of "subsidiarity" (the idea that decisions should be taken at the lowest appropriate level).

The single currency is surely the most prominent example of EU policy competence. Indeed, monetary policy is an exclusive competence of the EU, although only fifteen of the EU's twenty-seven member states have so far adopted the euro. Yet the EU's core competence, its *raison d'être*, is undoubtedly the single market, which enables goods, services, capital, and people to move freely among Member States. Although by no means fully implemented or functioning perfectly, the single market is an astonishing achievement that is woefully underappreciated by most Europeans.

To put the single market in perspective, consider the extent of economic integration in North America, first within the United States, then between the United States and Canada. As one would expect in a full-fledged federation, state boundaries are largely irrelevant to economic transactions in the United States. Even with the single market, the EU is far less integrated economically than the United States. Yet it is far more integrated than the United States and Canada, which despite their cultural and economic similarities and their membership in the North American Free Trade Area, are separated by a border that

2. Treaty establishing a Constitution for Europe, O.J. C 310/1 (2004) (not ratified) [hereinafter Constitutional Treaty].

greatly impedes economic activity and the movement of people. The U.S.-Canada border has become more of an obstacle to international commerce in the aftermath of the September 2001 terrorist attacks in the United States, as American lawmakers impose additional security checks at points of entry into the country. Paradoxically in an age of rapid globalization, the impediments to economic exchange between two of the most developed economies in the world, neighbors and friends in the North American continent, are rising, not falling.

Compared to crossing the United States-Canada border, crossing the border between two EU Member States is effortless. Even entering those EU countries outside the so-called Schengen free-travel area, in which people move across borders without having to stop for immigration inspection, is relatively easy. Beyond the free movement of people, however, the most impressive distinction between the EU and North America is the existence in Europe of the single market, made possible by detailed rules and regulations on the removal of technical, fiscal, and physical barriers to trade. The politically unglamorous but economically indispensable goal of a single market was enshrined in the Treaty establishing the European Economic Community of 1957 ("Treaty of Rome"), the founding document of the European Economic Community ("EEC").[3] Yet it was only in the late 1980s that European leaders launched a program to revitalize economic integration and finally achieved the long-declared goal of the single market. The history of European integration in the thirty-five years after the launch of the EEC is really the history of the failure, in the 1970s and 1980s, and ultimate success, in the early 1990s, of constructing the single market.

The following sections outline four main phases in the history of European integration.[4] First, this Article examines the decisive contribution that European integration made in the immediate postwar years to solving the German question and achieving Franco-German rapprochement. Second, it looks at

3. Treaty establishing the European Economic Community, Mar. 25, 1957, 298 U.N.T.S. 11 [hereinafter Treaty of Rome].

4. For a general history of European integration, see DESMOND DINAN, EUROPE RECAST: A HISTORY OF EUROPEAN UNION (2004); MARK GILBERT, SURPASSING REALISM: THE POLITICS OF EUROPEAN INTEGRATION SINCE 1945 (2003); JOHN GILLINGHAM, EUROPEAN INTEGRATION, 1950-2003: SUPERSTATE OR NEW MARKET ECONOMY? (2003).

the steps taken in the mid-1950s to launch the broader EEC. The next section explains the difficulties encountered in completing the single market, which were eventually overcome in the late 1980s. The mixed record of the EU, launched in 1993 following ratification of the Treaty on European Union ("Maastricht Treaty"),[5] is then examined. The final sections provide a brief assessment of the achievements of European integration and an overview of the integrative opportunities and individual initiatives that have characterized the process so far.

I. *SOLVING THE GERMAN PROBLEM*

The lessons of the failed post-World War I settlement were on policy-makers' minds at the end of World War II. This time Germany was utterly defeated and everywhere occupied by the victorious powers. How could Germany be rehabilitated and tied into a postwar system that would ensure peace and prosperity for all concerned? For the Western allies, embedded liberalism[6]—based on the Bretton Wood's institutions—provided the international foundations of such a system.

The Soviet Union prevented its soon-to-be satellite states from participating in the Marshall Plan, the U.S. initiative to consolidate economic reconstruction in Europe and bind the postwar American and European economies closer together. As the Cold War intensified, the Soviet Union and the Central and Eastern European countries under its control set themselves apart from the emerging transatlantic economic system in an autarkic, centrally-planned economic area. As Europe split, so did Germany. For the West, the "German problem" meant consolidating democracy in the new Federal Republic (the former Western zones of occupation), while managing its economic recovery in a way that allayed the economic and strategic concerns of other Western European states.[7]

The German problem became acute as the pace of economic recovery in the Western zones of occupation intensified.

5. Consolidated Version of the Treaty on European Union, O.J. C 191 (1992) [hereinafter Maastricht Treaty].

6. *See* John Gerard Ruggie, *International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order*, 36 INT'L ORG. 379, 382-83 (1982).

7. *See* MICHAEL HOGAN, THE MARSHALL PLAN: AMERICA, BRITAIN, AND THE RECONSTRUCTION OF WESTERN EUROPE, 1947-1952 (1987) (providing an account of the Marshall Plan and its impact on postwar Europe).

The United States wanted to accelerate German recovery in order to reduce its military occupation costs and hasten economic growth throughout the transatlantic area. A weak West Germany, the Americans argued, meant a weak Western Europe. That was part of the rationale behind the Marshall Plan. France understood America's point, but wanted to modernize its own industry, largely through unfettered access to coking coal in Germany's Ruhr valley, before allowing Germany's economy to rebound. Indeed, France agreed to establish the Federal Republic only on condition that German coal production, a key ingredient of industrial development, remained under allied control.

Not least because of the deepening Cold War, the United States intensified pressure on France to relax its policy toward Germany. Yet the United States was not insensitive to French security fears. Rather than impose a solution, Washington pressed Paris to devise a policy that would facilitate French industrial modernization while at the same time permitting Germany's full recovery. Under mounting American pressure, France came up with a way to satisfy seemingly irreconcilable French and German economic interests by establishing a supranational organization to manage the two countries' coal and steel resources. The proposed Coal and Steel Community would protect French interests by providing continued access to German resources, on the basis of cooperation rather than coercion.[8] For the new government in Bonn, it provided a means of resolving the contentious Ruhr problem and rehabilitating Germany internationally.

The initiative that led to the Coal and Steel Community was a major reversal of French foreign policy. Having tried to keep Germany down since the war, France instead sought to turn the apparent unavoidability of Germany's economic recovery to its advantage by establishing a common market in coal and steel. The French plan reconciled national, European, and transatlantic interests. Couched in the language of reconciliation, it represented a dramatic new departure in European as well as in French and German affairs.[9]

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8. *See generally* Treaty establishing the European Coal and Steel Community, Apr. 18, 1951, 261 U.N.T.S. 140.

9. *See* JOHN GILLINGHAM, COAL, STEEL, AND THE REBIRTH OF EUROPE, 1945-1955: THE GERMANS AND FRENCH FROM RUHR CONFLICT TO ECONOMIC COMMUNITY 228-98

Participation in the plan was supposedly open to all the countries of Europe. Inevitably, the Cold War excluded Central and Eastern European countries from participation. In Western Europe, the United Kingdom and the Scandinavian countries were wary of supranational initiatives and unwilling to join the proposed community. Spain and Portugal, under dictatorial regimes, were international outcasts; and Switzerland was resolutely neutral. That left the Benelux countries (Belgium, the Netherlands, and Luxembourg), which were economically tied to France and Germany, and Italy, which saw integration primarily as a means of combating domestic communism and restoring international legitimacy. Consequently the Coal and Steel Community, launched in 1952, had only six Member States.

The importance of the Coal and Steel Community was more political than economic.[10] Although it soon established a common market in coal and steel products, with generous provisions for workers' rights, the new community did not have a marked impact on postwar Europe's economic development, which was spectacular in any case. Politically, the Coal and Steel Community symbolized the willingness of France and Germany to cooperate closely so soon after the end of the war and institutionalized, through the machinery of supranational governance, an enduring Franco-German rapprochement that soon made the prospect of war between two erstwhile enemies not just unlikely but simply outlandish.

II. *FROM COAL AND STEEL TO THE EUROPEAN ECONOMIC COMMUNITY*

Political scientists who studied European integration in the heady days of the Coal and Steel Community posited a knock-on or spillover effect.[11] According to these neo-functionalists, as manufacturers and interest groups cooperated with each other across national boundaries and interacted intensively with the

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(1991); ALAN S. MILWARD, THE RECONSTRUCTION OF WESTERN EUROPE, 1945-51, at 467-72 (1984).

10. For a history of the functioning of the new community, see DIRK SPIERENBURG & RAYMOND POIDEVIN, THE HISTORY OF THE HIGH AUTHORITY OF THE EUROPEAN COAL AND STEEL COMMUNITY: SUPRANATIONALITY IN OPERATION (1994).

11. Foremost amongst these political scientists was Ernst Haas. *See* ERNST B. HAAS, THE UNITING OF EUROPE: POLITICAL, SOCIAL, AND ECONOMIC FORCES 1950-1957, at 291-317 (1958).

Community's supranational institutions, notably the High Authority (the forerunner of the European Commission), pressure would build for national governments to transfer responsibility for related policy areas and expand the scope of European governance. The launch in 1958 of the European Economic Community ("EEC"), which aimed to establish a common market for all industrial goods and facilitate the free movement as well of capital, services and (eventually) people,[12] seemed to vindicate the neo-functionalists. Yet the historical record suggests that rather than flowing ineluctably from the Coal and Steel Community, the EEC originated in a set of circumstances quite different from those prevailing earlier in the decade.[13]

In particular, the German problem was no longer pressing. A projected European Defense Community, along the lines of the Coal and Steel Community, had collapsed in 1954, leaving a residue of ill-will in German governing circles toward France, which had first proposed the military initiative and then rejected it amid acrimonious domestic debate.[14] Yet most Germans seemed indifferent to the demise of the Defense Community, and Franco-German economic cooperation continued unabated. The launch of the EEC so soon after the collapse of the Defense Community demonstrated the continuing relevance of European integration, but primarily for reasons having to do with international trade.

Thanks largely to liberalization measures in the Organization for European Economic Cooperation ("OEEC") and the General Agreement on Tariffs and Trade ("GATT"), intra-European trade and prosperity rapidly increased.[15] European governments sought more cross-border trade, but disagreed on the pace and range of liberalization. The British favored further tariff cuts through the OEEC and the GATT, as did the influen-

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12. *See* Treaty of Rome, *supra* note 3, art. 2, 298 U.N.T.S. at 15.

> The Community shall have as its task, by establishing a common market and progressively approximating the economic policies of Member States, to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it.

Id.

13. *See, e.g.*, ALAN MILWARD, THE EUROPEAN RESCUE OF THE NATION-STATE 7 (2000).

14. *See* GILLINGHAM, *supra* note 9, at 349, 352.

15. *See* MILWARD, *supra* note 9, at 122.

tial economics ministry in Germany. The French were instinctively protectionist, although some prominent politicians advocated openness. The Dutch, with a small and open economy, wanted full liberalization and were impatient with progress in the OEEC and the GATT, where the need for unanimity constrained decision-making.[16]

Accordingly, the Dutch revived an earlier proposal for a common market covering all industrial sectors. This would combine a customs union—the phased abolition of tariffs between Member States and erection of a common external tariff—with the eventual abolition of all impediments to intra-Community trade, subject to supranational decision-making in a wide range of policy areas. German Chancellor Konrad Adenauer overcame resistance within his government to deeper regional integration by citing the importance of working closely with France and embedding the Federal Republic in European institutions. In France itself, advocates of the EEC prevailed over their ultra-protectionist compatriots by getting the other prospective Member States to agree to include provisions in the Rome Treaty for a common agricultural policy and preferential trade arrangements for existing and former French colonies.

The Rome Treaty was a hard-fought political compromise. Its provisions ranged from the general to the specific, from the mundane to the arcane. Those on the phased introduction of the customs union, by 1970 at the latest, were the most concrete. Institutionally, the treaty followed the design of the Coal and Steel Community, with an executive Commission, a parliamentary assembly with limited powers, a Council to represent national interests directly in the decision-making process, and a Court of Justice. Whereas the Coal and Steel Community represented a revolution in Franco-German relations and international organization, the EEC was potentially more important because of its ability radically to reorder economic and political relations among Member States.

III. *TOWARDS THE SINGLE MARKET*

Following the launch of the EEC, the history of European integration is one of deepening and widening: the deepening of

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16. *See* WENDY ASBEEK BRUSSE, TARIFFS, TRADE AND EUROPEAN INTEGRATION, 1947-1957: FROM STUDY GROUP TO COMMON MARKET 146-84 (1997).

policy competence and the widening of membership. No sooner was the EEC up and running than, in a remarkable reversal of policy, Britain applied to join.[17] Hitherto Britain had looked on as the original six Member States formed the Coal and Steel Community and later the EEC, but steadfastly refused to become a member. In Britain's view, European integration was appropriate for countries vanquished during the war but not for a victorious power with global interests, such as the United Kingdom. Nor, in the immediate postwar years, was the nature of British industry entirely compatible with Community membership.

The situation changed by the early 1960s when British exporters, subjected to a common EEC external tariff, pressured the government to reverse course and apply for membership. It would be ten years before Britain joined, thanks to French determination in the meantime to complete the customs union, implement a common commercial policy, and construct the common agricultural policy. The resignation of President Charles de Gaulle, who personified French objections to British membership, paved the way for completion of Britain's accession negotiations. Britain finally joined in January 1973, alongside Ireland and Denmark, two countries economically tied to Britain and eager to benefit from EEC membership.

Britain and Denmark, less inclined for historical reasons to share sovereignty than the original Member States, had difficulty settling into the EEC. For Britain in particular, the first decade of membership was troublesome. No sooner was Britain in the EEC than the new Labor government, which won the election on a mildly anti-membership platform, demanded a renegotiation of Britain's accession terms and promised to put the results to a referendum.[18] Britain's EEC partners were dismayed, but appreciated the domestic politics behind the government's position. The renegotiation ended in March 1975 when the newly-established European Council agreed to double the size of the European Regional Development Fund, most of which would go to Britain in lieu of large-scale agricultural subsidies, and ac-

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17. *See* ALAN MILWARD, THE UK AND THE EUROPEAN COMMUNITY, THE RISE AND FALL OF A NATIONAL STRATEGY, 1945-1963, at 317-51 (2002) (discussing Britain's membership application).

18. *See* DAVID BUTLER & UEW KITZINGER, THE 1975 REFERENDUM 13-20 (1976).

cepted the principle of a "correcting mechanism" to refund some of Britain's payments to the EEC budget. Although a resounding majority voted in favor of staying in the EEC in the ensuing referendum, the question of Britain's membership terms flared again less than five years later when Margaret Thatcher, who became prime minister in 1979, demanded and eventually won for Britain a huge, annual budget rebate.[19]

The EEC's second round of enlargement had an entirely different dynamic. Greece, Portugal, and Spain emerged from dictatorial regimes in the mid-1970s and promptly applied for membership. Joining the EEC would demonstrate their international rehabilitation, help consolidate their fledgling democracies, and offer badly-needed economic assistance. At a time of rampant Euro-sclerosis, it was comforting for the Community to be courted by three potential new members. It was also an opportunity for the EEC to cast itself in a political light as a grouping of democratic countries committed to the protection and promotion of fundamental rights. Following relatively short negotiations, Greece entered the EEC in January 1981. Portugal and Spain, which presented more formidable economic challenges, went through a longer and more arduous accession process, joining only in January 1986.[20]

Deepening the EEC essentially meant completing the policy objectives contained in the original Rome Treaty. The customs union came into being in July 1968, eighteen months ahead of schedule. With the customs union in place, the EEC adopted a common commercial policy and conducted trade negotiations on its Member States' behalf. The Common Agricultural Policy ("CAP"), a cherished French objective for which de Gaulle fought tenaciously, was completed by 1970, when the Member States reached an agreement on financing the CAP through the EEC's "own resources"—monies, such as tariffs and duties, that accrued to the organization itself rather than to national exchequers. In addition, the EEC concluded a preferential trade and aid agreement with a large group of developing countries scattered throughout Africa, the Caribbean, and Pacific ("ACP")—all former colonies of the Member States—first in the Yaoundé

19. *See* ERIC J. EVANS, THATCHER AND THATCHERISM 79-89 (1997).

20. *See* CHRISTOPHER PRESTON, ENLARGEMENT AND INTEGRATION IN THE EUROPEAN UNION 46-86 (1997).

Conventions of 1964 and 1969, then the Lomé Convention of 1975.[21]

In one key respect, however, the EEC was lagging behind. The projected single market was still far from finished. Completing the single market required a huge amount of legislation at the European level in order to harmonize the Member States' often disparate regulations.[22] Harmonization, in turn, required willingness on the part of Member States to vote, and occasionally to be outvoted, in the Council of Ministers. Although the Rome Treaty provided for the introduction, by January 1966, of qualified-majority voting in a range of EEC policies, de Gaulle had blocked the transition to the new decision-making system both in defense of specific French interests and because of a principled objection to supranationalism, of which voting was a potent instrument. De Gaulle's obstructionism precipitated the "empty chair crisis," when French politicians and officials refused to participate in the Council and its committee sub-structure, thereby bringing EEC business almost to a halt. The crisis ended with the Luxembourg Compromise, whereby in principle the Council could make decisions by qualified-majority vote, but in practice a country could prevent a vote being taken by claiming that a "very important national interest" was at stake.[23]

As national interests are notoriously difficult to define, and "very important" is an imprecise criterion, in effect the Luxembourg Compromise gave obstinate Member States a means of perpetuating unanimity in Council decision making, a practice that became widespread in the recessionary 1970s. The combined effects of international financial turmoil, beginning in the late 1960s, and the oil crisis of the early 1970s, caused massive disruption to the EEC. Economically, the golden age of high and persistent post-war growth came to an abrupt end. Rising unemployment, spiraling inflation, and plummeting growth swept Western Europe, although some countries fared better

21. For details regarding the European Community's early development, see HANS VON DER GROEBEN, THE EUROPEAN COMMUNITY: THE FORMATIVE YEARS (1985).

22. *See* MICHELLE P. EGAN, CONSTRUCTING A EUROPEAN MARKET: STANDARDS, REGULATION, AND GOVERNANCE 61-82 (2001) (discussing harmonization and market integration).

23. *See generally* VISIONS, VOTES AND VETOES: THE EMPTY CHAIR CRISIS AND THE LUXEMBOURG COMPROMISE FORTY YEARS ON (Jean-Marie Palayret, Helen Wallace & Pascaline Winand eds., 2006) (discussing the empty chair crisis and its outcome).

than others. At the same time, non-tariff barriers to trade between Member States, ranging from different national product standards to dissimilar testing requirements, remained in place and even proliferated. As the recession intensified, governments became less and less willing to make concessions in the Council on the removal of non-tariff barriers. Instead, they hid behind the provisions of the Luxembourg Compromise, claiming that important national interests were at stake (those interests often being pressure from domestic lobbies). Not surprisingly, progress toward completing the single market came to a halt.

The revival of European integration and launch of the single market program ten years later therefore represents a remarkable turn-around in the EEC's fortunes. It was precisely the Member States' mixed economic fortunes in the intervening decade, coupled with intensifying international competition from the United States, Japan, and the Asian tigers, that convinced national leaders to re-commit themselves to the original core objective of the Rome Treaty—implementation of the single market. European manufacturers, besieged by cheaper, more reliable American and Asian imports, especially in the automobile and electronics sectors, now called for an integrated European market in which they could maximize economies of scale, regain market share, and learn to compete globally.

National leaders were highly susceptible to such calls. The bracing winds of neo-liberalism were blowing over the continent, where left-of-center social democratic and right-of-center Christian democratic leaders grasped the need for fundamental change. Presidents and prime ministers as varied as Margaret Thatcher in Britain, François Mitterrand in France, Helmut Kohl in Germany, and Felipe González in Spain understood the need to abandon old nostrums and failed approaches. Reflecting these changes, the communiqués of several summit meetings in the early 1980s included promises to complete the single market. Newly appointed Commission President Jacques Delors grabbed the chance to revive the Commission's and the EEC's fortunes by producing a White Paper, or policy document, on achieving market integration.[24]

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24. *See* Commission of the European Communities, Completing the Internal Market: White Paper from the Commission to the European Council, COM (85) 310 Final (June 1985).

National leaders endorsed the White Paper at a summit in June 1985, and also supported a recommendation by a special committee, convened after an earlier summit, to hold an intergovernmental conference to revise the Rome Treaty. This was the genesis of the Single European Act ("SEA"), which formalized the launch of the single market program and included important institutional and policy reforms.[25] Signed by foreign ministers in February 1986, the SEA committed Member States to completing the single market by the end of December 1992. In order for that to happen, national governments agreed to use qualified majority voting for most of the harmonization measures listed in the Commission's White Paper.

One of the most important of the SEA's institutional provisions was the cooperation procedure for legislative decision-making, whereby the European Parliament won the right to a second reading of Commission proposals. Although relatively modest, the cooperation procedure set a precedent for the more far-reaching codecision procedure, introduced in the Maastricht Treaty and strengthened in subsequent treaty reforms. The rationale for the cooperation procedure was not simply to strengthen supranationalism in the EEC, about which some governments were highly equivocal, but to close what was already identified as the "democratic deficit"—the growing gap between the governed and the governing in the EEC—by boosting the decision-making role of the directly elected parliament.

The main policy innovation in the SEA was a commitment to increase spending on economic and social cohesion (efforts to bring poorer countries and regions closer to the community-wide economic norm). It was one thing to proclaim the importance of cohesion policy, but quite another to come up with adequate funding for it. A row soon erupted over the Commission's proposal for EEC expenditure covering the period 1988-1992 to include generous allocations for the structural funds, the means by which cohesion policy would be implemented. Eventual agreement on the new financial perspective, thanks to Ger-

25. *See* Single European Act, O.J. L 169/1 (1987), [1987] 2 C.M.L.R. 741 (amending Treaty establishing the European Economic Community, Mar. 25, 1957, 298 U.N.T.S. 11); ANDREW MORAVCSIK, THE CHOICE FOR EUROPE: SOCIAL PURPOSE AND STATE POWER FROM MESSINA TO MAASTRICHT 314-78 (1998) (discussing the origin and negotiation of the Single European Act).

many's generosity, paved the way for implementation of the single market program.

With two new Member States (Portugal and Spain), a generous cohesion policy, and a renewed drive for market integration, the EEC appeared in the late 1980s to have a new lease on life. Indeed, the momentum of the single market program helped propel the parallel drive for monetary union, first contemplated in the early 1970s and re-launched, over Britain's objections, in the wake of the SEA. In June 1988, the European Council agreed to establish a committee, under Delors's chairmanship, to chart the road to monetary union. At the same time, the European Council approved the full liberalization of capital movements, a key element of the single market program and a necessary precondition for monetary union. These developments, together with cotemporaneous changes brewing in Central and Eastern Europe, led inexorably to the Maastricht Treaty, one of the most important events in the history of European integration.[26]

IV. *THE UNSETTLED EUROPEAN UNION*

The Maastricht Treaty subsumed the EEC into the European Union.[27] Together with existing and new socio-economic policies, such as monetary union, which fell within its supranational "pillar," the EU included two additional pillars subject to intergovernmental cooperation. One covered foreign, security, and (later) defense cooperation; the other covered cooperation on justice and home affairs to facilitate the fight against transnational crime and terrorism. The treaty's provisions for monetary union were the most far-reaching and eye-catching.[28] They called for a common monetary policy, with a single central bank and a single currency, by 1999 at the latest for Member States capable of meeting the convergence criteria. Economic circumstances in the 1990s did not seem propitious for the launch of monetary union, and public opinion was equivocal. Nevertheless a majority of the then fifteen Member States (Austria, Fin-

26. *See generally* COLETTE MAZZUCELLI, FRANCE AND GERMANY AT MAASTRICHT: POLITICS AND NEGOTIATIONS TO CREATE THE EUROPEAN UNION (1999).

27. *See generally* Maastricht Treaty, *supra* note 5, O.J. C 191 (1992).

28. *See* KENNETH DYSON & KEVIN FEATHERSTONE, THE ROAD TO MAASTRICHT: NEGOTIATING ECONOMIC AND MONETARY UNION 1-11 (1999) (discussing the historical background behind the establishment of the economic and monetary union).

land, and Sweden had joined the EU in January 1995) met the criteria and launched the final stage of monetary union at the appointed time.

Monetary union was an ambitious undertaking that suggested a great degree of economic integration within the EU. The utility of monetary union was nonetheless debatable. Whereas the single market undoubtedly brought added value to the collective European economy, although not as much as projected in Commission-sponsored studies conducted in the late 1980s, the benefits of a common currency were less certain. Travelers in the euro-zone soon enjoyed the convenience and savings of not having to change money into separate national currencies, and businesses saved the costs of cross-border currency conversion. Nevertheless the single currency has not brought about the large-scale benefits and precipitated the wide-ranging economic reform predicted by its early advocates. The high value of the euro vis-à-vis the U.S. dollar is certainly gratifying to advocates of deeper European integration, but is costly for euro-zone exporters and has facilitated the burgeoning trade deficit with China whose currency, in effect, is tied to the dollar.

The impressive achievement of monetary union is mitigated also by the restricted membership of the euro-zone. Britain opted out during the Maastricht negotiations from the Treaty's monetary union provisions. Denmark secured an opt-out during the Maastricht Treaty ratification crisis. Sweden simply decided not to abide by the monetary union provisions, although it met the criteria for adopting the euro. Only three of the twelve countries that joined the EU since 2004 (most of them in Central and Eastern Europe) have adopted the euro, bringing euro-zone membership to fifteen of the EU's current twenty-seven Member States. All of the EU's new Member States not yet in the euro-zone aspire to join it, but will take some time to meet the convergence criteria. Even when they do, membership of the euro-zone will always fall short of membership of the EU, as Britain is unlikely ever to give up the pound. As a result, differentiation in policy participation among EU Member States is now a permanent feature of European integration.

Differentiation is evident in other policy areas, notably in the free movement of people. The Schengen area, in which people may cross borders without a documentation check, covers twenty-eight countries—but not all twenty-seven EU Member

States. Britain did not sign the Schengen agreement and Ireland, which preferred to maintain its free travel zone with Britain, chose also not to join.[29] Iceland, Norway and Switzerland are the three non-EU countries within the Schengen area. The non-participation of two EU Member States and the participation of three EU non-members in Schengen—an EU initiative—demonstrates the extent of differentiated integration in Europe today.

The prevalence and likely increase in differentiated integration is a consequence of the EU's continuous enlargement. As more and more countries join, the range of national preferences in the EU increases accordingly. Not all Member States are able or willing to participate in every policy area. While wanting to avoid a pick-and-choose approach, and wanting to safeguard the integrity of core policy areas, such as the single market, the EU has had to manage the diversity inherent in an expanding membership. A report on the future of European integration written in 1976, three years after British accession and well before the end of the Cold War made possible the accession of the Central and Eastern European countries, called for institutionalized differentiation within the then EEC.[30] With Britain opposed as ever to further integration and a massive increase in membership looming after the end of the Cold War, the EU finally included provisions to facilitate differentiated integration in the Treaty of Amsterdam of 1997 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts (Treaty of Amsterdam),[31] later improved upon in the Lisbon Treaty.

The extent of differentiation within the EU goes beyond Member States' participation or non-participation in particular policies to cover wide variations in levels of economic development and, in particular, economic performance among Member States. The accession of Greece, Portugal and Spain accentuated a north-south development gap in the then EEC, which is

29. *See* Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, O.J. C 340/1 (1997) [hereinafter Treaty of Amsterdam] (incorporating the Schengen acquis into the framework of the European Union).

30. *See generally* Report by Mr. Leo Tindemans, Prime Minister of Belgium, to the European Council, E.C. BULL. SUPP. 1/76 (1975).

31. *See generally* Treaty of Amsterdam, *supra* note 29, O.J. C 340/1 (1997).

still significant despite nearly two decades of large-scale expenditure on development assistance and a marked improvement in economic indicators in the three Mediterranean countries. The accession of ten relatively poor Central and Eastern European countries has opened an East-West economic gulf that cannot be closed in the foreseeable future without massive amounts of structural funding and years of double-digit economic growth in the new Member States.

Apart from widely varying levels of national economic development due to historical factors such as the legacy of central planning in Central and Eastern Europe, economic performance is highly differentiated throughout the EU. Even within the euro-zone, some national economies are performing much better than others. Poor economic performance has been especially striking in the big euro-zone economies, notably France, Germany, and Italy, where labor market and other reforms are lagging. The EU may include a monetary union but it conspicuously lacks a true economic union, with fiscal policy still being a national responsibility. Fiscal coordination within the euro-zone and coordination of employment policies and labor-market policy across the EU, under the umbrella of the Lisbon strategy for economic reform, are relatively lax.

With relentless enlargement and a growing policy scope, the EU is arguably more of a disunion than a union. It is also unloved by its citizens. The years of the permissive consensus, when Europeans passively acquiesced in European integration, ended in the late 1980s with the move beyond the single market toward monetary union. The single market program was the high point of public eagerness for integration, as Europeans enthused about the prospect of an imminent frontier-free area. As the then EEC and soon-to-be EU intruded more into everyday life, however, people questioned the accountability, transparency, and representativeness of European institutions. Concern about the democratic deficit and the diminution of self-government burst into the open in Denmark in June 1992, when a narrow majority rejected the Maastricht Treaty in a national referendum. Although special concessions to Denmark made possible a second, successful, referendum and saved the Maastricht Treaty, Denmark's original vote was a harbinger of similar rejections of treaty changes down the road, culminating in the results of the French and Dutch referendums on the Constitutional Treaty in 2005.

It was not only the conduct of EU governance but also the nature of the EU itself that seemed to bother many Europeans. In a succession of treaty changes beginning with Maastricht, national governments increasingly emphasized the EU's political character. In terms of policy scope and institutional design, the EU resembled more and more a traditional nation state rather than an international organization. In at least one fundamental respect, however, the EU was decidedly unlike a nation state. Most Europeans did not identify with the EU as they did with their own nations. Few saw it as a political entity to which they owed allegiance or fidelity, as they did to their countries of origin.

The disconnection between weak popular allegiance to the EU and the organization's rising political profile came to a head when national leaders signed the Constitutional Treaty in October 2004.[32] There were many reasons why French and Dutch voters rejected the new document, but a widespread aversion to the politically charged word "Constitutional" in its title was undoubtedly one of them. Yet the existing treaties were already, in effect, constitutional. Certainly, that is how the Court of Justice interpreted them. But the title of the proposed new treaty, as well as some of its content, was unpalatable for many Europeans. A redrafted version bearing a more prosaic and politically inoffensive title—the Reform Treaty, now known as the Lisbon Treaty—is essentially the Constitutional Treaty under another name. No longer a red rag to European public opinion, the renamed and revised Lisbon Treaty will likely be ratified and come into effect in 2009.

V. *GENERAL ASSESSMENT*

Levels of economic growth and living standards have been at an all-time high in Europe since the end of the Second World War. As Barry Eichengreen observes in a new economic history of postwar Europe, it is difficult to assess the extent to which European integration has contributed to the marked improvement in peoples' everyday lives since the mid-twentieth cen-

32. Constitutional Treaty, *supra* note 2, O.J. C 310/1 (2004).

tury.[33] Undoubtedly completion of the customs union and, later, implementation of the single market program stimulated cross-border trade and investment and contributed to economic growth. The creation of the single currency reduced cross-border transaction costs for individuals and businesses alike and further stimulated trade and investment.

As national leaders acknowledged in 2000 when they launched the Lisbon strategy for economic modernization, however, Europe still has a long way to go. European competitiveness and productivity lagged behind those of the United States in the 1990s, while rapid economic development in China and India has caused downward pressure on jobs, wages, and the sustainability of costly welfare systems. The decision of European leaders to eschew, in the Lisbon strategy, the Community method of legislative decision-making in favor of a less formal process of cooperation—the open method of coordination—suggests an awareness on their part of the limits of traditional integration in the new economic circumstances of the early twenty-first century. Negative integration—breaking down tariff and regulatory barriers—was indispensable in the latter part of the twentieth century, as Europe adjusted to the embedded liberalism of the post-war system, but may not be enough to help Europe accommodate to the competitive pressures of the current stage of globalization.

The EU today needs to facilitate flexibility, entrepreneurship and adaptability on the part of economic actors facing new global challenges. At the same time, the EU provides an essential means for its Member States to make a concerted response to the challenge of climate change and the need for energy security. Yet faced with a troubling array of new issues, national leaders are susceptible to protectionist pressures at the domestic and EU levels. In addition, public skepticism about European integration makes it more difficult for politicians to adopt imaginative initiatives to address pressing economic problems. Accordingly, the EU's potential for promoting economic security and prosperity is likely to be underutilized.

Looking at Europe in historical perspective, it is more diffi-

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33. *See* BARRY EICHENGREEN, THE EUROPEAN ECONOMY SINCE 1945: COORDINATED CAPITALISM AND BEYOND 1-14 (2007) (discussing the multiple factors that contributed to the economic growth in Europe during the post war period).

cult to evaluate the relative peacefulness than the relative prosperity of the post-war period. By the awful standards of the first half of the twentieth century, and compared to earlier periods of large-scale conflict, Europe was infinitely better off after 1945. Between 1815 and 1914, however, Europe did not experience extensive warfare, which suggests that the situation after World War II was not unprecedented. But the contemporary period is qualitatively different in at least one important respect: the demilitarization of European society. As James J. Sheehan points out, before 1945 "[t]he mass reserve army made military service a part of the life experience of millions of European men and gave military institutions a central place in European society."[34] Precisely because of the horrors of World War II, militarism lost its appeal in Europe and armies lost their dominant political and societal positions. Disastrous wars of decolonization reinforced a widespread public skepticism, if not outright antipathy, toward the use of military force.

While experiencing the absence of war, Europe did not necessarily enjoy the blessings of peace for much of the contemporary period. Between the late 1940s and late 1980s, the Cold War divided Europe down the middle. The North Atlantic Treaty Organization ("NATO"), not the European Union, ensured Western Europe's military security in the face of Soviet hostility, although European integration contributed to the cohesiveness of the alliance by helping to settle West Germany into the post-war international order. Unlike the Coal and Steel Community, the EEC owed its existence primarily to economic opportunity rather than political or strategic necessity. Yet without the Cold War, the EEC might never have seen the light of day. Absent the Soviet threat and, therefore, the strategic advantage of deeper European integration, the United States would likely have blocked the establishment of a regional common market that was inimical to its immediate economic interests.

Forty years on, the wars of secession in the former Yugoslavia were a striking reminder that peace was not pervasive in Europe even after the end of the Cold War. As Yugoslavia disintegrated in the early 1990s, a resurgence of old-fashioned nationalism ignited the kind of conflict reminiscent of Europe as a

34. *See* JAMES J. SHEEHAN, WHERE HAVE ALL THE SOLDIERS GONE?: THE TRANSFORMATION OF MODERN EUROPE 13 (2008).

whole before 1945. The extreme nationalism at the root of the latest Balkan wars showed how far the rest of the continent had come since the end of World War II, and how far political rapprochement and reconciliation had yet to go in the farthest reaches of the Continent. The Yugoslav debacle also showed the limits of EU peacekeeping without a robust military capacity, notwithstanding most Europeans' aversion to the use of military force.

Going beyond a narrow definition of peace as simply the absence of war, the EU has contributed greatly to European stability by helping to consolidate democracy in post-authoritarian, transition regimes in Southern and Eastern Europe. The existence of non-democratic regimes in neighboring countries helped shape the political identity, norms and values of the EU. The impossibility of enjoying the economic benefits of EU membership without being democratic and respecting fundamental rights strengthened progressive forces in Greece, Portugal, and Spain, as those countries emerged from dictatorial rule in the mid-1970s, and subsequently in Eastern Europe following the end of the Cold War and the collapse of the Soviet Union. Nevertheless the Yugoslav wars and the unresolved Kosovo conflict suggest that the prospect of EU membership, however long-term, is not enough to moderate the behavior of highly nationalistic, recalcitrant states.

VI. *INTEGRATIVE OPPORTUNITIES AND INDIVIDUAL INITIATIVE*

It is hard to imagine Europe without the EU. Counter-factual questions about how Europe might have developed had such institutionalized integration never taken place are intellectually interesting but largely unproductive. Looking instead at the record of European integration, it is more useful to ask what drove it forward and whether the momentum has permanently flagged. Clearly, economic, political and strategic circumstances were decisive in bringing about the European Communities and later the EU. The rapidity of postwar reconstruction and the onset of the Cold War gave an opening for the supranational initiative that resulted in the Coal and Steel Community. The obvious benefits of greater international trade and the slow pace of global liberalization led to the launch of the EEC. Member States' mixed economic records in the recessionary 1970s and intense pressure from global competitors provided the incentive for the single market program of the late 1980s. The fall of the Berlin Wall, imminent German unification, and the liberalization of the countries of Central and Eastern Europe were vital contributory factors to the deepening of European integration in the Maastricht Treaty.

In each of these cases, national leaders—the most powerful actors on the political stage—seized the opportunity to push European integration along. They sought above all to promote their own countries' interests, but from a positive-sum rather than a negative-sum perspective. It is easy to dismiss the idealism of the founding fathers of European integration.[35] Men such as French Foreign Minister Robert Schuman, German Chancellor Konrad Adenauer, and Italian Prime Minister Alcide de Gasperi were understandably eager to promote their national interests in a difficult postwar environment, but were inspired also by a quest for European unity made all the more powerful by having witnessed two world wars during their own lifetimes. The Coal and Steel Community was an ideal opportunity to meet both national goals and European ideals. Jean Monnet, the architect of Franco-German rapprochement, strove to achieve French economic modernization, for which he was responsible at the time as a senior government official, and to set France, Germany and neighboring countries on the road to a united Europe.

Charles de Gaulle, often portrayed as a villain in the story of European integration, recognized that the newly-launched EEC was economically advantageous for France and could also provide a foundation for the intergovernmental political union that he envisioned for Europe. De Gaulle's rejection of supranationalism led to the empty chair crisis of 1965-1966, the most dangerous political moment in the history of European integration. The terms of the agreement that ended the crisis thwarted EEC decision-making and weakened the Commission for years to come, but signaled de Gaulle's willingness to preserve the Community in the interests of France and of Europe as a whole. Moreover, the Franco-German Elysée Treaty of Friendship 1963, concluded by de Gaulle and Adenauer to cement Franco-German rapprochement, became the main vehicle for Franco-Ger-

35. *See, e.g.*, ALAN S. MILWARD, EUROPEAN RESCUE OF THE NATION STATE 318-44 (2000).

man leadership of European integration in the years ahead.[36]

Margaret Thatcher, like de Gaulle an ardent inter-governmentalist, is also portrayed negatively in the history of European integration. Yet Thatcher's demands for budgetary reform helped the EEC put its finances in order in the early 1980s, and her advocacy of deregulation and economies of scale provided a powerful impetus for the single market program later in the decade. Thatcher parted company from other EEC leaders on the issues of cohesion policy and monetary union, which she deemed economically unsound and (in the case of monetary union) politically undesirable. Nevertheless her contribution to European integration was much more constructive than conventional opinion suggests.

Jacques Delors, who became Commission President in January 1985, is often credited with triggering the dramatic improvement in the EEC's fortunes epitomized by the single market program. Delors envisioned a stronger, deeper EEC, with responsibility for many more policy areas and greater supranational powers. As a charismatic, skilled politician from a large and influential country (France), with close ties to the leader of the largest and most influential Member State (Germany), Delors was ideally placed to embody the acceleration of European integration. Yet Delors was an enabler rather than an architect of the EEC's revival, which was already underway by the time he arrived in Brussels. As Commission president, Delors was capable of pointing the way forward and generating momentum for deeper integration but lacked the authority for ultimate decision making, which lay in the hands of national leaders.[37]

Perhaps the most influential of those leaders in the 1980s and 1990s, and the one most inclined towards deeper integration, was German Chancellor Helmut Kohl, who formed a close association with François Mitterrand and relentlessly pursued monetary union. European idealism rooted in Christian democratic principles, together with a keen appreciation of German national interests, motivated Kohl's behavior on the Brussels stage. Although overshadowed in retirement by a political scan-

36. On the legacy of the Elysée Treaty, see generally HAIG SIMONIAN, THE PRIVILEGED PARTNERSHIP: FRANCO-GERMAN RELATIONS IN THE EUROPEAN COMMUNITY, 1969-1984, at 9-48 (1985).

37. For an insider's account of Jacques Delors's leadership of the Commission, see GEORGE ROSS, JACQUES DELORS AND EUROPEAN INTEGRATION (1995).

dal, Kohl deserves recognition for his determined leadership of the EU and commitment to the single currency.

Today's national leaders seem less enamored of European integration, perhaps reflecting widespread public disillusionment with the EU. French President Nicolas Sarkozy and German Chancellor Angela Merkel have not forged a close relationship, and Franco-German leadership may no longer be enough, by itself, to drive European integration forward. Britain, as ever, remains semi-detached. Even a leader as enthusiastic about Europe as Tony Blair was unable to bring Britain into monetary union, the most emblematic EU policy area. Other national politicians, constrained by their countries' circumstances or their own inclinations, are unwilling or unable to provide decisive European leadership. Nor is the Commission, politically weak and institutionally subservient to the national governments, capable of filling the void.

CONCLUSION

As it stands, the EU is institutionally awkward, highly differentiated, and broadly unpopular. The process of European integration seems to be in one of its periodic troughs. Nevertheless the EU's fortunes may soon improve as national governments appreciate the organization's potential to help its Member States meet formidable economic and strategic challenges. Regardless of what lies ahead, European integration is a remarkable process that has greatly benefited Europe and the wider world. In historical context, it is much too soon to say whether European integration is an enduring innovation in relations between peoples and states, or is a transitory development whose usefulness peaked in the post-war period and which can never develop further because of enduring national identities and attachments. Even if the latter turns out to be true, nothing can detract from the achievements of European integration in the second part of the twentieth century, a century whose early decades were marred by two world wars and a deeply divisive inter-war period. By that significant standard, European integration has already been an immense success.