No and after: options for Europe

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Background to the 'no' votes

The French and Dutch 'no' votes in their referendums on the European Union Constitutional Treaty in the early summer of 2005 placed the governments of EU member states in an unprecedented position. Public dissatisfaction with Europe, expressed through the voting down of an agreement forged by member-state governments, indicates that there is a disjuncture between the views of citizens and those of their elites as to the benefits of continuous and deepening collaboration within the framework of an ongoing European integration process. The EU may not be in a terminal crisis; but the future direction that the European integration project should take is now a matter of some uncertainty.

It is ironic that the Treaty Establishing a Constitution for Europe should have been called into question by the citizens of EU member states, as one of the original purposes envisaged for the treaty was to bring the EU and its institutions closer to those citizens. In launching the process that was to result in the treaty, at Laeken in December 2001, the heads of state and governments of the EU adopted a Declaration on the Future of the European Union. The declaration identified the 'democratic challenge facing Europe' and stated that:

> Within the Union, the European institutions must be brought closer to its citizens. Citizens undoubtedly support the Union's broad aims, but they do not always see a connection between those goals and the Union's everyday action. They want the European institutions to be less unwieldy and rigid and, above all, more efficient and open. Many also feel that the Union should involve itself more with their particular concerns, instead of intervening, in every detail, in matters by their nature better left to Member States' and regions' elected representatives. This is even perceived by some as a threat to their identity. More importantly, however, they feel that deals are too often cut out of their sight and they want better democratic scrutiny.[1]

[1] 'Laeken Declaration on the Future of the European Union', Presidency Conclusions, European Council meeting in Laeken, 14–15 Dec. 2001, annex I.

That this also acts as a good summary of the discontent that was expressed in the French and Dutch referendum debates (in addition to discontent with the governments of each state) suggests that the treaty that took more than three years to write did not realize one of its core objectives. However, the treaty was also intended to perform a number of other functions. The first was to streamline and recodify the four existing treaties on which the EU is established and to create a single text, in place of multiple texts, that would be more accessible; the second was to ease decision-making in an EU of 25 (and more) member states and to ensure that the EU's institutions operate in a more effective and efficient manner; the third was to enhance further the EU's capacity and competences in areas that include justice and home affairs and foreign and security policy; and the fourth, and most crucial, was to connect the citizen more directly with the EU with a Charter of Fundamental Rights. The fact that the Laeken Declaration ran to more than seven pages, detailing the questions which an especially convened body, a Convention on the Future of Europe, was to 'consider', and to which it was to 'try to identify possible responses', indicated an overloaded agenda.

The Laeken Declaration itself marked only one stage of a process that had been set out at the Nice European Council in December 2000, at which the final negotiations for the Treaty of Nice were concluded.[2] Discontent among member states with the Treaty of Nice, which was the outcome of intergovernmental negotiations to amend the EU's existing treaties to accommodate the forthcoming enlargement in 2004, was widespread; it was felt to be at best a stop-gap solution to accommodating more EU member states within the EU's existing decision-making structures.[3] In concluding the negotiations for the Nice Treaty, member states immediately committed themselves to another intergovernmental conference, to open in 2004, with a view to amending the EU's treaties again, and to be preceded by two phases of debate: an 'open' phase followed by a more 'structured' phase.

Consequently, the convention, as the 'structured' phase of this debate, had a number of tasks with a multitude of ambitions—among them, on top of the already overloaded agenda, the hubris of Valéry Giscard d'Estaing, the 76-year-old former French President appointed as chair of the convention. Giscard, with frequent references to the 1787 Philadelphia Declaration, self-consciously styled the convention as an important historical moment for the EU. In one sense the convention was certainly a first for the EU. Meeting from February 2002 to July 2003, its 206 members included representatives from the governments and parliaments of 15 EU member states and 13 applicant states, in addition to participants from the European Parliament and the European Commission. All of the deliberations of the plenary sessions were held in public and all of the documentation produced by the convention was posted on the

[2] Presidency Conclusions, European Council meeting in Nice, 7–9 Dec. 2000.

[3] M. Gray and A. Stubb, keynote article, 'The Treaty of Nice: negotiating a poisoned chalice?', *Journal of Common Market Studies* 39, Annual Review, Sept. 2001, pp. 5–23.

internet. This was a significant departure from the practices of earlier intergovernmental conferences that had deliberated on treaty reforms. Giscard himself played a remarkable role in driving forward the work of the convention in combination with the 13-member Praesidium, which met in camera and acted as the engine room for the draft treaty, the components of which were submitted to the European Council meeting of the EU's heads of state and government in June 2003.[4]

Giscard, and the convention's work, were extremely thorough, and the production of a draft text in such a short time was a remarkable achievement. However, at this moment the process of devising a new treaty slipped back into old habits. The heads of state and government committed themselves to a brisk timetable for an intergovernmental conference that would reach final agreement on a treaty text in advance of the June 2004 European Parliament elections. Consequently, the work of the convention was not then opened to widespread debate across and within the member states to stimulate a broader discussion on the desirability of its form and contents. At the convention's final meeting in July to complete unfinished work on the draft treaty, a call from Jens-Peter Bonde, the Danish Eurosceptic MEP, for simultaneous referendums on the text across the member states was met with scant applause and even laughter. The text produced by the convention then passed to the Italian presidency of the EU and formed the starting point for the discussion within the intergovernmental conference that began its work on 4 October 2003. Normal service on treaty negotiations was resumed, with government representatives deliberating out of the public eye.

The subsequent intergovernmental conference contained all the elements of horse-trading and drama that have been the hallmark of these sets of negotiations from the Single European Act in the mid-1980s through to the Maastricht Treaty and more recently the Treaties of Amsterdam and Nice. In the case of the Constitutional Treaty, overall agreement was stymied in December 2003 by a combination of inept handling of the negotiations by the Italian presidency and a dispute on the new double majority voting system (involving both a majority of states and a majority of populations). The succeeding Irish presidency was eventually able to find a formula acceptable to all states and agreement was eventually reached at the European Council of 17–18 June 2004. The latter experience is instructive for the UK EU presidency of the second half of 2005, as the Irish found the original agenda for their presidency displaced by the need to focus on finding consensus on the Constitutional Treaty.

The Constitutional Treaty was signed in Rome on 29 October 2004 in the same location as the original Treaty of Rome: the symbolism thus declared that this was a treaty to refound the European Union, even if the UK government

[4] For a comprehensive and entertaining account of the work of the convention see P. Norman, *The accidental constitution: the story of the European Convention* (Brussels: Eurocomment, 2003), and P. Norman, *The accidental constitution: the making of Europe's Constitutional Treaty*, 2nd edn (Brussels: Eurocomment, 2005).

was claming that it was merely a tidying-up exercise.[5] The focus then shifted to the ratification process. Under Article IV-446, 1 November 2006 was the date envisaged for the treaty to come into force following ratification by all of the member states according to the requirements of their own constitutions. It had originally been proposed that the constitution be ratified through a Europe-wide referendum, when 97 members of the convention supported a resolution stating that such a referendum would be appropriate.[6] However, critics argued that this approach was too federal, and the decision whether or not to hold a referendum was left to the individual member states. The past practice of offering referendums on treaty amendments, coupled with the requirements of the Irish constitution, meant that a referendum in Ireland was always inevitable.[7] Outside Ireland, however, political judgements have influenced EU member states' decisions on their own commitment to this course of action.[8]

Denmark was the first country to announce that it would hold a referendum. Prime Minister Anders Fogh Rasmussen made a declaration to that effect as early as September 2003. This came as no great surprise, however, since Denmark is traditionally seen as more Eurosceptic than other member states and has held several referendums on EU matters in the past. In the Czech Republic, Prime Minister Vladimir Spidla publicly supported the holding of a referendum in October 2003. Opposition within the parliament would have made solely parliamentary ratification difficult, and Spidla sought to overcome this potential obstacle by recourse to a national vote. There were also calls for a referendum from the popular Eurosceptic President Vaclav Klaus, who argued that broader public debate was essential.

There was less controversy in the case of Luxembourg. In an address to the nation in 2003, Prime Minister Jean-Claude Juncker declared that a referendum 'is an instrument which, at important moments, gives a sovereign dimension to decision making'.[9] It was no surprise that he then chose to call a referendum on the constitution. In the Netherlands, in late November 2003, the lower chamber

[5] Peter Hain, evidence to the Foreign Affairs Committee, 1 April 2003, HC 606-i, Minutes of Evidence for Tuesday 1 April 2003; Rt Hon. Peter Hain MP, Government's Representative on the Convention on the Future of Europe, and Mr Kim Darroch CMG, Director, European Union, Foreign and Commonwealth Office, *The Inter-Governmental Conference 2004: the Convention on the Future of Europe*, http://www.publications.parliament.uk/pa/cm200203/cmselect/cmfaff/606/3040101.htm, last accessed 9 June 2005.

[6] The text of the resolution was as follows: 'The Convention recommends to the Inter-Governmental Conference that the draft European Constitution be approved not only by National Parliaments and the European Parliament but also by the citizens of Europe in binding referendums. These referendums should take place in accordance with the constitutional provisions of the member states. They should be held simultaneously on the same day, an option being the same day as the European Parliamentary Elections in June 2004. Those member states whose constitutions do not currently permit referendums are called upon to hold at least consultative referendums. An information campaign must be publicly funded'.

[7] Article 46 of the Irish constitution states that any issue that will alter the constitution must be put to a referendum.

[8] For an analysis of the background to the decisions to hold referendums and an analysis of the regulations governing the referendums see Nasser Hussein (with Genevieve Maitland Hudson and Richard Whitman), *Referendums on the Constitutional Treaty: the state of play*, Chatham House briefing paper EP BP 05/2 (London: Chatham House, Feb. 2005).

[9] State of the nation address by Luxembourg's Prime Minister, Jean-Claude Juncker, 20 May 2003.

of the Staten Generaal, or parliament, voted in favour of holding a referendum. This decision was taken against the wishes of the Prime Minister, Jan Peter Balkenende, of the Democratic Christian Appeal (CAD) party, and despite the fact that all the major political parties declared their support for the EU constitution. It was argued that an automatic parliamentary 'yes' would be seen as lacking legitimacy. Opposition parties reasoned that a referendum would increase the role that citizens play in the EU process and improve their knowledge of these processes and of European issues generally.

However, it was only the declaration in favour of a referendum made by the British Prime Minister, Tony Blair, in April 2004 that made the issue a Europe-wide concern. Blair's announcement, in the face of opposition from close Cabinet colleagues, was a spectacular U-turn. The government's change of stance brought its position into line with that of the opposition Conservative Party and neutralized the question of a referendum as a political issue in local and European Parliament elections in June. Another key factor was the increasing criticism of the prime ministerial tendency towards a presidential style of decision-making. Blair has been widely accused of making political decisions in small groups at Downing Street. The decision to go to war with Iraq, against considerable popular opposition, and the subsequent failure to find the weapons of mass destruction on which the case for war was made, resulted in a loss of voter confidence in the Prime Minister. The decision to hold a referendum on the EU constitution may have been taken in an attempt to sway voter perception, with a general election then on the horizon. It might be argued, therefore, that Tony Blair had more political capital to gain than other European leaders by calling the referendum, and that domestic political difficulties triggered a European-wide stampede to referendums.

The UK's decision caused disquiet among other European leaders, most particularly in the French President, Jacques Chirac. Chirac came under pressure to take similar action in France to give the French people an opportunity to play a role in ratifying the treaty. Only a couple of weeks before the UK decision, Giscard d'Estaing announced that 'to consult the French people on this subject is a reasonable and positive risk and it is right to take it'. He added that 'all Constitutions that have been adopted in France have been adopted by referendum'.[10] And indeed, on 14 July 2004 President Chirac declared that France would hold a referendum in the second half of 2005.

Thus the UK decision had the most profound impact on the rest of Europe. Not only did it influence the calling of a referendum in France, but it has also led to debate even within Germany, a country with no recent history of referendums, for such a vote. In July 2004 the new Spanish government also decided to hold a referendum; but this was in delivery of a Socialist party manifesto promise. Prime Minister José Luís Rodríguez Zapatero thereby distanced himself from his predecessor José Maria Aznar, whose right-wing government

[10] Interview with *La Montagne*, 24 March 2004.

had prolonged negotiations at the IGC in defence of qualified majority voting. There is no doubt that domestic political opponents would have attacked Zapatero if he had not called a popular poll, on the grounds that he had compromised Spanish power in the Council by agreeing to the 'double majority' voting system opposed by the Aznar government and was as a result unwilling to let voters have their say. Zapatero's promised referendum was the first to be held: it delivered a 'yes' vote, but on a disappointing low turnout.

Difficulties in the ratification of the Constitutional Treaty were not unanticipated, and a declaration attached to the treaty stated that if, 'two years after the signature of the Treaty establishing a Constitution for Europe, four fifths of the Member States have ratified it and increasingly Member States have encountered difficulties in proceeding with ratification, the matter will be referred to the European Council'.[11] The British government's decision to hold a referendum on the treaty immediately placed it as one of the member states most likely to fail to ratify within two years of signature, and analysis of the consequences of this outcome for the country has become a cottage industry.[12] Concerns about a possible 'no' vote in a French referendum developed much more belatedly when opinion polling in France consistently indicated that the 'yes' campaign was not making ground against the prevailing sentiment that opposed the treaty.[13]

Whether the ground should have been much more carefully prepared before such a complicated document was put to the public in referendums will be a matter for debate for some time to come. However, considered against the backdrop of the process outlined above, it should have been no surprise that a 482-page treaty, emerging from such great ambitions, presented governments with a daunting challenge in the form of how to distil a central message on why the treaty should be supported and how to convey this effectively to their publics.

A setback to the integration project

Of immediate importance to the EU member-state governments is whether the treaty in its entirety, or in its component parts, can be rescued. What sets of options are available to the governments of the EU member states? Moreover, does the rejection of the treaty by the French and Dutch publics signify a much deeper malaise in the project of European integration?

European integration has suffered a number of setbacks in its history. Every decade of the project has seen some event or episode that seemed to call its future into doubt. In the 1950s it was the failure of the French National Assembly

[11] Declaration 30, Treaty Establishing a Constitution for Europe.

[12] For the most considered and systematic of these analyses see C. Grant, *What happens if Britain votes no? Ten ways out of a European constitutional crisis* (London: Centre for Economic Reform, March 2005).

[13] IPSOS, one of France's leading polling agencies (used by *Le Figaro*), saw the progression of the 'no' vote in the last month before the referendum as follows: 27% on 13 May, 41% on 20 May and 49% on 26 May. The final result on 29 May was 55% against the treaty. See http://www.ipsos.fr/CanalIpsos/articles/1604.asp?rubId=19.

to ratify the agreement on the European Defence Community in 1954. In the 1960s the difficulties of accommodating President de Gaulle's vision of a Europe of nation-states were vividly expressed in the 'empty chair' crisis of 1965, when France withdrew from the Council of Ministers. In the 1970s it was the period of 'Eurosclerosis' in which the EC seemed to be irrelevant, incapable of responding to the external shocks and atrophy suffered by the member states' economies. The 1980s saw the challenge presented by the British government, under Margaret Thatcher, to the member states on the question of financing the EC. More recently, the Danish 'no' vote on the Maastricht Treaty in 1992, and the Irish 'no' vote on the Treaty of Nice in 2001, created crises to which member states had to respond. However, in each of these previous crises the integration process was able to bounce back with, respectively, the EEC Treaty in 1957, the Luxembourg Compromise which addressed de Gaulle's concerns, the single market project that captured the imagination of the British government and, after periods of reflection and addressing national concerns, the second 'yes' votes in Denmark and Ireland. History suggests, then, that the EU has a great capacity to move forward after a period of crisis.

However, the EU of the early twenty-first century has become a more unpredictable entity. Enlargement from 15 to 25 member states has changed the nature of the EU in a way that still eludes definition. National leaders championing European integration, from the standpoint of a clear vision of the purpose of current and future European integration, are largely absent; and, as the French and Dutch votes illustrate, people are restive about and disconnected from government visions of how the EU should develop.

Whether the French and Dutch referendum results signal the end of the Constitutional Treaty is a matter to be decided over the coming months, and scenarios for the treaty are explored below. However, the wider question of the future direction that the EU might take is conditioned by a number of other factors, including sources of leadership for the EU and its capacity to address other pressing issues simultaneously.

'No' votes and the Constitutional Treaty

Debate continues on whether the Constitutional Treaty can be resuscitated after the French and Dutch votes. But it goes without saying that Europe's integration project has suffered a severe setback. Such decisive 'no' votes in two of the EU's founding member states, both members of the euro-zone and both net contributors to the EU budget, represent a significant obstacle to be overcome if the Constitutional Treaty is to be ratified.

The requirement for ratification by all EU member states does not appear to leave the option of the treaty's proceeding without a reversal of the votes in France and the Netherlands. In the immediate aftermath of the votes it is too early to consider whether such a course of action would be politically feasible in either country. Consequently, the EU member states now face an imme-

diate choice of how to handle the ratification process elsewhere in the aftermath of the French and Dutch results—whether to proceed with the ratification or formally to suspend the process.

Complicating this decision is the 'shadow of the future' and the question whether it would be more sensible to prepare to fillet the existing treaty to produce a cut-down 'treaty lite', recycling parts of the existing document, or to bury the current treaty entirely and start again. These options present different challenges for the EU. Crucially, a failure to reach unanimous agreement on which strategy should be adopted would represent a crisis for the EU and might trigger the development of an 'inner core' or 'hard core' of some member states pursuing further integration independently of the remainder.

Proceeding with ratification

The preferred option of the Luxembourg EU presidency that was in office at the time of the referendums, expressed by the President of the European Commission, by the President of the European Parliament, and by Chancellor Schröder in a joint statement with President Chirac, was that the ratification process should proceed. In the immediate aftermath of the Dutch vote ratification did indeed proceed, with the 100-member Latvian parliament voting by 71 votes in favour of the treaty on 2 June 2005. Latvia was the tenth country to complete ratification (the countries to have completed ratification being divided evenly between old member states and those who joined the EU on 1 May 2004). Of those ten ratifications, only Spain's included a referendum, and this produced an overwhelming 'yes' vote on a low turnout.[14]

The argument for proceeding with ratification was that the French and Dutch governments might then revisit ratification once all the other member states had completed the process. This would have represented a repeat performance of the strategy adopted when the Irish public voted against the Treaty of Nice in a referendum on 7 June 2001.[15] At that time all the other EU member-state governments continued with their own ratification processes while a solution was sought with the Irish government. The Irish public then voted on a second occasion, producing a 'yes' vote.

In response to the Danish 'no' vote to the Maastricht Treaty in 1992,[16] the member states agreed to clarifications and opt-outs from the treaty in a decision (the Edinburgh Agreement of Heads of State and Government) that would stand alongside rather than amend the treaty.[17] Subsequently, in a second referendum in 1993, the Danish public approved ratification of the treaty.[18]

[14] The electorate voted by 76.7% to 17.2% in favour of the treaty on a turnout of 43.3%.
[15] The electorate voted by 53.9% to 46.1% against the ratification of the treaty.
[16] In the first vote, on 2 June 1992, Danish voters rejected the treaty with a majority of 50.7% of votes cast after the Folkertinget had already voted to approve the treaty.
[17] The opt-outs were from the third stage of EMU, elements of the Common Foreign and Security Policy with defence implications, and other minor matters.
[18] In the second referendum, held on 18 May 1993, the result was approval by a majority of 56.7%.

In the case of the Constitutional Treaty, a decision to proceed with ratification would run the risk that the French and Dutch 'no' votes might complicate the ratification process in other countries. There would be a risk of stimulating greater opposition to the treaty and of yet more countries, or citizens, voting 'no' to the treaty, thus creating additional hurdles to overcome in the ratification process. Such a 'masochistic' strategy was, however, advanced in some quarters.[19]

Suspending the ratification process

In the event, any possibility of trying to shrug off the French and Dutch votes was torpedoed by the British decision, announced by the Foreign Secretary Jack Straw to the House of Commons on 6 June 2005, to suspend ratification, pending a meeting of the European Council on 16–17 June. The British government had initially called for a period of reflection following the French 'no' vote, but in the aftermath of the vote in the Netherlands shifted its stance.[20] This was not followed by a similar action in a number of other member states. At the time of writing no other government had decided to suspend ratification in advance of the European Council meeting on 16–17 June.

The suspension of the ratification process would be, at best, a holding exercise to give member-state governments time to reflect on what course of action should be taken next. The question of when the ratification process might recommence would then depend on what lessons member-state governments might draw from the French and Dutch votes. Responses to past referendum 'no' votes do not provide instructive lessons, as the circumstances of the campaigns and the votes were somewhat different in this case. First and crucially, the 'no' vote in France, one of the founders of the integration project and a key player and animator in the subsequent development of integration from the Coal and Steel Community through the European Economic Community to the European Union, simply matters more than the previous 'no' votes in Denmark and Ireland. Second, the high turnouts in both France and the Netherlands, 69.7 per cent and 62.8 per cent respectively, did not call into question the validity of the vote, as was the case in the first Irish vote on the Treaty of Nice, where only 35 per cent of the electorate voted. Third, the nature of the campaign in France and the Netherlands made it difficult to identify those elements of the Constitutional Treaty that were the subject of particular public concern. The referendum debates in both countries focused

[19] This was graphically characterized by Alexander Stubb, a Finnish member of the European Parliament, as a snooker match in which there were 25 frames to be played. An assessment of whether the treaty had a future should then be deferred until the end of the match. *The World Tonight*, BBC Radio 4, 2 June 2005.

[20] Tony Blair said on Monday 30 May (speaking from his holiday in Italy): 'What is important now is having a time for reflection with the Dutch referendum in a couple of days' time and the European Council in the middle of June where the leaders will discuss the implications of the votes that have taken place.' BBC News, Monday 30 May 2005, http://news.bbc.co.uk/2/hi/uk_news/politics/4591381.stm.

on issues connected to domestic political discontent, concerns about present and possible future economic and social policy, or unhappiness with recent EU initiatives such as enlargement or the single currency, so that it was difficult to disentangle objections to specific elements contained within the treaty. This rules out the 'reassure and re-vote' strategy pursued in the past after the Irish and Danish 'no' votes. In these circumstances both governments sought to reassure their citizens that concerns that had been expressed during the first referendum campaigns were either unfounded or had been responded to by the other member-state governments, thereby facilitating second referendums.

As the recent history of 'no' referendums in Ireland and Denmark provides no ready-made solutions on how to respond to the French and Dutch 'no' votes to the Constitutional Treaty, the EU is in uncharted territory. All the member states have to go on immediately is the agreement they reached in the Treaty of Nice as an attempt to stop the EU's decision-making structures suffering from gridlock in an enlarged and enlarging EU. How, then, might they proceed from here?

Drawing up a 'treaty lite'

The Constitutional Treaty is a document that would lend itself to being divided into component parts, and is indeed constructed in such a manner. However, parts of the treaty that governments may wish to recover are embedded within the document, and an approach that filleted the treaty to extract, for example, the provisions on changes to the EU's voting arrangements, the future size of the European Commission, or the foreign policy of the Union, would then produce a document that was an amendment to the existing treaties. In short, this would be a rerun of the Treaty of Amsterdam and the Treaty of Nice, neither of which produced sufficiently satisfactory outcomes to dissipate the impetus for further treaty reform. Furthermore, the delicate compromise that the Constitutional Treaty represented—a package deal that contained something for every member state—might not be reproduced. The protracted negotiations between Spain and Poland in the latter stages of the IGC on the Constitutional Treaty on the precise detail of future voting weights provide an indication of how apparently arcane issues can be imbued with great significance by individual member states.

Moreover, it is difficult to envisage a situation in which any new agreement that is reached would not be put to the citizens of the EU. Just as more EU member states faced pressure to hold a referendum on the Constitutional Treaty once this had been conceded by other states, a Constitutional 'Treaty lite' might generate even more calls for referendums. Calls for a European-wide referendum, or simultaneous national referendums, would also have more weight as the number of member states holding such votes increased.

Starting the process again

Member states could decide that a return to first principles is in order and recommence the process of constructing an agreement that both satisfies the demands of member states and alleviates public concerns about European integration. The depth of public antipathy expressed by the French and Dutch towards the integration process does suggest that the EU needs a process that takes it back to first principles. This would inevitably be a long-term commitment, measured in terms of years (if the process that produced the Constitutional Treaty is any guide). Furthermore, the list of issues to be addressed would not differ markedly from those that were originally contained in the Laeken Declaration. The question then arises how the process could be taken forward in a different manner from that which produced the Constitutional Treaty. An alternative to the convention might be a directly elected constituent assembly created for the specific purpose of examining where the EU might develop in the future and what areas of EU policy competence should be repatriated to the member states. The least credible scenario would be to move forward on the basis of an intergovernmental conference. The convention process at least opened up the participants involved in discussion of the future direction of the EU, and closing down such a process would rob any following IGC of legitimacy.

Whether the French and Dutch referendum results signal the end of the Constitutional Treaty is a matter to be decided over the next few months and, crucially, under the UK EU presidency that commences on 1 July 2005. The wider question of the future direction that the EU might take is conditioned by a number of other factors, such as leadership within the EU and whether the EU and its member states can also satisfactorily resolve a number of other equally pressing issues.

Leadership within the EU

If the EU is to see itself through the current difficulties there will be a need for better leadership. At present there is no leading state, or group of states, within the EU. This vacancy has come about as a result of the changing stances of key EU member states, shifting relationships between member states, and a diminution of the quality of statesmanship within the European Union.

The European Commission has not recovered the position of importance that it enjoyed under the leadership of Jacques Delors between 1985 and 1995. The two successor Commissions headed by Jacques Santer and Romano Prodi ended, respectively, in the ignominy of resignation after failing to tackle incompetence and corruption, and in atrophy as a result of poor leadership. The current European Commission headed by Manuel Barroso came into office after disagreement among the member states on the suitability of the first-choice candidate and then struggled to gain approval by the European Parliament.[21]

[21] For an analysis of the first six months of the Barroso Commission, see M. Cini, *Pragmatism prevails: Barroso's European Commission*, Chatham House briefing paper EP BP 05/01 (London: Chatham House, May 2005).

Any aspirations to leadership on the part of the current Commission are stymied by Mr Barroso's not enjoying the full confidence of all the EU member states: most crucially, he has a difficult relationship with President Chirac.

Leaders of the member states are also an unlikely source of EU leadership, as again no head of state or government from any of the larger EU member states enjoys the full confidence of all his or her colleagues, and most are facing elections in the short or medium term. The French government, and the French President, represent part of the problem rather than the source of a solution, and Chancellor Schröder's preoccupation with his own general election removes Germany as an immediate source of possible leadership. Nor does a solution to the current crisis led by France and Germany together appear feasible. The failure of France to ratify the treaty is an indication that France and Germany are out of step in a way unprecedented in recent years. However, Franco-German claims to leadership in an enlarged EU have been of diminishing credibility for some time. The Franco-German pairing of François Mitterrand and Helmut Kohl in the 1980s and early 1990s, which played a central role in the transition from Cold War to a post-Cold War order in Europe, has been replaced by the very different partnership of Jacques Chirac and Gerhard Schröder. Although both leaders have sought to retain the importance of the Franco-German alliance, it has nevertheless diminished in influence. Both leaders have lacked grand objectives for the EU and have focused instead on seeking short-term gains. Furthermore, both states have tarnished their claim to a leading role in the EU by undermining the credibility of the Stability and Growth Pact by breaching its provisions.

British attempts to claim a more central role within the EU by strengthening bilateral and trilateral diplomacy have been a hallmark of New Labour's policy on Europe, as Julie Smith illustrates in these pages. However, remaining outside the euro and not being a member of the Schengen zone are hindrances to British pretensions to leadership. Blair represents damaged goods for many member states, both because of his policy on the Iraq war and also because of his declining to take Britain into the heart of the integration project by joining the euro. Gordon Brown, as a putative successor prime minister, is an effective tub-thumper for Britain's economic success and its status as a model for other European states to emulate but has, as yet, unproven European credentials.

A key change within the EU in recent years has concerned the balance between small and large states. With the recent enlargements in 1995 and 2004, a much greater proportion of member states are now smaller, measured in terms of population size, representation in the EU institutions, and votes within the Council of Ministers. Poland is the only state to have acceded to the EU in the last two decades that is at the larger end of the spectrum. As the proportion of smaller states has increased, so has the concern that the larger ones should not create a directorate to run the Union to their own advantage. The role of the European Commission, historically seen as the guarantor of small states' interests, has diminished owing to the recent poor performance of Commission

presidents, indicated above. As Josef Janning points out in this issue, the bilateral and multilateral ties among EU member states remain a crucially important component underpinning the functioning of the Union. However, whether there are enduring coalitions of small states that can be constructed, beyond those created as coalitions of interest on particular issues, is uncertain.

An agenda full of other issues

The policy area most immediately affected by the French and Dutch votes is the EU's continuing enlargement process. The ratification process has not yet concluded to facilitate Bulgarian and Romanian accession to the EU, scheduled for 2007. Of greater significance is the planned opening of membership negotiations with Turkey in October 2005. Turkish membership of the EU is a politically sensitive issue in France (so much so that President Chirac promised a separate referendum on Turkish membership in advance of the Constitutional Treaty vote) and was an issue in the Dutch referendum campaign. Opening membership negotiations with Turkey will not increase the enthusiasm for European integration in France and the Netherlands, but not doing so would be a significant setback for Turkey–EU relations. If membership negotiations are opened, progress will be constrained until the future of the Constitutional Treaty is clarified. The opening of membership negotiations with Croatia would be complicated further. With a number of other European states pressing for EU membership, enlargement will be a key issue on the European Union's agenda for many years to come. However, as Karen Smith illustrates in these pages, the EU's European neighbourhood policy for managing its neighbours, including those that aspire to EU membership, is problematic.

As both the French and Dutch campaigns illustrated, Europe can be perceived as responsible for economic problems rather than a vehicle through which growth and prosperity might be pursued. The French public is concerned that the EU is becoming the means by which a French social model is being dismantled, with 'Anglo-Saxon' capitalism in the ascendant, and views the draft services directive as a particular *bête noire*. This is an issue that must be of particular concern to Europe's leaders, as a key selling point of European integration has been that it provides a passport to economic well-being. The EU's Lisbon Agenda, with its declared aim of making the EU the world's most competitive economy by 2010, is mocked by the high levels of unemployment in the larger continental European member states and continuing problems with Europe's competitiveness. As Paola Subacchi illustrates in this issue, the Stability and Growth Pact that guides the macroeconomic policy of the European Union is a flawed instrument, but one without an obvious successor. In many member states it is now seen as part of the problem rather than a part of the solution to the difficult economic circumstances in which a number of countries find themselves, exacerbated by the atrophy of parts of the euro-zone

economy and the competitive pressures arising from ascendant economies outside Europe, most especially China and India.

Crucial in preparing Europe's economy to cope with external competitive pressures are the European Commission's proposals for the EU budget for 2007–2013, in which extra resources are to be devoted to activities such as stimulating research and development within Europe. However, budget negotiations have become bogged down in disputes about the ability of the European Commission to increase expenditure while the net contributors to the budget are unwilling to increase their contributions, the UK reluctant to relinquish its rebate and the net recipients (both the existing ones and the new member states) keen to see resources flow in their direction. This budget debate will now run in parallel with the discussions on the future of the Constitutional Treaty and both will feature in the inherited agenda of the UK EU presidency. There is considerable scope for sustained disagreement between the member states and this, on top of the failure to ratify the Constitutional Treaty, may add to a sense of deepening crisis for the EU.

Externally the EU also faces a number of key challenges. As Paul Cornish and Geoffrey Edwards discuss in this issue, significant progress has been made on the EU's developing foreign, security and defence policy in recent years. This has occurred alongside other dimensions of Europe's international role examined separately by Hanns W. Maull and John Vogler in this issue. Whether a period of European introspection will have an impact upon the various aspects of EU foreign policy will be of especial concern to the United States, with the European diplomatic initiative on Iran's nuclear programme finely balanced and the EU's dispute with the US on the China arms embargo unresolved. It will also be of importance for a successful conclusion of the Doha trade round and the outcome of EU–US trade disputes, including those on civil aircraft production. The European Union matters in geoeconomics, and increasingly in geopolitics, and this in turn means that internal EU preoccupations have significant external implications.

Challenges for the UK EU presidency

The EU faces a difficult few months while a strategy takes shape to respond to the rejection of the Constitutional Treaty in France and the Netherlands. When the UK takes up its six-month presidency at the beginning of July 2005, the British government will find itself responsible for steering the response of the EU to the French and Dutch referendums and the strategy for recovery after the setback to the treaty. This will be a considerable challenge to British diplomacy, and failure is much easier to envisage than success. With the UK also occupying the presidency of the G8 and the latter focusing on African development and climate change, there might be a temptation to see progress attainable within the G8 and the period at the helm of the EU as something to be endured rather than welcomed.

No and after: options for Europe

EU presidencies are always hostage to events and inevitably inherit an agenda. The UK presidency agenda is in part pre-formed, in that the work programme for the second six months of 2005 is one part of a multi-annual presidency work plan and also one-half of an agenda shared with the Luxembourg presidency.[22] Events, too, can seriously derail a presidency, as Ireland found in the first half of 2004 when it had to devote its energy to securing a deal on the Constitutional Treaty after the Italian presidency had failed to do so at the December 2003 European Council meeting. However, a well-run presidency can make its mark. The presidency possesses the key resources of privileged access to member-state thinking on key issues in its role as deal-broker and consensus-seeker, in addition to controls over the procedure of decision-making.[23] Recent UK EU presidencies have been neither conspicuous successes nor complete disasters, and the problem with the most recent presidency under New Labour was one of style as much as of substance.[24]

The UK government had intended to use its 2005 presidency to advance a number of policies that it hoped would help define a vision of where the EU should focus its energy and effort. The presidency could also have acted as a platform for a positive message to be used as the springboard for a referendum campaign in the UK. Whether such a vote will now ever take place is, obviously, uncertain, and in that sense the UK's relationship with Europe will continue in the same vein, as Vernon Bogdanor outlines in his contribution to this issue of *International Affairs*. As Julie Smith also notes, it is likely then to represent unfinished business on Europe for Blair. The challenge for the 2005 UK presidency now will be to temper its vision for the direction that it believes the EU should take. Of crucial importance will be an adroit handling of the EU's deliberations in seeking its way out of the situation created by the French and Dutch votes in such a way as to ensure that a drama does not turn into a prolonged crisis.

8 June 2005

[22] Council of the European Union, 'Multi-annual strategic programme of the Council 2004–2006; prepared by the six presidencies Ireland, Netherlands, Luxembourg, United Kingdom, Austria and Finland', Brussels, 8 Dec. 2003, 15896/03 EN; Council of the European Union, 'Operational programme of the Council for 2005 submitted by the incoming Luxembourg and United Kingdom Presidencies', Brussels, 22 Dec. 2004, 16299/04 EN.

[23] J. Tallberg, 'The power of the presidency', *Journal of Common Market Studies* 42: 5, Dec. 2004, pp. 999–1022.

[24] P. Ludlow, 'The 1998 UK presidency: a view from Brussels', *Journal of Common Market Studies* 36: 4, Dec. 1998, pp. 573–83; I. Manners, 'The British presidency of 1998: New Labour, new tone?', in O. Elgström, ed., *European Union Council presidencies: a comparative perspective* (London: Routledge, 2003).