

HISTORICAL DEVELOPMENT TOWARD EUROPEAN ECONOMIC UNION

ANTHONY M. VERNAVA*

PRE-WORLD WAR II DEVELOPMENTS

When the Treaty of Rome which established the European Economic Community or Common Market, was signed on March 25, 1957, by its six Member States (France, West Germany, Italy and the Benelux constellation), it had already been preceded by burgeoning institutions and the sowing of the European idea in both the economic and political spheres. The movement for a "United States of Europe" was not new.

The concept of a Pan-European federation had been put forth in 1930 by Aristide Briand, then French Foreign Minister in his Memorandum to the League of Nations calling for a federal European union, a "United States of Europe."¹ This was essentially an economic relief proposal and had been made pursuant to League sanction of regional organizations. But suspicion that the proposal had been motivated by French self-interest prevented its realization.² In 1927 an international treaty to abolish import and export prohibitions and restrictions was signed within the framework of the League, but it did not become effective because it was not ratified by a sufficient number of States.³ Even as early as 1921, Belgium and Luxembourg had formed a close economic union which included a common currency unit (but not a real common currency); later treaties between these States covered such fields as taxes and the movement of persons.⁴

POST-WORLD WAR II DEVELOPMENTS

The real movement for European integration followed World War II. This movement must be viewed in its proper perspective. As one writer puts it:

The political impetus for the unification of Europe effectively dates from the closing stages of the war. Those were the years when leading statesmen all over the world, following the principles laid down in the Allies' war aims, sought to create a far stronger League of Nations, a United Nations,

* Attorney, Office of the Secretary, International Business Machines Corporation. Member, New York Bar. B.S. (Soc. Sc.) Georgetown University, 1959; LL.B. Harvard Law School, 1962; LL.M. Candidate, New York University School of Law, 1965.

¹ Address by Prof. Walter Hallstein, Fletcher School of Law and Diplomacy, Tufts University, April 16-18, 1962. Reported in CCH Common Market Rep. ¶ 9002.

² Langsam, *The World Since 1919* 66 (7th ed. 1954).

³ CCH Common Market Rep. ¶ 101.10.

⁴ CCH Common Market Rep. ¶ 101.51.

even a Federation of the World. Shocked by the legal and illegal crimes against humanity which they had witnessed in the previous decade both in prewar dictatorships and during the war itself, appalled by the vast problems of hunger and want facing every part of the world at the end of that conflict, the World Federalist movement took as its main aim the abolition of physical force as a method of diplomacy, the abatement or abolition of the national sovereignty without which international war is impossible, and the creation of a body of international law in the full sense of the term, pronounced and sanctioned by a World Federal Authority.⁵

It was against this background that at the Bretton Woods Conference, in July 1944, the World Bank and the International Monetary Fund were established (later, the International Finance Corporation was also set up). In 1946, the Havana Charter, which had provided for an international trade organization, failed to be ratified by the required number of signatories; but the General Agreement on Tariffs and Trade, "GATT," was concluded on October 30, 1947, and became effective on January 1, 1948. GATT is a trade treaty which includes provisions for: most favored nation treatment (*i.e.*, when a nation which is a signatory to GATT receives a lower tariff rate, all the other signatories to GATT are also entitled to the benefit of the lower tariff rate), prohibition of quantitative restrictions, with certain exceptions, and a forum for the regular discussion of trade problems.⁶

The above developments were in the area of international trade and commerce, and were not peculiar to the European continent.

The real foundation for rebuilding Europe was laid by the Marshall Plan, proposed in a commencement address at Harvard University in 1947 by George C. Marshall, then United States Secretary of State. This plan to rehabilitate Europe's war-shattered economies went into effect in 1948 as the European Recovery Program. It has been characterized as a magnanimous act on the part of the United States. In truth, however, political realities made mandatory a strong industrialized Europe as a bulwark and buffer against the Red tide. Although United States self-interest was evident, the more basic and long-range objective of the Marshall Plan was hopefully the planting of a seed for a new Europe. Marshall stated with respect to European initiative:

It is logical that the United States should do whatever

⁵ Kitzinger, *The Politics and Economics of European Integration—Britain, Europe and the United States* 1 (1963).

⁶ CCH Common Market Rep. ¶ 101.20.

it is able to do to assist in the return of normal economic health in the world, without which there can be no political stability and no assured peace [But] it would be neither fitting nor efficacious for this Government to undertake to draw up unilaterally a program designed to place Europe on its feet economically. This is the business of Europeans. The initiative, I think, must come from Europe.⁷

On April 16, 1948, the Convention for European Economic Cooperation was signed; by it the Organization for European Economic Cooperation, "OEEC," was established to carry forward the purposes of the plan. Its primary business was to allot the financial aid of the United States and to coordinate the economic development and reconstruction programs of its members.⁸ The OEEC was formed by the 16 European nations participating in the Marshall Plan (Austria, Belgium, Denmark, France, Great Britain, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Sweden, Switzerland and Turkey; representatives of West Germany were also present). The OEEC's longer range goal was the closer economic cooperation of its Member States. It had been formed against a background of the hopeful creation of a new Europe; the seed of unification existed and the OEEC served as a forum where views on trade could be discussed and exchanged. It should be noted that one of the principal objectives of OEEC was the removal of quantitative restrictions, and in 1955 restrictions on trade between members were reduced to ten percent of the trade between them. With increasing prosperity in Europe, the OEEC has been superseded by the Organization for Economic Cooperation and Development, "OECD," which came into being in 1961. The United States and Canada are full members of OECD which thereby becomes a kind of economic Atlantic community and a central forum for economic problem discussion; OECD also coordinates aid to under-developed countries on a world-wide basis. Therefore, an organization which began as an overseer for the administration of European economic recovery is now becoming a vehicle through which European influence and prestige is to some degree being extended overseas beyond Europe's geographical bounds.

In the military arena, 1949 saw the signing of the North Atlantic Treaty which established the North Atlantic Treaty Organization or "NATO." The members of NATO are: Belgium, Canada, Denmark, France, West Germany, Greece, Iceland, Ireland, Italy, Luxembourg,

⁷ 16 Dep't State Bull. 1160 (1947).

⁸ Childs, *The New Europe: Unity and Old Nationalism* (1963). Reprinted in 1963 *Britannica Book of the Year* 71 (1963).

the Netherlands, Norway, Portugal, Turkey, the United Kingdom and the United States. Since the establishment of NATO, it is clear that a national government actually cannot make a unilateral decision in the military area without considering the repercussions within this collective security alliance.

The political part of this development also advanced in 1949 with the establishment of the Council of Europe. The Council includes the same members as NATO, except the United States, Canada and Portugal, and includes in addition to NATO's members, Austria, Sweden, Switzerland and Cyprus. It consists of a Committee of Ministers and a Consultative Assembly. The Council's purpose, as essentially an inter-governmental consultative body, is to achieve greater unity among its members and to foster social and economic progress. One of its principal goals is harmonization of national laws in various fields by international agreement. In 1950, the European Convention for the Protection of Human Rights and Fundamental Freedoms was signed by the members of the Council. This Convention established a European Commission and a European Court of Human Rights. The Convention is a bill of rights for the nationals of the Member States. The Court has jurisdiction over the claims of nationals after domestic remedies have been exhausted, and if the Commission, after initial hearing, decides to bring the case before the Court. The judgments of the Court are final.⁹

No doubt the greatest importance of the Council of Europe has been simply the fact of its existence; this forum for the debate of national views has helped to nurture a real integration toward the New Europe.

THE THREE EUROPEAN COMMUNITIES

The preceding discussion has isolated developments in the economic, military and political arenas in Europe prior to 1950. But any such fragmentation for purposes of discussion is necessarily artificial; in reality these developments cannot be so neatly pigeon-holed; they overlap one another and hopefully will culminate in some kind of cohesion or ostensible unification. But the road is gradual and arduous; while the steps were taken and the ground laid before 1950, actual supranationalism was not yet a fact in Europe; all that had been accomplished to that date was essentially inter-governmental cooperation and mutual assistance. But the ground had indeed been prepared for the events of the 1950's.

In 1952, the first of the three European Communities came into being: the European Coal and Steel Community, "ECSC." In May

⁹ See Douglas, *The Rule of Law in World Affairs* (1961).

1950, the French Foreign Minister, Robert Schuman, had proposed "as the first step in the federation of Europe," the pooling of French and German coal and steel resources under common authority; this pooling would be open to any other European countries able and willing to join. On April 18, 1951, the Treaty of Paris, which established the European Coal and Steel Community, was signed by its six Member States: France, West Germany, Italy, Belgium, the Netherlands and Luxembourg.

The ECSC represents partial integration, *i.e.*, integration of parts of the economies of European nations as steps toward integration of the whole. It is limited to coal and steel, but includes coke, iron ore and scrap also; excluded are finished and semi-finished products. The dynamism of ECSC exists in its supranationalism. ECSC consists of a High Authority, Council of Ministers, Parliamentary Assembly and Court of Justice. More than an "international conference" for discussion and exchange of views in the economic or political arena, as OEEC or the Council of Europe, the Coal and Steel Community by its High Authority has power to make decisions which are, within the area of competence, binding upon its Member States. ECSC aims at establishing a single market for coal and steel among its members through suppression of import and export duties, quota restrictions, discriminatory buying and selling practices, state subsidies and market divisions; the High Authority also has power to tax members. In its economic theory, ECSC is the prototype for the later European Economic Community and Euratom.

In June 1955, representatives of the members of the Coal and Steel Community met at Messina, Sicily. Europe was ready to make the European idea a reality by proceeding along economic lines. The decision had been made that "the next phase in the building of a united Europe must lie in the economic field."¹⁰ The result of this conference was the establishment of an inter-governmental committee, headed by Paul-Henri Spaak, to study how that economic unity might be facilitated.

The Committee met at Brussels for deliberation and produced its report in April 1956. This report was accepted in May by the Ministers of the Six as the basis for negotiating the treaties which were ultimately signed. The report called for the establishment of a European single or common market and customs union, and for the pooling of European resources for the development of nuclear energy. It should be noted that Great Britain had been invited to participate in the negotiations but had refused, as she had earlier refused to join in the negotiations which had led to formation of the Coal and Steel Com-

¹⁰ Childs, *supra* note 8, at 73.

munity. Even before establishment of the Coal and Steel Community, Jean Monnet had declared in language coldly prophetic:

There is one thing you British will never understand: an idea. And there is one thing you are supremely good at grasping: a hard fact. We will have to make Europe without you. But then you will have to come in on our terms.¹¹

The Treaty of Rome which created the European Economic Community, "EEC," Common Market or Inner Six, was signed at Rome on March 25, 1957; it went into effect on January 1, 1958. (A separate treaty establishing the European Atomic Energy Community or Euratom was also signed at Rome on March 25, 1957, and became effective on January 1, 1958.) The signatories to both treaties were: France, West Germany, Italy, Belgium, the Netherlands and Luxembourg.

The EEC has a Commission, Council of Ministers, Parliamentary Assembly and a Court of Justice. The Assembly and the Court supersede those which had been established for the ECSC, and serve the EEC, ECSC and Euratom. This functional blending or institutional integration is, of course, an important forward step in the move for European unity. The fact that the Assembly does not sit by nations, but rather by parties or along political lines should also be noted, as well as Article 138 (3) of the Rome Treaty which recognizes eventual direct universal suffrage as the basis for selecting parliamentarians.

Executive authority is vested in the Commission and the Council of Ministers; they jointly control the decision-making power of the Community. Article 162 provides that they "shall consult each other and shall settle by mutual agreement the particulars of their collaboration." Members of the Commission are appointed by "Governments of Member States acting in common agreement" (Article 158), whereas the Council is composed of "representatives of the Member States. Each Government . . . delegate[s] to it one of its members" (Article 145). Proposals of the Commission in general can be acted upon by a qualified majority in the Council (Article 148), but can be amended or modified only by a unanimous vote (Article 149).¹²

In contrast to the EEC scheme for a more total or complete economic (and eventual political) integration, Euratom is a manifestation of sector integration. But this is in the vital area of nuclear energy and therefore was singled out for separate treatment. Euratom's purpose is to coordinate national research programs, circulate technical and scientific knowledge, and also conduct its own research. Internal cus-

¹¹ *Id.* at 74.

¹² For a discussion of the institutional organization of the EEC, see Lowenfeld, *How the European Economic Community Is Organized*, 19 *Bus. Law.* 126 (1963).

toms duties and quantitative restrictions on all fissionable materials, and the equipment used to process them, are to be eliminated. The Euratom Treaty also calls for the establishment of a European University. The military uses of nuclear energy are excluded from the Euratom Treaty; but, nevertheless, the political overtones of a community devoted to some degree of integration in the nuclear energy field are manifestly real and apparent.

Another development, the European Free Trade Association, should also be mentioned. This Association was formed in 1959 and came into being in May 1960. "EFTA" or the Outer Seven consists of Great Britain, Norway, Sweden, Denmark, Portugal, Switzerland and Austria; Finland became an associate member in 1961. The Association creates a free trade area, but not a customs union; individual Member States can still maintain their own trade policies vis-à-vis the world. The Outer Seven does not purport to aim for anything beyond the free trade area actually established; the heterogeneous politics of its members need not be elaborated upon: the divergent views of Great Britain and Switzerland, for example, are known to any observer of the international scene.

It should also be noted that all the members of EFTA have applied for either full or associate membership in the European Economic Community. The notoriety of the rejection in January 1963 of Britain's application for membership is evidence of the vitality and importance on the contemporary scene of the Common Market. Greece is already an associate member and Turkey expects to be one soon. Besides applications by members of the Outer Seven, Ireland and Spain are also applying for membership in the Common Market. All this activity signifies that while the Free Trade Association may, arguably, create a rift in the movement for a united Europe, in actuality the members of that group have striven for greater cohesion with the Economic Community. The Outer Seven does not impede the progress of Europeanism, but is a manifestation of that ideal, albeit on a less formidable and less permanent scale.

CONCLUSION

The discussion of the preceding pages has not been an attempt to exhaust the idea of European unity either historically or in all its ramifications for the contemporary international scene. The writer's purpose has been to trace briefly the manifestation of that idea and to touch upon some of the economic and political connotations of Europeanism. The culmination of the movement for a united Europe in the post-World War II period has manifested itself in the three European Communities: the Coal and Steel Community, Euratom and the paramount achievement of the Economic Community or Common Market.

The road has therefore been primarily an economic one; artificial restraints in the form of tariffs and quantitative restrictions, for example, have been, or are being, eliminated to be replaced by the free and unifying forces of the market place. Moreover, while the three Communities appear to be separate constellations, in reality they form the interstitial nucleus for a politically integrated Europe. The Communities have common institutions in the Assembly and the Court of Justice; hopefully, within this functional unity the beginnings of a real European unity are being prepared. But even more basic than the functional unity, which can be seen in operation, is an underlying political motivation. While a dichotomy of view on many issues may well exist—and does indeed exist—in various quarters of the Economic Community, the movement toward European economic integration is well along the road; the terminus, as prospectively planned, is political cohesion to a greater or lesser degree.