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Uploading the new European Union:
Denmark, Ireland and the UK as constitutional entrepreneurs

Dr Simon Usherwood, University of Surrey, s.usherwood@surrey.ac.uk

Abstract:

The three states that acceded in 1973 are often framed as problematic partners in contemporary debate in the European Union (EU), given the numerous times their national debates have clashed with other discourses. By way of contrast, this paper argues that Denmark, Ireland and the UK have all – in different ways – helped to make the Union fit for purpose in a globalising, post Cold-War world. The original post-1945 compact between France and Germany was appropriate for its time and its objectives, but was ill-suited to the economic and political needs of the various economic and political agendas set in place from the 1970s onwards. This is examined through three moments, each of which demonstrates how these states have made lasting – and ultimately positive – contributions to the integration process. The 1988 Bruges speech by Margaret Thatcher set out an agenda for liberalisation and for the management of security that has proved surprisingly resilient. The Danish 'no' vote to the Maastricht Treaty in 1992 properly opened up the question of popular legitimacy and consent, which has shaped the constitutional debate ever since. Finally, the Irish securing of at least one Commissioner per member state in 2007 was an important step in maintaining small states' rights. Taken together, we argue that the 1973 enlargement has been one of the most consequential for the EU's development, given the relevant states' pragmatic and adaptive approach to integration.

INTRODUCTION

The 1973 enlargement has long been seen as one of uncertain benefits to the European Union (EU; then the European Economic Community (EEC)). On the one hand, it demonstrated that the split between the EEC and the European Free Trade Area (EFTA) was not insurmountable, but on the other, it brought a new set of challenges to the integration process which the 'small Europe' model of the European Coal and Steel Community (ECSC) had been designed expressly to avoid. More particularly, the inclusion of the United Kingdom (UK) – after two failed prior applications to join – was bringing in an obvious challenger to the hither-to dominant Franco-German pairing. This ambivalence about the impact of widening on deepening (or even the functioning of the Community at all) was expressed at the time (e.g. Wallace 1976) and in varying forms ever since (most obviously in George 1998).

This paper does not dispute the difficulties that all three entrants from 1973 have both encountered and brought with them. However, what it does do is offer a re-reading of their experiences and their contributions, in light of the subsequent development of both the EEC/EU and the international system more generally. More particularly, it suggests that in light of the post-Maastricht development of the EU there have been two fundamental and interlinked agendas, namely democratisation of the decision-making process and the constitutionalisation of the mechanisms of governance (Christiansen 2005). The Union has sought both to engage with citizens, far beyond the historical processes of indirect representation in the Council and directly through the Parliament, while simultaneously attempting to cement such engagement in a more conventional political order. While neither agenda has been fully successful, both have been both driven by, and well-served by, the presence of Denmark, Ireland and the UK ('the Three') in the EEC/EU. At the levels both of political culture and of more specific political action, they have opened up new possibilities and suggested new paths for development.

The paper starts by exploring some of the key aspects of the more conventional and critical view of the 1973 enlargement, before setting out the case for a re-evaluation, illustrated by three small case-studies that reflect the thrust of the argument. The cases – Margaret Thatcher's Bruges speech, the Danish 'no' to Maastricht and the

Irish securing of Commissioners after the Lisbon I referendum – all share the same profile of short-term costs and longer-term benefits.

THE 1973 ENLARGEMENT AS A PROBLEM

The 1973 enlargement came about as part of the 1969 Hague summit, which aimed to unblock various aspects of the EEC's development following the resignation of French president Charles de Gaulle (van der Harst 2003). De Gaulle had spent much of the 1960s resisting enlargement, especially with regard to the UK, primarily as it was seen as a threat to French political leadership at a time when key decisions were being made. This applied most obviously to agriculture, which had triggered the empty chair crisis, but was also seen in other policy fields (Bossuat 2005). Georges Pompidou – de Gaulle's successor – was resolved to rebuild a more open approach to advancing the Community, but still with the desire of maintaining French interests. Thus, while the Hague meeting did agree enlargement to the four applicants, it also set in place a number of policy initiatives that were designed to help secure the interests and priorities of the then six member states, as seen in the agreement on agricultural funding and establishment of both the Davignon and Werner committees (on foreign and monetary policy respectively) (EEC, 1969).

The message that the Hague sent out was therefore twofold. Firstly, it did accept the logic and value of enlargement to new members. But it also made clear that any such enlargement would be on the terms of the existing members, a model that has persisted to the present day (see Schimmelfennig & Sedelmeier 2002; Ahrens *et al* 2005). This asymmetric relationship had not been particularly explicit before this point, largely by reason of de Gaulle's vetoes, which had effectively killed off any substantive discussion of the matter.

If the Community side of the debate was likely to be unyielding and broadly unadaptive to the new members, then those new members also came with their own difficulties. None of the three eventual acceding states came into the EEC with a particularly positive agenda behind it. Most evidently, the UK found itself applying more by default, given the lack of any credible alternative. The relative weakness of

the Commonwealth as compared to the Empire, the economic peripherality of the other EFTA states and the difficulties of closer ties with the United States all contributed to the recognition that the EEC was likely to be the key vehicle of western European cooperation for the foreseeable future and the UK needed to be inside (Young 1998).

For Denmark and Ireland the situation was somewhat different. The alignment of the Danish economy towards Germany and the UK (and the decision by the Norwegian government to apply) played a key role in this case, given the need to maintain good trading links at a time of relatively high tariffs internationally (Egeberg 2005). Ireland, while been closely tied to the British economy, did at least have the more positive agenda of cementing its independence from the UK through membership (Laffan & Tonra, 2005). However, seen in the round, the Three were better characterised by the avoidance of costs than the securing of gains, a point underlined by the Norwegian rejection of membership in a referendum that placed the preservation of identity over economic logics (Skinner 2012). The economic crises of the 1970s also did little to endear populations to EEC membership, depriving all involved of the positive associations that the Six could make with the *Trente Glorieuses* (Dinan 2010).

This combination of inflexibility on the part of the Six and cost minimisation by the Three was to result in an extensive mismatch of both institutions and policies, in turn causing much friction. This could be seen in the long-running British disputes over budgetary resources and allocation, and in the strong pressure from Denmark to develop an environmental policy at the European level (e.g. Liefferink & Andersen 1998). In brief, the Three did not sit too comfortably within the Community.

CAN WE RE-FRAME THE THREE?

The European Union is a bargained system, characterised by grand bargains (Moravcsik 2005). As such, it involves the identification of common objectives and their securing through negotiation and compromise. This tends to result in path-dependency and a system that can only change in a gradual and evolutionary fashion

(Pierson 1996). It is within this wider context that we need to approach the framing of how the Three have made fundamental contributions to the integration process.

The first and most obvious example of that contribution is the fact of enlargement itself. While the treaties have always provided for it, it was only with its operationalisation for the Three/Four that processes and procedures were made concrete. Even with the emergence of the Copenhagen criteria in the 1990s to manage the enlargement to Central and Eastern Europe, these can be understood as a systematisation of the practice of previous enlargements and the elements that they contained (see Schimmelfennig 2001 for some of the difficulties with this). Enlargement remains driven by the same logics that played out in 1973, with analogous processes and objectives: for all their differences, the Three/Four offered relatively simple extensions of the Community, given their relative levels of political and social development. In these terms, enlargement was a technical success, which then laid the groundwork for every subsequent accession.

Again, this is not to say that enlargement was a political success, but instead that in making explicit the process for accession, the Three showed to the Community/Union how they could manage that process and showed to potential applicants what they would need to do.

However, this is not the main focus of this paper, which argues that the Three's real contribution has been to enable the Community/Union to change and adapt its organisation and procedures, in a way that has made it better able to meet the needs of its stakeholders and to be more resilient to the challenges it has faced. Each of the Three has offered particular positions at different times that – while intrinsically focusing on national priorities and requirements – have had extrinsic value to the Union as a whole. These positions have opened up new debates, expanded existing ones and have generally made possible solutions and/or compromises that have served the common interest.

To illustrate this argument, the paper looks at three such positions, each of which has transcended national interest and either established new practice or defending some of the key compromises that have underpinned the integration process to date. In all

cases, those benefits have not been immediately apparent, but have proved their value in the longer-term.

THE UK AND THE CRITICAL TURN

As has been discussed at great length elsewhere (c.f. George 1998; Young 1998; Geddes 2003), the UK has not had a happy relationship with the European Union. Churchill's aphorism of Britain being 'of Europe, but not in Europe' often looks to have been taken as a policy prescription, rather than an observation. The current debate on a membership referendum only serves to underline the general point.

At the same time, it is possible to take the fractious approach of British politicians as a more positive contribution. In support of this, we might do well to consider what is generally taken as one of the seminal moments in the development of opposition to the EU, namely Margaret Thatcher's Bruges speech of 1988 (Usherwood 2004). In this speech – the equivalent of "inviting Genghis Khan to speak on the virtues of peaceful co-existence!'(Thatcher 1988) – we can find a rupture in the elite consensus and the articulation of a new approach that invited debate. She was not the first in this – see de Gaulle and Andreas Papandreou for instance – but the approach was novel in the way that it built out into a wider context.

The speech itself rested on a set of five guiding principles. Firstly, the EC had to develop through 'willing and active co-operation between independent sovereign states' rather than through centralisation to a bureaucracy: it was here that Thatcher noted that 'We have not successfully rolled back the frontiers of the state in Britain, only to see them reimposed at a European level' (Thatcher 1998). Secondly, Community policies had to have a practical effect on the problems they addressed. The third principle, on the need for Community policies to encourage enterprise, was similarly focused on questioning the need for a single currency, while also offering a detailed set of 'practical steps' over a wide variety of policy areas. The fourth and fifth principles turned outwards, discussing the need to avoid trade protectionism and to maintain NATO as the basis of any defence architecture in Europe.

At the time, the response was generally critical, especially outside the UK. Italy's *La Stampa* described Thatcher as "an elephant in the china shop of Europe" (in *Times*, 25 September 1988). Several commentators particularly referred to the tone of the speech: for example, one Commission official noted, "not all of what she says is objectionable. It's the way she says it" (in *Times*, 23 September 1988).

The real impact of the speech was in its symbolic impact, given its timing and location. As the Belgian prime minister Wilfried Martens remarked, "Mrs Thatcher has opened up a political debate in which it is the right – even the duty – of other heads of government to participate" (*Financial Times*, 29 September 1988). However, it was to be a debate that few had much desire to jump into and in the face of what seemed to be a strong tide of elite and popular opinion, Thatcher found that it was to be outside of the EU institutions and of party politics that the biggest effect was to occur, with the crystallisation of opposition, first in the Bruges group and then in the mobilisation of what has since become the most development anti-EU movement in the continent (see Usherwood 2004).

In the longer term, we need to acknowledge that the EU today looks not so very different from the 'willing and active cooperation between independent sovereign states' of which Thatcher talked: all five principles have been largely internalised by the Union. Perhaps this is because idealism has to be operationalised at some point if it is to have any effect. The pragmatism that underlay Thatcher's speech – and much of British EU policy - has rubbed off, just as much as the principles behind it.

The Bruges speech was a key step in building a more meaningful debate about the process and destination of European integration, providing a space within and around which different ideas could be articulated and explored. While not the specific intention, the speech forced reactions from others, which in turn exposed a debate that had largely been held away from the public. The value and contribution lies not so much in the 'Thatcherisation' of the Union, but in Maerten's point that in a negotiated system – especially one that aspires to citizens' involvement – there has to be public debate of the nature and purpose of integration. This lesson is one that the Union took to heart most clearly with the Laeken agenda and one that it has struggled to put into effect.

DENMARK AND THE VALIDATION OF THE POPULAR DIMENSION OF INTEGRATION

If Thatcher helped make debate possible, then the Danes took it to the next stage, not only by giving citizens a voice, but also a voice that mattered. Through its constitutional requirement to seek popular approval for international agreements that affected the constitution, Denmark was in 1992 to become the site of a key reformulation of the dimensions of the European public sphere. The roots of the use of referendums lies in Denmark's long tradition of popular political participation, just as pragmatism has long been part of British politics (Haahr 2003). Their use in EEC/EU treaty ratifications was notable as much for long being an outlier of practice as compared to other member states as it was for the weight and impact that membership was felt to have for Denmark.

Despite this, in several respects the 1992 vote on the Treaty on European Union, signed at Maastricht earlier that year, was a step in the dark. Denmark had seen referendums on both EEC membership in 1972 and on the Single European Act in 1986, but neither had produced either deep party political division nor much lasting public debate (Worre 1988). By contrast, the Maastricht Treaty presented a major reformulation and extension of the organisation of the EEC and consequently triggered a set of public concerns that have persisted in the medium-term.

This was seen in the degree of mobilisation against the Treaty, as embodied by the June Movement (*JuniBevægelsen*), which emerged from the 'no' campaign as a standing group and which eventually became a key part of the party system for European Parliament elections through until the late 2000s. The 'no' campaign built on emerging concerns about membership of the euro, the nature of defence cooperation and the infringement of national rights (Siune & Svensson 1993; Svensson 2002; also Qvortrup 2001). These reflected an engagement with the treaty – which even if often based on misunderstandings and second-hand reporting – that represents an important step in the shift away from the 'permissive consensus' model that had emerged in the 1950s (see Hooghe & Marks 2009).

The concerns with the treaty (aided, as always, by disapproval of the Danish government (Siune & Svensson 1993)) were enough to produce a 'no' victory in June of 1992. This completely unexpected result (at least on the part of European elites), coupled with the small margin of the French 'yes' victory in September, were to push leaders meeting in the European Council to find solutions that would allow the completion of ratification, while also respecting the outcome of the Danish vote. This resulted in the December conclusions of the European Council in Edinburgh, with its Agreement on exemptions for Denmark (European Council 1992).

It is these exemptions that are of interest here. The 'no' vote was important in highlighting the limits of public acceptance and the consequences of failing either to keep pace with public opinion on integration or to invite public participation. However, what Edinburgh did was to explicitly and formally acknowledge that such events had a validity and a consequence for the Union and for integration more generally. While the specific exemptions remain a matter of debate over their legality and effect (e.g. Howarth 1994), the fact of their existence demonstrates that publics do matter in European integration.

This was seen in a number of ways. Firstly, the shock of the Maastricht ratification – not only in Denmark, but also in France, the UK and Germany – pushed the Union to pursue a long-term project of building popular involvement and acceptance. Secondly, it created an understanding of the need to anticipate public support, rather than simply assume it could be created. And thirdly, it highlighted the importance to member state governments of conducting future referendum campaigns with more care, a lesson that did not sink as deep as might have been expected in some cases.

In the continuing absence of a fully functional and standing public debate on European integration, referendums remain the key vehicle for public discussion, albeit at a national level. The Danish experience led in that, both in the creation of referendums on treaties and in the operation thereof. Even if the proliferation of referendums seen for the Constitutional Treaty in the mid-2000s is not likely to be seen again for the foreseeable future, the acknowledge of public involvement and participation is not challenged within the Union, at least at the level of principle. The

difficulties of operationalising that principle clearly remain, but within a framework that has consistently embedding it.

IRELAND AS A DEFENDER OF SMALL STATES

Ireland represents the least obviously problematic of the Three. Its size and relatively low level of economic development coupled with a willingness to distance itself political from the UK, to produce a European policy that was much more enthusiastic than in the other two (Laffan & Tonra 2005). The progressive expansion of cohesion funding – especially from the late 1980s – had come from the strategic alliance of Ireland with the increasing number of Mediterranean members (Hooghe 1998) and the securing of this income stream in successive multiannual financing frameworks made the Republic relatively willing to acquiesce on treaty change.

Thus, the constitutional requirements for referendums did not present any obvious problems for the SEA, Maastricht or Amsterdam – all approved with very clear majorities (O'Mahony 2009). However, the Nice treaty marked a change in attitudes, in part because of fears about marginalisation by a *directoire* of larger member states and in part because the 'yes' campaign failed to explain the provisions clearly (Gilland 2002; Hayward 2002): this forced a Danish-esque response from the European Council with the Seville Declaration, which permitted a second vote. This defeat of a treaty ratification by a population with a high level of EU support highlighted both the two-level nature of such votes (O'Mahony 2009), but also the necessity to the Union of not simply assuming popular compliance with the integration process.

The French and Dutch votes in 2005 meant that Ireland did not complete its ratification of the Constitutional Treaty, which meant that the 2008 referendum on the Lisbon Treaty was the first opportunity for voters there to express their views. Again, a 'no' vote was as much due government complacency as it was about the substantive issues (O'Brennan 2009; O'Mahony 2009). While there was limited public sympathy for a further delay to a process that was already some seven years old, the Irish government was still able to secure further declarations at the December 2008

European Council. Importantly – in the context of this paper – this included a commitment to reconsider the number of Commissioners. Better organised, the 'yes' side was able to win Lisbon II the following year, so allowing the treaty into force.

The Lisbon treaty, as the repacked Constitutional Treaty (Piris 2010), was intended to reshape the Union in a lasting fashion, as per the Laeken declaration. That the treaty had to step back from reducing Commissioners to fewer than the number of member states is a reflection of the strength of feeling in the Irish government (as much as the people) about the preservation of a disproportionate role for smaller member states in the EU. As noted, one of the key reasons for the failure of Nice I were the concerns about marginalisation, an issue about which the 'no' campaign made much play, and this strategy fed through into Lisbon I.

While Nice I and Lisbon I caused much difficulty at the time, they also allowed the Irish government to upload its preferences on integration much readily than would otherwise have been the case. By reaffirming the role of small member states in the system, and by flagging up the on-going concerns of a shift towards a *directoire*, they not only protected their interests, but also gave weight to the increasing number of small counterparts in similar positions. By pressing for the over-representation of the small states, the Irish offered – and the rest of the Union accepted – a model that maintained a compromise that gave those small states more opportunity for buy-in into the system.

TENTATIVE CONCLUSIONS

These three cases are neither exhaustive nor exclusive, but instead are intended to illustrate the potential for the Three – and by extension, all member states – to add something useful to the European debate and the development of the European Union. By adding options, or even entire dimensions, to that debate and development, these states have made a contribution that has in turn proved to be useful. Such an agonist approach suggests that it is in the contestation and debate that we can build both understanding and identification (see Tambakaki 2011).

Of course, this is also not to pretend that only good and constructive ideas have flown from the Three. There is no need to look any further than the spread of Thatcher's conception of 'our money' to become the benchmark of the 'benefit' of integration – most recently seen in the negotiations on the 2013-2020 budget framework – to see that other messages are possible (Le Cacheux 2005).

However, it is essential to recognise that the Union needs to continue on its post-Maastricht path of democraticisation and constitutionalisation if it is to have the foundations necessary for long-term stability. In that context, we can see how the three ideas put forward here – of engaging with critical discourse constructively, of recognising the role of publics, and of finding a sustainable balance between member states – are all key aspects towards building a system of interaction that is both sustainable and adaptable to changing circumstance.

Such a development and change is not always going to be smooth or without disagreements, but then that is the nature of politics more generally, especially when we consider the scale and scope of the process in hand. Maybe then the greatest contribution that the Three have helped to make is to reframe perceptions within the Union, both about the existence of different viewpoints – articulated by citizens as well as elites – and about the need to engage with those as part of a lasting democratic process.

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