

PROPOSALS FOR ESTABLISHING A 18 MEMBER EUROPEAN FEDERATION WITHIN A 28 MEMBER EUROPEAN UNION

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The author | Paul GOLDSCHMIDT, a Belgian national, graduated from the Université Libre de Bruxelles Business School and has a degree in Commercial and Financial Sciences. He joined Goldman Sachs in New York (1962-69), then Goldman Sachs International in London as a Director (1970-1985). After 7 years as consultant in the financial services sector in London and Monaco (1985-1993), he was appointed Director of the Financial Operations Service in the Economic and Financial Affairs General Directorate of the European Commission (1993-2002) where he played an important role in the

harmonisation and the reform of the European financial markets during the introduction of the euro. He was also a Board Member of the European Investment Fund (2001-2002). Since 2002, he has been writing about current affairs in the European political and financial sphere and taking part in many international conferences. He is a member of the Advisory Council of the Thomas More Institute.

| Introduction

As the date of the forthcoming European elections approaches, the polarisation of public opinion concerning the future of the Union has grown and carries with it the likelihood of a significant increase in the number of euro sceptic MEPs. In parallel, geopolitical developments such as the Ukrainian and Syrian situations as well as economic factors such as the ongoing austerity or the chronic unemployment should in turn put at the centre of the debate questions concerning a common defence policy, the security of energy supplies or the survival of the single currency for which the added value of the European Union is easy to demonstrate. The furthering of European integration becomes therefore a credible alternative to the increasing appeal of all manner of populisms.

The Thomas More Institute has therefore decided to re-publish the proposals it made in 2012, aiming at describing the framework of a new architecture for the EU in which a federal "European Community" would be the heart of a "European Union" confederation. It concerns therefore a major challenge which calls for the full implication of the European elector.

These proposals remain entirely pertinent and should contribute to inform public opinion by outlining a pragmatic roadmap leading to a reinforcement of the democratic legitimacy of EU institutions and their actors together with the strengthening of the protection and exercise of social and political rights as well as of the general level of prosperity.

| The approach

The approach consists in differentiating between the European Union ("EU"), a "Confederation" (intergovernmental institution) and the European Community, a "Federation" ("EF") (supra national institution) based on the EMU as a starting point, the Members of which would share both the advantages and obligations flowing from le "community acquis", without any derogation whatsoever.

It should integrate the whole of the acquis adopted since the start of the crisis and should significantly reinforce the federal character of EMU by introducing, in parallel to the necessary transfers of sovereignty to the federal authorities, the increased obligations of solidarity that are its consequences. These additional elements of the "acquis" concern mainly the economic and financial aspects resulting from the crisis, but one should not lose sight of the fact that our proposal aims at integrating within the EF all the other aspects of the acquis, in order to build a fully integrated European Federation. It is also necessary to fully consider "subsidiarity" by ensuring that there is "as much federalism as necessary but as little as possible" to borrow an expression from the excellent 2012 Padoa-Schioppa Report referred to hereunder.

Indeed, we would like to recall the proposals contained in this Report entitled "*Completing the Euro. A roadmap towards fiscal union in Europe*¹. It is one of the most comprehensive contributions aimed at dealing with the crisis. It lends itself to be incorporated, quasi without change, within the proposals outlined hereinafter, in particular the suggestions concerning the creation of a "Debt Agency", a "deposit insurance guarantee fund" and a "cyclical adjustment insurance fund" (see proposal 4 hereunder). We suggest, however, to add an additional important and complementary aspect: the first tranche of debt to be issued by the Agency and amounting to 10% of Member States GNP, would be dedicated exclusively to the capitalisation of the two other "federal funds". Such a choice has several advantages:

a) It creates from the outset a significant amount of "federal debt" and a liquid market for its securities.

¹ Padoa-Schioppa Report, *Completing the Euro – A road map towards fiscal union in Europe*. Members: Henrik Enderlein, Peter Bofinger, Laurence Boone, Paul de Grauwe, Jean-Claude Piris, Jean Pisani-Ferry, Maria Joao Rodrigues, André Sapir et Antonio Vitorino. Notre Europe, June 2012, available on http://www.notre-europe.eu.

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- b) The proceeds, invested in the "funds" until disbursed, serve as rescue mechanisms replacing the EFSF and the ESM. The amount envisaged is sufficient to satisfy financial markets, and is capable of increasing as GNP grows. The credibility of the Euro and of its long term survival would be considerably enhanced.
- c) It accelerates considerably the timetable needed to make the funds operational, this initial capitalisation being only one source of funding available over time. Indeed, as explained in the Report, the funds should benefit from "insurance premiums" paid by the banking sector on the one hand as well as budgetary contributions from countries deemed to be in "excessive surplus" on the other.
- d) As long as funds were not drawn, the joint and several guaranteed of member states would not be considered part of their sovereign debt obligations but the commitments to the EFSF and ESM can be cancelled.
- e) The progressive "capitalisation" of the two funds allows for the rapid issuance of "joint and several" obligations (Eurobonds) which will satisfy the French demands while allowing the parallel negotiation of the detailed regulatory framework (including the necessary transfers of sovereignty) prior to any disbursement, meeting the German requests. This "political" compromise should satisfy the parallelism between sovereignty transfers and increased solidarity.

These comprehensive proposals should be endorsed by all EMU Members and implemented following a stringent timetable that would specify the successive stages to be completed.

This approach offers real advantages by bringing possible answers to problems that have poisoned relations daily between Member States. For instance, the proposals meet British requests for repatriation of a number of powers from Brussels as the scheme offers the possibility of an "à la carte" participation to European policies for countries who choose to limit their membership to the Union only. Removing such obstacles would be an essential element in re-establishing the trust of markets in the viability of the EMU and the Euro, creating the calmer environment needed to implement the suggested reforms.

It should be clear that the 16 proposals outlined hereunder have been formulated keeping in mind the twin historic responsibility weighing on the shoulders of European leaders: responding to the urgency while, simultaneously, offering real long term perspectives.

| Proposals for establishing a 18 | Member European Federation within a 28 | Member European Union

Proposition 1

Simplify the legal structure of European Union by limiting strictly the number of Treaty instruments to two: on the one hand the Treaty of European Union (TEU) establishing a Confederation between its 28 Member States and, on the other, the Treaty of European Federation (TEF) establishing a Federation between the 18 Members of the Eurozone

1 | In order to facilitate a re-appropriation of the European integration process, this first suggestion aims at improving the readability of the Treaties whose length and scope have made their comprehension largely indigestible to the European citizen. The proliferation of instruments among different groups of Member States should be avoided such as the European Financial Stability Facility (EFSF between 18), the European Stability Mechanism (ESM between 24), the Treaty on Stability, Coordination and Governance (TSCG between 25); their coherence with the TEU (between the 28) is difficult to organise and needs a disproportionate multiplication of decision-making bodies.



- 2 | The final goal is the integration of all the Confederation's Members into the Federation, in order to have a perfect duplication between the two groups, allowing, in the end, the merger of the legal instruments which regulate them.
- 3 | The TEF will replace immediately the inter-governmental treaties mentioned above. Concerning countries which have chosen to adhere to the ESM or to TSCG, their participation would be effected by an opt-in in accordance with the provisions contained in Proposal 6 hereunder.

Proposition 2

Following a preamble recalling the fundamental values of the Union, the TEU and the TEF should focus on structural issues

- 1 | All chapters concerning Union "policies" should be excluded from the main body of the TUE. Indeed, it is in their nature to require frequent adjustments in light of political, social and economic developments, making them unsuitable for inclusion in a document whose essence is the establishment of a long term stable institutional framework. Matters, included in existing Treaties, referring to policies should be moved either to the TEU or the TEF annexes. Suitable rules will be provided for their amendment along lines akin to amendments governing legislation of similar nature.
- 2 | This refocusing will in no way inhibit a codification of the fundamental values on which the Union's construction is based as these are both perennialand universal. They include, inter alia, citizen's rights, freedom of conscience, of speech and equality in law. To be added are the pillars concerning the freedom of movement of people, goods and capital, the principles of non-discrimination between citizens of the Union as well as any principles or rights that apply uniformly throughout the Union and benefit from a broad non circumstantial majority support.
- 3 | Focusing on structures and procedures affords also the advantage of reducing the temptation of deflecting public opinion from the Treaty's main purpose in favour of particular national interests, that would otherwise be highlighted in a more exhaustive Treaty.

Proposition 3

The Treaties will create two distinct statutes: Membership of the European Union (EU) and within the Union, Membership of the European Federation (EF)

- 1 | The European Union remains the EU's overarching body grouping all Member States. Its nature is "Intergovernmental".
- 2 | Membership of the EF will be limited to those members of the Union that adopt (and are capable of adopting) "integrally and without restrictions or transitional clauses" the full body of European legislation ("acquis communautaire") including participation in the single currency.
- 3 | In the past, dual membership of the Union and the Community was the rule, implying derogations (i.e. "opt out" of EMU for the United Kingdom and Denmark) or negotiating transitional periods; this was meant to allow, over time, the levelling of the playing field while avoiding disruptive consequences for new and old Member States that immediate compliance might entail (i.e. free movement of workers from new Member States or immediate full rights in respect of the Common Agricultural Policy for Poland).
- 4 | The introduction of such a clear distinction will considerably facilitate future EU "enlargement" negotiations, making possible the conclusion of an acceptable agreement within a relatively short and reasonable period of time, rather than having to wait for compliance with the conditions necessary to join the Federation. The fear of adverse consequences raised by the prospect of enlargement whether real or



imagined – will be removed, clarifying the stakes involved and fundamental choices to be faced thus eliminating arguments that endanger the cohesion of the Union, as is presently the case.

5 | The opening of a negotiating process will remain however fully subordinated to the candidate's compliance with the "Copenhagen" criteria.

Proposition 4

Build on the institutional and legal structure of the EMU to create the European Federation

- 1 | Within the logic underpinning the construction of the EF, Member States will be required to transfer additional elements of their sovereignty to the federal authority and accept the increased solidarity that this implies.
- 2 | Sovereignty transfers, already partially made in the field of exclusive competences will facilitate integration in those where they are still shared.
- 3 | As mentioned in the introduction, one of the urgent aspects concerns the implementation of the Padoa-Schioppa Group's proposals. In this regard, we think that the first tranche of loans of the Debt Agency, amounting to 10% of Member States GNP, should be dedicated exclusively to the capitalisation of the two "federal funds" covering respectively Bank Deposit Insurance and Cyclical Adjustment Insurance.
- 4 | The entire body of texts, adopted by all the members of the EF would be implemented following according to a strict calendar, specifying each successive step.

Proposition 5 **Differentia**

Differentiate the budget of the Union and that of the Federation

- 1 | This is an unavoidable consequence of the proposed structure.
- 2 | At present the 'Community' budget covers the financial needs of the Union. This is possible because of the identity between the membership of both entities.
- 3 | The budget of the Union will be negotiated by, and distributed between, all Member States along similar lines to those existing today and will be managed by the Secretariat General of the Council. In light of its "intergovernmental" nature, it will be approved by national Parliaments. To avoid blockages, it should be adopted by a qualified majority of countries (say 2/3) representing at least 60% of the population.
- 4 | The budget of the EF will be proposed by the Commission and adopted by the Member States and MEPs representing the Members of the Federation. This clause limits in a significant way the powers of Union Members who are not Members of the EF and aims at creating a powerful incentive for them to join. It is the quid pro quo for the 'op out' that benefits Members of the Union who choose to remain outside the EF.

Proposition 6

Adopt a flexible structure: possibility for Union Members to participate on a voluntary and selective basis to EF policies and programs

1 | Nothing will prevent – to the contrary, it should be broadly encouraged – a Member of the Union to negotiate with the Commission (as the executive arm of the EF) its participation on a selective basis to EF programs and policies, including the single currency.



- 2 | The quid pro quo will be an ad hoc contribution to the budgets of the relevant programs. While current practices could apply for assigning budget contributions to Federation Members, specific contributions by Union members will take into account disbursement criteria (to avoid adverse selection bias) as well as a contribution to cover operating costs of the Federation.
- 3 | The "participation contracts" will be sanctioned by the Council and the European Parliament, and will grant full voting rights to the MEPs of the Union Member on the relevant matters covered by the contract.
- 4 | With regard to countries which are today Members of the former Community but who benefit either of derogations or of delays for full implementation of Community legislation, one could envisage a transition period (say 5 to 8 years) during which each country will either adopt fully Federation rules or decide to opt for membership of the Union only. Thus, if the United Kingdom did not wish to join EMU, it could withdraw from the Federation while, negotiating its participation in a range of Federation programs to its liking (as requested by many British MPs).
- 5 | This structural flexibility should also allow, continued participation of third countries in Federation programs (i.e. Switzerland's, Norway's and Iceland's participation in Schengen). These arrangements could also facilitate negotiations for the eventuality of the withdrawal of a Member from the Union (see proposal 9. hereunder).

Proposition 7

Organise simultaneous popular referenda in all Member States concerning the adoption of the Treaties

- 1 | The TEU and TEF will be submitted to a simultaneous vote in all Member States in order to ensure homogenous voting conditions and avoid that the results of a particular State influence results in another. Ratification will require a qualified majority of Member States and of the population.
- 2 | Without reopening the question of Union Membership, the vote should give the citizen a clear opportunity to express his preference for membership of the Union alone or of both the Union and the Federation. Thus, citizens will re-appropriate fully the degree of participation desired in the European construction that seems most appropriate.
- 3 | For countries where ratification through Referenda is not presently authorised by their respective Constitutions, the appropriate authorities would undertake to ratify the Treaty in line with the results of the popular vote and, thereafter, to amend their own laws in order to render subsequent referenda on European matters legally binding.

Proposition 8 Adopt alternative procedures for amendments to the Treaties

- 1 | Even if the Treaty focuses strictly on institutional matters and fundamental principles, a Union with 28 Members (and beyond) cannot function properly if ratification and amendment procedures grant explicitly or implicitly a veto right to any of its Members.
- 2 | Therefore, ratification of amendments would be subject to one of two distinct procedures, (as is currently the case in France: Referendum or adoption by the Congress), as determined in each case by the European Council in a vote requiring 55% of Member States representing 65 % of the population. At European level the choice could be between:
 - a. A popular vote along the lines described above, organised simultaneously in each Member State, requiring a qualified majority of members and population.



- b. A vote by the European Parliament requiring a qualified majority of 65% and restricted to articles that will have been specifically designated by the outgoing Parliament immediately prior to an election. (e.g. the Belgian system which allows the voter to express his views and avoids granting of a blank cheque to the incoming Parliament).
- 3 | Regarding a refusal of the TEF modifications adopted by a qualified majority of its members, the country concerned will have the choice between complying or becoming a simple EU member.

Proposition 9

Introduce a withdrawal procedure from the Union and the Federation

- 1 | A withdrawal procedure should be introduced as a corollary of abandoning the unanimous voting requirement in all matters.
- 2 | The flexibility arising from the possibility of participation by non-Member States in Union and Federation programs (see here above proposal 6.) should greatly facilitate the negotiation of such a withdrawal. This will provide a solution to the particularly difficult question of a country wishing to retain the single currency while withdrawing from the Union itself.

Proposition 10

Voting procedures: maintain for the Union, the rules contained in the Lisbon Treaty and, for the Federation, impose qualified majority in all remaining sensitive areas

- 1 | At Union level, there does not appear to be a strong case to unravel the agreement reached in the Lisbon Treaty.
- 2 | At Federation level, it will be useful to adopt qualified majority voting for all areas still requiring unanimity.
- 3 | Such measures will considerably facilitate the Federation's legislative process and will constitute a major step forward; it is limited to Members who, through their renewed commitment, have declared themselves in favour of "generalised re-enforced cooperation" and which will now constitute the group of Members States of the EF.
- 4 | One should point out that Members negotiating a selective participation in Federation programs will not vote their initial budget; they will, however, be granted voting rights for Directives and regulatory measures affecting the programs in which they participate.

Proposition 11 | Harmonise election rules for the European Parliament

- 1 | It is appropriate to consider, within the TEU, the harmonisation of the electoral code applicable to European Parliamentary elections.
- 2 | If no single electoral system is ideal, it is equally undeniable that the present system in which each Member State is free to set its own rules puts into question the coherence and democratic legitimacy of the political parties within the Assembly which lacks transparency. An agreement on a uniform voting procedure (preferably limited to a single round in order to limit costs) will promote a European-wide electoral



constituency, distinct from national particularities and will strengthen the citizen's conscience of the Union's image.

3 | A harmonised code will also encourage the emergence of Europe-wide political parties showing greater independence towards national parties. The authority and legitimacy of the European Parliament will thus be measurably strengthened.

Proposition 12 Adopt a clear distinction between Directives applicable to the Union and those restricted to the Federation

- 1 | This distinction is not meant to put into question the Commission's "right of initiative".
- 2 | The Treaty will specify that Directives will limit their scope to the framing of policies by defining their objectives, allocating their resources (budget), establishing appropriate controls and eventual sanctions. The Parliament should retain in all cases its rights concerning monitoring and approval of all significant aspects of the legislation, while allowing a more flexible procedure for adapting operating regulations to keep pace with unfolding external developments.
- 3 | In this respect, the principles applied in setting "level 1" legislation in the Lamfalussy process on legislation concerning financial services, could serve as guidelines.

Proposition 13

Adopt qualified majority voting at Federation level for all sensitive matters

- 1 | There will no longer be any matter requiring unanimous consent.
- 2 | In case of amendments to matters moved from the body of the Treaty to its annexes (see proposal 2.), they could be subject to qualified majority voting.
- 3 | New Directives, touching on sensitive questions specified by the Treaty, will also be subject to qualified majority voting.

Proposition 14 Regulation should be the responsibility of the Commission

- 1 | Within the strict framework of the Directives, the Commission will be responsible for drafting all Regulations and measures for their implementation Regulations will be drafted in consultation with specialised bodies (public or private) designated by the Directives.
- 2 | Their adoption and/or amendment will be subject to a simplified approval process giving an oversight right to both the Council and the European Parliament to ensure conformity of the regulations with the Directives and with developments in the field covered by the legislation.
- 3 | The Commission will be accountable to the Council and Parliament for the conformity of Regulations with the base legislation and for their implementation.



Confer on an 18 Member Commission the executive power of the Federation, making it accountable to the European Parliament

- 1 | The arrangements negotiated within the draft Constitutional Treaty could be carried over as far as the number of Commissioners is concerned. Since they are not supposed to represent their country of origin, nothing should prevent some of them to be selected among Member States belonging only to the Union; their number could however be capped at, say, 4 on 18.
- 2 | There are two reasons for this proposal: in the first place it will further underline the "neutrality" that is supposed to characterise the office of Commissioner and broaden, simultaneously, the pool of talent available for the selection of Commission Members. Secondly, they will bring to bear useful points of view bearing on the daily work of the Commission and will enhance the necessary smooth cooperation between the Union and the Federation.
- 3 | The same principle could be extended with regard to the recruitment of Commission staff. One could suggest a limit of say 50% of the "notional" quota to which the Member State would be entitled if it were a Member of the Federation. In order to keep a maximum degree of objectivity, one should avoid linking recruitment from non-Federation Members to the negotiations they might otherwise conduct for participating in Federation programs (see proposal 6).

Proposition 16

Make the gradual implementation of a unified external representation a priority objective of the Union and impose it as an obligation within the Federation in the fields of its competence

- 1 | The negotiation of the Institutional Treaties is the appropriate setting for considering the delicate question of the external representation of the Union. Short of reaching a definitive agreement, which currently remains unrealistic, it should endeavour to establish the principles governing future developments. Within multilateral institutions, Member States will only be heard and be able to influence outcomes if they speak with a single voice. This applies as much to negotiations with other States as with large multinational corporations.
- 2 | Though still benefitting from strengths linked to their wealth, their level of education and the quality of their research, Member States will find themselves losing rapidly their comparative advantage. Thus, the social model of which Europe is justifiably proud, will only be sustainable if the Member States are more fully integrated within the Union, so as to offer to the outside world a strong unified political and economic front from which it can best protect its Members' interests.
- 3 | The only credible response is to speak in the name of the Union with a single voice. The long-term objective must be a unified representation within multilateral institutions and towards third countries. The process has already been initiated with the creation of a High Representative for the Foreign Affairs and Security Policy, cumulating the functions of Vice-President of the Council and the Commission and responsible of the European External Action Service.
- 4 | The Euro is today unquestionably the second international currency in order of importance. If utilised in a coherent fashion, it can become a decisive factor in global negotiations. The absence of sufficiently coordinated economic policies within the Eurozone (the necessary corollary of a unified monetary policy), weakens considerably the effectiveness of this major trump card.



- 5 | Another inescapable dimension concerns defence matters. It includes the question of the control of the nuclear arsenal. It is unrealistic to expect that the countries concerned will be willing to abandon their exclusive sovereignty in this field for the foreseeable future. This truth should however not prevent an Institutional agreement through which the Union can express the full weight of its global power.
- 6 | It will therefore be highly desirable that the TEU lays the ground for a gradual unified external representation of the Union.
- 7 | The TEF should require a unified external representation in the institutions responsible for areas of policy for which it is competent: the single currency and international trade for instance.

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