



THE JUNE EUROPEAN COUNCIL: FEAR AND LOATHING IN BRUSSELS?

By Hugo Brady

The French and Dutch No votes on the EU constitutional treaty have rocked Europe's political establishment. The EU's heads of government will debate the future of the document at their summit – and the equally fractious issue of the EU's budget – in Brussels on June 16th. Luxembourg, which currently holds the EU presidency, has insisted that ratification must continue, a position supported by the majority of EU member-states. But some, most notably Britain, see no point in carrying on with referendums which are likely to be lost, further damaging EU credibility. These member-states believe that the French and Dutch will not vote again and therefore the constitutional treaty cannot enter into force. Bridging the gap between the two sides will not be easy.

Rising tensions between EU partners have also made Luxembourg's goal of securing a last minute deal on the EU's budget for 2007-2013 more difficult. In particular, the UK has faced intense pressure to give ground on its special rebate. If the EU's leaders fail to reach any agreement, they risk leaving the summit in disarray and deepening the current crisis.

The battle over the budget

Even before the French and Dutch votes, the EU's chances of reaching a deal on the EU budget for 2007-2013 appeared slight. EU budget negotiations are usually fractious, not least because every member-state can calculate the costs and benefits of any proposed deal down to the last euro. This set of budget negotiations is proving if anything, even more contentious. The member-states are divided over the overall size of the budget, the division of funds between old and new members and the vexed issue of the UK's rebate.

In the run-up to the Brussels summit, the Luxembourg presidency has desperately tried to find a compromise. The presidency has stressed the need for heads of government to show 'solidarity' – and demonstrate that the EU can continue to function effectively following the treaty setback. Luxembourg has made some progress on the overall size of the budget, breaking up the so-called gang of six – Austria, France, Germany, the Netherlands, Sweden and the UK – which had previously united to cap spending at 1 per cent of EU GDP (compared with the European Commission's original proposal of 1.27 per cent). Austria and Germany have both indicated they are willing to compromise on a figure of 1.05 per cent. Meanwhile, Spain – the largest beneficiary of EU structural funds – has said it will accept that the majority of this money is diverted to the poorer central and East European countries, albeit after a lengthy transitional period.

However, the EU presidency has made little progress on the UK rebate. As the rebate is currently calculated, it is becoming increasingly hard to defend. The UK gets back two-thirds of its annual EU contribution (currently €5 billion) in compensation for the limited funds it receives via the Common Agricultural Policy (CAP). But Britain is now a much richer country than when it first negotiated the rebate in 1984 – its GDP is 120 per cent of the EU average – while the relative size of the agriculture budget has declined. Moreover, the rebate is set to increase to €7 billion over the next budget period if the formula is left as it is.

However, the UK has only hardened its stance in reaction to French-led pressure to freeze, and then subsequently reduce its €5 billion cash-back. Even with the rebate, the UK pays more into the EU budget than France and substantially more than other EU countries such as Italy. The UK government suspects that France is trying to deflect attention from the referendum defeat by focusing on the rebate in the run-up to the summit. But the UK has also added further fuel to the dispute by emphasising it will only negotiate on the rebate if the EU considers fundamental reform of the whole budget – including the CAP which disproportionately benefits French farmers. For its part, France has rejected any discussions on the CAP, pointing out that the agriculture budget was fixed under the Danish EU presidency in 2002. With both sides needing to appease domestic political opinion, the prospects for agreement look faint.

The constitutional treaty: State of play

Ten countries have already ratified the treaty, although only one – Spain – has held a popular vote.¹ The other thirteen member-states now have to decide if they want to ratify. In particular, seven countries (Britain, the Czech Republic, Denmark, Ireland, Luxembourg, Poland and Portugal) need to decide whether to hold their planned referendums. Opinion polls in several of these countries indicate opposition to the treaty has grown substantially following the French and Dutch votes.² Britain has shelved plans to hold its vote next year, prompting Poland and the Czech Republic also to look at delaying their polls. But Luxembourg, Portugal, Ireland and Denmark have so far maintained that they will go ahead with their referendums.

¹ Austria, Greece, Germany, Hungary, Italy, Latvia, Lithuania, Slovakia, Slovenia and Spain.

² 'EU constitution faces oblivion, according to polls,' *Financial Times*, June 3rd 2005.

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Any decision at the summit is likely to fall between two extremes: either to continue with ratification or to declare the treaty dead and explore other options. In the run up to the summit, Denmark, France, Germany, Ireland, Slovakia and Spain argued – at least in public – that every EU country should have its say on the treaty. According to Declaration 30, one of several annexed to the treaty, governments have agreed in principle that ratification should continue until November 2006. Only at this point are governments committed to discussing what to do about those countries which have failed to ratify the treaty. However Britain argues that ratification should not continue until the concerns of Dutch and French voters are somehow addressed. Britain, which takes over the presidency of the EU on July 1st, wants the EU to have a 'period of reflection' (to debate the future economic and social direction of Europe) and concentrate on policies like economic reform. Given this lack of consensus, officials privately admit they expect heads of government to freeze ratification or at least to extend the deadline, possibly indefinitely. To do the latter, they will need an indication from France and the Netherlands that they will try to ratify the treaty again at a later stage.

What is at stake

But the governments may very well fail to reach any agreement. Paris and Berlin have a strong interest in ratification continuing, not least to minimise the damage done to French leadership within the EU, and its ability to be an effective partner for Germany. If other countries also reject the treaty, the French (and the Dutch) will no longer be in the political wilderness. On the other hand, if all the other countries ratify, the treaty will get a new lease of life and the French and Dutch may even be able to vote again. Either outcome is better for the French and Germans than seeing the treaty binned. They worry that Britain will become too influential if the treaty is shelved so that it can use its forthcoming EU presidency to take control of the EU agenda. Furthermore, Tony Blair is in a relatively strong position domestically. This strengthens his credibility around the EU table. Worse still, Britain will 'get away' without holding a referendum which France and Germany had expected would leave it isolated in Europe if (as expected) the British voted No.

But Britain does not want to be seen as the country that killed off the constitutional treaty. Such a perception would weaken its hand in defending its interests at the summit's discussions on the EU budget and damage its chances of running a successful EU presidency in the second half of 2005.

The EU has dealt with similar crises before, if none quite so serious. The Danes rejected the Maastricht Treaty in 1992 and the Irish voted down the Nice Treaty four years ago. In both cases, the country in question presented its concerns, offered suggestions on how to address the problem and gave its blessing for ratification to continue. Subsequently, both governments won second referendums by negotiating opt-outs and declarations covering the domestic concerns raised. But it is difficult to see what olive branch EU governments could offer disgruntled voters in France and the Netherlands. Furthermore, it is the first time that two founding members have rejected the same treaty. And the French electorate will certainly be hostile to a second vote without first getting rid of the embattled Jacques Chirac, in the presidential election due in 2007.

If EU leaders decide to freeze ratification, they will still have to ensure that the EU's institutions and policies can continue to work properly without the treaty. They cannot and should not move ahead with radical institutional changes in defiance of the French and Dutch. But EU leaders will find it hard to resist the urge to do something given the damage the current uncertainty could do to the EU's credibility. They may make a gesture to show that they are sensitive to public concerns and embark on a 'listening exercise'. This might include going ahead with reforms to make the EU more democratic and transparent. For example, the EU could press ahead with plans to give national parliaments a greater say in law-making, open up Council of Ministers meetings to the public and allow citizens to petition the European Commission. These changes could be introduced without the need for a new treaty – and are unlikely to provoke widespread opposition from eurosceptics.

Conclusion

If ratification of the constitutional treaty continues as planned, further referendum defeats would worsen the current crisis. To restore confidence in the EU, all 25 governments need to reach agreement on a way forward that credibly plays for time by postponing ratification in favour of a thorough assessment of existing EU policies.

The worst case scenario would be that the summit ends in total disarray. Given that some countries have ratified the treaty, some (founder) members have rejected it and some insist they still wish to hold their referendums, governments may have no option but to agree to disagree. This is made more likely by the poisonous debate on the EU budget. However, the EU has reached a critical juncture. Deals can be struck if Europe's leaders realise that they have little to gain from infighting and that this is a time for statesmanship, not point-scoring.

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