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# The Future of the EU and the UK's Role in it

AEI Occasional Paper 11

Dr. Paul Cardwell

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# **The Future of the EU and the UK's Role in it**

Dr. Paul Cardwell

Thank you very much for attending today and welcoming me. What I hope to speak about is **“The Future of the EU and the UK's Role in it”**. Before I start my presentation today, I would like to mention that I have been involved in research in the field of EU external relations and this has always been related to my personal view that although I am from UK I very much believe in the European integration which puts me in a minority. But I always believe that Europe should not always be inward looking but outward. And, this is where my interest lies, how Europe engages with the rest of the world. I have studied in different countries like UK, France and Japan because I wanted to get very different perspectives on EU law and integration; I wanted to see how Europe is perceived and seen to work outside Europe. Then, I spent some time in the European Commission Delegation in Tokyo and it was extremely interesting for a number of reasons; it was fascinating to see how the Japanese Government and the civil servants reacted to the changes happening in Europe which at that time was the advent of the single currency in Europe. My particular interest has always been in European relations with Asian countries, so I am delighted to be at AEI today. Many Thanks.

What I would like to talk today is the future of the EU and delivering some thought provoking questions. Talking about the future of the EU is very difficult thing to predict because one has to be not only too optimistic or too pessimistic but also to deal with what is the present of the EU before looking into its future. So let's have a look what are EU's achievements until today.

## **The EU: 1957 to Now**

The EU is recognized in terms of free markets for goods, services, and capital and I would also say, as a lawyer, that this is generally a thing to affirm that much of the things have been achieved through legal means. Free movement of goods is well developed; there are circumstances where a number of the states in EU restrict the flow of goods from member state to member state but this is very rare. So in terms

of goods, capital and money flows, the European integration is very high, it's not possible for member states to restrict flows in these areas.

Workers and services are also developed but not quite to the same extent. So in terms of free movement of workers, legal rights of EU citizens, which is everybody who hold a passport from one of the 27 EU countries, can live and work in other member states. The law is there, the integration is there, the practice is almost there – the idea that an individual who is interested can go to any member state to avail an opportunity. On a theoretical level it is absolutely fine but on a practical level, the implications need to be watched out as there are problems of adopting things such as those posed by language. This will work but it will take time in order for the internal market to be really true.

Of course, the developments are for EU citizens. But what about those outside of EU countries; here, the procedures are less developed – as the most problematic area has been related to certain services because, unlike goods and to some extent people, capital and money, which are very easy to identify, but when we talk about services, it is much more difficult and here the integration is much more slower and controversial. Furthermore, the nature of offering services is also intangible since 2004 when eight new member states joined the EU from Central and Eastern Europe, giving a sense of insecurity among the EU member states that potentially there would be large numbers of people moving towards the west.

Nevertheless, there have been great impact on the legislative changes within member states and some of these date so far back and almost forgotten – for example, environmental protection has been raised in most cases by most member states and the law applies across the EU; so the standards, in most cases, have been raised. The environmental protection measures in the industrial area of Sheffield is an example to see the impact domestically and externally.

As EU integration moves ahead, there has to be also an amount of coordination on justice, home affairs and foreign security policy. For example, member states have gone beyond economic considerations, as the first point, and integration is also happening in areas that have sovereignty implications which member states are much more reticent to allow integration bearing in mind the law at the EU level is supreme

to national law and has to be adhered to. The absence of borders between France, Belgium, Germany, Austria, France and Spain seems great. However, there is the possibility of someone wanted for crime disappearing and crosses the border. For these cases, the European Arrest Warrant was put into practice which allows transfers of those arrested much more easily and this relies essentially on trust between the police forces and other authorities. In case someone wanted for crime disappears, an arrest warrant that applies to the whole of the EU can be issued. This shows that to a great extent, the member states are willing to cooperate on matters which are close to security of a state. Apart from that, the possibility of a war between any two EU member states is unthinkable and that is a big achievement and, subsequently, the EU was awarded the Nobel Peace Prize.

In terms of external relations and foreign policy, clear condition is made for joining the EU which, firstly, is to promote the common goal of democracy. Of course, various countries in Europe have made their way to towards democracy to join the EU and, in this way, the zone of peace and cooperation has been greatly extended.

In terms of legal means, a new legal order has been established in the form of the European Court of Justice in 1962 which took a very strong stand, on which nobody really expected, and that was a Treaty never seen before – that created a new legal order in Europe and soon after that the institution of the supremacy of the law was established also. Since 1964 therefore, all member states including the UK have accepted the fundamental principle that if there is a conflict between the national law and the EU law, the national law must be set aside. The integration process therefore started with economic cooperation which then generated a spill-over into other areas.

So far, what I have said is a very casual picture of how the EU works. However, the economic crisis since 2007 has raised fundamental questions about the future of the EU. Questions over the viability of the Euro and the impact of the economic situation on domestic political systems (e.g. Greece) needs to be looked at deeply. Starting from 6 member states to 27 what EU is today and why it was formed seemed to be pertinent. Obviously, a single currency is often lauded as EU success; many people thought that it would succeed looking at the great cooperation among the EU states. However, the issue is there is now increasing question about its viability. The news in Europe today are full of economic issues together with the issue of the

Euro - whether member states are in it/ whether it will collapse or whether they are secretly printing money. It is very difficult to know what is exactly going on. The impact of having a single currency in some member states (not all) which have not unified everything in their economic system particularly tax, which remains largely outside the EU, means member states have to decide on their taxation provisions. There is now political instability in Greece where the extremist parties have gained influence giving rise to some worrying signs about what is actually happening there. This is not only a national crisis but also raises fundamental questions about EU, its achievements and its role in the future.

### **The Role and Place of the UK**

The UK is one of the largest member states which joined the EU in 1973. The UK did not want to join in the early days in 1957, it decided to first stay out and watch what would happen until well after the 1960s which was followed by opposition from France and, therefore, UK finally joined only in 1973. The consequences for the UK in the technical sense is that all the key institutions, the law and so on were already in place of which the UK had no role.

The UK is not part of the Euro as many believe that it is not in its interest to do so. Also, in some of the legal measures the UK had opted out in order to be member. The UK has also, a few years ago, secured what is called a rebate on contributions.

In short, the UK is not totally in the EU like other major powers like France, Italy and Germany who are part of the Euro, the Schengen Agreement and others. UK is in a very difficult position already and some member states (not all) are sceptical about UK's motives. UK is half-in/half-out.

The UK joined the EU under the leadership of Edward Heath in 1973. The Conservative Party is one of the two parties in UK and it often forgets that, in the 1970s, it was pro-European on which the Labour Party was against. Now the UK has a Conservative Party government who actually opposes joining the EU. In the 1980s, the UK's Prime Minister was Margaret Thatcher who at the 1985 conference of the Conservative Party had a big flag of the UK at the back of the stage and next to it was a big flag of the EU; this was something very surprising because she was addressing the conference of the Conservative Party and the flag of the EU would

indicate she was favorable to the EU project. Now, David Cameron, he calls himself a practical 'Euro-sceptic'. It seems to mean that "he was not really sure". He thinks the ideas are good but the way the EU is doing it is not good or the way is good but the ideas are not good. Apart from the Conservative Party, there is now the rise of UK Independence Party (UKIP) for the European Parliament elections and they have been able to poach some votes from Labor as well as from Conservative Party. In short, there is varying opinions at the political level whether UK should be totally in or out. I personally believe that if a two-speed Europe emerges, the UK undoubtedly would be on the slower track. In such a situation, the political parties would be unlikely and unwilling to make the case for EU. There is also a possibility of UK's full withdrawal but more likely there would first be a referendum on membership.

### **Where is the EU Going?**

There are states that intend to go for more integration and there are those that would place limits in such efforts. Some believe that the EU needs to do what it did during the political crisis in the 1970s out of which there was a big programme to complete the single market in the 1980s that really moved the EU integration forward. For many, this should be the model that EU should take and therefore, it is identifying areas where EU can evolve in further integration. Now it may be foreign policy or areas related to fiscal union. At the same time there are also calls for less integration i.e the EU should take a step back from the integration thus far and should now look for some sort of looser cooperation and the UK is one of those states. There are lines drawn between Germany, France (motors of European integration) and the new members. There are also questions on the political leadership of Germany and France especially following the Greek financial crisis.

At the same time, there are also plans for EU enlargement; various states in the region want to be members of the EU for example, Serbia, Iceland and Turkey. There are indications that Turkey is a bit fed up of the procedures and long-standing overdue decision in its favor. There are opinions that Turkey is seriously considering whether its future lies with the EU or it should look elsewhere.

We can also see much more cooperation in EU rather than integration. As said earlier, there are states in favor of more integration and there are those that want less integration. It is difficult to see how these would work; traditional integration has

been centred on peace and harmony and it has been seen that things might change in case of a change of government in any of the powerful states in the EU. In such a case the risk is that the EU has to move from its traditional way of integration to one that is more towards other approaches of regional cooperation.

For UK, as I mentioned before, the political parties are unwilling to make a case for the EU and this is an old issue already on which the people have been quite decisive; many people voted against and while many others favor, they do so quietly. And of course, many even do not have any idea what exactly is happening.

### **Question and Answer Session**

Q1: Datuk Sofian: Is EU building an empire? Is there a set objective in all areas, for example, the number of state membership, economy and political, in which the European integration is to be pursued in the future?

A1: To take the last question first, the European Parliament has broad functions which are and increasing over time. But within the Treaty, they can only do what the states allow them to do. For example, they cannot start making taxation power because there is no basis in the Treaty for it to do so. So, such legal measure will be unlawful. In terms of closer integration, yes, it is possible. I think that the EU will persist and the possibility of core countries pursuing further integration is likely. Having said that, the Treaty has allowed for twenty years for enhanced cooperation and that had not happened between states. So, it is possible that a group of states would continue to pursue integration without the others. That has not actually happened. They talk a lot but it does not actually happen.

Coming to your point on where is the end point of EU integration, in terms of territory, that is highly problematic because the Treaty said that any European state can apply to join. There is no definition of Europe in that. Morocco said since Turkey is applying for EU membership, they would like to join also since they are just as close to the EU. And there are also states with traditional links with France, Spain and so on, like Guyana which thinks it may also qualify

to apply for EU membership. Then, we have countries like Azerbaijan and Armenia which are within the Council of Europe and may argue for their memberships in the EU. In geographical terms, Turkey will be as far as they would go and all the bits in between, possibly Ukraine in the very distant future. Technically, is it Europe? Well, geographically yes, or at least part of it. So, the geographical area of what is Europe is not defined in the Treaty. To put it into the treaty, you need to define what Europe is and that is an argument nobody wants to have.

In terms of EU as an empire, “empire” is not the word we use because it has a negative connotation of a state acting in an imperial way. They do not want to be seen in this way. Yes, in economic terms. One of the reasons the UK wants to support the EU’s external trade policy is due to the fact that EU is an economic power. It is more powerful to do so in a pragmatic way than starting on its own. In that sense, yes. The thing that I did not mention in my presentation earlier is what role the EU should have in defence cooperation or integration. Traditionally, it has very little. Most of the member states are in NATO but not all of them. Several of them are neutral states, Austria, Sweden, Finland, Ireland and so on which are very vigilant on compromises in the military area. Nevertheless, the EU has recognised that there are things to be done in security field such as piracy in Africa and has started taking a role in these areas now. There is also nervousness among some quarters of having EU pursuing further on the military area where so often, the bloc is perceived to be running away from the ideals of peaceful cooperation borne out through rejection of imperialism. However, such argument can also be made in a more positive way.

Q2: Dr. Stephen Doyert from the French Embassy: Let me start with the cases of European Film Festival starting today, EU Education Fair later in November and recent trade negotiations as some of the few events that the EU Delegation here are having. I am actually quite disappointed that the EU Delegation is no longer the front-liner and member states have more activities than the former has. So, my question is how do you perceive the future of the European Delegation?

A2: The EU external relation service has changed quite a lot since my days back in 2000. When I was working in Japan, the Japanese Government had started a process to stimulate the economy while thinking the European way of deregulation and opening foreign trade more. So, we started a dialogue with them and this was well supported by the EU member states which saw that they can channel their concerns of lacking trade opportunities with Japan. This is an example of practical cooperation where the member states saw the benefit of supporting the EU Delegation.

Also, it also depends on how the host government regards the EU Delegation. In Japan, they have been there for a very long time as an Embassy. I know that the EU Delegation presence here in Malaysia is much more recent. So, I am not quite sure of whether they are making progress or not. In terms of what it does, a lot depends on who is working there and what kind of mindset is there, whether they prioritise the EU or their individual states more. But then what matters most is money and that depends on the EU member states that control the budget. So, what I think the EU Delegation needs to do is to make them visible as in the case of Japan. It will take time for EU Delegation members to replace their national identity with that of the EU. Finally, the region where the EU Delegation is channelling aid, for example in Africa, also determines their prospect of working together. For these countries, we might see a different EU Delegation than in other countries where cooperation comes in the forms of education, cultural cooperation and so on.

Q3: Dr. Jorah Ramlan from the Institute of Strategic and International Studies (ISIS) Malaysia and Visiting Lecturer at AEI: What is the perspective from the UK with regard to strengthening their relations with Asian countries? Recently, the Permanent Under Secretary of State, Simon Fraser, was here in Malaysia promoting economic and security ties and that seems to be the recognition and focus of the UK that Asia is the rising power. How would that contribute to the situation in the EU if the UK is strengthening their relations with Asian countries?

A3: The British official discourse has recognised Asia and particularly Korea as a model for innovation of foreign technology. Certainly, on the official line, the

UK Government is saying that we have to emulate Asian countries. We need to follow the way in which these countries are leading the way economically. Of course, the UK Government has always been promoting links on the economic front with Asian countries as far as I can see. This is often the preferred way of selling the idea of economic cooperation to third parties rather than closer and closer political integration within Europe. For other countries, things are quite different in which they prefer to have closer and strong political union before they can focus on external affairs. For the UK's general population, they see the Asian century coming in terms of economic power and instead of squabbling on the single currency, the EU has to look beyond the continent and work with large economies of China and India. Having said that, UK's trade is still the largest among European countries and that is likely to stay. So, I think that in economic matters, the European level works better than with external third parties.

- Q4: Dr. Aminul Karim, Senior Fellow of AEI. In terms of political science terminology, which category of your articulation on EU integration issue falls into? I am a student of realism and it has been one of my primary research areas. So, in terms of realist view of international relations (power politics), if you take the UK out of the EU, will the latter function better? And then if the UK is out of the EU, which country between Germany and France that you think will follow suit?
- A4: On the member state front, if the UK is outside of the EU voluntarily, the bloc will continue to function. Whether the UK in such a break would prevent further integration or preventing anybody else, I am not so sure. If we are talking about the EU of seven which included the UK, then possibly so. But now there are 28 member states which were not there in 1957. Would the EU necessarily function better? I do not necessarily think so. I am not sure that the UK will function better. Given the trade aspects and so on, the UK would put itself in the position of say, Norway, which is European but not in the EU, it nevertheless has to adhere to EU law without getting a say in it since its trade is very much with its neighbours. They would have to obey the EU law if they want to export anything to say, Sweden. In that instance, it would be a very bad thing because it has no say over the way the law is made.

In terms of power relations, realists would have a problem with the EU integration because it is very difficult to get beyond the question of why a state is actually cooperating. Yes, France and Germany has been in the traditional mode and they always got along at the highest political level. I think that is still seen as the key and rightly so. Now, of course, in terms of being a leader, Germany's role and its rhetoric have changed. Still, it is nervous of being seen as a leader although its economy is the strongest of all. So, in my view, realism cannot account for European integration as it is very difficult to explain what the EU has done. Maybe it could somehow explain the UK's foreign policy behaviour but realists would have difficulties explaining why big countries such as France and Germany or even smaller countries pooled their currencies and allowed other institutions very important role in setting their national policies.

Q5: Mr. Sameer: As I understand from your presentation, you have shown to us the dilemma that the EU is facing after the 2008 financial crisis. How do you see the possibility of the EU becoming a "United States of Europe"? How do you iron out the differences among the EU member states in becoming 'one country'? Will there be a lesson for ASEAN to be learned on regional integration?

A5: I think in many ways, the European states have already built a kind of federation in which they handed over their sovereignty to act in a number of areas. They cannot do anything that contradicts the EU law. It is almost like a federal level. The problem with the "United States of Europe" is that how to get to that stage, For example, in 2000, there was a debate where should Europe go which by then, it is already clear and large in terms of having a single currency and a constitution and the need to set out the EU's key ideas within a declaration. To cut it short, that document was 100 page-long and was very technical. The Treaty specified about an ever closer union. So, that is pretty clear.

But the whole debate, for example, on where Europe came from, there is considerable debate about whether we should refer to the Christian religious traditions as proposed by some countries and include them in the Treaty. This, however, was rejected by countries like France which separates the church from the state. In times like this, the EU watered this question down to make

everyone happy and the Treaty itself becomes extremely vague on this issue. So, I think if you want to have “United States of Europe”, you got to have these constitutional movements where somebody stands up and say, this is what we should be doing and everyone agrees. To make the EU more effective is to essentially make it look more like a state. For instance, the EU can meet others’ expectations by being more vocal in foreign affairs. How do you do it? Apart from the EU Delegation, there is also the Presidency of the EU Council which sets the agenda and the states themselves to a varying degree. Under the constitutional Treaty, the idea is to appoint a foreign minister rather than a high representative. This, however, was relegated back to the high representative under the Lisbon Treaty. In a way, you can see the barrier which was prevented by certain states although keeping the title foreign minister will be probably a good thing for representation. So, in terms of having constitutional movements, it is actually very difficult to do it in the committee. You need a leader or perhaps, a crisis for the states to speak in one voice as had happened after the War and the onset of Cold War. Nowadays, the question of European identity is not mentioned as often in public as in the 1990s.

- Q6: Dr. Fumitaka: I would like to talk about China. As of today, we have witnessed the rise of Chinese currency, renminbi, RMB or yuan to the global stage. In the middle to the last century, Euro emerged as a key currency in global finance. Yuan is now also emerging as an important currency, complementing if not replacing Euro as another major currency. And countries such as Russia, South Korea and India have been riding the internationalisation of the Chinese yuan. If you think of this big picture, how does the UK ride along this RMB wave to its advantage and coordinate with China, bearing in mind that Beijing has been outsmarting other countries in the current financial system?
- A6: Coming from a legal background, my knowledge of finance and Chinese currency are not great. The easy way for the UK is to join the Euro. But that is not something on the cards at the moment for very obvious reasons. When the Blair government did not declare their Euro membership at the beginning in 2000, the British public did not see the benefits of it until they found out that it was so convenient to use Euro in many other countries within Europe. That was quite a happening but in the ensuing years, domestic reasons have reigned

in. It is obvious now that the UK is already used to having two currencies side by side. Whether Euro will remain as a major currency, this will depend on China.

Q7: Dato' Amir, Moderator: You mentioned that the integration on services is the most problematic. Would you be able to share your thoughts on why this is so?

A7: In theory, you should be able to offer services to states just as you can go and work in countries with certain limited exceptions. The difficulty about services is because it is much less tangible, whereas goods, you can see and trace them, but for services, it involves people moving to other countries although not necessarily. So, I use the example of lawyers here where you have the issue of qualifications: how would you know that somebody from member states and offering legal services is competent and competent to do the job. You can set up rules and regulations but you need a law that is difficult to do. The laws have even the difficulty earlier of defining chocolate, as nobody can agree what chocolate actually is. The fact that the UK's chocs have lots of vegetable oil in it does not mean it is the same in other countries within Europe. Thus, in terms of services, it is more difficult to determine on the qualifications one has - how do you register as a lawyer and how many years of study you have to do, etc. Then, when offering services in other countries, you will easily get into problematic areas such as gambling where some countries disallow it while others tightly regulate the industry for the purpose of protecting their national company. So how do you go around these issues through legislation? That is why I say in terms of goods, you can agree on the common standard for product safety. Then in terms of services, how do you ensure consumer protection in countries with different laws, languages and so on? Therefore, this is the most problematic area as the EU's competence is extended to other things.

## About the Author

Dr. Paul Cardwell

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### Academic Profile

He joined the School of Law in 2003 and was promoted to Reader in 2011. He had published widely on the external relations of the EU as well as other areas of EU law and politics and UK constitutional law. His first monograph, *EU External Relations and Systems of Governance: the CFSP, Euro-Mediterranean Partnership and Migration*, was published by Routledge in 2009 and took an interdisciplinary approach to the subject.

He had also published related pieces on the law and politics of EU engagement with neighbourhood states in leading journals. His current research focuses on the internal-external synergy in EU law and policy, and democracy promotion by the EU in third countries.

Other recent publications cover topics including the EU's democracy promotion methods, the role of the European Court of Justice in the EU's constitutional order, EU external investment Law, the relationship between EU and International Law (in particular in relation to the ECJ's Kadi case-law), environmental law and developments in UK Constitutional Law.

He is currently the Deputy Head of the School of Law, University of Sheffield, with specific responsibility for internationalisation.

He is the Director of the Sheffield Centre for International and European Law and a member of the Centre for the Study of Law in Society and was awarded the title of Senate Award Fellow in July 2010 in recognition of his efforts to internationalise the student experience in Law.

He is also a Committee Member and Trustee of the University Association for Contemporary European Studies and an Honorary Fellow of the Europa Institute, University of Edinburgh.

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