THE EUROPE 1957-2015

1. An official document, the *Annual Report* of the Bank of Italy in 1960, reads: "World trade has grown extremely rapidly, and the relative balance-of-payments positions of continental Europe and the United States has been inverted to Europe's advantage" (p. 296). At the time the Governor of Italy's central bank was Guido Carli. The "Europe" to which the report refers consisted essentially of three large continental countries, i.e. France, Germany and Italy. These three were present in all the common institutions created in Europe, starting with the Coal and Steel Community and EURATOM in 1951. To get a precise idea of how Europe has evolved and developed since 1950, these three states must be our point of reference.

2. *The Economist*'s "Pocket World in Figures" for 2015 lists, on page 30, the slowest-growing economies in the world from 2002 to 2012. Italy is fifth in this unenviable ranking, averaging -0.1% per year; France is 14th at 1.0%, Germany 21st at 1.2%. The euro area as a whole is 13th at 1.0%. World economic growth (for 7.052 billion inhabitants) was 4.6% in 2015.

The list of the slowest-growing countries between 2002 and 2012 includes eleven other euro-area countries: Greece, Portugal, the Netherlands, Spain, Belgium, Croatia, Finland, Austria, Malta, Ireland and Slovenia. [ho levato quelli che non sono della zona euro: Danimarca, Ungheria, Regno Unito, Norvegia; la Norvegia non è neanche membro dell'UE]

These data make the presence of some degenerative factor in the Eurozone practically undeniable. Possibly its origins could be traced back to the 1950s. And unless we determine the causes and specify when it began, so as to proceed promptly to remove them, the degeneration could become irreversible.

3. There are historical precedents for the collapse of entire continents. Just think of the Roman Empire, or the Chinese. Serious historical scholarship has sought out the causes, but we can't affirm that any generally agreed-on conclusions have been reached. As for contemporary Europe, we have the advantages of being close to the events, having reliable data, and exploiting new tools of inquiry. It is our common duty to try to discover the hows and whys of European decadence. The fear of making mistakes is no justification for shirking the duty of research. This essay of mine is not a history of European institutions, nor, strictly speaking, a legal, economic, or political essay. It brings together data and facts, regardless of nature or provenance, that appear relevant.

4. The fundamental criteria for this inquiry are those of formal system analysis, in the framework of complexity. Formal system analysis determines the elementary forms of human behavior and uses them to identify movements (in the case of human beings, "behaviors") and their specific nature. Based on ascertained movements, prior developments are reconstructed, and some predictions for the future may be hazarded.

These criteria imply the special importance of "mutations" in the nature or tendency of the system. But what is decisive is not the force of the factor that triggers the mutation; more important are the magnitude of the mutation and the accuracy with which it is identified. Seemingly minor factors, grains of sand in the wrong place (the butterfly wing effect!), can determine the fate of the world.

5. The United Nations was formed in 1945. In 1947 and 1948 the UN undertook a major, innovative initiative: liberalizing world trade. This was to be accomplished by acting to lower customs duties, winning acceptance of common tariffs, and creating a world trade organization. The institution proposed for attaining these objectives was the International Trade

Organization. But the ITO was never formally created. It operated as a simple organism. Trade liberalization was achieved in a series of steps, designated as the "Uruguay Round." The first step came in 1950, the last in 1964-67. The ITO project concluded with the successive creation of two other institutions, the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO). GATT concluded in 1994, the WTO came into being on 1 January 1995.

6. When the ITO project was proposed, the world's division in two – the free world and the Communist bloc – had already been noted in Winston Churchill's famous "iron curtain" speech in Fulton, Missouri (1946). The project nevertheless saw the light. The country that opposed it until it was quite far advanced was the United States. In 1950 President Truman declared that he would never ask Congress to ratify the Havana Charter for the creation an International Trade Organization, which was the first step on the path that would eventually lead to GATT. From 1964 to 1967, it was the US Senate itself that opposed the project.

7. Back then, in 1947-48, the US was the quintessential "free market" country. It was the greatest of the victorious powers to emerge from the war. It was the leading economy, the leading military force, the leader for moral authority. Though it is hard to demonstrate, we can easily imagine that the great American industrial, commercial and banking corporations – the "powers that be" – made their influence felt in the birth of the ITO project. The project, which would eventually give birth to GATT and the WTO, could never have been thought up or given concrete form in any United Nations member country except the US.

8. A few years later, in the early '50s, a series of practically accidental factors gave rise to completely new banking practices. In Europe (as was

implied by the passage from the 1960 report of the Governor of the Bank of Italy cited above), saving outstripped that of the United States, and interest rates were consequently lower. A group of American commercial banks that were active internationally, with branches in Europe, joined by a number of French, British and German institutions (a total of 21, all still operating today except the defunct Lehman Brothers investment bank) began issuing dollar-denominated bonds in Europe, so as to make funds available to their American customers at lower interest rates. The European monetary authorities noted that this practice might engender disequilibria, because interest-rate decisions by the US authorities, taken at their full discretion, would end up producing not insignificant effects on the European economies. If they elected to raise official rates, they would trigger flows of liquidity to the US; if they lowered them, the money would flow in the other direction. They did not feel it necessary to intervene.

The system prospered. The US banks that took part in it took business away from their US competitors lacking European branches. They gained in strength and authority.

9. Guido Carli, who was Governor of the Bank of Italy from 1960 to 1974, in his report in 1970 attributed to Rinaldo Ossola, then the Bank's international finance expert (and later Deputy Director General) the merit of being the first to observe that the practice of collecting liquidity in Europe to finance American enterprises was engendering a *totally new phenomenon*, namely the "creation of international liquidity by the private sector".

If Ossola had "discovered" this development, it was Carli who realized its institutional scope, and who returned repeatedly to the topic, among other occasions in his response to Paolo Baffi's remarks upon succeeding him in 1975. Carli described the general characteristics of this new development: "There arose a mechanism whereby international means of payment were multiplied. This is a mechanism that central banks find it impossible to control. States are unable to impose the constitution of compulsory reserves against this liquidity. It is the commercial banks themselves that designated and limited the instruments that they considered to constitute liquidity to deal with business risk" ("The Governor's Concluding Remarks," *Relazione Annuale* 1970, pp. 350-51). "The market's new monetary power, marginal at first, acquired within the span of just a few years an influence comparable to that wielded by national monetary authorities in their domestic markets. The basic characteristic of the Euromarket is *extraterritoriality*" (1972, p. 373).

10. The above statements and events, far away in time and place, highly diverse in content and importance, are nevertheless bound together by a common thread. The Treaty establishing the European Economic Community (the Treaty of Rome), which went into effect on 1 January 1958, contains implicit but definite references to the GATT-WTO project, in the sixth indent to the premise and in Article 110. These references to an event – of worldwide importance, to be sure, but lying in the future, and uncertain – whose effects, even on the most optimistic assumptions, would appear three or four decades later, and in a treaty among just six countries, the three smallest already joined together as "Benelux," and all on the European continent, could hardly fail to be judged as irrelevant.

11. There arises, therefore, the not unreasonable suspicion that some force, linked to those "powers that be" that may have been behind the United Nations' ITO project, may have been present in the decision-making mechanisms where the EEC Treaty was drafted. In the Europe of 1957, this factor did indeed exist. It may not have been perfectly identical to the powers that may have intervened in the US. It was more specific – in a way, practically tangible. In 1956 and 1957, when the Treaty of Rome was being written, the private-sector creation of international liquidity had become an

established fact. It was expanding vigorously, a trend whose powerful future development was readily conceivable. Europe, with its high saving rate and a population that could potentially exceed that of the United States, could serve as the launching pad for its worldwide extension. This was the factor, produced by accidental causes, that Rinaldo Ossola had described as the private system for the creation of international liquidity.

12. In short, what guided the hand that inserted into the EEC Treaty the objective of a "progressive abolition of restrictions on international trade" could well have been the emerging phenomenon detected by Ossola and analyzed by Carli, namely the "private creation of international liquidity," which was already well under way by 1955. In essence, this was an initial but already luxuriant outgrowth of an "organism" that would weigh heavily in history, one that would come to be called "international finance."

The accident of faster growth in Europe than in the US, greater European saving and higher interest rates, thus apparently performed a function analogous to the modest sources of the world's great rivers. The casual factors in place in the early '50s would give birth to an institutional phenomenon (a "non-State") that is now an independent participant in the worldwide system of States.

13. All organisms – a category that embraces individual human beings, the generality of fauna and flora, and also bodies created by men using law, like those formed spontaneously in the course of history – are made up of a series of elementary components, variable in number from species to species but always in perpetual motion. A consequent specific trait of organisms is that they themselves are in perpetual motion. In any complex organism, the movement of the components is coordinated by structures that are generally divided into "underlying" and "surface." "Underlying" structures, for instance, include the "systems" of the human body. Systems are divided into

sub-systems that we can call “surface.” The bonds at various levels within each organism incorporate their various purposes, or objectives, which are to be attained through the overall, coordinated movement of the surface structures, overlaid in turn on the underlying structures.

Every organism is predestined to purposes to be attained in ways that are proper to the species.

There is no such thing as an isolated organism. Every organism forms part of an environment consisting of components that are rigid (inert nature), semi-rigid (flora), mobile (animal species), relatively rigid (human-created organisms by way of law), variously and essentially mobile (human beings). Alongside “organisms,” but differing from them, we have “organizations.” Organisms can be likened to living beings, organizations to machines.

14. Financial activity counts thousands of years of history. For our purposes here, what matters is the specific development that emerged in the early ’50s with the private-sector creation, in Europe, of international liquidity; and of course its effects.

We do not yet have a complete morphology of the organism of “international finance,” the term used for the private creation of international liquidity since this species has become “mature.” The phenomenon tends to be unitary. It is extraordinarily pervasive. Its structure is simple, the objectives few: create liquidity and inject it into the market in the most profitable way in order to create and manage additional liquidity. Intensiveness and pervasiveness combine to ensure that opportunities for growth can be seized promptly. At the same time they mean that the organism’s action is heavily conditioned by the environment. International finance can do extremely grave damage (as we shall see, it has been blamed for Europe’s progressive decadence), produce extraordinary benefits for some countries (as in 1973 in favor of the major European countries on the outbreak of the oil crisis) or for all, as in its leading role in the "great global revolution" of 1980-2010.

15. "Europe" represents an exceptionally valuable subject of research. Studying it can even be called part of one's "civic duty." We cannot shrink from it for fear of error.

First of all, we have to free our minds from commonplaces. International finance, for instance, cannot be said to be, always and everywhere, a "werewolf." It is up to those who are part of that environment, especially those with sufficient power and sufficient authority, to help guide events in one direction or the other.

16. The rules laid down by the Treaty of Rome are divided into four parts: one on agriculture, one on transport, a third on the free movement of persons, goods and services and freedom of establishment, and the fourth on "social provisions." *Articles 117 and 118, which will be central to my argument,* are in this fourth part.

17. Agriculture and transport are covered by rules that can be described as "administered" market regulation. The underlying principle here is opposed to that of free enterprise and free markets, which is what governs the third part of the Treaty. As noted, the fourth part is given over to "social provisions." But there is an abyss between the first three parts and the last. The former set objectives and specify the legal means for pursuing and attaining them. The fourth part, in Article 117, also sets objectives, perhaps the most one could hope for given the "matters" that make up the "social state." The first paragraph reads: "Member States agree upon the need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonisation while the improvement is being maintained." After this solemn pronouncement, the

text steadfastly refrains from indicating any organs charged with this task or any powers to be exercised in its pursuit.

The second paragraph of the article does no more than assert that the Member States "believe that such a development will ensue not only from the functioning of the common market, which will favour the harmonisation of social systems, but also from the procedures provided for in this Treaty and from the approximation of provisions laid down by law, regulation or administrative action."

18. One wonders immediately what sort of "common market" Article 117 intends to refer to. The common market rules in the third part of the Treaty contain general principles that apply unless otherwise specified. To impose their implementation, reference could easily have been made to Title III, Chapter 1. And if the framers wished to consider the rules of untrammeled competition to be a panacea for all ills, why not subject agriculture and transport to them as well?

19. Article 118 lists the "matters" covered in the Treaty's "social provisions": employment; labour law and working conditions; basic and advanced vocational training; social security; prevention of occupational accidents and diseases; occupational hygiene; and the right of association and collective bargaining between employers and workers.

The "big three" EEC states all had social state provisions antedating the Common Market: Germany since Bismarck's time, France and Italy since the 1930s. Italy's republican Constitution of 1948 provided an exemplary model, complete and precise. The EEC Treaty had no intention of interfering with the rules in place; it does not abrogate them (in Italy, given their enshrinement in the Constitution, it could not have done so in any case). But it orders the future in a different way. It removes these matters from the sphere of the State and hands them over to the "market." If this is effectively what was intended, then why not say so clearly, given that the three countries were rightly proud of the way their social state worked?

20. This set of doubts could be overcome by a possible interpretation: namely that the “common market” cited in Article 117 is not the same as the market governed by Titles I and III. For the Treaty also contains Article 110, which precisely traces the configuration that the world market would adopt, once the ITO-GATT-WTO project was fully realized.

21. “Historical-systemic” research – obviously impossible in 1957, when the “history” had not yet happened – shows that Articles 117 and 118 had an extremely long life. They are found, with the same numbers, in the Treaty on the European Union (the Treaty of Maastricht), dated 7 February 1992. Another article in the Treaty of Rome, carried over identical in Maastricht, was Article 110, whose content anticipates with the greatest precision what would result, years and years later, from the ITO, had that extraordinary project been concluded. Collating the evidence, one is inclined to think that the procedures and the “functioning of the common market” mentioned in Article 117 that were supposed to bring “harmonization and improvement” were not those of the Treaty of Rome but those guiding the ITO through GATT and WTO.

22. In 1957, no single individual could have had such a vision – not so much farsighted as prophetic – of what would come to pass 35 years later. No man or woman could have formulated so precisely the rules that the Maastricht Treaty would transpose integrally. In 1957, no politician could have taken the responsibility of sinking the social state that was the legitimate pride of Germany, France and Italy, given the positive results attained, and entrusting responsibility for all the matters listed in Article 118 to the “market” alone.

In other words, the text of Articles 110, 117 and 118 cannot have been the handiwork of any single individual, politician, legal scholar or economist, nor of the foreign ministers of the six founder members, nor even of Walter Hallstein, Konrad Adenauer's trusted collaborator, who helped draft the Coal and Steel Community treaty and was a future two-term President of the European Commission. In other Treaty clauses, one recognizes Hallstein's hand. But certainly not in Articles 110, 117 and 118. Behind these rules there had to be an organism that as we have seen already aspired to a leading role once a truly global marketplace had come into being. We know already what it is – the system of private international liquidity creation, or international finance.

23. Starting from the date of its entry into force, the Treaty of Rome produced a "mutation" in the nature of its founder States. A second, distinct effect was the "disqualification" of the power of command in the institution (not a State) that was being brought into being.

The "mutation" of the nature of the State took place because it is absolutely certain that within the territory constituted by the sum of the territories of the Member States and the community resulting from the sum of the their peoples no entity with powers extending over the entire sphere was created. The organs of the Member States no longer had such power. Nor would the EEC itself. The Treaty parceled power out among a series of entities. For agriculture, power would be wielded by "common organizations" slated to be integrated with or to replace national organizations. In transport, power would be exercised by the Commission and the Council. In the common market, the holders of power would again be the Commission and the Council, organs of the EEC. The "matters" listed in Article 118 would eventually be governed by the rules issuing from the Uruguay Round – that is, the foundation would be the system of international liquidity creation.

As a consequence, the State remained "sovereign" only insofar as it could enforce its "right," as signatory, to require that the organs of the EEC comply with the Treaty. Within the sphere of the Treaty, they operate as "members." They are not "sovereign States." And that the EEC itself is not a State, much less a sovereign State, is unquestionable.

24. If our interpretation is right, as we believe, the "matters" listed in Article 118, the subject of the "social provisions," would make up a sphere from which, in the future, the competence of the State is excluded. And this competence is also denied to the EEC itself. For neither Article 118 nor Article 117 mentions any specific powers assigned to the EEC, or that the EEC was to use, to attain the objectives that the Member States "believed" would come about.

25. These multiple considerations as to the manner in which the Treaty of Rome, ostensibly ratifying sovereign power, actually did away with it, producing a radical mutation in the configuration of sovereign States, need to be supplemented by an argument from positive law.

The Italian Constitution, Article 11, establishes the principle – an extremely general one that no State can avoid observing, even if it lacks a written constitution – that "Italy agrees, on conditions of equality with other States, to the limitations of sovereignty that may be necessary to a world order ensuring peace and justice among the Nations." Implicitly, for a State that limitation, that loss of sovereignty, constitutes a denial of its very nature, an acceptance of no longer being a State. Article 11 lays down that Italy can only accept such a limitation if it is necessary to guarantee international peace and justice. That is, the article sets two conditions, both absolutely indispensable. The first is that the legal basis of the limitation shall be an agreement *among States* and in conditions of equality. Yet in the matters governed by the social provisions of the Treaty as listed in Article

118, the State element is lacking. The limitation, in this case taking the form of a waiver of powers, is agreed to in favor of an organism that is not a State. "International finance" is not a State. And assuming that the waiver is in favor of the EEC, the conclusion is unaltered. For *neither is the EEC a State.*

Second, even on the broadest possible interpretation of Article 11 of the Italian Constitution, the aim of Article 118 cannot be reduced to the purpose of ensuring peace and justice among nations.

26. In addition to violating the principle of sovereignty, the Treaty of Rome also downgrades its exercise. Two distinct organs, the Commission and the Council, were asked to exercise power concurrently. Under the original Treaty the Commission consisted of nine members selected by mutual agreement by the Member States, to be "chosen on the grounds of their general competence." The expression "general competence" was taken over from the Coal and Steel Community treaty, and in that context it meant that no "specific" competence in the field of coal or steel was to be required. In the new context of the EEC Treaty, this formula cannot be construed to mean anything more than what it says; namely, that the members of the Commission are not required to have *any specific qualifications at all*. Strictly speaking, they could be anyone, "the man in the street." Naturally, an average person can be or become a historical figure. But the qualification remains. Today the Commission members number 28, those of the euro area 19. For all but a very few, one would be hard-pressed to cite any specific professional or cultural qualification. Of none can we say whether they have ever visited any of the other 18 euro-area or 27 EU countries other than their own.

27. The downgrading of the power of command did not end with the way the division of power between Commission and Council was

determined. Analogous structural factors guaranteed the prevalence of the EEC directorates general – the bureaucracy – over the single Commissioners. Perhaps not all but certainly some new Commissioners, lacking specific qualifications, may not have the knowledge needed to make policy in their specific sector. It is up to the bureaucracy, and specifically to the heads of the bureaucracy, if not to instruct the Commissioners, at least to bring them up to date or orient them as they move into a totally new and unfamiliar job. Commissioners have a term of four years, a long enough time to gain expertise. At that point, unless reappointed, they leave the office.

It is within the directorates general that the texts of Commission proposals, resolutions, regulations, recommendations, opinions, and so on, are drafted. More than the diversity of political positions, what tends to reinforce the independent authority of the director general vis-à-vis the Commissioner who is his nominal superior is stability of office.

28. As we have said, the strength of the system of private international liquidity creation was growing rapidly. The system discovered an operative profit-making model that was quicker, simpler and more lucrative than collecting savings in Europe and supplying it to American clients. In Europe, every State had its own currency. Economic performance and trends in the four main European countries – Britain, Germany, France, Italy – are similar but not identical. And variability is heightened in some cyclical phases. Currency speculation is therefore a source of gains. The wealth that the system had accumulated opened up additional opportunities. By concentrating its resources on one currency and then switching to another, it could cause profitable swings in exchange rates.

Sudden exchange rate variations and increasingly large trading volumes created problems for central banks.

Leaving these specific questions aside, experience has shown that the free circulation of persons, goods and capital and the freedom of establishment, while generally having the beneficial effect of mitigating the disparities due to structural factors, could also aggravate them. Severe imbalances were engendered.

29. For the central banks of the EEC Member States, continuous and sometimes sudden exchange rate fluctuations created unsustainable situations. The remedy was suggested by the EEC Commission. At the Hague Summit in 1969 Raymond Barre, the Vice-President – an eminent economist and a savvy politician, who would be the French Prime Minister from 1976 to 1981 – presented a proposal that was accepted by the Council and put immediately under study. The working group was headed by Pierre Werner, a Luxembourgois. The Werner Report, also known as the Werner Plan – Werner would head the Commission when it was charged with drafting the implementing rules – provided for political coordination of economic decisions and the gradual transfer of power from national to Community organs, the creation of new Community organs and a set of related procedures. Treaty amendments would have been necessary. The plan failed to win consensus and was abandoned.

Instead, in 1972 an agreement was reached in Basel for an arrangement known as the "monetary snake." In addition to the six EEC members, the arrangement embraced the United Kingdom, Ireland, Denmark and Norway. Parities and ranges of fluctuation between the members' currencies were set. When the agreement was applied in practice, currencies left and re-entered the arrangement repeatedly. In 1979 the European Monetary System was instituted. It introduced a system of fixed but adjustable exchange rates, with fluctuations of up to ±2.25%, and up to 6% for the UK, Italy, Spain and Portugal. In 1992 Italy and the UK left the system.

30. Barre's proposal had shown the right way ahead. If the economy was to be the subject of a "union," then a common political organ to manage it in the common interest had to be formed. The difficulties that would be encountered by the monetary snake and the EMS were readily foreseeable. Yet there was an insistence upon stringent constraints on the States that were supposed to have the effect of harmonizing the economy. Instead of economic growth, however, there was deterioration. Nor was there harmonization. There were disparities in outcomes corresponding to the disparities in the initial conditions of the single economies when the constraint first became binding.

31. The snake and the EMS proved to be durable. Member States were subjected to them. The two institutions, which entailed a further, permanent restriction of member countries' monetary sovereignty, should at the very least have required a formal amendment to the EEC Treaty. But the question was never even broached. Organisms, as we said, always embody an objective, whose attainment depends on the way in which movements are coordinated by surface structures, which in turn depend on the underlying structures. The widespread economic deterioration cannot be blamed on international finance. The product of its history, this organism could not have betrayed its own nature. It should have been the signatory States, as sovereign nations, to demand rigorous observance of the EEC Treaty and, where appropriate, to call for its amendment. No one lifted a finger. No one realized what was happening. Everyone went ahead as if we were in the best of all possible worlds.

32. To see how an organism's behavior can have opposite effects depending on the environment in which it operates, consider the events of 1973. When the international oil crisis broke out that year, it was the private

system for international liquidity creation that got the four main European powers out of their difficulties. To be sure, in this instance Britain, France, Germany and Italy were not acting as EEC members but as sovereign oil-importing nations.

That was the year that the Organization of Petroleum Exporting Countries quadrupled the price of oil. The four European countries found it impossible to supply their importers with the requisite liquidity. But oil was indispensable to industry and a whole series of essential public services. Shifting resources away from other sectors would also have caused or even exacerbated damage to the rest of the system. Above all, there was no certainty over the level at which oil prices might finally settle. The four central banks weighed a series of alternatives, and found all of them wanting. In the end they decided that the most practical, concrete response was to accept the offer of the private liquidity-creating system. The commercial banks that made up that system offered to provide loans on advantageous terms with no geographical or quantitative limits. The central banks accepted. The bonds of 21 commercial banks were included in their "official reserves." The banks that created this liquidity obtained a benefit of inestimable value, namely their official legitimation.

This first benefit was then flanked by another. The Gulf oil exporters had accumulated an enormous mass of financial resources. They had an urgent need for civil and economic infrastructure, but they had no projects for its realization. In the meantime, they entrusted this enormous volume of funds to the commercial banks for management. The chosen location was the City of London. From this moment, there was no doubt that international finance would play a primary role in the world.

33. The Treaty of Rome took responsibility for the "matters" making up the social provisions away from the State and assigned it to the market, in the expectation that this would become global. Within the EEC the destinies

of the two components, the Member State and international finance, would be interwoven. But the benefits and advantages would not be equally shared.

The EEC Treaty rules that we have presumed to be the handiwork of international finance resulted in a mutation of the State by depriving it of its indispensable, specific nature. A centuries-old consensus holds that the State consists of three elements: a *territory*, a *population* permanently settled within the borders of the territory, and *sovereignty*. To say "State" is to say "sovereignty." Sovereignty consists in the effective capability to subject the entire space, without exception or limitation – that is, the whole territory and all the citizens, even when they are outside the territory – to the State's rules and orders. The only exception is the superordinate rules of international law. Sovereign power is "inclusive" insofar as it is fully independent in making dispositions concerning the entire territory and its community. At the same time it is "exclusive" insofar as it prevents any and all other entities from exercising, without its prior consent, even the least influence over the territory and its inhabitants.

Article 39(2)(c) of the EEC Treaty says that "within the Member States agriculture constitutes a sector closely linked with the economy as a whole." This is as much as to repeat, with reference to one specific sphere, the concept already set forth in general terms, namely that under sovereignty there are no sectors exempt. As agriculture is linked with all the other spheres of activity, so every other sphere, including defense, say, or foreign affairs, is linked to agriculture. The Treaty, however, lays down distinct rules, to be enforced by distinct powers and procedures, for agriculture, for transport, and for the free movement of all types of entity. And the State is actually expelled from the matters listed under the social provisions. Yet fundamental spheres like foreign policy and defense are affected by agriculture, transport, freedom of movement, and the social state provisions, which in turn cannot be ignored by the rules governing the other spheres.

34. Starting on 1 January 1958, two distinct entities would coexist within the sphere of the Treaty of Rome. One, the European Economic Community, was a historical novelty, a new entity whose architecture was designed by the Treaty. The other, namely the phenomenon of private international liquidity creation, was the work of history, still growing towards its definitive configuration, i.e. international finance. As realized in practice, the architecture of the EEC necessarily differed from the plans espoused by the Italian foreign minister who took the initiative for the Monetary Union and his counterparts in the other five founding countries who endorsed the proposal. What emerged concretely, in fact, was imprinted with the suggestions of a nascent "international finance." In coexistence, one of the two parties always prevails, someone always receives more than he gives. In our case, which of the two – the novelty of the EEC or the private creation of liquidity – would get the greater benefit? There could be no doubt – it was the rapidly maturing phenomenon of international finance.

The facts provide the demonstration.

35. Readers may well consider these theses surprising, even disturbing. But they are corroborated by the facts. To international finance, "national sovereignty" and "political decision" are an irritant, a fly in the ointment. An examination of the definitive configuration of the Treaty of Rome and its evolution shows that international finance, the dominant partner within the Treaty rules, has been implacable in erasing all traces of sovereignty and political decision, as far as possible. The State has been deprived of sovereignty, dethroned, transformed into a "non-State," a mere "Member State." The power at the summit of the EEC has been disqualified. The Council, made up of the relevant ministers of the Member States and thus the product, direct or indirect, of the popular will, is lower ranking than the Commission, a body of whose members, at appointment, no qualification is

required. And the Commission in turn can be dominated, in practice, by the EEC bureaucracy.

Every time an initiative to bring the system back under political guidance has been undertaken, things have been managed in such a way as to ensure its failure. This is what happened to the Werner Plan. As soon as it became clear that it would transfer powers, assign some policy choices to national organs and others to Community bodies, the plan was buried.

36. Two other episodes are equally enlightening. Twice, attempts were made to revive discussion of Political Union. Both times the Commission was decisive in burying the project.

The first time was in 1961, only three years after the birth of the EEC. In France, Charles De Gaulle had just returned to power, with all his authority and prestige. Unlike the other EEC heads of government, De Gaulle had taken part in person, and as a leading actor, in World War II. He knew that without the great men of the day – Churchill, Roosevelt, Stalin – and without the role he himself had played for France, and without a solid group of Allies, the war could not have been won. And the same went for the Axis powers, for Germany under Hitler. For Europe to regain its special place in the history of the world, it would have to be united, cohesive. So moving on towards political union was unavoidable. De Gaulle took the initiative. At a European summit in Paris on 10 February 1961 the heads of state and government resolved on the creation of a "Political Union" of the six member countries. On 2 November the French government presented a project called the "Fouchet Plan." Days later the talks on EEC membership for Britain and Denmark would open. On 18 January 1962 France presented a new plan. The powers of the planned Confederation were extended to the economy and now also included the independent power to modify the EEC Treaty.

Fourteen days later, however, on 1 February, five other EEC members presented a separate proposal of their own. And when the foreign ministers met on 17 April to make the definitive decision, Belgium and the Netherlands declared that they would undertake no new commitments until the UK was a member. There was no need for further discussion. The six ministers recognized that the attempt to form a European political union had failed.

What, then, had happened? Just days before the presentation of the second French plan, at the conclusion of difficult negotiations, the Council had decided to advance to the second stage of the transitional period ahead of schedule. This move was decisive. As a result, transition to the successive phases would be automatic. Only a unanimous decision of the Council could block it. From that moment on, there could be no talk of a European Union until Britain had been admitted. And Britain would never join any political union. It was barred from doing so by its role in the Commonwealth, by its "special relationship" with the US, and by the role of the City of London in world finance. Dates and initiatives were thus superimposed over one another. Pure coincidence? Subsequent events show that the recognition of the failure of the negotiations on 7 April would paralyze the activity of the Union for an indefinite time to come.

Let us turn to the second attempt. On 24 May 1984, François Mitterrand, the President of France since 1981, gave a speech at the European Parliament setting out what in his view was the way forward, namely the direct election of the Parliament by universal suffrage. He foresaw a new phase in the construction of European institutions. European competence needed to be extended to the areas that still eluded it, meaning first and foremost the creation of a political union. And Mitterrand spoke directly to Altiero Spinelli, who was then an Italian member of the European Parliament, saying "A new situation calls for a new treaty, which must not, of course, be a substitute for existing treaties, but an extension of them to fields they do not currently cover. This is the case with the European political Community. France, ladies and gentlemen, is available for such an enterprise. I, on its behalf, state its willingness to examine and defend your project, the inspiration behind which it approves."

Mitterrand appears to have overplayed his hand (the ministers had not been informed of this proposal, and it seems they were not in favor of it). It was typical of Mitterrand not to miss the chance for the grand phrase. In his memoires, Jacques Delors tells how Mitterrand's voice vibrated when, in the discussions for the Treaty of Maastricht, he introduced his remarks with a "*nous, les européens*". In any case, the plan so solemnly advanced by Mitterrand was quickly and unceremoniously ditched.

37. These premises entail conclusions so drastic that one hesitates to accept them. Let us set them out, hopefully but not assuredly in logical order. First, and most startling, is the nullity of the EEC Treaty itself! [questo, secondo me, è necessario inserire qui per preparare il resto dell'argomento]

The sovereign states exist. Their governments are elected according to the democratic rules and principles in place in each country. Their duty is to exercise the legitimate governmental powers of a sovereign nation. A word of advice to the men and women who govern the sovereign states of Europe would be to simply forget their status as EU members. If the Treaties are null and void, then the status of Member State does not actually exist. The leaders who head these countries operate exclusively under the powers of the government of a sovereign nation.

38. The nullity of the Treaties naturally nullifies the organizational rules that they lay down. The nullity of the rules nullifies all the acts adopted on their basis.

39. It is up to the people who act for the sovereign powers of the Member States to determine how the heads of Community organs and offices are to be treated. Today, they all lack legitimacy, any attributed powers. A similar situation arose at the end of the war, when democratic governments took the place of their authoritarian predecessors. Decisions were made then that proved their wisdom and that could serve as a model today. The governments of Europe's national states could determine that the holders of EU offices, at each and every level, should stay at their posts for the moment pending new orders but refrain from all but absolutely essential activities, and that they should realize that their conduct will be assessed by the law of the sovereign state of which they are citizens.

40. Sovereign nations respond using every resource provided by their territory, their national community, the potentialities of their sovereign powers. The sovereign nations of Europe are subject to international law. They are members of the United Nations and other international organizations, some are even ex-officio members of the UN Security Council; they are members of the World Bank (taken together, the quotas of the euro-area states exceed the largest single quota, that of the US).

41. Europe today is not in the same conditions as in 1950. Back then, the continental core of Germany, France and Italy led the world in level of economic development, in culture and education, artistic heritage, in the richness of its contribution to culture and to civilization in general. Today we are circled round by ruins. The job of the leaders of these sovereign nations is incomparably harder now that it was in 1950. But history teaches that it is the magnitude and depth of problems that brings out people's true character. Hopefully this will happen during the difficult years that Europe will have to face.

42. The first decision that the sovereign nations (hence their leaders) will have to make is whether to go ahead singly or as a group, pursuing shared objectives. The former option constitutes a powerful temptation, as a reaction to the recollection of a European Community that has caused suffering, humiliation, damage. However, there exist a series of objective conditions that counsel the second alternative.

a) Now that the Union has extended to practically the entire European territory, Europe has become a continent – unique in the world – in which, with minimal exceptions such as Andorra, Monaco, San Marino, Liechtenstein [ma Norvegia, Svizzera, Serbia, Albania??? Suggerisco: with the exception of Norway, Switzerland, Serbia and a few others, there are no sovereign states. All the rest of the planet, by contrast, is divided among sovereign nations. Europe is surrounded by nation-states, some of them torn by violence and turmoil.

b) The continent's common currency, the euro, performs an important function in world trade. To abandon it would cause problems. But retaining the euro does not necessitate keeping the same old rules, which are to be considered null and void like all the acts and regulations of earlier periods. The rules governing the euro should evolve towards those in place for all the currencies issued by sovereign states. Its management should be entrusted not to rigid, abstract rules but to decisions that the Central Bank, which is responsible for the currency, should take in coordination with the organs of government of the nations that continue to use the currency.

c) The foregoing implies the need for a crucial, preliminary decision. If the sovereign nations of Europe were to decide to proceed as a group, the kind of Europe they intend to forge should be clear. *The European Community does not exist, it was stillborn*. All the treaties, starting with the Treaty of Rome establishing the EEC, must be deemed *null and void*. If it is decided to proceed as a group, it is implicit that the intention is to arrive at a political union. But what kind? “European Union” harks back to the past. A new formula might be “United Europe.” [the United States of Europe???]

43. Europe, today, is strewn with ruins. Mass unemployment, countless firms driven out of business, abandoned public works projects, other infrastructures that are unusable because of construction defects, natural beauty defaced, and unique pieces of mankind’s heritage in tatters. And the list could go on. In large part these unutilized or underutilized productive factors can be recouped. Acting as a group, the nations would be in a position to get financing from one or another of the sources that exist, not excluding international finance. One hypothesis might be for each and every national state to develop an action plan incorporating unutilized or underutilized factors. A common organism would judge the various projects on their merits, and the European Central Bank would fund those accepted for the first year. If a project successfully demonstrated its worth, the funding would be extended for additional years; otherwise, funds would be cut off.

44. Little more need be said. The situation is so novel, so demanding, that only the holders of sovereign power, in the practical discharge of their duties, can really weigh the “pros and cons” of any solution. Making suggestions just sows confusion. My only recommendation is that our leaders should have clear and full consciousness of the situation as it exists, develop clear and shared projects for the future, act with confidence and courage to realize them, and be personally and politically above all possible reproach. They must seek out solutions and discuss them with their counterparts in the other Member States, with an open mind, faithfully and with mutual trust.

45. The theme of Europe is relevant to the entire world. The account of developments in Europe since 1950 has to be set out together with that of the transformation of the rest of the world over these same decades. Following a phase of euphoria and one of deep crisis, the global scene now shows signs of uncertainty and significant transformation. United Europe [The United States of Europe] could make a major contribution; in some respects it could prove decisive.

46. In his "Introduction" to *The Federalist*, perhaps the most important piece of political theory since Pericles' speech to the Athenians as narrated by Thucydides, Alexander Hamilton argues that a system of governance may either originate in circumstance – chance – or stem from the rational design of the arrangements assigned to regulate the life of the community and that will determine its fate, which makes this subject, and this project, "the most interesting in the world." The United States of America is the living example of a creative project that has endured for more than two centuries. The successful creation of a European nation must be the fruit of an equally high ambition. A United [States of] Europe would have to be the work of the governments of the continent's sovereign nation-states. They should follow the American example. Gradually, as they themselves came to agree on the single components of the eventual system architecture, Hamilton, James Madison and John Jay set them out to their fellow citizens. In the end, the people of each state were called on to vote their approval of the project. This is the procedure that the governments of Europe's sovereign states should adopt. In the end, every single national community must express its approval of the project with a democratic vote.

Giuseppe Guarino