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Andrew Duff argues that the Union's top priority is to settle the matter of how to elect the Commission in 2024. He believes that the EU should aim to have major constitutional reforms in place by 2029, including a renegotiation of the Brexit deal leading to new class of affiliate membership; completion of banking and capital markets union leading to fiscal union; a fully legitimated European Parliament; and the bridging of the divide between the EU and NATO beneath a European Security Council.

Brexit II

The European Union has still to come to terms with Brexit. Clearly, the business of managing the secession of the United Kingdom has been very costly in terms of time and effort since Prime Minister Cameron launched his renegotiation of the terms of British membership in 2015. But there are important lessons to learn for the future of Europe. The unprompted departure of a rich and powerful member state marks the end of the EU's classic strategy of widening and deepening in

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parallel, first articulated at the summit of The Hague in 1969. Brexit has confounded the historic mission of the Union. “Ever closer union among the peoples of Europe” is now impossible. The British remain a European people but have chosen the path of disintegration.

During the secession negotiations, many ‘Brexiters’ argued that no deal would be better than a bad deal. That was, of course, nonsense, and at the last minute, on Christmas Eve 2020, a deal was done. But the Trade and Cooperation Agreement (TCA) turns out nonetheless to be a bad deal. It will not endure. There are no tariffs on goods, but supply chains are badly disrupted by tightened rules of origin requirements, the imposition of border checks on tax and customs, and controls on health and safety. The problems of doing business across the Channel are compounded by the erection of a veritable frontier between Great Britain and the province of Northern Ireland, which remains inside the EU’s customs union. The TCA does virtually nothing for trade in services, for mobility of people, or for cooperation in foreign and security policy. Fisheries remain a bone of contention, especially with France.

The UK is highly likely to ask the EU for a comprehensive renegotiation of its Trade and Cooperation Agreement, starting in 2024. One may imagine that by then the Conservatives will be turfed out of office, although the capacity for incompetence and internal division within the opposition parties in the House of Commons should not be underestimated. Even a new Conservative government will be back in Brussels as *demandeur*. The renegotiation agenda will be centred on measures to improve British access to the single market of the type that Michel Barnier dismissed as unacceptable “cherry-picking” during the process under the secession clause (Article 50 Treaty on European Union (TEU)). While the cohesion of the EU 27 has been impressive in the course of Brexit I, will it continue to be so in Brexit II? Will other member states, such as Hungary and Poland, seek to emulate the British and try to improve their own terms of EU membership?

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Renegotiation will give rise to the same thorny issues which complicated the conclusion of the initial deal. How will reciprocity and mutual recognition be defined and applied to EU UK trade in services? Can the new British regulatory framework be trusted by the Commission across the spectrum of the internal market, from environmental protection to state aids? There is a strong case for a return to free exchange with the vast pool of capital liquidity and expert financial services in the City of London, but equivalence needs to be supervised. European arts and sciences will certainly benefit from a restoration of former links with Britain, but on what terms?

The likely outcome of Brexit II will be a Ukraine-type association agreement based on a deep and comprehensive free area. Over time, however, this may prove to be too meagre a basis for the EU's British partnership, especially if the appetite grows for closer political cooperation in security and defence. There will be no British application to re-join the EU as a full member state. But one might expect the UK to seek a new form of affiliate membership of the Union, involving at least partial engagement with the EU's institutions. As such a membership category does not exist under the present treaties, the request from London would add to the pressure on the Union to embark on a new round of treaty change.

If the UK were to lead the way towards developing the concept of affiliate status, other third countries would surely follow, including Norway. Adoption of a second tier class of EU membership would also make sense for the Western Balkans, Ukraine and, ultimately, Turkey. As further enlargement of the Union has already become practically and politically impossible, the additional option of affiliate membership would relieve the Union of an intractable neighbourhood problem.

The prospect of treaty change terrifies the Union. But the departure of the irredeemably eurosceptic British makes it more feasible for others to move forward in a federal direction. Affiliate membership would act as a safe haven,

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like a *voie de détresse* on an Alpine pass, for any current member state which chose not to take the federal route.

Fiscal union

The other main driver towards federal union is the common fiscal policy which begins to emerge perceptibly in response to the devastating impact on the European economy of the coronavirus pandemic. The EU's decision to raise common debt on a large scale to aid economic recovery is unprecedented and must be managed well. Both the revenue and expenditure aspects of the Next Generation recovery programme should be delivered in as federal a manner as possible. In particular, the €672.5bn Recovery and Resilience Facility — of which €312.5bn is in the form of grants — should be disbursed by the Commission only to investments aimed at producing real added value with a European dimension. The experiment in common debt issuance will be quickly discredited if the Commission surrenders to short-term, pro-cyclical projects favoured by national party politicians. Although the debt initiative has been sold to 'frugal' states as one-off, never to be repeated, if the launch of eurobonds on this scale is successful there will be no reason whatsoever not to repeat it in the future.

Ideally, too, the holders of these eurobonds should be paid not from the proceeds of national GNI contributions to the EU budget but only from genuine own resources raised by EU taxation. This requires a compartmentalisation of the EU budget into federal and confederal sections, a reform which will not only save national treasuries money but will also connect directly the EU citizen as a taxpayer with the government of the European fiscal union. An EU Treasury Secretary will then be established within the Commission, leading logically to other necessary reforms to consolidate the banking and capital markets union, including the full integration of the European Stability Mechanism. The job of the Commission will then be to run a common economic policy of the Union and not merely to try to coordinate national economic policies, as it does now.

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The Article 50 (TEU) process succeeded in concentrating executive authority on the Commission, and this trend should be continued in the fiscal field. Treaty amendment is needed to codify the changes already in train and to reform the fiscal rules of the eurozone. Fortuitously, there can be no better advocate for the completion of fiscal policy reform in the European Council than Mario Draghi.

European Security Council

Left to their own devices, neither the EU nor NATO has proved itself capable of delivering the effective, intelligent security that Europe needs. Indeed, until today the division between the two Brussels based organisations has made synergy impossible. Many people doubt that the EU will ever develop a coherent common foreign and security policy. NATO is still in search of a post-Cold War strategic concept, and struggles to keep the Americans engaged. The election of President Biden and the departure of the British from the EU open up an opportunity to think afresh about the architecture of Western security. The need for new institutions is self-evident: if EU enlargement has stopped, new organic linkages must be invented to cater for the security needs of the whole European neighbourhood.

President Macron has been the foremost intelligent critic of the present arrangements. If he gets re-elected in 2022 he will be in a good position to propose an overarching security concept which breaks down the barriers between the EU and NATO. A joint meeting of the North Atlantic Council and the European Council could decide to establish a regular system of meetings of defence ministers, including those of the US and UK. Jens Stoltenberg retires as NATO Secretary-General in 2022. His successor should be an EU defence minister appointed as the permanent dual-hatted president of the new ministerial body.

Treaty change

Such innovations for the European Union in the field of membership, fiscal union

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and defence policy will require changing the Treaty of Lisbon. That exercise must be well prepared. There is talk of the Conference on the Future of Europe — but in truth there is no sincere agreement within the EU institutions let alone between them about the purpose, organisation or leadership of such a Conference. The governance proposed for the Conference looks to be clumsy and over-weight, its deliberative processes confused and objectives unclear. The President of the Commission, the conservative Ursula von der Leyen, is unwilling to take the lead in the Conference. Charles Michel, President of the European Council, appears to have washed his hands of it. Needless to add, the constraints imposed by the Covid-19 pandemic do not help the Conference. The imminence of the German and French elections will further blunt the force of reform.

In any event, there will have to be a Convention in advance of treaty amendment, and it is here where pressure from federalists will be most pertinent. Setting the target date of 2029 for the new constitutional settlement to enter into force seems reasonable. That year will be the 50th anniversary of the introduction of direct elections to the European Parliament. Is it too much to hope that to celebrate that occasion some MEPs will be elected from transnational lists for a pan-EU constituency? Federal political parties are badly needed to realise the dream of Altiero Spinelli and to make our new European polity better governed and fully legitimate.

Unfortunately, electoral reform will only be postponed by the submission of the matter to a talking-shop Conference. The European Parliament already has the full right of initiative to initiate transnational lists. There is no case whatsoever for granting MEPs an extended right of legislative initiative unless and until they use the right they already have with respect to electoral reform. Once reform has rendered the Parliament authentically European, however, MEPs should be granted the right to vote on the federal part of the Union's revenue.

More generally, we must make an effort to render the Treaties less prohibitive

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and more permissive, enhancing the EU's capacity to act. QMV in the Council should be extended to decisions on taxation, own resources revenue and the multi-annual financial framework. The Commission and not the Council should represent the eurozone in international monetary affairs. Other Council functions, such as fixing agricultural prices and fisheries quotas, should be transferred to the Commission. If the more differentiated, wider Europe we foresee is to hold together, the centre must begin to act and look like a federal government.

Prerequisite for such a transformation is to reduce the size of the college of Commissioners at the time of its next composition in 2024. Of all the items crowding the Union's agenda, this is the most pressing — and can be achieved under the terms of the Lisbon treaty (Article 17(5) TEU). The search for von der Leyen's successor should be starting now.