

The plan for a new EU Constitution proves Britain is right to get out now

In Japan, so I am informed by people who know these things, there is a genre of activity known as *Tamakeri*.

Readers are advised not to Google that on their office computer: it involves individuals getting pleasure from being kicked in their chestnuts, or watching that happen to some other poor unfortunate individual.

Each to their own. But it appears that despite the obvious risks and consequences, some in the EU are determined to engage on their own political equivalent.

Supporters of continental integration have already forgotten the lessons that led to Brexit, and are determined to push ahead with further trips to referendum A&E. On go the sturdy boots. A new EU Constitution is now doing the rounds.

Of course, no one in their right mind could possibly revert to a concept that was so beyond the pale it caused two of the founding EEC states to reject it in a referendum. So, naturally, there is a draft which is even more integrationist instead. Like a classic Hammer Horror, the undead Constitution has risen for the sequel, and this time it means business.

We explore the background (less the *Tamakeri*) in a new paper for the Red Cell, *The Ljubljana Initiative*. In short, some old school academics in the Balkans have latterly drafted a text that borrows heavily from the US constitution. It might have stayed on Slovenian shelves gathering dust and waiting for the planets to align, but they have got their President on board, who is even now touring chancelleries pushing the document as the hard text of the 'more integration' option recently mooted

by Jean-Claude Juncker.

It thus appears to be the only one of his five options that has a concrete set of proposals to go with it. Even if it doesn't get selected as the Council's preferred route, it shifts the fulcrum: it will make all the other models that will emerge seem perfectly modest and acceptable by comparison.

So why is it such a shocker? Well, as our paper explores in greater depth, there are three core issues: things that get changed in how the EU works; things that get changed in what the EU does; and the creation of a fast lane for further integration.

Let's start with functionality. The constitution becomes openly federal so the EU becomes a sovereign government and an international player in its own right, and Brussels formally becomes Europe's Washington DC. Power shifts from member states, as the Council becomes QMV-driven. The Delors proposal is adopted that made Thatcher say "No! No! No!": power shifts massively away from governments towards MEPs in the model of the US Congress.

Meanwhile, the Euroquangos become subject to the souped-up President, who can make new ones whenever he wants. As for the European Court of Justice, it formally becomes the EU Supreme Court, subject to MEP – and not national – oversight.

The two big winners are the MEPs, and the lucky new occupant of the EU Presidency. The EU President gets to run international affairs and defence just like the US President does. He appoints ambassadors and judges. Particularly controversially, and ideal given the track record in Brussels, he gains the right to grant Presidential pardons (so, plenty of scope for replays of Nixon after Watergate). A new system meanwhile sets up a Security Council made up of representatives from other EU institutions at times of crisis

– generating a ‘War Cabinet’.

These are radical proposals. Realistically, it’s unlikely that member states will be willing to all go along with this, though it would be informative to see the haggling. In any case, we turn to the division of competences (i.e. powers) and this is where the drafters’ prospects start to improve.

Under the text, Foreign Affairs becomes an EU competence. The EU gets its own European Defence Forces (Army, Navy, and Air Force). Even Juncker’s proposals to *reduce* the role of Brussels included creating a Defence Union, so this certainly has legs.

A new EU territorial police force is also created. Because everyone is such a fan of *Casablanca*, obviously that means that a new EU Intelligence Agency Service (an EU CIA) needs to be formed too.

Emphasising the complete failure to learn from June 2016, a new Common European Asylum System is also set out, which is intended to share out asylum seekers.

Then on top of these measures, there are also the proposals intended to make EU integration easier in the future.

There is a new ‘passerelle’ clause, so that if MEPs want the power to do something, and don’t have the express legal right in the treaty, but the general objective is mentioned in the treaty, then MEPs can grant themselves the power to do it. To grapple with the consequences of that, consider for a moment what MEPs might choose to legislate on in order to ‘bring peace to Europe’.

On top of that route, there are clauses for fast tracking widespread constitutional change. MEPs can decide they want more powers, summon a Constitutional Convention, and vote themselves those powers. A referendum failure in several member states during ratification still doesn’t veto the

result.

Separately, a new Article 50 also incidentally makes it harder for states to leave in the future by transferring the key negotiating role to MEPs.

Some will say that these are merely proposals, and they will be right. These are ideas that are simply being put forward by a Head of State, who is looking for (and incidentally, so he says, winning) support from his counterparts. But let us not forget either how many items now contained in the EU treaties were themselves once dismissed as whispered follies, or on a par perhaps with, say, the *Beano*, scant years before they indeed came to pass.

So it is important to take note and not to dismiss such plumb lines out of hand. Even if only a part of this new draft EU Constitution happens, the inescapable nature of ever-closer union (contained, incidentally, within the recent reaffirmation in Rome) means that it maps the long term direction of travel. We are at the same time prompted yet again that those engaged in running the EU are incapable of adapting from past mistakes, learning nothing and forgetting nothing.

All told, it proves that the United Kingdom was right to vote to get out when it did. Consider for a moment that, if Brexit is difficult now, what it would be like after another thirty years of plug hole suction on our sovereignty, and matting of our economy's paperwork.

But above all, the existence of this new EU Constitution alerts us of the importance of strategically thinking ahead.

Theresa May, David Davis, and all ministers and team leaders across Whitehall need to plan over the long term. They need to look at what the EU will over future decades become, rather than think about how they want to associate with the structures that are in place today. That way, they can avoid

creating new institutional ties that are so close that they mire their successors as the EU construction site continues to fill with cement.

(this article first appeared on Brexit Central and is used with permission.)