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**"Towards a Constitutional Treaty for the European Union"**

- 1. It was not so long ago that we celebrated the fiftieth birthday of the Treaty of Rome. The Treaty establishing the original European Economic Community. That Community built on the ideals of its predecessor, the European Coal and Steel Community. The European Community, and more recently the European Union, have brought peace, stability and prosperity to our continent for more than half a century. This is a success story which we too often take for granted.**

**Why reform?**

- 2. So if it is so successful, why are we now looking yet again to reform it? Why are we rewriting the Treaties which have served us so well? And why have we invented a new mechanism, a Convention, for doing so? These are**

**questions which I will attempt to answer this morning/afternoon. I will also give you my assessment of where the Convention has got to so far, and more importantly where I think it is going to end up.**

- 3. The origins of the Convention lie in the historic decision to expand the Union to encompass the whole of Central and Eastern Europe. The end of the Cold War provided us with an opportunity to extend to others the benefits of membership of the European Union. The prospect of membership was in itself a factor in encouraging political stability (authoritarian regimes to parliamentary democracies), and economic reform (state controlled to market economies).**
  
- 4. We have to be clear what this means. It is no less than the reunification of Europe. It meant immense challenges for the candidate countries. They have proved themselves up to the task. The enlargement process has been a very positive one. It has provided stability in Central Europe. And the integration of the community "acquis" has provided the opportunity for necessary reform, and has also been a factor for continuity. But the reunification of Europe has also put pressure on the Union to reform itself, its institutions and its way of operating, in order to allow it to continue to function and to deliver with 25+ members. Over two successive IGCs, the EU has failed to do so, with the risk that the process of enlargement, despite all its overall benefits, ends up paralysing the Union.**

## **Why a Convention?**

- 5. The process of Treaty adaptation by successive InterGovernmental Conferences has become less able to deliver effective reform. For many, the Nice Treaty was proof that we had to find another way. IGCs had become battlegrounds over points of detail which the outside world had difficulty in understanding (I say the outside world because IGCs meet in closed session). There was an increasing sense of paralysis, and a general impression that everyone had lost sight of the bigger picture.**
- 6. The Nice IGC made only quantitative adaptations to the Treaty (as with previous enlargements). It did not make the qualitative leap which is needed to enable the Union to cope with the latest (and largest) round of enlargement. The Union must update its institutions and its method of working if it is to function effectively with 25 Members. Europe's citizens want the Union to be able to provide answers to Europe-wide problems such as cross-border crime, migration etc. They also expect Europe to be a global actor. But they are increasingly seeking a fixed reference point (if you like - a constitution) which provides clarity and certainty over the role of the Union in the long term.'**
- 7. The Convention was created in order to respond to these expectations. It is an innovation. And at the same time it is something of an experiment.**

## **How is the Convention different?**

- 8. The Convention is quite different from a classic IGC. It has perhaps three distinguishing characteristics.**

- 1) it is a **wider** process, involving broader cross-sections of society. Government representatives are only one component part of the Convention. The institutions are also fully represented, as (importantly) are national parliaments. The Convention is more a political than a diplomatic body.
  - 2) it is an **open** process, consulting regularly with civil society.
  - 3) it is an **inclusive** process, involving fully representatives of the candidate countries. This is important. It means that the candidates have a direct opportunity to influence the discussion on the future of the European Union.
9. These characteristics are shaping the way we work, and are vital to its success. We are working in a new way. We cannot hide behind closed doors. We are completely permeable. Our shortcomings, but also our successes, are clear for all the world to see. And we are learning to make full use of all the various proposals and suggestions which we receive from a wide range of sources.

### **The Convention's objectives**

10. The challenge which the Convention faces is enormous. The Laeken declaration which established the Convention set out a large number of questions which the Heads of Government felt that the Convention should be addressing. It remains the baseline for the Convention's work. But the scope of the issues raised by Laeken is so large, that in practice nothing can be considered "off-limits" to the Convention. What then broadly are our

objectives? I think there are three.

11. **Firstly** to provide the Union with the structures and processes which will enable it to operate effectively with many more Member States, taking into account their very different interests and backgrounds.
12. **Secondly** to make sure that the purposes of the Union, how it operates, and how it takes decisions, are understandable and accessible to our citizens.
13. **Thirdly**, to ensure that the Union is able to respond effectively to the issues which it faces in the global world of twenty-first century.
14. These basic objectives are different but complementary. The challenge of the Convention is to meet all three.

**So where has the Convention got to so far?**

15. In October last year, we established an overall framework for the Convention's work. This took the form of an outline constitutional treaty in three parts: The first part containing the basic constitutional structure of the Union, the second part its policies and their implementation, and a third part containing the treaty's general and final provisions. The framework consisted, in October, of little more than a series of headings of articles. Nevertheless it was endorsed by the Convention as a basis for the remainder of its work. That was important.

16. This treaty structure was not created from nothing. It draws on the results of the earlier discussions within the Convention. In the first place it is ambitious. The Convention was clear from the beginning that it would not be enough simply to amend the existing treaties. Indeed many felt that such an approach would not be compatible with the objectives of the Convention. The result will therefore be a new treaty, with a new structure, replacing the existing treaties which will need to be repealed. At the same time, the Convention is not plotting to overthrow the current system. One of its clear messages is that the existing institutions and procedures, including the so-called "Community method", have served us well and should not be dispensed with. In particular, the role of the Commission within the Community method as promoter and defender of the common interest of the Union is absolutely essential. The Community method remains valid today, even if it requires some updating. There will therefore be much that is familiar in the new treaty, even if it is presented rather differently. In short: Evolution not Revolution.
17. I said that the outline treaty takes as its basis the Convention's discussions so far. During last summer and autumn a number of Working Groups were set up to look in more detail at some specific issues relating to the future structure and content of the constitutional treaty, and to report back to the Convention as a whole. The results of these groups were encouraging. In most cases the outcome was a clear set of recommendations supported by most if not all members of the group. These group reports provided guidance when we came to drafting the outline treaty. They will continue to inform our drafting of the treaty articles themselves.

18. Some of the Working Groups delivered results in a relatively short time which went well beyond what many had imagined to be politically possible. Let me give you some examples:
19. Firstly, there was clear consensus that the Union should have a single legal personality. In other words, both the legal entity and title "European Community" will be replaced by "European Union". This is a significant advance in the direction of clarity, particularly for the Union's relations with the rest of the world.
20. Secondly, the so-called 'pillar structure' will disappear. There will no longer be an artificial distinction between particular policy areas. This will not only simplify the treaty structure, but will help improve cross-sectoral policy coordination. I should stress that the Convention was equally clear that this does not necessarily imply an identical application of procedures to all policy areas. The CFSP will remain distinct in many respects.
21. Thirdly, there was a consensus in support of the incorporation of the Charter on Fundamental Rights into the Treaty framework, although the form that this will take still has to be decided.
22. This constitutes the basis of what has already been agreed. It is accepted that, for the sake of transparency, Europe needs a single and comprehensive Constitutional Treaty, integrating the Charter of fundamental rights, and granting the Union a single legal personality so that it can act effectively in international fora, and operate as a single whole: in other words without the existing pillar structure.

### **What are the challenges which lie ahead?**

- 23. The challenge ahead is clear but not simple. It is to complete the drafting of the Constitutional Treaty in time to present a final text to Heads of Government by the summer.**
- 24. In preparing the drafts of the first set of articles on the Establishment, Values and Objectives of the Union, the rights which go with Union citizenship, and the classification of Union's competences - exclusive, shared with the Member States, or subordinate to and supportive of the Member States - we were guided by the results of the working groups.**
- 25. The preliminary reactions of the UK to these first articles were slightly surprising, particularly given the very positive role played to date by the British Government representative on the Convention, Peter Hain. There is no hidden agenda behind these first few articles. And certainly no attempt to propose the creation of a super-state, nor even a state. Indeed the suggested classification of competences simply reflects the current situation. And the text includes the important principles of subsidiarity and proportionality. Furthermore, it is important to understand that we are describing competences of the Union, not of the Commission. The Treaty will set out elsewhere how these competences are to be exercised, and in the case of the Common Foreign and Security Policy, the procedures will be essentially based on the Intergovernmental model, as is the case now. Nor should the proposed reference at the beginning of the Treaty to the fact that certain competences are administered on a federal basis be a surprise. It is nothing more or less than a description of the current situation.**
- 26. The subsequent discussions in the plenary sessions of the Convention will**



no doubt raise other questions, doubts and possibly new issues. These will all have to be answered and taken into account. On some key issues, particularly concerning the Institutions, the Convention has not yet reached a clear enough position to allow us to draft articles. But I am confident that we can complete our task, on time, this summer.

27. I said earlier that the Convention did not wish to undermine the "Community method", which has served us well for over half a century. What does this mean in practice? There will of course be some changes to those articles containing the legal bases for specific policy areas. But they will primarily be amendments to procedure and terminology, reflecting the Convention's general discussions, and including our new definitions and classifications, designed to produce a clearer picture of "who does what", and how the machinery works.. For the most part, the policy content of those articles will remain unchanged. The exceptions are likely to be economic and social policy, both of which were the subject of separate working groups, and which made a number of recommendations (not always consensual) on changes to the content. I consider however that there is a specific need for the Convention to address aspects of the functioning of the Economic and Monetary Union, in particular the issue of the possible formalisation of the Eurogroup, and external representation of the Eurozone.
28. The Convention has made more substantive recommendations in the areas of CFSP, Defence and Justice and Home Affairs, all three of which were also tackled in working groups. There has been a clear message from the beginning of the Convention that foreign policy and internal security were areas which were increasingly important to the Union and reflected the concerns of Europe's citizens, and therefore deserved particular attention.

29. It is clear that the present situation underlines the necessity of a better coordination of the external action of the Union. Let us be clear. There is no common foreign and security policy. There are good intentions but no political will to implement it. The realisation of a Common foreign policy does not simply depend on treaty texts but on political will. That political will exists only for certain actions such as in Kosovo and Macedonia where we have been able to apply the lessons we have learnt from our bad experiences in Bosnia. In principle, everyone agrees that Europe must act together if it is to be effective. That is why we must learn and draw conclusions from the unfortunate experiences of today. The recommendations from the Convention have therefore focussed on improving the institutional arrangements and the instruments in the area of external action to allow for more effective delivery.
30. So we shall be focussing over the next few months on these areas. But we shall also be spending our time on those issues on which the Convention has not yet reached a clear position. Let me give you an example: most agree in principle on the need to extend Qualified Majority Voting in order for the Union to operate effectively in a Union of 25+. Unanimity blocks the decision-making system since anyone can use their veto. Majority voting frequently actually ends in consensus because it creates a different dynamic in the negotiation. All participants know that they can be outvoted; they therefore work at achieving a satisfactory compromise.
31. But when in the past we have come to consider extending QMV, everyone has come up with their own "no-go areas". Put all these together and you barely extend QMV at all. That is what has happened at successive IGCs. We cannot allow this to continue. One way forward might be to introduce majority decision making as a rule, but with some exceptions, on condition

that these exceptions can be removed by unanimity in the European Council (ie without treaty change).

32. The other main area on which the Convention will need to develop its thinking is the functioning of the institutions. This encompasses a nexus of issues, many of which are either directly linked, or can easily become linked politically. The Union's institutions (and in particular those which constitute the institutional triangle - the Parliament, Council and Commission) were designed for a Community of six. Everyone recognises that they cannot be expected to function properly in a Union of 25+. But everyone has a different solution. And when you touch one institution, you often alter its relationship with the others. Our challenge has to be to strengthen them all, clarify their roles where that is required, and ensure that they can work effectively together. It is one of the key objectives of the Convention. We cannot claim success in the Convention if we have not adequately addressed the issue of the functioning of the institutions.
33. I personally am not convinced that the solution to the issue of the functioning of the institutions is to create more of them. The idea of a Congress which has been put forward does not seem to offer us a way forward. On the other hand I am ready to look seriously at the idea of formalising in some way the Convention in order to provide for future revision of the treaty.
33. Reform of the institutions depends in part on clarifying their respective roles. The Commission, together with the Court and the Central Bank, are the three institutions charged with defining the common European interest. The Parliament's central role is of course that of legislator, a role it now largely shares with the Council. As for the Council, much of the discussion

so far has focussed more on the role and Presidency of the European Council. I personally have difficulty in taking a view on the proposal for a permanent President of the European Council for as long as there is no job definition. In addition, the functions of the European Council itself are far from clear in the existing treaty. The role of the European council is to define the strategy of the Union. If it is to be efficient, the European Council has to be well prepared by the General Affairs Council, which is also responsible for implementing its decisions. But the General Affairs Council is not carrying out its implementing role properly at present because it is also the Council which covers external policy, which is a subject which demands more and more time. We have to separate them into two autonomous councils. In general, I am convinced that if we are able to agree on the objectives and roles of the different Council configurations, we shall be in a better position to take a dispassionate view on this issue within the Convention.

34. We should also be aware that some of the difficulty which lies behind the discussion on the presidency proposal stems from a misunderstanding of the role of the Presidency in general (both of the Council and European Council). In the treaty the President's task is to chair meetings. In reality it has become more and more a function of its own. The tendency recently for the Presidency to attempt to set the overall agenda of the Council, and even the Union as a whole, has been an unhelpful distraction. It has led to an exaggerated sense of importance of the role of Presidency, which is seen by some as almost an autonomous institution in itself. It had also led to a worrying degree of nationalisation of the Union's agenda, with different priorities every six months. I personally favour a denationalisation of the presidency, which allows for a diversity of representation of Member States but also greater continuity. But we should avoid the solution of team

**Presidencies, which would also risk developing their own agenda. I think that the Benelux proposal to let the new General Affairs Council and the Foreign Affairs Council be chaired by the Commission President and the new Minister for Foreign Affairs respectively is a good approach. The agenda of the Union has to be genuinely European. That is why the Commission, together with the Council, has a key role to play. I am convinced that we can find a solution if we start from defining the role of and the equilibrium between the institutions. The role of the presidency should be the result not a starting point.**

- 35. I believe that the early successes of the Convention have been a source of encouragement. Over the next few months we shall need much more encouragement! Our challenge is to produce the draft of a new treaty which is based on a fair assessment of a wide range of sometimes competing interests. But it also needs an element of vision and imagination. That was part of the reason for establishing a Convention. We have to have a Union which functions effectively if it is to retain the confidence of the citizens of Europe. And we need a text which is sufficiently clear and durable that it wins their continued support for a European Union which (I firmly believe) has served us all well for two generations.**
- 36. Allow me to end by paying tribute to the very constructive and substantive role played by the UK in the Convention to date. There are few in the Convention who can match the professionalism and dedication of the different British members, whether they represent the Government, your Parliament or the European Parliament. If the Convention is successful, it will certainly be due in no small part to the efforts of the British members. I hope they can count on your support, interest and encouragement.**

**Thank you.**