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Subject : Contribution from the Rt. Hon. David Heathcoat-Amory, member of the
Convention
"A new future for Europe"

The Secretary-General of the Convention has received the attached contribution from the
Rt. Hon. David Heathcoat-Amory, member of the Convention.

A submission to

‘The Convention on the Future of Europe’

by Rt. Hon. David Heathcoat-Amory MP

(UK Parliamentary member of the Convention on the Future of Europe)

A new Future for Europe

The Laeken declaration sets few limits on the scope of our deliberations and we must use that freedom. For the first time in our history the whole scope, purpose and direction of the European Union is subject to debate. We are not the Council of Ministers or an Intergovernmental Conference bargaining for concessions. Our mandate is as broad as the horizon.

The signs of public disenchantment with the present system could not be clearer. Voter turnout in successive European Parliament elections has fallen, despite the parliament having more powers. This apathy is not the result of public contentment. In recent referendums and elections the public have delivered stinging rebukes to an EU which they see as remote, wasteful and interfering, designed *by* politicians and bureaucrats *for* politicians and bureaucrats.

Polling evidence also shows rising animosity towards the EU in the candidate countries. No successful enlargement of the EU can take place unless it attracts popular enthusiasm. Nor can the EU itself hope to overcome the dangers and difficulties of this century unless it takes this opportunity to secure a high degree of public consent. When unpopular decisions have to be made, all political bodies need a secure base of democratic legitimacy and popular support. This is lacking in the EU and its institutions.

The convention has so far excited little general interest, press coverage is limited and popular involvement almost non-existent. The Convention debate with civic society was conducted largely with known interest groups and EU-subsidised institutions. There is a real danger that the Convention will degenerate into a bargaining process between existing institutions and vested interests.

Stranded in this sea of indifference we must be honest in our analysis, radical in our thinking, and bold in our prescription. We must reignite that spark of Western democracy, which arose from individual liberty and grew to demand real political choice, leading to self-government. Political theorists from Aristotle through De Tocqueville have recognised that successful, self-governing units require a certain unity of language, history and culture; the classical definition of a *demos*.

But the history and diversity of Europe has created no such European *demos* on which to found a supranational democracy. Ignoring this fact has led to the present democratic crisis in the EU in which we have created a technocratic Europe ruled from the top. Instead, European democracy must be founded on the building blocks of national self-government. It is here that the present *demos* exists. It is at state level that people feel involved. They know who takes the decisions, to whom these people are accountable, and how they can be removed.

This approach is fully compatible with an energetic internationalism. There are many cross border issues that must be dealt with collectively, not least the dismantling of trade barriers and tackling common environmental problems. Building upwards from nation states is the best way to achieve this.

The Convention must insist on genuine institutional reform. So far we have listened to a succession of pleas for more powers and influence for each EU institution. The 'community method' often results in giving everyone a prize so everyone goes home happy except the ordinary voter or taxpayer. This time there must be real changes, starting with the European Commission, which must become more like a secretariat and be brought under proper democratic control.

The treaty which reforms the EU should have the following main features:

1. Clarity and certainty. The EU would be given certain powers (or 'competences') which must be described in the treaty not by reference to functions or objectives but by specific policy area. The powers would thereby be accurately circumscribed. Existing treaty articles (such as 95 and 308) often confer powers on the EU by referring to general treaty objectives. At present these articles are used by the Commission and the European Court of Justice to extend EU powers. In so far as flexibility is needed to deal with the unexpected or emergencies, this should in future be achieved by a new treaty article granting time limited powers.
2. Parliamentary control. National parliaments would initiate legislative proposals for common action. The Commission would act as the secretariat in liaising with the European Parliament, which would have a veto power over proposed laws and would undertake the committee stage of draft bills prior to final approval by national parliaments.
3. Subsidiarity. Objections to proposals on the grounds that they breach the subsidiarity principle could now be raised by national parliaments *before* the legislative stage. This would introduce an *ex ante* political test in place of the present failed *ex post* legal test (which in practice has never been applied.)
4. Simplification. The EU operates via a confused jumble of overlapping instruments. This has arisen through judicial activism and the use of treaty articles and powers not envisaged by those who signed the treaties. Instead there should be three legal instruments only.
 - a. Directly applicable EU laws in defined core areas of trade, the environment, cross border issues etc.
 - b. Framework directives
 - c. Recommendations

The first would be subject to QMV, but with the possibility of a national parliamentary veto which would trigger an appeal to the subsequent European Council meeting. The second and third would be by voluntary association, thus rendering the subsidiarity test unnecessary.

5. Transparency. All council meetings must be conducted openly and all votes are to be published. The hundreds of working groups and committees must publish agendas and minutes and be subject to genuine scrutiny.
6. Information. The EU information budget must be confined to the provision of neutral information about common proposals. No funding shall be provided to lobby groups or campaigning organisations. All budgets devoted to the promotion of European culture or heritage should be transferred to the Council of Europe.
7. Slimming the *Acquis Communautaire*. The 85,000 pages of the *acquis* are largely incomprehensible to the public and represent a significant cost burden on businesses throughout the EU and a deterrent to job creation. It is also a burden on EU candidate countries, all of which are required to adopt, implement and enforce the full *acquis* as a condition of membership. The *acquis* must therefore be radically slimmed, by applying to it the same tests as will apply to new measures.
8. Democracy guarantee. The treaty should entrench the principle that powers not enumerated belong to member states. Further, any association of free peoples must include the right to secede; this should be set out in a new treaty clause.

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