

THE EUROPEAN CONVENTION

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COVER NOTE

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| from | Secretariat |
| to | The Convention |
| Subject : | Contribution by Mr Peter Hain, member of the Convention – Europe and the Regions |

The Secretary-General of the Convention has received the contribution annexed hereto from Mr Peter Hain, member of the Convention.

EUROPE AND THE REGIONS

(A paper submitted by Peter Hain to the European Convention on behalf of the UK Government and the devolved administrations in Scotland and Wales)

1. The UK welcomes the recognition given by the Laeken Declaration, by the European Parliament and by the Commission in its White Paper on Governance that regions have an important role to play in bridging the democratic deficit and bringing an enlarged EU closer to its citizens. Devolution of powers to Scotland, Wales and Northern Ireland, where key decisions on a wide range of public services and policies affecting quality of life are now taken by directly-elected bodies, has been an immensely positive experience. And new ways of working between London, Edinburgh, Cardiff and Belfast have also bedded down well.

2. We recognise, of course, that the EU is a Union of Member States, each responsible for its own internal constitutional arrangements. But within that framework there is a crucial contribution that the regions can make, helping the EU to produce better policies and to become more democratic and transparent. We therefore recommend that the EU's procedures be reshaped to enable the regions to play a fuller role alongside, and in support of, Member States in those policy areas for which responsibility lies at regional level.

The regional debate

3. There is no single constitutional model of regional or local government across the EU. Some Member States have organised themselves on a regional basis for many years; others have a more centralised tradition. But there is a discernible trend towards decentralisation. Since 1997, the UK has taken major steps in this direction, and in England further plans are in train to decentralise power, to strengthen existing regional structures, and to offer people the chance to elect their own regional assembly. The evidence suggests that this process is already delivering more effective democracy and greater transparency of decision-making.

4. Naturally, the UK's devolved administrations and other European regional governments have come together to discuss matters of mutual interest and to maximise their influence within the EU. One example of this is the "REGLEG" group of Regions with Legislative Powers. The Scottish Executive and the Welsh Assembly Government play an active role in this group and, once devolution is restored, the Northern Ireland Executive would be likely to do so too. The Committee of the Regions has likewise been a focus for such discussion. Jack McConnell, First Minister of Scotland, acted as rapporteur for an Opinion on "*More Democracy, Transparency and Efficiency in the EU*" which formed part of the Committee's submission to the Convention.

5. The Convention has already developed proposals which recognise the role of the regions in strengthening the democratic legitimacy of the EU. One example is the Subsidiarity working group's recommendation that regional and local assemblies might be involved in *ex ante* monitoring of the application of the subsidiarity principle. But there is more that can be done to make full use of the opportunity to mobilise Europe's regions in bringing the EU closer to its citizens.

Subsidiarity

6. The division of powers between the EU on the one hand and Member States and their regional and local authorities on the other needs to be set out more clearly. The principles of subsidiarity and proportionality should be enshrined in the Treaty, to strengthen their legitimacy and to help guide the EU's decision-making process.

7. A Treaty reference to subsidiarity should acknowledge explicitly the role of authorities below Member State level. One option would be to amend Article 5 of the EC Treaty to read:

"...only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States including, where powers have been granted by the laws of the relevant Member State, their regional or local authorities...."

8. The UK welcomes the Subsidiarity working group's proposal for an *ex ante* monitoring mechanism involving Member State Parliaments. If this is adopted, each Member State will wish to consider how best to give effect to it in a way consistent with its own internal constitutional arrangements. Within the UK, we propose to put in place arrangements under the early warning system allowing EU legislative proposals which fall to be implemented by the devolved administrations to be referred in addition to the parliament and assemblies in Scotland, Wales and Northern Ireland.

9. We support the recommendation that the Committee of the Regions be given the right to refer *ex post* a matter to the European Court of Justice for violation of the principle of subsidiarity.

Consultation of regional and local authorities at the pre-legislative stage

10. It is a principle of good governance that those who are to be required to implement legislation should be consulted on its content. In the EU context, the UK Government strongly supports proposals made to the Commission by the Scottish Executive and Welsh Assembly Government that it should consult implementing authorities at the pre-legislative stage. This should include direct consultation with regional and local authorities on relevant policies, as the Subsidiarity working group has recommended. An addition to Article 211 of the EC Treaty might read:

"Before making a proposal for a regulation, directive or decision, the Commission shall, in accordance with the principles of good governance, consult with Member States. Such consultation shall include consultation with regional and local authorities."

11. The Commission's recent adoption of minimum standards for consultation¹ is welcomed. But in our view these standards do not go far enough. They should be extended to reflect the requirement for such direct consultation to include, at a minimum, regions with devolved legislative powers to transpose the EU measure into law. Other regional and local authorities responsible for implementation, as well as their associations and bodies, should also be consulted. Explanatory memoranda for legislative proposals tabled by the Commission should include lists of all those bodies and authorities which at the pre-legislative stage have been consulted, as well as those which have responded.

Impact on regulatory authorities

12. The introduction by the Commission of comprehensive impact assessments as described in its Communication on Impact Assessment² should bring real benefits in terms of better policy making, and we look forward to the early implementation of this initiative. In order to assess the full effects of legislative proposals, the Commission will need to bear in mind that regulatory bodies operating at regional or local level could themselves be disproportionately affected by new measures. The Commission should therefore include an assessment of the resource impact of its proposals on all relevant policy-making and implementing authorities.

More flexible means of legislative implementation

13. It is frequently difficult to adapt detailed EU Directives to the differing legal frameworks in place within Member States. We propose that greater use be made of framework legislation to allow flexible implementation in a way that is sensitive to local and regional circumstances. The most appropriate form of legislation should be one aspect of the consultation carried out by the Commission at the pre-legislative stage.

¹ COM (2002) 704, 11.12.2002

² COM (2002) 276, 5.6.2002

Tripartite agreements

14. The UK wishes to explore further the concept of tripartite agreements, as set out in the Commission's Communication on Target-Based Tripartite Contracts and Agreements¹, under which the Commission, Member States and regional and local authorities are encouraged to work together to develop and implement policy. A "one size fits all" approach fails to take account of varying local circumstances and priorities. Tripartite agreements offer a potentially useful mechanism for developing policy in a flexible way. Such agreements should be light-touch and low on bureaucracy. We should welcome the opportunity to help design pilot tripartite agreements involving one or more devolved administrations in the UK in order to assess the potential of this approach.

Role of the Committee of the Regions

15. The Committee of the Regions (CoR) was established in recognition of the need for the regions to play a role in the EU to reflect their importance and their specific function as implementing authorities. We share, however, the widespread concern that the CoR is not sufficiently effective in representing the interests of the regions. Reforms are therefore needed to ensure that the CoR has greater impact in shaping EU policy as it affects the regions, and that the Committee is taken seriously by other institutions in undertaking that role. We strongly support the efforts of Sir Albert Bore, current President of the Committee, to reform the CoR in this direction.

16. To this end, we believe that the Committee should be routinely consulted on Commission proposals at the pre-legislative stage, allowing it to help shape policy before positions have hardened. It is also important that proper account be taken of the Committee's views, and that this be demonstrated to have happened. We propose that, where the Committee's opinion is rejected, the Commission be obliged to set out its reasons for doing so in writing. The Commission should also be obliged to reply orally or in writing to questions put to it by the CoR or its members.

¹ COM (2002) 709, 11.12.2002

17. We further recommend that the CoR should be formally consulted at the same time as legislative proposals are addressed to Member State Parliaments under the subsidiarity early warning system. It should similarly be open to the CoR to issue a reasoned opinion regarding a proposal's compliance with the principle of subsidiarity. Article 265 of the EC Treaty should be amended to allow the CoR to give opinions on all areas relating to the competences of regional and local authorities. The European Parliament should be obliged to consult the CoR when preparing reports on areas where the regions and localities have a legitimate interest.

18. As for its internal arrangements, we believe that the CoR will function most effectively if regional and local authorities select their delegation at a senior political level. Its impact will be enhanced the better it is able to coordinate the views of European and national regional/local authority associations. And it will carry most weight if it is selective in the issues on which it chooses to offer opinions. A more focused and strategic approach, aimed at bringing effective influence to bear on policies that will have a real and substantial impact at regional and local level, is essential if it is to achieve its full potential and attract the best calibre of members.

19. A new name for the CoR would symbolise a fresh start. The "Committee of the Regions" suggests a bureaucratic structure rather than a democratic body of elected representatives with mandates. We suggest as possible new names: the Congress of European Regions, the Convention of European Regions, or the European Assembly of Regions.

20. Finally, and in view of these proposed reforms, we think the time has come to give serious consideration to granting the new CoR full institutional status.
