

## THE FUTURE OF EUROPE CONVENTION: TRAVELING HOPEFULLY?

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**ABSTRACT:** *The future of Europe Convention is now three months into its task of finding answers to the challenges and questions of the Laeken declaration. The central issue for the Convention is whether it can find a route through the multitude of questions and create a strong consensus on substantive answers to the three big challenges of democratizing the EU, organizing the politics and policies of the enlarged EU, and developing the EU's voice in the world. The enlarged EU of 25 or more members has to be able to cope in both democratic and efficiency terms with the increased numbers of member states, and increased diversity in economic and political interests and circumstances. The status quo is not an option or the enlarged EU will rapidly find its decision-making and operational mechanisms seizing up - it will be a stalled and inefficient EU. The politics of the Convention are unfolding slowly and a myriad of political alignments are emerging. But some key differences are emerging already - particularly the traditional battle between intergovernmentalists and integrationists. The relative role and powers of the Council and Commission will be central in determining the nature of the future EU. Fundamental reform of both institutions is vital in both efficiency and democratic terms. One of the big risks is that energy is concentrated on the relative power of the two institutions and not on their effective reform. Proposals for a new, five-year, appointed President of the European Council go in this direction - they will not improve legitimacy and precisely duplicate the characteristics of the current Commission President. The paper identifies 5 scenarios for the future EU to summarize the potential outcomes of different sets of decisions by Convention and IGC:*

- *Emergent global political power;*
- *Struggling global power;*
- *Efficient but weak EU*
- *Efficient but unstable EU*
- *Technocratic, stalled and inefficient EU.*

### 1. Introduction

After the ambitious language of the Laeken Declaration, the hard work - and the political maneuvering - of the future of Europe Convention has begun. Laeken set three big challenges for the Convention - on the politics of

the enlarged EU, on overcoming the democratic deficit, and on developing the EU's role in the world so that it could become both a stabilizing power and a model to others. But it followed up these strategic challenges, that are indeed vital questions for the contemporary Union, with a set

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of over 50 more detailed questions, many of them highly institutional and technical.

One of the central issues for the Convention is whether it can find a route through this multitude of questions to forge a strong consensus on substantive and effective answers to these three big challenges. The politics of the Convention as it develops are being closely watched both to see whether it can reach a strong consensus, without which governments will once again have a free hand in the subsequent intergovernmental conference (IGC), and to see the nature of the policy and institutional solutions proposed, in particular, whether it will produce a constitution for the EU. But the process of the Convention itself, and not only its output, is of considerable importance: will its work and its debates have any genuine resonance in national political debates across Europe? Will its work be seen as relevant to, and engaged with, contemporary European political issues, ranging from the ongoing and developing challenges raised by September 11th, to issues of immigration, of internal security, of employment, of globalization? And will there be seen to be a genuine process of consultation and dialogue by the Convention?

The internal politics of the Convention are slowly unfolding, but it is too early to give any definitive answers to these questions. But whichever direction the Convention goes in, there is widespread agreement that it must move beyond the debacle of Nice, if the enlarged EU is to be a vital, dynamic and effective political body (and, of course, ratification of Nice still hangs on the outcome of the yet to be announced second Irish referendum). So the outcome of the Convention may be vital for the successful operation of the enlarged EU. Without a positive

outcome, the enlarged EU may rapidly find itself in a crisis situation (as some including Convention vice-chairman Jean-Luc Dehaene argue) or, more likely perhaps it may gradually start to seize up in its mechanisms and functioning - a gradual stasis. What is fundamental here is to identify and to unravel more clearly what the impact of enlargement is likely to be and where the crucial areas for change are. The process of the Convention itself adds to our knowledge here: there is a chance to see for the first time the political dynamics of the enlarged EU.

There is widespread agreement too on the need to tackle the democratic deficit - as Michel Barnier, Commission representative on the Convention, has said **'until now we have built Europe for the people but without them'**. But will the Convention be able to find new solutions to this problem? Or does it risk looking at solutions only in institutional and constitutional terms, and not in terms of participation, communication and the development of a European demos. Certainly, the rhetoric around the EU as a federation of nation states, which has found some favor in Convention debates, conceals for now some of the real institutional power battles over the relative role of the Commission and Council and of the larger and smaller countries. It is a concept which can mean all things to all people and in itself provides no new answers. One crucial question for the enlarged EU, to which the Convention should provide some answers, is whether it will be an EU dominated by the larger member states - at the very time when the number of smaller member states doubles - an outcome which is not likely to be politically stable or effective in the medium run.

Convention debates so far have also shown strong support in principle for the urgent need to build a much stronger common foreign policy - with many referring to the current Middle East crisis, and the EU's relative powerlessness to impact on events, as demonstrating the need for new steps forward. But the Convention will be challenged indeed to come up with a clear route ahead in this area that will be commensurate with the urgency of the current range of international problems, given national differences and the reluctance to pool sovereignty in these areas.

It is too early to predict success or failure - or the direction of the final outcomes - of the Convention. But it is possible to distinguish a number of models or scenarios (developed further in the conclusion) that may finally result from the twin processes of the Convention and IGC:

- *Emergent global political power;*
- *Struggling global power;*
- *Efficient but weak EU*
- *Efficient but unstable EU*
- *Technocratic, stalled and inefficient EU.*

This paper first assesses the political dynamics so far of the Convention and then analyses the key issues posed by the challenges of enlargement, of democracy and of becoming a genuine global actor (the paper does not look in detail at specific policy areas such as economic cooperation or justice and home affairs).

## **2. Politics of the Convention**

At the time of writing (May 2002), the internal political dynamics of the Convention are still developing. It is too early to identify definitively where the main power center(s) will lie, or what the main divisions of opinion will be but some

trends and groupings are emerging already.

One crucial area, where there appears to have been understanding and broad agreement from the start, is the need for the Convention to aim at a consensus document and to avoid a final report containing lists of options on all key issues (it is relevant to note that when Giscard d'Estaing made his opening speech to the Convention, it was this point that provoked sustained spontaneous applause from the floor of the Convention). A consensus outcome, in the context of a wider public debate around the Convention, will make it very difficult for member states to ignore or reject the principal conclusions in the subsequent 2004 IGC. It may be unlikely that a strong consensus can be gained on all major issues, but the aim will be to limit the number of cases where alternate points of view are present in the text (and to avoid any separate minority reports), although some are in favour of presenting options for selection by the IGC in some areas. However, even within the presidium it appears to be unclear for now what sort of final text will be produced - whether in the form of a new Treaty or a political document.

In general, member states would prefer to see more options in the conclusions rather than consensus, to increase their room for manoeuvre in the IGC - but a number appointed senior political figures as government representatives on the Convention, implicitly recognizing the potential power of the Convention's output. The UK initially talked emphatically about the need for a 'firebreak' between the Convention and the IGC, but then, in recognition of the potential power of the Convention appointed their Europe minister as government representative - as did France. Portugal too has also emphasized the need for the Convention to provide options.

Germany, in contrast, appears to be more ready for the Convention to play a significant role, even if also nervous of the potential loss of political initiative by the governments.

For the candidate countries, there appears to be less innate suspicion of the Convention vis-à-vis the IGC - not least, perhaps, because of the political opportunities it offers them. Of considerable political importance for the candidates is their participation in the Convention on an equal basis; and, while Laeken stated that the candidates could not prevent a consensus among the current 15 at the Convention, any final conclusion that divided the current members from the candidates would represent a failure of the process. The candidates' representatives have already demonstrated both political determination and effectiveness by successfully arguing for a candidate representative on the presidium (referred to by Giscard d'Estaing as a 'guest to the presidium') and for the possibility of using their own languages to address the convention (both points on which Giscard was reluctant to concede). The three candidates not in the group of 10 currently expected to accede in 2004, notably Turkey, are also treating the Convention as an important political opportunity to demonstrate their political seriousness about, and involvement in, the European integration process.

### **Political Alignments**

Many different actual and potential groupings and alignments exist in the Convention. The relative role and power of the chairman, the secretariat, the presidium, and the ordinary Convention members represent one key aspect of the political dynamics that are developing. But other groupings have also emerged: government

representatives are meeting as a group, as are the candidate members; the MEPs meet as a group but also organize meetings of the three main political groupings, open to other members of the Convention; and some members are meeting in national groupings. Beyond this other alignments of member states' government representatives, and of Convention members according to positions on key issues, can be expected - the UK, for example, has already announced its intention for its representative to co-operate with the Italian representative (an unlikely pairing of Hain with Fini). National MPs are also developing as a group with some shared interests, not least in their relative lack of contact with EU institutions.

How these different political dynamics develop will be fundamental in determining the nature of the final output of the Convention. Some are concerned that Giscard intends to dictate the key elements of the final document, working closely with the secretariat led by John Kerr (former head of the British foreign and Commonwealth office - proposed for the post by Pierre de Boissieu, deputy secretary-general of the Council), and in close consultation with key member states (not least to ensure that the heart of his proposals are then adopted by the member states, ensuring that the Convention - and Giscard - are seen as the designers of the future EU). Others expect the presidium to play the key role, developing and putting forward proposals to the Convention as a whole. But so far there is little evidence that the presidium is developing into a cohesive political grouping, with some tensions between Giscard and the presidium. No minutes are published of the presidium discussions but it appears that in the first 3 months they have been more organizational than substantive, with

attempts now being made to move the meetings onto more substantive issues and to try to make the presidium more politically operational.

So far, the wider Convention also demonstrates a reluctance to give a clear leadership role to the presidium. Over 300 amendments were received from members of the Convention to the rules of procedure on the working methods of the Convention put forward by Giscard. Some members of the Convention, such as the British MEP Andrew Duff (vice president of the MEPs grouping on the Convention), are determined that power will remain with members of the Convention - Duff himself already having drafted some proposed new Treaty articles. Such political manoeuvring will continue, but success of the Convention will require the construction of a certain degree of trust between the wider Convention, the presidium and the secretariat. The Convention is clearly a highly political body and any simple top-down approach will not be effective.

In order to try to dissipate some of the fears of a top-down approach, the secretariat and presidium initially planned to have a 'listening phase' of the Convention through its first few months of operation to the summer of 2002, before moving to detailed issue papers and working groups in the autumn. But while such a listening phase is under way, a growing appreciation within the Convention both of the magnitude of the task and of the limitations of debate within the Convention as a whole, as a tool for going into detail on subjects, led by the start of May to the announcement of the establishment of six working groups (on subsidiarity, the charter of fundamental rights, the legal personality of the EU, EU competences, role of national parliaments, and economic and financial

cooperation). These groups should make short reports between September and November, with further groups to be created in the future (including on foreign affairs). Working groups will be composed of members of the Convention selected according to their expertise but also reflecting in each group the overall balance and composition of the Convention. Given their more detailed mandates, the working groups will become one more crucial political player in the process (it as yet unclear if the groups will meet in public). Complaints have also been made by Convention members to Giscard at his intention to use presidium members to chair all six first the working groups (by a group of Finnish, Austrian, Danish and Luxembourg members) – a further example of the ongoing manoeuvring for political advantage. As the Convention's work and political dynamics unfold and clarify, greater coherence is likely to develop in its debates, operating procedures and also in the main lines of division and difference. But in these early stages, all players are trying to understand the complex political dynamics and their key implications.

#### **Substantive Views**

In terms of balance of views within the Convention on the substance of institutional and policy change and development, it is relatively early for an in-depth assessment. In terms of general aims and issues, some broad areas of agreement are emerging in initial Convention debates - notably on issues such as the need to strengthen common foreign and security policy, to strengthen policies in the justice and home affairs area, to enhance economic policy coordination, to tackle issues around democratic legitimacy, and to promote clearer processes for the application of subsidiarity. Initial debates have

shown very little support for any repatriation of competences or for drawing up a precise list of competences. Clearer differences of view emerge in areas such as social policy and building a stronger social Europe. Although Giscard in his comments at the meeting on the 15th April suggested no-one was arguing to increase competences in the social domain, this seems to be contradicted by speeches calling for a stronger social Europe. But detailed debates on institutional changes, and on key issues such as the relative powers and role of the Council and Commission, have yet to take place.

Of course, the broad, and sometimes detailed, positions of the existing member states are mostly rather well-known. But particularly among the largest 4 member states, European policies are currently in a state of some flux and confusion. In Italy, the Berlusconi government has broken with the long Italian positions of strong integrationist support for the EU, but the outlines of what will be key new positions are unclear. In France, the elections, and the preceding period of cohabitation – together with France's weakening position in a wider EU, combine to give much less clarity than normal to its approach. Elections in Germany are similarly, if not to the same degree, blurring some of its policy lines, while in the UK the potential euro referendum in 2003 is colouring all its policies and statements.

The UK (as discussed further below) did move rather early in advance of the Convention in February to put forward new proposals suggesting the creation of an executive council within the Council. The UK is clearly hoping that it will have more support among member states for its more intergovernmentalist approach than in recent IGCs - in particular from Italy, Spain,

Sweden, Denmark and probably France.

Some of the UK's ideas were reflected in the paper from the Council secretariat to the Barcelona summit on Council reform. A further more detailed secretariat paper will go to the Seville Council. This underlines the existence of yet another political dynamic around the Convention - member states, and the Council secretariat, moving to see what Council reform can go ahead without Treaty reform, driven in part by the implicit threat that if they do not make decisions now the Convention may put forward alternative proposals. Although more substantive proposals and changes, such as reform of the presidency, require Treaty change, any agreement by the European Council on the desired direction and details of such reform could impact strongly on, and effectively pre-empt, the Convention. The European Council having given a mandate to the Convention, would effectively be trying to reclaim part of it.

### **Civil Society Relations**

In one other area of its work, relations with civil society through the so-called Forum, the picture also looks mixed. Convention vice-chairman, Jean-Luc Dehaene has been given overall responsibility for relations with civil society. The Convention has set up a Forum web site for debate and for written contributions, which at various points the secretariat will aim summarise and synthesise. Various dialogues are also developing between Dehaene and other members of the presidium and different civil society groups and networks including networks of NGOs and networks of think tanks. Civil society hearings, and a youth Convention mirroring the actual Convention are planned for the June and July. Ecosoc - an observer at the Convention - has

also been charged with a role in facilitating these dialogues. Meanwhile Convention members are encouraged to support and develop national debates in their respective countries and to report back on developments. The Convention session at the end of June will focus on civil society and allow civil society representatives to address the convention and to organise meetings and discussions around the Convention meeting within the European Parliament.

The big questions here are three-fold: the extent of the debate, and the range of groups involved, across the member states and candidate countries; the extent to which this debate can be sufficiently structured so that clear messages and points of view come through, and, crucially, the extent to which the Convention is seen to be genuinely open to the wider civil debate that will surround its activities at least to some degree. The jury is still out on these questions but there are rumblings of discontent from some NGOs and it is questionable whether the Convention has either the political will or the resources, not least in its secretariat, to listen to and take on board this debate. Nonetheless, the June hearings and Convention meeting are an important step forward. The lack of representativeness of the Convention most notably in its pitiful proportion of women members is one further reason why an effective public debate is so important.

As discussed further below, the process of the Convention especially in its relation with the wider political and public debates is of considerable importance. If the process of public consultation and debate is seen as inadequate, just a process of tokenism, this may impact strongly and negatively on the wider reception of the final output of the Convention. If the output is seen to be a European constitution produced

by an elite it may have an entirely contrary impact on legitimacy, and the development of the European political space, to that intended. Avoiding this outcome means reaching beyond organised civil society to the wider public.

#### **Politics of the Convention – Summary of Key Issues**

- Nature of the final document – constitutional treaty or political text. Consensus or division – and extent of options presented (member states prefer options);
- New political dynamics of the enlarged EU emerging – and political opportunity for Bulgaria, Romania and especially Turkey; candidate countries push successfully for representative on presidium and for use of own languages;
- Complexity of developing political alignments and groupings – relative positions and roles of the chair (Giscard), secretariat, presidium, Convention; range of groups meeting – governments’ representatives, national MPs, MEPs, political parties, national groups, candidate countries etc;
- Presidium not yet developing identity as a political team;
- Top-down or bottom up approach – wider Convention has many suspicions of presidium and chair, some tensions evident;
- First working groups established – important political players;
- General support for strengthening common foreign and security policy and justice and home affairs, for enhancing economic policy coordination, and for strengthening democratic legitimacy – more differences on social Europe; little support for repatriation of competences or for lists of competences;



- Civil society relations – importance of wide-ranging debate around the Convention, with genuine access and input into the Convention – some criticisms and doubts from NGOs.

### 3. The Impact of Enlargement

The current timetable for enlargement, according to the EU road map, is for negotiations with the front runners to conclude by the end of 2002, with entry by early 2004 before the European parliamentary elections. At present, a 'big bang' enlargement of 10 new members is anticipated. But there are various hurdles still to clear. The detailed negotiations on the budgetary, agricultural and structural funds chapters will only take place in autumn 2002 - and could easily run beyond the end of year deadline. Cyprus is another potential stumbling block where if current negotiations for a political settlement on the island fail, the EU will have to take the final decision to admit Cyprus without such a settlement. Meanwhile, there is no firm indication yet whether and when Ireland will hold another referendum on the Nice Treaty, though it is anticipated for autumn 2002, and with no guarantee that the Irish will, on a second vote, deliver a positive answer.

If the Nice Treaty is not ratified, then there are essentially two routes forward: firstly to include the key elements of Nice for enlargement in each accession treaty, or secondly to postpone enlargement until the work of the Convention and 2004 IGC is completed. The latter solution would cause major political difficulties in relations between the EU and candidates, and impact strongly on political attitudes and debates within each candidate country. Some are concerned that the current rightward shift in EU politics in recent national elections might encourage a delay in

enlargement – this might be most likely to come to the fore, if major problems arise such as failure to ratify Nice.

Even if all the above hurdles are safely cleared, it is also not guaranteed that all the candidates will then get approval of their publics in referenda for accession. Nonetheless, despite these uncertainties, the most likely scenario at present is for an enlargement by up to ten countries by 2004 (with further candidates queuing up behind). This would also mean that the 2004 IGC would be held at 25 not at 15 (if the IGC started before all accession treaties were ratified, then candidates might initially participate as observers but becoming full members of the IGC before it concluded).

### Coalitions and Large and Small Countries

The fundamental problem for the enlarged EU is how to manage the increased numbers and diversity that the Union will contain. Problems of efficiency and political interaction already exist at 15. But the new enlargement of the EU presages a major change in political dynamics, which may impact on all aspects of EU policy-making, policy instruments and institutional organization and behaviour. The political balances - and bargains - across different policy and institutional areas will change. The range and variety of alliance and coalition formation will increase considerably. Uncertainty and guesswork already characterize the political interaction at 15, but the uncertainty at 25 will increase further, impacting negatively on effective and coherent decision-making. There will be a rapid increase in knowledge of the new members' main policy positions, key interests and bargaining behaviour after enlargement (and before, not least through the dynamics of the



convention as well as through analysis of their policy positions and structural interests). But this increased knowledge will not fully compensate for the range of alliances and coalitions that will be feasible across all EU decision-making – not least when cross-bargains and deals in the current EU already make tracing the full details of coalitions and positions on any political or policy decision very difficult.

One of the key characteristics of the enlarged EU will be that it is essentially a small country EU - the number of 'biggs' will increase only from five to six (as Poland joins France, Germany, Italy, Spain, and the UK) while the number of 'smalls' will increase from 10 to 19. At the same time, the proportion of the EU's population represented by the 'biggs' will remain roughly stable at about two-thirds of the total. With the increase in number of the smaller countries, the importance of ensuring that the EU continues to respect the sovereignty and voice of all – and not simply of the large countries – is highly pertinent.

The enlarged EU is a small country EU: it needs to function in such a way that the smaller countries continue to have a genuine voice and input and continue to benefit from the pooling of sovereignty. But the risk is that the enlarged EU may become a big country EU. Certainly, there will be pressures, explicit and implicit, from some of the larger countries for more centralisation of EU leadership around them, and in some cases for an implicit directorate (at present the strongest tendencies in this direction are coming from the UK, not least with its proposals to strengthen the Council at the expense of the Commission - given the UK's normal ultra-sensitivity over EU centralisation, it is a little ironic to see its policies tending towards the aim of centralisation around the 'biggs').

### Revisiting Nice and Majority Voting

The small country-large country dilemma is one reason, though not the only one, why revisiting the voting weights agreed at Nice would be desirable. Nice had various adverse effects on the voting system: it increased the weight of the larger countries and increased the threshold for a qualified majority vote. This reduces the influence of smaller countries without making it easier for the 'biggs' to get agreement – what it facilitates in various ways is blocking decision-making. With its 3 criteria for achieving a majority (reaching the qualified majority vote bar at 74% of the total, a majority of member states and at least 62% of the population) it also reduces transparency and simplicity, while increasing the ease and range of means of getting a blocking minority. Larger countries will find it easier to block, no-one will find it easier to reach decisions.

This counter-productive agreement needs to be scrutinized by the Convention and alternative ideas put forward (without underestimating the strength of the political power play and bargaining that got to the Nice agreement in the first place). The most obvious and simple alternative that the Convention could consider is the proposal for a simple double majority voting system. Based on a dual majority of population and of countries, the simple double majority system not only neatly balances the issues of size versus sovereignty but also has the considerable advantage of transparency and simplicity. Furthermore, since enlargement also raises the need to consider further extension of qualified majority voting, a voting system that is simple, balanced and easily understandable becomes ever more important. Without an extension of QMV the EU risks blockage through national vetoes, but extension of QMV can impact on existing

problems of democratic inadequacy and distance of EU institutions. This also argues, therefore, for an extension of co-decision with the EP. Consequently efficiency solutions and democratic solutions have to be considered in the light of their impact on each other and not separately.

### **Competences**

This is also the case for other aspects of institutional change under discussion. Finding clearer and simpler processes for the application of subsidiarity and for the sharing of competences between the EU and the member states is needed in the current EU, but becomes yet more urgent in a system where each individual country will have a smaller voice in a larger total of voices and votes. Yet, as the Convention has already debated, the prospects for defining a clear list of competences are low, in particular since most competences are shared but also because competences evolve. So clarity and simplicity has to come through the procedures and definitions rather than through any lists. This is one area in particular, where new potential roles for national parliaments are being closely examined. The European Commission (Com (2002) 247) proposes an approach focusing on the intensity of application of the competence – whether, for example, an area of competence requires harmonisation or simply coordination – together with a rationalisation of the range of tools and approaches that can be used.

Since most competences are shared, but in a wide variety of different ways, the question of the nature or type of policy instruments available also becomes important in encouraging subsidiarity and proportionality. Enlargement can impact here too. Thus, for example, through the Lisbon process more emphasis has been put on the

potential utility of so-called open coordination processes, particularly in areas that are important or sensitive for national sovereignty such as aspects of social policy. While the effectiveness and value of these open coordination processes is anyway open to doubt - with their mixture of exchange of best practice, peer pressure and in some cases common guidelines and recommendations – the increase in numbers that will come with enlargement may considerably complicate their functioning. Trying to agree ‘soft’ frameworks that will fit 25 countries will be more difficult, and the effectiveness of peer pressure on those ‘laggards’ furthest from meeting the guidelines may fall as the number and variety of laggards increases.

### **Changing Economic and Political Geography**

Enlargement also brings with it a new political and economic geography of the EU as well as a new configuration and diversity of economic and social development levels. These changes raise a variety of questions for policy development.

The geographical expansion of the EU shifts both borders and the center of gravity of the EU sharply eastwards. From extended borders with Russia, through new borders with Ukraine down to the Balkans, plus the southern expansion to Cyprus and Malta, the EU has to contend in economic, political, diplomatic and security terms with a range of new neighbours. Even after a ‘big bang’ enlargement it also still has 3 remaining current candidates – Bulgaria, Romania and Turkey, with others, such as Croatia, likely to join the list soon. The new member states already have a range of links and interactions and political and policy views on relations with the new neighbours. These policy views of the new

member states are not identical with those of existing EU member states - just as those current EU member states that border the candidate countries have tended to have both stronger political and economic interests in enlargement, as well as in some cases stronger concerns over issues such as labour migration.

This new shape of the enlarged EU will impact on policy debate and development in a range of areas from foreign policy, to immigration policies, internal security, and trade and investment links. Whatever role the EU succeeds in developing in global foreign policy, after enlargement the EU will directly face considerable responsibilities and policy questions in its role as a regional economic and political power. Current debates within Europe over internal security and terrorism on the one hand and over immigration, and the focus of the extreme right on immigration, on the other hand raise the possibility of the EU moving towards a more defensive, 'fortress Europe' approach. But political and economic needs and pressures point in the other direction towards a well-managed set of economic, political and security relations across the new EU borders - in a way that should be, though may not be, complementary to the enlargement and development of NATO's relations with countries beyond the EU.

Developing EU policy positions and approaches to manage these relations successfully will require, especially in justice and home affairs, stronger and more coherent EU policies and competences (such as in the proposal for a common EU border guard). The Convention so far has not addressed these issues in any detail but has recognised in its debates the importance of moving forward in the justice and home affairs area as well as in CFSP. Further

proposals on policy competences and instruments in this area will be particularly important. But the Convention is not working in a static environment – this is an area of major current political activity for the EU and so the goalposts are shifting.

The enlarged EU will also have a much wider diversity in levels of economic development. This not only points towards the need for a redefinition and development of structural and cohesion policy, together with a new balance of interests around the structural funds, and the CAP, it also indicates a new pattern of views on economic and social policy development. The candidate countries cannot be treated in any sense as a group here: just as with the existing member states, there are a range of views on economic policy, liberalisation, and the role of European social policy. From their experiences of transition, many have moved quite far in terms of liberalisation. But there are a range of interests - business, union, NGO etc - in each country, together with a range of public and popular views, which will impact on the positions taken by the new member states once they join and which will relate, in part, to the level of economic development and the speed and extent of convergence. While Estonia, for example, may be positioned fairly closely to member states like the UK in terms of attitudes to liberalisation and free market approaches, other candidates will have views and policy approaches that may take them closer to a position similar to Germany, others to France, to Portugal etc. And these positions will vary by policy area - many expect Poland to share interests with Spain after accession, particularly with respect to the structural funds and agriculture, but in other areas of economic policy and liberalisation, it may end up positioned

somewhere between the UK and Germany.

With the current enlargement timetable, the EU will also have to face up to this range of views as it agrees its post-2006 budget. In terms of budget debates, the EU will face a new North-South-East triangle which will expand the traditional dynamics of the budget debates, from the fundamental split between net contributors and net recipients, particularly the current cohesion four, to the new net recipients of Central and Eastern Europe - who may or not find ways to make common cause with the current net recipients. In 2006, a full-scale review of the CAP is also due, where a range of new alliances may be anticipated, not least between France and Poland.

The Convention does not have the future budget as part of its tasks. But its debates around economic and social policy competences and the need, or otherwise, for greater economic policy coordination in the EU will highlight and provide more information on the economic policy positions and potential alliances in the enlarged EU. More importantly perhaps, while it is not the job of the Convention to design a new structural and regional policy, it is open to the Convention to make some clear statements about the need for solidarity and cohesion in the enlarged EU and the key values as well as competences needed at EU level to encourage and underpin such solidarity. While it may be relatively easy to get broad support for the general principle of solidarity, unpacking the concept into general policies and competences could prove controversial.

#### **Candidates' common interests in the Convention**

As the above discussion makes clear, while there is no reason to expect common positions

across the board from the candidates either in the Convention or subsequently as a new member states, there is also likely to be a number of policy areas, such as the budget and the structural funds, where considerable commonality may be found, particularly amongst the candidate countries of Central and Eastern Europe. It is too early in the Convention debates to identify the extent of commonality but there are a number of broad issues and areas where potential similarities of view can be identified a priori.

In terms of the original motivations for the candidate countries to join the EU, political motivations have been central. There is a strong understanding of the EU, and of membership of the EU, as having fundamental political drivers and implications. In this sense, the candidates are very similar to Spain, Portugal and Greece, who while standing to gain economically from joining the EU, also saw the political importance of being full members of the EU not least in underpinning their own democratic development. This is then a very different enlargement to the more economically driven motivations behind the accession of countries such as the UK, Denmark and Sweden. The candidates have an interest in a strong political Europe, and not simply in an economic association.

Given the experiences in the candidate countries of central and eastern Europe of political transition and the establishment of democracy - and to reinforce those structures - they also have an interest in a clear articulation of democratic processes and decision-making in the EU, and not in the establishment of a *directoire* approach (not least since most are smaller countries). This does not mean all the candidates will support a strongly integrationist or federalist approach - and a range of views can be seen to be

emerging here, with Hungary perhaps as one of the more integrationist minded, and Estonia at the other end of the spectrum. But it does mean a general interest in effective political integration in areas where pooling sovereignty is a positive-sum game - and a relative absence of the deep suspicion of integration in some existing EU member states notably Denmark, Sweden and the UK. Their experience of the Cold War and of superpower politics may also cut in different directions - leading, on the one hand, to an appreciation of the importance of having a strong political voice at European level but, on the other hand, to an emphasis on the importance of effective democratic processes for controlling that political voice and maintaining the role of national sovereignty. Candidate country members of the Convention have spoken out clearly in favour of a stronger foreign policy.

Given the political motivations for accession and the experiences of political transition since 1989, together with the evidence of the ongoing negotiations, it is also clear that the candidates will avoid and oppose any institutional and policy developments that will involve placing them in any 'second-class member' status - whether as new members or as smaller countries. This will impact on a range of positions (although in exactly what form has yet to be seen) such as on the role of the Council and the Commission, or on economic policy coordination in the context of the euro. On the latter, the Commission has proposed the formalisation of the role of the eurogroup - a development which could have many further implications for differential policy formulation within and outside of the eurogroup, and which the candidates will view with concern.

As mostly smaller countries, the candidates may - like most of the current smaller EU member

states - support a strong role for the Commission as being in their interests; nonetheless, their determination to avoid anything that looks like second-class status, may imply a reluctance to see a smaller Commission even though a Commission of 25 or more members will be weaker. They will have to face up at some point to this fundamental contradiction. Equally, they may be suspicious of any Council reforms, particularly to the Presidency, that may weaken their participation.

The candidates' experiences of democratic transition, and the relative newness to them of EU structures, may also make them more open to - and more likely to come forward with - more radical proposals and solutions for democratising and opening up the EU including in terms of transparency, simplicity, participation and legitimacy. Their fresh experience of redesigning and re-establishing political systems should also mean that the idea of building a European constitution or constitutional text is seen as a positive and necessary approach rather than in any way threatening. Finally, while a range of attitudes to economic and social policy are clearly visible in the candidates' current national policies, considerable consensus can be expected on positive solidarity and cohesion policies.

In summary, areas of likely common interest or consensus among the candidates include the following:

- A strong political Europe and not just an economic Europe
- Making the EU a strong regional actor and a stronger global actor
- Clearer articulation of democratic processes and decision-making, strong measures to improve transparency, participation and legitimacy
- Support for establishing a European constitutional text

- Positive approach to the potential benefits in key areas from pooling sovereignty and further integration
- Opposition to a directorate approach
- Opposition to a two-speed Europe
- Support for solidarity and cohesion policies
- Support for the Commission but support for a large Commission.

#### **Enlargement – Summary of Key Issues**

- Increased numbers and diversity – democratic and efficiency challenges; greater range and variety of potential alliances and coalitions increasing uncertainty;
- Enlarged EU is a small country EU (19 smalls to 6 bigs at 25) but risks being run as a big country EU;
- Revisit Nice voting weights – double-majority voting as the solution;
- Extend QMV and co-decision for improved efficiency and democracy;
- Clarify allocation of competences and application of subsidiarity – new processes not lists;
- Effectiveness of some instruments may change with greater numbers – open coordination processes may become weaker;
- Changing economic and political geography – implications for many policies; EU needs to be a regional power; new emphasis on solidarity and cohesion needed;
- Candidates have some common interests in the Convention – including support for a politically strong EU, EU as a regional power; opposition to a directorate approach and to a two-speed EU.

#### **4. The Democratic Problem**

The EU faces a number of serious inadequacies in its democratic functioning - these inadequacies exist both in its structures and in its operations. As the Laeken declaration said “the Union needs to become more democratic, more transparent and more efficient”; it went on to emphasize the need to bring its citizens “closer to the European design and institutions”. Many of the democratic inadequacies are difficult to resolve in their entirety, precisely because of the unique nature of the EU construction and the fact that the EU is not a state and it has no government. Relatedly, there is no pan-European public or demos and no European political space comparable to national political arenas and debates.

Consequently, even the European Parliament - in structural terms, the most democratic of the EU institutions - faces legitimacy problems, not only related to issues around levels of turnout in parliamentary elections, but particularly related to lack of visibility, knowledge and awareness among EU citizens. For the Council and Commission the difficulties are greater. The Council is democratic in the sense that any intergovernmental body (of democracies) is democratic - it is composed of ministerial representatives of currently elected governments. But the Council as a whole is not elected as a pan-European body and it does not begin to resemble a representative EU government. Furthermore, while it shares many legislative powers with the European Parliament, it is not fully accountable to that body and currently exercises those powers in private together with its executive powers, while national parliaments can only hold individual national members of Council to account and not the whole Council.

The Commission with its own executive powers and right of initiative faces particular problems in that its members are all appointed not elected (even if many were previously national politicians); but, unlike the Council, it is in a position to take a pan-European view, at least in theory independent of national interests. The EP exercises some important scrutiny and accountability powers over the Commission but, overall, issues remain both of the political accountability and representativeness of Commissioners and, relatedly, of their political control over the bureaucracy.

These democratic inadequacies exist independently of the enlargement of the EU. But through the increase in number of member states, enlargement risks increasing the public perception of distance from, and loss of control of, EU institutions: pooling sovereignty at 6 is clearly not the same as pooling sovereignty at 25 or more. There is also an important link between the health and vitality of democratic processes in the member states and those at EU level. Thus, the current democratic malaise in many of the EU member states, linked to, and reflected in, falling voter turnout, falling trust in politicians, a variety of corruption scandals and, more recently, the rise of the extreme right, impacts on the EU, in particular through the Council, since EU citizens are unlikely to place more trust in the Council than they do in the national politicians that represent them there. This problem is then aggravated when national politicians turn round and blame Brussels or the Commission for policy decisions or communication failures (as done most recently by Schroeder, linked clearly to the German election campaign) rather than acknowledging, explaining and defending the decisions and systems to which they are party.

The Convention has as yet only debated these issues in the broadest terms, although with much support as would be expected for the general goal of bringing the EU closer to the citizens. This notwithstanding a curious intervention from Giscard in the Convention's April meeting where he emphasized the contradiction involved in trying to bring the EU closer to the citizens as it is, he said, by definition the most distant level of government. The emphasis, he considers, should be on comprehensibility – closeness to the citizen can be satisfied by other levels of government, local and national and only very little by the European level. This seems a rather inadequate response to the Laeken challenge as set by the member states. Action is needed not only to make the EU more comprehensible but also more transparent, more representative and more participative - with the last two of these characteristics in many ways the most challenging. Some would also include increasing efficiency as in part a further element of improving democracy - although the argument that citizens are only interested in efficiency, in 'delivery', is an argument that at best abandons the attempt, at the start, to improve democracy and at worst is fundamentally antidemocratic.

Several of the issues under discussion, or on the agenda of the Convention, impact on these different aspects of democratic functioning. A clear and simple constitution together with clear, effective procedures for allocation of competences and the implementation of subsidiarity, could impact strongly on both comprehensibility and transparency. Proposals already under discussion within the Council to hold legislative sessions in public would also represent a leap forward on the transparency side. But the representative and participative



dimensions are more difficult and relate strongly to how the roles and structures of the Council and Commission are developed, as well as to the role of national parliaments.

### **Council versus Commission**

Both the Council and Commission need reform in their own right, in both efficiency and democratic terms, but one of the key questions for the Convention and subsequent IGC is that of the relative balance between the executive powers of the Council versus those of the Commission. It is the ongoing fight over whether the EU develops in an intergovernmental or supranational direction and decisions taken in this key area will impact on many other aspects of EU development. Some of those arguing in favour of a stronger Council, notably the UK who took a lead in making early proposals here, emphasize that in their view the Council is not only more democratic than the Commission but, according to the UK's foreign secretary Jack Straw, that it is where democratic accountability lies 'first and foremost'. Despite some lip service to the role of the Commission, it is clear that the UK would like to see the EU move in a much more intergovernmental direction with the Commission increasingly fulfilling the role of a secretariat.

Apart from the democratic deficiencies of the Council discussed above, the main difficulty with this approach lies with the fact that the Commission, as a supranational body, is designed to take a pan-European view, while the Council consists of the individual national views aggregated through intergovernmental debate. Larger member states also dominate in the Council, which is why the smaller member states have tended to be strong defenders of the role of

the Commission. Many observers do see the balance of power as already shifting from Commission to Council, partly reflecting weak leadership in the former (leaders chosen by the Council) but also representing more fundamental trends in EU development, including increased focus on areas sensitive to national sovereignty.

### **Council Reform**

Several of the proposals for Council reform may impact on this balance. The European Council at Barcelona discussed a paper from the Council secretariat focusing in particular on reform of the European Council, of the General Affairs Council, and of the presidency, together with the issue of legislating in public. A number of decisions on Council reform may be taken at the Seville Council - those that require Treaty change may be forwarded to the Convention as a contribution of the European Council, a contribution that will be difficult to ignore.

### **An EU President and Executive Council?**

The UK first started to float a number of ideas on Council reform behind the scenes at the start of the year, bringing some of them into the light of day in a speech by the British Foreign Secretary (the Hague, 21st February 2002) just before the start of the Convention. It is interesting to note that some of the British ideas that have been floated, but were not spelt out in detail by Jack Straw, have also been picked up in the Council secretariat contribution to Barcelona – the extent of collaboration between the UK and the Council secretariat is unclear, but looks to be rather close. Ideas on an EU President were subsequently also followed by Jacques Chirac and Jose Maria Aznar.

One part of the UK proposal is the idea of creating, in effect, an executive council of the

Council to replace the current presidency. Under this proposal, the number of Council formations would be reduced to under 10. Each Council would appoint a chairperson for 2 1/2 years instead of six months and that group of chair people would form an executive council or steering group.

The Council secretariat also make explicit in their Barcelona note the idea only gently raised in Jack Straw's speech (but floated informally by UK sources): to 'elect' – actually to appoint – the president of the European Council by its members for a period substantially longer than the current presidency length of six months, possibly 2 1/2 years they suggest. Chirac proposed at the start of March appointing the President of the Council for 5 years, an idea given further publicity by Peter Hain, the UK's Europe minister (in an interview with the FT, 6/02/02). Spain has also come out in support of this idea, while the idea of an executive council has attracted less attention. Meanwhile, the smaller countries are concerned at the proposal, with Finland criticizing anything that would weaken the Commission. The German government has not commented but MEP Elmar Brok at the May Convention meeting lambasted the idea of a super-president, saying the choice was between "Monnet and Metternich".

The proposal for an EU President neatly encapsulates the divisions over the relative powers of the Council and Commission and of the intergovernmental versus supranational approach. Its supporters claim such a President would be more legitimate, overcome the problems of the changing 6-month presidency and act as the central interlocutor for international dialogues. But there are many problems with the proposal. Firstly, it is in fact

identical to the situation of the current Commission President i.e. former head of state, appointed by the Council and for a period of 5 years. Yet, as many accept, there are problems of inadequate democratic legitimacy of the Commission President (due to his appointment not election – as discussed further below). But those supporting the new President idea would be unlikely to support any reforms of the Commission President, which would demonstrate the democratic inadequacy of their new European Council leader. Furthermore, although the proposal overcomes the problem of the rotating presidency, the latter has the democratic advantage that it has at its head an elected premier, not an appointed, former politician. Moreover, confusion may be the outcome if the EU has 2 Presidents both appointed in an identical manner.

On the international side, the new President would effectively replace the role of the current High Representative though this has not been explicitly spelt out. But Solana's representativity as the international voice of the EU depends crucially on the member states political willingness to allow him that voice – the same question, and problem, would exist for a new EU President. Finally, there may be coordination and liaison problems between EU President and Commission, since the latter holds many of the relevant executive tools and powers. The outcome could well be a very weak President not the new strong leader intended by the larger countries supporting the idea. Nonetheless, there is a strong risk that the UK, France and Spain - and possibly Italy - may bargain for this against, possibly, agreeing with the smaller countries continued appointment by each member state of a Commissioner – resulting in a weak

Commission with weak Presidents of both Commission and Council.

Various unanswered questions also face the idea of an executive Council chaired by the new President. How would equality across member states be assured? What happens to the position of the long-standing (2 1/2 year or more) chairs of Councils when there are elections and changes of government in member states? What would be the role, if any, of the Commission in the executive council/steering group? But what is perhaps most striking about this proposal is its parallelism to the Commission, particularly once taking into account proposals for its reform. A strong Commission, as many have argued, should have fewer members, perhaps as few as 12, rather than a number equal to the number of member states. Taken together, the two reform proposals would produce two remarkably similar looking cross-portfolio executive bodies.

Two parallel executive structures may reinforce interinstitutional conflict not cooperation. In such a situation, the Commission may also find itself very much the weaker body. Furthermore, if such an executive council of the Council did become a dominant structure in the EU, there is a serious risk that it would be relatively inefficient (since it would not be a full-time executive), dominated by the larger countries, and tending towards some similarities with the UN. These weaknesses might be removed if such an executive council were permanent and full-time i.e. if its members stood down from their national political duties - but this would be full circle back reinventing the Commission (although at that point the reinvented 'Commission' would be at the heart of the Council – certainly not the outcome intended by the intergovernmentalists). It is notable that

the Commission (Com (2002)247) does not engage directly with these arguments at all, leaving the question of the presidency to one side while generally arguing for a stronger Commission in a variety of key areas.

While some of the smaller countries may continue to defend the 6-month presidency, most accept the need for change in an enlarged EU. But if they are opposed to the new President idea, alternatives are needed. Other proposals for reform of the presidency have focused more on the idea of a team presidency shared among a small number of member states. The team presidency approach would provide more continuity and consistency, and would also work as some form of steering group, but without the strong executive council characteristics of the UK's proposal. But a team presidency also implies a head of the European Council in place for more than 6 months. The difference to the UK proposals would be that such a head of the European Council would be an acting head of state, and so not a full time President, and a team presidency is unlikely to last for 5 years. This would conflict less with the position of Commission President but it does also indicate that a higher profile – through longer length – EU President in some form is a probable outcome. The relations of that President with the Commission President and with the High Representative will need considerable further definition.

#### **The General Affairs Council – time for change**

The choices over the presidency are strongly interrelated to other aspects of Council reform – as well as to the role and reform of the Commission. The inadequate functioning of the

General Affairs Council is another key area of debate here. In different contributions to and comments on the debates so far, there is a general recognition that the GAC is overloaded and malfunctioning in its efforts to combine its general coordination roles with the foreign affairs role. One relatively straightforward part of a solution here is to create a separate Foreign Affairs Council - although less straightforward is who chairs it - the (reformed) presidency or Solana? But there are a variety of views of what then happens with the general coordination side of the GAC. Does it continue in its current form or is a new formation of the Council established?

Some have proposed a coordination Council composed possibly of deputy prime ministers or European ministers. But the politics of these different positions of deputy prime minister and European minister vary considerably across member states, especially where there are coalitions, and so a more acceptable solution is likely to be one where each prime minister nominates their own choice of minister to such a coordination Council. Such a Council might meet on a frequent basis in Brussels. While some have raised fears about how this could relate to the meetings of officials in Coreper, a more substantial question is how such coordination Council would relate to an executive council or steering group if that was the direction of reform of the presidency. It is possible that these decisions may be taken sequentially, since reform of the General Affairs Council does not require Treaty amendment whereas the substantive changes to the presidency proposed would require Treaty change.

### **Reforming the European Council**

A further area of consideration for reform is the role of the European Council itself and how to bring it more fully within the institutional structures of the Union. The Council secretariat suggest various procedural and organizational changes to improve the efficiency and focus of European Council meetings, and re-establishing and re-emphasizing its role in setting a strategic framework for EU policy development. The proposed changes range from substantially reducing the size of delegations, to shorter more focused conclusions, and better preparation of meetings both through reform of the GAC and also through reduction in the number of Council formations. Ideas have also been floated to try to limit the use of European Council as a decision maker of last resort when individual Councils fail to reach agreement, including the idea of using QMV in the European Council for areas where QMV is used in the individual councils. The relationship between the European Council and the proposed executive council also needs further consideration - the European Council might find its risk being upstaged by the executive council particularly if it was chaired by a new, longer term European Council president.

Many but not all of these Council reforms have implications for the balance of power between Council and Commission. Whichever way this balance shifts, it is unlikely to be permanently settled since the EU is not at a stage where it will confer all its executive powers on one institution. With the exception of the proposal for the Council to legislate in public – a vital step forward for transparency and accountability – the proposed Council changes, including that of the new President, do not make any changes or improvements to representativity.

They also raise many questions that would have to be resolved about inter-institutional relations and roles. In particular, the possibility of both European Council and Commission having Presidents appointed in the same way for the same time period, both potentially former premiers, raises more difficulties than it resolves.

But how the balance of power shifts will also depend on how the Commission is reformed. The Commission itself is of course pursuing a number of internal reforms but the wider debate around its role and structure has not yet been pursued within the Convention itself.

#### **Commission Reform**

Much of the debate about Commission reform has focused on the two issues of the size of the Commission and the potential election of its President. The future size of the Commission is fundamental not simply to the efficiency with which it functions but to the question of how it fulfils its role of taking a coherent, pan-European approach to initiating policy and upholding all existing rules and agreements (defending the Treaties). The Commission at present looks increasingly weak, with an absence of strategic leadership or strategic framework underpinning the tendency of the current Commission to fragment into separate, relatively uncoordinated policy domains, with varying degrees of political control by individual commissioners over those policy domains and with a serious absence of genuine collegiality.

Furthermore, the effectiveness of the current internal reforms of the administration - the bureaucracy - of the Commission have yet to be tested. Whether it will really prove possible to replace a system dominated by insider networks and national preference with one of promotion

on merit is open to considerable doubt. But while success of these internal administrative reforms is one vital component of ensuring the effectiveness and accountability of a politically reformed Commission, they themselves do not impact directly on the lack of political coordination and strategy, nor will they lead either to a substantial restructuring of internal structures and resources.

Restricting the future size of the Commission is a key reform (ducked at Nice) to ensure effective political direction and coordination. A smaller Commission, probably around 12 commissioners, would contribute to ensuring:

- effective strategic policy leadership by the President and by the Commission as a whole;
- genuine joined-up policy management and development (i.e. real collegiality);
- pan-European policy-making not undermined by national influences;
- improved political accountability of the administration to the commissioners; and
- greater effectiveness of the Commission in interinstitutional discussions with the Council and the Parliament.

To achieve these results also requires radical structural changes within the Commission, reducing resources in less relevant areas (which returns to the issue of competences) and reorganizing resources and structures to ensure genuine strategic policy planning and development. This could also contribute to greater communication and coordination of strategic planning across the three institutions. In terms of strategic policy development, the Commission's sole right of initiative is in fact already shared. A better recognition of that by improved joint coordination is not per se an attack on the Commission's remit.

Smaller countries – both member states and candidate countries – mostly support a strong role for the Commission and so should support reform. But their reluctance to give up what they see as *their* national commissioner may condemn the Commission to weakness and a failure to fulfill its pan-European policy function, with infighting driven by national interests.

These reforms on their own, substantial and controversial though they are, are not sufficient and will have to be complemented by reforms on the side of democratic accountability. Attention has focused here on the question of electing the Commission President - either by a genuine EU wide popular election or via election by the European Parliament. The former proposal - an EU wide election - is problematic due to the lack of a genuine or - even emergent pan-European political space reflected in the weakness of transnational parties and the absence of a European demos or, relatedly, a European media. The alternative which is a more intermediate step of election by the EP is a preferable proposal in that it balances the need for more democratic accountability with the difficulties raised by the inadequate development of the European public space.

Some are concerned that such an election process might unnecessarily politicize the Commission and would undermine its collegiality. But there are various possible routes around this problem. The President might be elected from a list provided by the European Council, and there is no reason why this list should necessarily provide a choice of candidates across the political parties. Moreover, the European Parliament could commit to making this a free vote and to identifying criteria for preference among candidates relating to key European priorities and

not to party affiliation. This proposal could and should be taken further: it could be applied to the selection of all commissioners. And if the latter is a step too far, then the Parliament should at least have the right to endorse or reject individual commissioners and not simply the whole Commission. Without such a step forward, the Commission will remain insufficiently accountable. In such a new framework not only would its role be clear and more transparent and accountable, but such a new system should also strengthen the political control of the commissioners over the administration itself, another fundamental requirement of reform.

In the absence of such changes, it is almost inevitable that the political balance will shift towards the Council, as it will become increasingly difficult to justify a major political role for an unreformed Commission. But if the Council agrees to appoint a new European Council President, then it will be highly unlikely to accept any of these democratic reforms, as they will underline the democratic illegitimacy of the new President. Council and Commission reform are consequently intertwined, highly political, and strongly dependent on the outcome of bargaining between the larger and smaller countries – with Germany potentially in a position to play a pivotal role promoting effective and democratic reforms and preventing the worst outcome of a weak new European Council President interacting poorly with a weak Commission.

### Communication and Participation

Increasing democracy in the EU is not only a question of institutional and structural changes. It is a question of communication and participation. It is the challenge of building a real European

political space and debate. These issues are often misunderstood and poorly focused on within the EU institutions, with emphasis being put on provision of information to overcome lack of understanding. But a dynamic, participative democratic system is not and cannot be simply or mainly about one-way information flows. What is needed is a step change in political and public discussion of European political and policy structures and initiatives. But this would require new initiatives and actions and change in behaviour of national and European politicians and officials. The media has an important role to play here too but politicians and officials cannot simply ask or expect the media to write more about the EU.

National politicians, not least faced with the current democratic malaise in many of the EU member states, need to acknowledge more directly and openly their role and responsibilities in EU decision-making. It is only national politicians who can explain and defend decisions taken in the Council back in their respective national political arenas. If they shy away from this task and instead suggest or imply that responsibility for decisions taken lies elsewhere (Brussels, the Commission, the bureaucracy) then this contributes in an important way to confusion, mistrust and distance of the wider public. This will be particularly the case if the Convention and subsequent IGC agree a constitution for the EU: unless a political lead is given in promoting debate and understanding of such a constitution, it will fail in one of its main purposes.

Both Commission and Parliament also need to devote much more political time and resources to developing effective communication strategies. Particularly in the Commission, officials need to

take on board communication as part of their role. Both institutions also have to face up to the fact that what is needed is open, two-way communication and debate - debate that will include criticism and disagreement: communication strategy is not the PR strategy of a political spin-doctor.

Serious political commitment to promoting pan-European debate should also result in innovative new ideas and experiments. For example, in terms of openness and accountability, the Commission could start each week with a one-hour weekly online question time with one member of the Commission (with a different commissioner each week) - this would represent a leap ahead of most member states. The EP could have much more frequent question time sessions with both Commission and Council presidents and could find a mechanism to involve national MPs in those sessions. Imaginative new mechanisms to involve national MPs and engage them directly with MEPs and the EP – and not simply a new mechanism to involve MPs in subsidiarity and competences decisions – could help to provoke a much more rapid politicizing of European debates in the individual member states.

While there has been some progress in relations with so-called 'organized' civil society, particularly NGOs and interest groups, more needs to be done here too, to ensure coherence, reliability and openness in consultation and dialogue processes – and to build on, and move beyond, the Commission's 2001 white paper on governance. Overall, precisely because the EU is not a state with directly equivalent political structures to those of individual member states, which results in problems of legitimacy and comprehensibility, there is a need for all those



involved in EU political developments and institutions to ensure that the structures that do exist are as open, accessible and engaged with the wider public as possible.

This is where the Convention itself could play a major role, and also faces a major challenge. The way in which the Convention conducts itself, its actual process of work and debate, will be vital for engaging the wider public, for engaging real national political attention and encouraging the development of a genuine dynamic of political debate. The risk for the Convention is twofold. The first risk is that, while it may engage in a range of dialogues with NGOs, unions, business, think tanks and so on, it could fail to demonstrate that there is a real two-way communication under way – to show the debates and ideas from the outside are being fed into, and impacting on, the Convention.

The second risk is that its work and debates appear removed from current important political challenges and issues. The Convention is not a government and will not have a consensus position until it produces its final document. Nonetheless, through effective communication strategies it should be showing the direct relevance of its developing debates to key contemporary issues. For example, the wide support in the Convention already for strengthening CFSP and for moving forward in the justice and home affairs area allows the work of the Convention to be presented to the media and the wider public in the context of current issues of debate, from the Middle East, to antidiscrimination, globalization and terrorism. It need not be a thing apart. Moreover, it could take a leaf out of the approach of the Council, and put forward ideas for change that do not require

Treaty change, during its work and not simply at its conclusion. If the Convention cannot engage and provoke a wider debate, then the chances of meeting the Laeken challenge of bringing the EU closer to its citizens are slight, whatever the institutional changes it proposes.

### **The Democratic Problem – Summary of Key Issues**

- Democratic legitimacy problems of EU institutions – need for EU to be more transparent, comprehensible, representative and participative;
- Relative powers and reforms of Council and Commission are fundamental to the nature of the new EU – radical reforms of both are needed; greater intergovernmentalism risks weakening the EU;
  - Rotating Presidency needs reform;
  - Proposals for new European Council President will lead to confusion – with EU having 2 Presidents (Council and Commission) appointed in the same manner, for same time period. Both Presidents will lack democratic legitimacy. Council-Commission coordination may also suffer with increased conflicts, resulting in weak European Council President and weak Commission;
  - Reform of General Affairs Council – split into two formations, foreign affairs and general affairs;
  - Commission reform – need for a small Commission, with structures significantly refocused on the pan-European policy dimension, for effective and coherent strategic policy leadership, and to avoid national influences;
  - Greater accountability of Commission

and bureaucracy to EP – election of President by EP and of Commissioners, or at least individual right of veto;

- Step change in communication and promotion of democratic participation by all EU institutions and political actors, including national politicians; new genuine communication strategies; innovations such as weekly on-line question time, involvement of national MPs in EP questioning of Commission president and EU presidency; more coherent and reliable civil dialogue;

- Convention has a key role to play here in demonstrating through its processes of consultation and dialogue a new approach to participation and communication.

### **5. The EU's Voice in the World**

The Laeken declaration set out high ambitions for a new EU role in the world, stating: “does Europe not, now that it is finally unified, have a leading role to play in a new world order, that of a power able both to play a stabilizing role worldwide and to point the way ahead for many countries and peoples?”. Whether or not the Convention will be able to set out a path for the EU to achieve this new and highly ambitious role (both model and stabilizing power) is open to doubt. But what is vital is that the Convention does put forward serious and credible proposals for the EU to have a much stronger political voice in the world. The next enlargement will underline once more the disparity between the EU's economic weight in the world and its political influence - the economic giant/political dwarf syndrome. In the current global context, with the global agenda crowded with major issues from post September 11th and combating international terrorism, to the ongoing Middle East crisis,

globalization, sustainability and development, the inadequacies of the EU as a global actor have been painfully apparent and the need to strengthen its international role is very clear. At the same time, developments post September 11th have also underlined the pre-eminence of national sovereignty in foreign policy, not least in the larger member states.

Another key factor for the EU in the current international environment, is the sharp deterioration in US-European relations. From the fight against terrorism and weapons of mass destruction in rogue states, to trade, Kyoto and the international criminal court, the US and EU are facing recurring strategic differences. Growing US unilateralism also serves to emphasize the EU's weakness. Yet at the same time, the sharpness of some of the differences of view help to highlight what is distinctive about the EU's approach and also acts as a further catalyst in the growing pressures for the EU to move forward in this area. The EU argues for a more multilateral approach but its power to push international relations in this direction will in fact depend on its ability to forge its own internal multilateralism into a much stronger common voice. Enlargement will complicate this due to the increase both in numbers and in the variety of interests. But at the same time, the increase in number of member states also increases the potential political weight of the EU and adds to the pressure to become at least a stronger regional power.

The challenge for the Convention is not simply to look at EU foreign policy and institutional structures but to look across the range of EU international policies, and at their interconnection with various aspects of internal policy. One of the main difficulties that must be

faced up to is the diverse legal base in the Treaty of different policies, not least the spread of relevant international policies across the three pillars. Given the different Treaty bases for EU action, the Commission and the Council have varying roles and powers both across and within policy areas which impact negatively on coherent, integrated and effective policy-making. The Commission, in particular, has a stronger role in trade and in aid and development, all areas which offer a range of policy instruments that can be used to support and implement wider foreign policy aims. But while many of the relevant instruments lie with the Commission, the Council determines the CFSP policy framework.

One of the key challenges, therefore, is to situate international policies including trade, aid and development, justice and home affairs, environment and sustainability, human rights and foreign policy in a common framework with much closer coordination and mutual reinforcement across the policy areas. This has led to arguments for a merger of the three pillars, while retaining a range of instruments and decision-making procedures. A number of Convention members have argued for such a merger (in the May 23/24 meeting) as has the Commission (Com (2002)247) although Giscard d'Estaing in summing up the May meeting expressed strong doubts about the idea.

Trade Commissioner, Pascal Lamy, has argued that the EU should focus as its first priority on the governance of globalization and the promotion of sustainable development. So he proposes that the Commission should have competence, as with trade, to negotiate on all aspects of the management of globalization from environment to transport to energy. With the launch of the euro, and the development of the euro-zone,

such arguments gain weight together with the related need for unified EU representation - or at least euro-zone representation - in international bodies including the IMF, G8 and World Bank. If such goals are to be reached, the need to strengthen internal policies in the enlarged EU, not least structural and cohesion policy, is a vital element, if diversity of interests and sectional interests are not to weaken and impede development of coherent and effective international policy positions and strategies. A clearer more coherent EU approach to management of globalization could also impact on other areas of concern to the Convention, not least if it helps to open up a genuine pan-European debate with civil society and with younger people.

However, if the EU puts its principal focus on globalization without at the same time looking to take major steps forward in the foreign and security policy dimension, it will be failing to address some of the most pressing key contemporary challenges. At the same time, despite the importance of moving to greater coordination and integration, many of the most important challenges in CFSP come down to the fundamental issue of the political will and interests of the member states in agreeing to, and acting on the basis of, a genuine common policy rather than pursuing their own individual and independent policies. Structural changes on their own cannot achieve this crucial element of political will and commitment.

The difficulties of the EU becoming a strong political global actor are clear - and without a step change, they will almost inevitably get worse in enlarging from 15 to 25 member states, with the risk of very weak 'lowest common denominator' positions emerging. In the post-September 11th

period, with the crisis in the Middle East, with the growing unilateralism of the US, and with the threat of a US campaign against Iraq, the lack of coordination and the lack of strong commonly defined interests and policy positions among the EU member states has been highlighted. While many fear the possible role of an informal *directoire* of France, Germany and the UK in a strengthened CFSP, events such as the Middle East crisis and US threats against Iraq, in fact highlight the lack of coordination and focused agreement among the three 'big'. The UK's so-called 'special relationship' with the US appears more often to emphasize differences between the UK and other EU member states, rather than to provide a route to explain and promote common European positions or to ameliorate fractious transatlantic relations.

A step change in CFSP would require a major improvement in coordination and in political will to define stronger common positions as a genuine framework for member states' foreign policies. This would require France, Germany and the UK to lead here in demonstrating genuine political interests in progress. At the same time, it is also clear that at 15, and even more at 25, an effective CFSP cannot simply be built around an informal *directoire* of three. The infamous Downing Street dinner of autumn 2001 - where the initial three-some of France, Germany and the UK was expanded to include Italy, Spain, then the High Representative, then the Belgian presidency and finally at the last minute the Prime Minister of the Netherlands - demonstrated rather publicly the need for a more inclusive and coherent approach.

Some of the institutional changes discussed above would contribute to improving the functioning of CFSP. Reform of the General Affairs

Council, with the creation of separate Foreign Affairs Council would be one step forward. This could be chaired by Solana, creating continuity and consistency - but if the presidency is successfully reformed, and the six-month presidency abolished, then chairing by the new reformed presidency would also result in more continuity and consistency than at present. A more focused, separate and consistent Council could contribute to moving forward in terms of much greater attention to priority setting and establishment of clear strategic frameworks in foreign policy, reinforced by the work of the Political and Security Committee (COPS). Furthermore, while up to now, despite the provisions of the Amsterdam Treaty, QMV has not been used in CFSP, in the medium run QMV should be used and extended. The difficulties in this area, of course, considerable but outside the security and defence area, it is the direction of progress.

In terms of greater coordination between Council and Commission, much discussion has focused in the last two years on the proposal of merging the post of High Representative with that of the Commissioner for external relations (an idea supported already in 1999 by Chris Patten, and proposed in a speech in 2000 by Prodi). Certainly, the split between policy formation and policy instruments represented by the two posts is not ideal. But some consider this idea premature, not least since Solana's position is relatively new. Moreover, such a merging of Council and Commission posts, with the new Representative taking part in meetings in both institutions, has very wide institutional implications and ramifications - it is not a stand-alone proposal. The Commission (Com (2002)247) has proposed merger with the

post being located in the Commission, and having the sole right of initiative (though no details are given of how the Council would then function) – Paris and London have been quick to reject these ideas.

However, Germany (who pushed hard in Laeken for a strong emphasis on the external dimension and is generally pushing for stronger and more rapid action on CFSP) supports fusion of the two posts, while France talks of increasing synergy. If synergy is a code word for the status quo, then it is obviously inadequate. But serious proposals to improve coordination and interaction could provide the basis to move forward, and ultimately to bring the two positions together.

Making progress will not be easy, yet more has been done in recent years on CFSP, and especially on ESDP, than would have been predicted in the mid-1990s. Even so, much faster and more substantial progress will be needed if the difficulties the EU faces in having a strong voice at this critical current global conjuncture are to be overcome, and overcome with sufficient rapidity. The Convention cannot substitute for political will among the member states but it can show the institutional and organizational route forward as well as putting the political challenge clearly to the member states.

#### **Voice in the World – Summary of Key Issues**

- Enlargement underlines EU position as economic giant and political dwarf;
- Global instability and uncertainty, and deteriorating EU-US relationship, add to pressure for urgent step change in EU's international role – political will of member states still key hurdle;
- Diverse legal bases of different

international policies problematic; need for a common framework for trade, aid and development, environment, justice and security, human rights and foreign policy; merge 3 pillars

- Major increase in coordination of member states' foreign policies within common framework needed;
- Institutional changes include establishment of a separate Foreign Affairs Council; move towards greater QMV in foreign policy (not security and defense); greater synergy; and in the medium run merger, of the High Representative and Commissioner for External Relations posts

#### **6. Conclusions**

The challenges for the Convention and IGC are clear and daunting. But the Convention has the chance, and the political challenge, of demonstrating that where intergovernmental decision-making behind closed doors has proved inadequate in the past, the open and more inclusive approach of the Convention can succeed.

The Convention is still only at the early stages of its work. But many if not most of the choices open to it are already known – it is the selection across those choices that will determine the shape of the future EU. On the basis of these different choices, together with the different political groupings and interests within the Convention and across the member states and candidates, it is possible to identify a number of scenarios that help to illustrate the potential implications of the choices made. Five scenarios are briefly identified below:

### **(1) Emergent Global Political Power**

The EU takes major steps forward in democracy, efficiency and in international policy-making. Consequently, it begins to have a stronger, effective global voice, understood by the European public and legitimated by effective democratic processes.

*Democracy:* Clear, basic constitutional Treaty; stronger accountability of Commission bureaucracy to the Commission, and of Commission to the EP:

Commission President elected by the European Parliament, Commissioners either elected or at least endorsed separately by the EP; open up Council – legislative sessions to be held in public; extend EP's rights of co-decision; step change in communication strategy and civil dialogue, including national politicians taking on their responsibilities for explaining and acknowledging their role in EU decisions; innovations in communication (e.g. weekly online question time of commissioners); new and innovative involvement of national parliaments; no moves to formal, separate decision-making for avant-garde (no exclusive 2-speed EU)

*Efficiency:* reduce size of Commission to 12; restructure Commission resources, increasing focus on strategic policy development, and reducing resources in areas of strongly national competence; reform Council of Ministers and European Council – split General Affairs Council, creating a Foreign Affairs Council and a new permanent Coordination Council (with ministers designated by their heads of state); bring European Council within EU institutional framework; abolish six-month presidency – introduce new, longer team presidency; abolish

Nice voting weights and QMV conditions and replace with simple double majority voting; extend QMV; clarify processes for competences and subsidiarity and include national parliaments in the new processes.

*International Policies:* Create an effective common framework for all international policies – trade, development, aid, justice and home affairs (in their international dimensions), human rights and foreign policy, with closer coordination and integration of these policy areas. Integrate the 3 pillars, while maintaining different decision-making and policy developments approaches for different policy areas; create a new Foreign Affairs Council, chaired by the High Representative; in the medium run, extend QMV in foreign policy (but not in defence and security); in the medium run, merge the posts of High Representative and Commissioner for external relations, in the short run, develop new procedures for substantially improved and visible synergy.

### **(2) Struggling Global Power**

The EU takes weak steps forward on democratic changes, makes more effective changes on the efficiency side but moves towards an intergovernmental model for the EU. The EU makes significant changes in international policy formulation. But over time democratic inadequacies, the lack of an effective pan-European strategic policy leadership function and conflict in the Council, not least over the decisions of the executive Council, leads to national differences coming to the fore and the EU struggles to have its voice heard in the world.

*Democracy:* Basic constitutional Treaty – but clarity marred by complex formulations

representing strong national differences; no changes to Commission accountability; Council legislative sessions to be held in public; no new and innovative communication strategy; formalisation of eurogroup leads to emergence of two-speed EU through de facto barriers impeding candidates' joining the euro.

*Efficiency:* Commission stays large – with number of Commissioners to match number of member states; Council of Ministers and European Council reformed – abolish 6 month presidency and creation of new 5 year European Council President, appointed by European Council members; creation of new executive Council, chaired by president and made up of chairs of the (reduced to) 8 Council formations; General Affairs Council, creating a Foreign Affairs Council and a new permanent Coordination Council (with ministers designated by their heads of state); bring European Council within EU institutional framework; maintain Nice voting weights and QMV conditions; extend QMV; clarify processes for competences and subsidiarity and include national parliaments in the new processes.

*International Policies:* Create processes for more effective coordination for all international policies – trade, development, aid, justice and home affairs (in their international dimensions), human rights and foreign policy. Create a new Foreign Affairs Council, chaired by the European Council President; develop new procedures for substantially improved and visible synergies between the High Representative and the Commissioner for External Relations.

### (3) Efficient but Weak EU

The EU takes major steps forward in democracy and efficiency but not in international policy-making. Consequently, the enlarged EU function relatively well, but does not manage to act effectively as a regional power and so faces more difficulties in relations with neighbours and with the stability of its regional environment.

*Democracy:* Clear, basic constitutional Treaty; stronger accountability of Commission bureaucracy to the Commission, and of Commission to the EP. Commission President elected by the European Parliament, Commissioners either elected or at least endorsed separately by the EP; open up Council – legislative sessions to be held in public; extend EP's rights of co-decision; step change in communication strategy and civil dialogue, including national politicians taking on their responsibilities for explaining and acknowledging their role in EU decisions; innovations in communication (e.g. weekly online question time of commissioners); new and innovative involvement of national parliaments; no moves to formal, separate decision-making for avant-garde (no exclusive 2-speed EU).

*Efficiency:* reduce size of Commission to 12; restructure Commission resources, increasing focus on strategic policy development, and reducing resources in areas of strongly national competence; reform Council of Ministers and European Council – split General Affairs Council, creating a Foreign Affairs Council and a new permanent Coordination Council (with ministers designated by their heads of state); bring European Council within EU institutional framework; abolish six-month presidency –



introduce new, longer term presidency; abolish Nice voting weights and QMV conditions and replace with simple double majority voting; extend QMV; clarify processes for competences and subsidiarity and include national parliaments in the new processes.

*International Policies:* New Foreign Affairs Council created, chaired by presidency. No action to improve synergy or coherence across different areas of international policy. No change in positions of High Representative and Commissioner for External Relations.

#### **(4) Efficient but Unstable EU**

The EU makes some improvements in efficiency, following a much stronger intergovernmental approach but does less in terms of democratic changes and little on the international side. The intergovernmental approach combined with absence of sufficient democratic changes results in inadequate popular support for the EU together with national frictions between member states. The EU's development is unstable and problematic.

*Democracy:* Basic constitutional Treaty – but clarity marred by complex formulations representing strong national differences; no changes to Commission accountability; Council legislative sessions to be held in public; no new and innovative communication strategy; formalisation of eurogroup leads to emergence of two-speed EU through de facto barriers impeding candidates' joining the euro.

*Efficiency:* Commission stays large – with number of Commissioners to match number of member states; Council of Ministers and

European Council reformed – abolish 6 month presidency and creation of new 5 year European Council President, appointed by European Council members; creation of new executive Council, chaired by president and made up of chairs of the (reduced to) 8 Council formations; reform of General Affairs Council, creating a Foreign Affairs Council and a new permanent Coordination Council (with ministers designated by their heads of state); bring European Council within EU institutional framework; maintain Nice voting weights and QMV conditions; extend QMV; clarify processes for competences and subsidiarity and include national parliaments in the new processes.

*International Policies:* New Foreign Affairs Council created, chaired by European Council president. No action to improve synergy or coherence across different areas of international policy. No change in positions of High Representative and Commissioner for External Relations.

#### **(5) Technocratic, Stalled and Inefficient EU**

The Convention and IGC fail to agree major changes and only some tinkering is achieved not moving much beyond the Nice Treaty. Decision-making in the enlarged EU is extremely difficult with many blockages. Public dissatisfaction with the EU grows and national differences of view become sharper. Attempts to move forward within the eurogroup fail due to public discontent and different national reactions to a deteriorating global environment.

*Democracy:* No constitutional Treaty; no changes to Commission accountability; Council

legislative sessions to be held in public; no new and innovative communication strategy; formalisation of eurogroup leads to emergence of two-speed EU through de facto barriers impeding candidates' joining the euro.

*Efficiency:* Commission stays large – with number of Commissioners to match number of member states; six-month presidency abolished and replaced by team presidency of 3 countries for 18 months; no reform of General Affairs Council; maintain Nice voting weights and QMV conditions; no extension of QMV; no new role for national parliaments; complex new procedures for allocation of competences and subsidiarity.

*International Policies:* no changes to international policy coordination or to CFSP.

These scenarios are only indicative of how different decisions may come together to create the overall structures and dynamics of the new EU. But they underline the importance of not looking at individual changes in isolation. The most positive scenario is the first one, of the emergent global power. This requires the EU to move forward in democratic and efficiency terms while managing to renew and maintain its balance between intergovernmental and supranational approaches. Success of this scenario requires substantial Commission reform together with many changes in the Council, and an understanding of the requirements of participative democracy.

In an enlarged EU, reforms that do not provide adequate scope and room within EU structures for genuine pan-European policy-development and that move too far in an intergovernmental direction risk creating a situation where it is increasingly difficult to

ensure coherence and achieve common views. But a renewed dynamic combination of the supranational and intergovernmental will also not succeed without substantial changes in democratic involvement and participation. The scenarios also underline the importance of the international dimension. The enlarged EU cannot isolate itself or cut itself off from the wider world. Unless major steps forward are taken to strengthen the EU's international voice, then even a more democratic and efficient EU will find itself buffeted by global forces over which it has little control.

The challenges facing the EU are pressing. In a calmer and more stable global environment, the triple challenge of tackling the democratic deficit, managing the politics and organization of the enlarged EU, and building a genuine global voice, would be hard and comprehensive enough. In the current global context, it is both much more difficult and more urgent to rise to these challenges. Much lies on the shoulders of the future of Europe Convention – an important innovation in the preparation of these fundamental decisions, not least in its openness and composition. But events may move rapidly ahead and past the steady timetable of the Convention and IGC. The challenge for the Convention, and for all the political groupings within it, is to demonstrate not only that it can come up with focused substantive solutions that will revitalize and restructure the EU to meet the needs and demands of European and global politics, but also that it can engage with the wider world – with the public, with unfolding events – in the process of its work. If it does not, it risks being seen as a fundamental political distraction, on the sidelines as global events move rapidly forward.