

Conference Report

**Debating Europe's Future: The Political
Setting of the European Convention**

The Hague, Friday 22 November 2002

International expertmeeting organized by the Clingendael Institute
(The Hague) in collaboration with the Germany Institute (Amsterdam)

With contributions by :

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Contents

Foreword	5
Seminar Programme	7
Words of Welcome	9
1 The European Convention: A Mid-Term Assessment <i>Gijs de Vries</i>	13
2 The Swing to the Right in Europe: Obstacle to European Integration? <i>Peter Mair</i>	21
3 Future Models for Council and Commission <i>Anna Michalski</i>	35
4 Key issues for the European Convention – a German Point of view <i>Joachim Schild</i>	45
5 Key Issues for the Convention: A British Perspective <i>Geoffrey Edwards</i>	49
6 Key Issues for the Convention: A contribution from Brussels <i>Stefaan de Rynck</i>	55
About the authors	61
List of Participants	63

Foreword

In March 2002 a European Convention was set-up in Brussels by fifteen EU-member states and thirteen candidate-members, in order to discuss the future constitutional structure of the European Union. Though the mandate and the agenda of this constitutional debate are very broad, it is obvious that Europe's political realities pose certain limits to any new constitutional or institutional arrangement.

For let us face it: are the Fifteen (or for that matter the Twenty-Five) really so reform-minded as is pretended in the speeches of some of our European leaders? It took deliberations for years on end to agree on relatively simple quantitative adjustments in the voting weights of the council or in the size of the European Commission. Although the decisions on the 'left-overs' at the Nice Summit of december 2000 provided some solace, the hectic way in which the Heads of State and/or Government negotiated day and night on a little bit more or less of voting weight, was illustrative for their lack of political will. The Heads of State and/or Government of four big member states (Schröder, Chirac, Blair and Aznar) and seven smaller ones (Verhofstadt, Ahern, Lipponen, Persson, Juncker, Schüssel and Simitis) were in early 2003 still the very same persons as at the time of the Nice Summit, whereas in the other four member states (Italy, Portugal, the Netherlands and Denmark) the new centre-right coalition governments follow a rather conservative line as regards further European integration. It is hard to imagine how the introduction of the 'Convention method' as substitute for the traditional intergovernmental negotiations would change this reality as if by magic.

And are the candidate members that keen on creating really new European competences? These countries had just to subscribe to the famous eighty-thousand pages of *acquis*. They will not be very eager to transfer on short notice again substantial parts of their recently gained independence to Brussels. Moreover, in 2003 they have to concentrate on the national procedures for the approval of the accession treaties. In nearly all the candidate countries referenda are required. The governments concerned can easily do without European projects which may easily put off the home front.

In an attempt to map some of these political constraints, the Clingendael Institute organized on 22 November 2002 in The Hague, in collaboration with the Germany Institute in Amsterdam, a small international expertmeeting, in order to

shed light on the political context in which the European Convention has to work. This setting is shaped by such factors as: the emergence of centre-right governments in various member states; the ambitions of larger and smaller members in a widely enlarged Union; the centrifugal effects of the international crisis over Iraq. Is the shift to the right in various member states going to influence their stance on the new Constitutional Treaty? Is the European mood becoming more nationalistic as regards the delimitation of national and European competences or the future roles of Council and Commission?

The organizers had certainly not the ambition to cover all relevant aspects. In particular the mounting crisis over Iraq, with its serious implications for the political cohesion of the European Union, does not feature in the following conference proceedings. Nevertheless, they hopefully provide some useful background material in the ongoing debate on the future political shape of the European Union.

The seminar was part of a broader research programme of the Germany Institute in Amsterdam. The director of this Institute, Ton Nijhuis, and the managing director, Lily Sprangers, provided useful intellectual and financial support. The director of studies at Clingendael, Jan Rood, was also very helpful, while Anna Little, MA student at Leiden University, provided editorial assistance for this project.

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The Hague, March 2003

Programme

Debating Europe's Future: The Political Setting of the European Convention The Hague, Friday 22 November 2002

International expertmeeting organized by the Clingendael Institute (The Hague), in collaboration with the Germany Institute (Amsterdam)

09.00 h Arrival of guests

09.30 h Welcome and opening by
Alfred van Staden, Director of the Clingendael Institute, The Hague
Ton Nijhuis, Director of the Germany Institute, Amsterdam

First Session: The Setting of the European Debate

09.45 h 'The Convention and the wider European agenda'
Gijs de Vries, Dutch representative to the European Convention

'The swing to the right in Europe: obstacle to European integration?'
Peter Mair, Department of Political Science, Leiden University

11.00 h Coffee break

Second Session: Key Issues for the Convention

11.15 h 'Future models for Council and Commission'
Anna Michalski, Clingendael Institute, The Hague

With contributions by:
Joachim Schild, Stiftung Wissenschaft und Politik, Berlin
Geoffrey Edwards, Pembroke College, Cambridge
Stefaan de Rynck, European Commission, Brussels

13.00 h Lunch and end of the Seminar

Words of Welcome

Alfred van Staden: Ladies and gentlemen, it gives me great pleasure to welcome you to this international expert meeting. I would like to point out that this meeting is a joint venture between Clingendael and the Germany Institute in Amsterdam. I am glad that we have managed to overcome the psychological distance that sometimes exists between Amsterdam and The Hague. I would also like to extend a warm welcome to today's speakers, the first of whom will be Mr. Gijs de Vries, the representative of the Dutch government to the European Convention.

The first part of this meeting aims to focus on the setting of the European Convention and the underlying changes that have occurred in the political landscape of European Union member states, and the way in which these political transformations are affecting the deliberations in the European Convention. One of the main questions is whether these changes can be framed in the context of the swing to the political right, and if so, what this implies for the pace and direction of the process of European integration. Looking at the setting of the European Convention, there also exists an international dimension. In describing the latter, reference has been made to the Euro-American relationship. Despite the unity shown at the NATO-summit in Prague (on the 21st of November), we see a growing transatlantic rift, with a possible impact on Europe's common security and defense policy.

The second part of our program plans to focus on the issues that feature prominently on the current agenda of the European Convention: first and foremost, the balance among the Union's main institutions. I feel I should stop here and share my responsibility with the director of the Germany Institute. I am pleased to give the floor to Prof dr. Ton Nijhuis.

Ton Nijhuis: Ladies and gentlemen, I welcome you to this workshop, which for a large part has been organized by Clingendael, in the framework of the 'Germany and Europe program', coordinated by the Germany Institute of the University of Amsterdam. Deliberately, a small group of experts has been invited, because this tends to stimulate the quality and intensity of the discussions.

It is often mentioned that there is no real public European sphere, let alone a real public debate. Consequently, discussions about the future of Europe and the

Convention often take place in a national context. National navel gazing is still the norm in Europe. I am therefore glad that we are gathered here today a group of international experts who have brought along their national debates, in an attempt to exchange their views and mutual experiences. The problem of the debate on the Convention can be linked to the fallacy of misplaced concreteness, pinpointed at the summit in Laeken. At this summit, a large number of specific questions was framed that should be discussed in the Convention, and also within the public arena. European citizens should have an opinion on a range of questions like whether the European Commission should have an elected president; whether he or she should be elected directly, or by the European Parliament; what to do with the rotating presidency of the Council; how to increase transparency; how to reinforce democracy; how decision making procedures can become more efficient; and how to strengthen the participation of European citizens, thus, the role of civil society.

The problem with such a gross list is that one can't see the wood for the trees. Why should one favour a chosen president? Why not against it? Or, why should one have an opinion about this question at all? Moreover, it is quite possible that different proposals that seem to be reasonable as such are on bad terms with one another.

I hope that we will succeed today in revealing the depth structure beneath all these kind of questions, a structure which can connect these at first sight very diverge questions and options. This would give us a background, a context in which these propositions make sense. The different dimensions form a loosely coupled structure, which means that the choice for a certain solution in one dimension reduces the degrees of freedom with respect to the other questions. Overarching questions and dilemma's are for example:

1. An overarching question with respect to the institutional dimension is that of splitting or sharing competencies. Those who stress the need for subsidiarity and autonomy in major policy fields opt for the splitting model, whereas those who plead for reinforcement of the Commission favour the consolidation and reinforcement of contemporary system of sharing competencies. Whether splitting or sharing, however, this is simply an analytical dichotomy. In real life, there always exists a mixture of the two.
2. With respect to the normative dimension, the debate revolves around either territorial or functional representation. When one favours a territorial concept of representation, one will plead for strengthening the parliamentary system of the European Union. As elaborated in the white papers on the governance of the Commission, Prodi pleads for the principle of functional representation, whereby interested parties are given a voice.
3. There also exist different options when it comes to implementing reform. What is more fruitful: a constitutional reform or a policy driven reform? Our former Minister of Foreign Affairs Jozias van Aartsen once equated reform with building sand castles. He argued in a lecture here at Clingendael, that reform should be policy driven, or as he said, tackled according to the 'bottom up' approach. But the two can also go hand in hand, as Joseph Weiler once

remarked: 'European federalism constructed with a top-to-bottom hierarchy of norms, and with a bottom-to-top hierarchy of authority and real power'?

A constitutional treaty as described by Giscard d'Estaing, would confirm this mixture of federal and intergovernmental principles, precisely because the ultimate political authority, that of the competence of the distribution of competencies (*Kompetenzkompetenz*) would remain in the power of the state.

1 **The European Convention: A Mid-Term Assessment**

Gijs de Vries

Two in three Europeans believe that the European Union should have one common foreign policy; 73 % support a common defence and security policy. Some 80 % of European citizens want the Union to combat illegal migration, but only 45 % of them consider EU action as effective in this field. Nine out of ten Europeans feel that the fight against organised crime and against unemployment should be priorities of the Union.

It is clear what European citizens want. They want the Union to address their concerns and help solve their problems. They want the European Union to do what it was created to do: to take on, effectively and democratically, those cross-border problems, which the nation states of Europe are unable to deal with on their own. No more, no less.

In recent years, citizens in many European countries have been voicing dissatisfaction with the way in which they are being governed. Some of their concerns can be attended to by national governments. Other problems increasingly require international solutions.

The European Union has a key role to play in addressing the main international issues of our time – international stability and security, migration and crime, environmental sustainability and economic development. Increasingly, the legitimacy not only of the Union, but of national politicians and institutions as well will be affected by whether the European Union can deal effectively with these challenges.

So, what must be done to enable the Union to meet the expectations of European citizens? In December 2001, the Laeken European Summit decided to establish a Convention to provide a framework for the future development of the European Union. The Convention has been requested to draw up proposals to enable governments – acting through the Union – to address their citizens' concerns, and to meet the challenge of enlargement. From February 2002 onwards, the members of the Convention have been debating the necessary Treaty changes. Final proposals are expected to be presented to the European Council in the summer of 2003.

At the Convention, the Netherlands is pursuing two objectives: to strengthen the Union, making it more effective, more transparent and more democratic; and to

maintain the balance among the Union's main institutions – the Council, the Commission, the European Parliament, and the Court of Justice.

Over the past forty-five years, the European Union and its precursors have rendered an invaluable contribution to political stability and economic development in Europe. The secret of the Union's remarkable success lies in its unique mode of decision making, commonly known as the Community method. Under the Community method, the European Commission has the exclusive right of initiative to propose (and hence to withdraw) legislation; the Council of Ministers decides on the basis of qualified majority voting; the European Parliament acts as co-legislator under the co-decision procedure; and the Court of Justice has the final say. Each of these four elements is of crucial importance. Together, they provide legitimacy as well as effectiveness. Now that the Union is about to enlarge from 15 to 25 member states, with further enlargements on the horizon, great care must be taken to preserve the Community method and to reinforce it where necessary.

What should be done to preserve and to strengthen the institutional balance in the light of enlargement? There are five sets of issues the Netherlands has been urging the Convention to address.

First, it is important to render the Council of Ministers more effective. People rightly judge the Union on whether it can address cross-frontier issues quickly, effectively and transparently, and the Council, as the Union's main decision-making institution, must be allowed to do a better job. This requires expanding the scope of qualified majority voting and simplifying the procedure so that a double majority, of states and populations, would suffice. When the Council meets to carry out its legislative role, meetings should be open to the public.

Second, as is the case at the domestic level, all legislation and all spending in the Union must be subject to proper parliamentary control. EU legislation should therefore be subject to co-decision, and the European Parliament's budgetary powers should be made to cover compulsory expenditure. The role of national parliaments should be enhanced, though not at the expense of the European Parliament.

Third, to safeguard coherence in a Union of 25, a strong Commission is indispensable. The Commission's right of initiative should be preserved; its executive role should be strengthened.

Fourth, the Court of Justice remains essential in securing that power is subject to law in the Union and its Member States. The Courts' powers with respect to home affairs and justice should be clarified. Consensuality should continue to govern relations between the Luxembourg and Strasbourg Courts.

Fifth, form and substance of the treaties must be simplified. The responsibilities of the Union and of Member States should be clearly indicated. It is important, however, to preserve the EU's capacity to respond effectively to changing circumstances, if necessary by means of legislation.

I have been pleased to note that many of my colleagues at the Convention have expressed themselves along similar lines. In particular, many have endorsed the view that the institutional balance must be maintained.

Among the proposals that have thus far generated much support at the Convention, the following stand out. There is general agreement that the European Union must have legal personality. This would make the EU a more effective actor in world affairs. Second, it is generally felt that the Union must be made more democratic by strengthening the Parliament's powers as a co-legislator. Most members also agree that when the Council meets in a legislative capacity, it should do so in public. The proposal to render the common foreign and security policy more effective by 'double hating' the High Representative and the Commissioner for External Relations has generated broad agreement, as has the idea that national parliaments should be permitted to exercise a degree of political control over the application of the subsidiarity principle. Most Convention members are in favour of the Union acceding to the European Human Rights Convention, and many have called for the incorporation of the Human Rights Charter into the EU Treaty, though on the latter point the UK, Italy and the Netherlands have voiced some reservations. Finally, there is consensus that the decision-making procedures and the instruments of the Union should be simplified. A working group has been set up to prepare the necessary proposals.

The draft Constitutional Treaty

On the 28th of October 2002 the President of the Convention has proposed, with support of the Presidium a framework for a Treaty establishing a Constitution for Europe. This preliminary draft Treaty consists of three parts, the first section including proposals for a constitutional structure, the second section describing Union policies and their implementation, and part three containing a number of general provisions, including the repeal of previous treaties. A general outline has been presented of the proposed constitutional structure.

The draft Constitutional Treaty has been generally welcomed as a useful basis for discussion. The proposed structure is a plausible one, which helps to structure our future debates. Ultimately, however, the final architecture will have to reflect the Convention's conclusions about the substance of the new treaty. Not all articles proposed may generate majority support, let alone consensus. Form will, therefore, have to follow substance – not the other way round.

Sections of the draft have already been shaped to translate the emerging consensus at the Convention into Treaty language. Some of the articles proposed, however, do not as yet reflect the deliberations in the plenary.

The idea of an exit clause, for instance, establishing a procedure for voluntary withdrawal from the Union by decision of a member state, has not been the subject of a prior debate at the Convention. Neither has the proposed Article 42, defining a 'privileged relationship' between the Union and its neighbouring states, been nourished by reflection among Convention Members.

Regrettably, debate about the latter proposal has been overshadowed by the recent statements of Mr Giscard d'Estaing about Turkey's application to join the

European Union as a full member. Made in his capacity as President of the Convention, but outside the Convention and without any prior reflection in the plenary, these remarks have been unnecessarily divisive and have cast a chill over the relationship between the President and the Representatives at the Convention.

While there is much in the draft Constitutional Treaty that the Netherlands could support, certain issues do raise concern. This is the case, for example, with the proposed definition of the Union. According to Article 1 of the draft Treaty, the European Union would be defined as a 'Union of European States'. By omitting any reference to the peoples of Europe, a crucial dimension of the European project risks being deleted. The European Union is not merely a Union of states. It is a Union of peoples, as well. The European Union is not an intergovernmental organization, nor should it become one. Article 1 should be amended accordingly.

During its sessions in May and June 2002, the Convention debated extensively whether the competences of the Union should be enumerated in the Treaty. Most agreed that such a catalogue of competences would not be a good idea. Nevertheless, in Articles 9-13 of the draft Treaty it is now being proposed to list the categories of EU competence.

This is a temptation best resisted. The greater the number of member states, the more important it is to preserve the Union's capacity to adapt flexibly to changing circumstances. In fact, the Council should be permitted to apply Article 308 – the Union's flexibility clause – to all areas of the Treaty. This, incidentally, would not amount to more than legalizing the current practice of the Council, which is already applying this article far beyond what would seem to be appropriate on the basis of its literal text.

Then there is the question of the Congress. To establish a Congress of national parliaments has long been proposed by France. At successive Intergovernmental Conferences, the idea has failed to generate much support. For its part, the Dutch parliament has voiced its outright opposition to the creation of a chamber of national parliaments. Similarly, during the October plenary, many reservations have been expressed at the Convention, by members of national parliaments as well as by government representatives. Some have been surprised, therefore, to see the Congress resurface in the draft Constitutional Treaty.

Of course, national parliaments have a very important role to play in terms of democratic scrutiny. However, that role is best played not in Brussels but at home, in national capitals. National parliaments should hold national governments to account. These national parliaments could do better if they were granted the right to exercise a degree of political control over the application of the subsidiarity principle. It would not be right, however, to grant national parliaments permission to appeal directly to the European Court of Justice. This would slow down the implementation of legislation even more. In view of the close relationship in most countries between the majority in parliament and the government of the day, is there not a risk that national governments would in practice be granted an additional means of blocking or altering legislation? Would the labour majority in the House of Commons really be allowed to seize the European Court of Justice against the wishes of the Labour government?

President Chirac and Prime Minister Blair have each proposed the creation of a semi-permanent Presidency of the European Council. A separate article about the Presidency of the European Council has been included in the draft Constitutional Treaty accordingly. While this idea has been welcomed by some, many at the Convention have responded to it with either scepticism or outright opposition.

Currently, the main occupation of the President of the European Council is to help prepare and to chair the meetings of the European Council – important work, but not a full-time job. What would a full-time President be expected to do during the remaining 360-odd days of the year? Would he not, *par la force des choses*, inevitably encroach on the work of the President of the European Commission? The Convention has been asked to simplify policy making in the Union, not to complicate it even further.

Some have claimed the proposed President of the Union would be the natural interlocutor of the President of the United States. The EU President, it is being argued, would ‘pick up the phone when George Bush rings’. The likelihood of the President of the United States placing such a call, however, would seem to depend less on the institutional mechanics of the Union than on whether the European Union would have anything meaningful to say. What matters above all is whether the Union can present its partners with clear and convincing policies, and the mean with which to enforce them. It would seem preferable to leave the external representation of the Union to the High Representative and to enhance his position where necessary.

Let us be careful not to create two parallel sets of institutions: the one predominantly intergovernmental – a powerful President of the European Council and a Congress of national parliaments, and the other, based on the existing institutions, primarily *communautaire*. This would upset not only the equilibrium among institutions, but the balance between large and small countries as well. Gridlock and confusion would be impossible to avoid.

There are many other institutional issues that are being debated in the corridors of the Convention, but have yet to be addressed in the plenary. In particular, article 18, as envisaged by the President of the Convention, would not only contain the provisions governing the composition and the duties of the European Commission, but would, intriguingly, also set out its decision-making rules. It is not clear what is being intended here. In any case, it would not be wise to impair the collegiality among Commissioners by changing the Commission’s current decision-making rules – one man, one vote – to a form of qualified majority voting.

The role of the European Court of Justice equally warrants careful scrutiny. The impending enlargement of the Union is also bound to affect the Court. The number of judges will go up yet again, which will render it more difficult to maintain the consistency of jurisprudence. Furthermore, it will take time for the legal profession in the new member states – let alone for the population at large – to become familiar with both the letter and the spirit of EU law. The European Court of Justice will have to contend with a steady stream of cases from the new member states, including many requests for preliminary rulings. Should it be decided to expand the jurisdiction of the Court in the area of home affairs and justice, the number of cases is likely to increase

even further. Consequently, the functioning of the Court of Justice and the Court of First Instance may have to be reconsidered. Should the Court of Justice, perhaps, seek to concentrate on questions of a constitutional nature, leaving other matters to the Court of First Instance? Should the Court of First Instance continue to sit as a single Court, or should a system of regional Courts be envisaged, somewhat along the lines of the American model?

These are just some of the thorny questions that still need to be answered. The Praesidium would be well advised to consult closely with Representatives at the Convention before submitting detailed proposals.

The road ahead

In the course of the coming months, the Convention will turn its mind to several crucial questions in addition to the institutional matters already mentioned. Convention Members will discuss home affairs and justice as well as the common foreign and security policy, and it may be decided to return to the important issues concerning economic governance.

With respect to home affairs and justice the Convention's prime objective will be to simplify decision-making. At many a meeting of the European Council, promises have been made that have not been kept. The opt-ins and opt-outs granted to Denmark, Ireland and the UK are a source of confusion even to eminent lawyers. There is an urgent need for the Union to contribute more effectively to the fight against illegal migration and against international crime.

The European Union has long been a key global actor in the field of trade. In the view of the Netherlands, the Union could become an even more effective force by widening the scope of majority voting to trade policy with respect to services and intellectual property.

Everyone agrees that it is neither desirable nor feasible to envisage majority voting on issues of defence, including the deployment of troops. Nevertheless, there is growing concern that, in a Union of 25, maintaining unanimity in all areas of foreign and security policy would shackle the Union rather than make it a more effective force. This is why Germany, for example, is pushing for more majority voting in the area of CFSP. The French government, too, has announced it is considering ways to expand the use of majority voting with respect to foreign affairs.

France is ready to move considerably beyond the current Treaty. As Dominique de Villepin has announced, France will be proposing the insertion into the Treaty of the principle of collective security and mutual assistance. It will be interesting to see whether France and Germany will use the commemoration of the 1963 Franco-German Treaty of Collaboration in January 2003 to launch joint proposals. Several countries, meanwhile, have indicated they are prepared to step up cooperation in the area of defence procurement.

Conclusion

In conclusion, the Convention may be said to have had a good start. Work to modernize and simplify the treaties is well under way. At the Convention, institutional issues have yet to be discussed in depth. Institutional affairs will be at the heart of its deliberations in the coming months. Although the draft Constitutional Treaty does offer a helpful framework for discussion, several proposals risk tilting the Union too far into an intergovernmental direction. To define the Union as a Union of States, to introduce an exit clause, a catalogue of competences, a Congress of national parliaments, new voting rules in the Commission and a full-time, semi-permanent President of the European Council is to change the character of the European Union. Together, this would be a bridge too far.

In the view of the Netherlands, each of the European Union's main institutions – Council, Commission, Parliament and Court – needs to be strengthened. The role of the European Council and of its presidency is to help provide political leadership, but not to provide day-to-day management. Together with Belgium, Luxembourg, and other like-minded countries the Netherlands will seek to present proposals aimed at preserving the institutional balance. It has been heartening to note that our views are shared by many at the Convention.

Thanks to its unique set of institutions, the European Union has been remarkably successful in solving cross-border problems and in managing and containing intra-European tensions. The EU is about to welcome many more member states. Soon it will embrace virtually the entire continent. A strong and stable Europe needs strong and stable institutions. All the more reason, therefore, to strengthen them all.

Alfred van Staden: Thank you for your lucid and comprehensive speech. I believe that all outstanding features on the agenda have been dealt with. I was reading an article in the Financial Times last week on a gathering in Brussels on the initiative of the Dutch government about the coalitions in the making between smaller member states along with Germany. Perhaps this will be dealt with later today. The thrust of the argument by Gijs de Vries is that the present institutional balance should be preserved and he made the case for strengthening all European institutions, including the EU Council and the Council itself. In my introduction, I made reference to the so-called swing to right in Europe and its implication for the progress of European integration, at topic with which Prof. Peter Mair will now deal in more detail.

2 **The Swing to the Right in Europe: Obstacle to European Integration?**

Peter Mair

The title, 'The Swing to the Right in Europe...', to which Alfred van Staden made reference at the beginning of this meeting, and just now in introducing me, was not one of my own making, but one given to me. I found it interesting, in greatest part due to the fact that I do not agree with this assumption. I intend to challenge this simplification. Although there has certainly been a swing within political attitudes, it has not necessarily been to the right. However, it cannot be denied that this shift has had an affect on attitudes towards and the question of European integration. Consequently, I am keeping this title as a means of countering and qualifying it. I will start by correcting misconceptions that have inspired this sense of the swing to right.

It is understandable to assume that there has been a sharp swing to the right when considering the recent developments in Dutch politics in particular. More specifically, the election in the Netherlands in 2002 was marked by two distinct outcomes. First, there was a major swing to the right, with the Christian Democrats (CDA) and the newly-formed and populist List Pim Fortuyn (LPF) proving the main beneficiaries, and with a government later being formed that included both these parties as well as a more stridently rightist Liberal Party (VVD). Second, as a result of the programmatic priorities of the LPF, and following attempts by the VVD to prevent a further leakage of votes to the right, issues relating to European integration suddenly emerged on the political agenda – probably for the first time ever in Dutch politics. Moreover, these European issues were handled by the new government with quite a Eurosceptic tone. Take the VVD, for example, who threatened to use the Dutch veto in the European Council to block further moves towards enlargement. It is this combination of events – the swing to the right, on the one hand, and the emergence of Euroscepticism, on the other –, which has probably inspired the more general question that I have been asked to address.

But however plausible it might seem, this proposition is essentially misconceived. And it is misconceived for two obvious reasons. In the first place, while we can see an evident swing to the right in many recent elections in Europe, and not just in the Netherlands, this in itself is probably unimportant. Less than four years ago, for example, as the twentieth-century drew to a close, all the talk was of the swing to the left. At that point, following a sustained sequence of elections that was not broken

until that in Austria in 1999, the left seemed to be winning everywhere, and the large majority of the member governments of the EU were then under the sole or joint control of social democratic parties. Indeed, at that point, and for the first time in postwar history, social democratic parties were in control of all ‘big four’ governments – those of France, Germany, Italy and the UK. Since then, of course, France and Italy have swung to the right, as has the large majority of other EU member states, including the Netherlands. So while four years ago the talk was of a swing to the left, now it is the swing to the right that is in the limelight.

This shift in the overall balance between left and right, however, is unimportant, as it will not last. If we learn anything from the past 50 to 60 years of political developments in Western Europe, it is that the balance between left and right has remained remarkably stable. I will refer to some figures to illustrate this. During the 1950s, for example, the various left wing parties and movements then competing in elections in Western Europe polled an average of 41.5 per cent of the popular vote.¹ In the 1960s, the average fell slightly to 40.5 per cent, rising again to 40.9 per cent in the 1970s, to 41 per cent in the 1980s, and then falling back to 40 per cent in the 1990s. In other words, across five decades of elections in Western Europe, aggregate support for the left has moved within a range of just 1.5 per cent. Support for the centre and right has been similarly consistent over time: 54.7 per cent in the 1950s, 56.4 per cent in the 1960s, 55.2 per cent in the 1970s, 55.7 per cent in the 1980s, and 55.5 per cent in the 1990s (the remaining electoral support was won by small parties and other candidates who cannot adequately be classified as either left or centre and right). While we obviously cannot predict the future, we can learn from the past; and what these very aggregated figures tell us is that swings to the right, or those to the left, probably do not register beyond the short term. In the long term, indeed, what is striking are not the frequent shifts to the left or to the right, but rather the sheer consistency in the balance between the two sides and the sense that the recent swing to the right will probably not count for much.

The second reason why the swing-to-the-right proposition is misconceived is that, as almost all the relevant literature testifies, there is little, if any, correlation between the general sense of leftness or rightness, on the one hand, and attitudes to European integration, on the other. The anti-Europeans sit mainly on the left of the political spectrum in Ireland, whereas they sit on the right of the political spectrum in the UK. In both France and the Netherlands, they sit on both the left and the right. In other words, any shifts in the *overall* balance between left and right in Western Europe will carry almost no implications for the overall balance of support for European integration. The reality is, in fact, that *both* the mainstream left *and* the mainstream right have spent many years attempting to depoliticize the European question. To be sure, the mainstream left was more sceptical about Europe integration in the past, and

1) These and other figures cited in this paper are drawn from Michael Gallagher, Michael Laver and Peter Mair, *Representative Government in Modern Europe* (New York: McGraw Hill, 3rd ed., 2000), and from Peter Mair and Ingrid van Biezen, ‘Party Membership in Twenty European Democracies, 1980-2000’. *Party Politics* 7:1, 2001, 5-21.

it is now highly supportive; whereas the mainstream right was more supportive in the past, and is now more sceptical. But these small shifts pale by comparison to the fact that both mainstream groups have long been active supporters of a consensus – less permissive than depoliticized – that is fully in favour of European integration. So even if there were to be a lasting shift from left to right, which I doubt will be the case, it is unlikely to impact upon attitudes to, or policies towards European integration.

Does this then mean that the events and electoral developments of recent years have no relevance whatsoever? On the contrary: there are developments occurring more or less consistently across a wide variety of different European countries that could well have a major impact on the progress of European integration. Far from reflecting a shift from left to right, however, these more recent developments have involved instead a shift from the mainstream to the margins, on *both* left and right. So what are these shifts, and why are they relevant to EU integration?

From my perspective as a comparative political scientist who works on Europe, what is most interesting is not the scale with which the shift is happening, but the consistency with which it has taken place. When one observed shifts or dynamics within mass politics in EU countries in the past, one rarely saw trends that uniformly went one way or the other. Today, however, there exists a pervasiveness, a ‘sea change’ in EU politics. These are things that are characteristic of all countries at the same time, and in the same way. So what characterizes such changes?

First, in most EU member states, a large share of the popular vote has moved in recent years to newly formed political parties. Although these parties are of all different sorts and shades – and I will come to this later – what is most important to emphasise here is the sheer willingness of so many voters in so many European countries, for the first time in post-war Europe history, to move beyond the traditional patterns of loyalty and behaviour and opt for new, and often untested political formations. European politics, as is well known, used to be almost wholly dominated by ‘old’ political parties – as Stein Rokkan once pointed out in the late 1960s, the dominant parties in Europe were often older than the national electorates. By the end of the 1990s, however, this traditional pattern had changed, and newly formed parties were winning an average of some 25 per cent of the popular vote. This reflects a major dislocation in the balance of mass politics. Voters are now much more willing to experiment.

Second, although this new party vote includes many different sorts and shades, roughly half of it is now going to fringe parties on the left, under which I include Green parties, and to neo-populist parties on the right. In other words, across Europe as a whole, and most especially in the traditionally more consensual and centrist political cultures, some 50 per cent of the growing new party vote is going to anti-establishment or anti-mainstream formations. The Netherlands has been a late arrival to join this league, but it is true in all European countries today.

Third, this shift from the old to the new, and from the centre to the margins is being accompanied by record levels of electoral disengagement and uncertainty. Thus, for example, turnout levels in national elections, which had remained quite stable for most of the post-war period, had reached an unprecedented low by the end of the

1990s – a discernible fall-off in participation that was characteristic not only of the European average as a whole, but also of the large majority of individual polities. At the same time, aggregate levels of electoral volatility or instability had also reached record levels at the end of the 1990s, and, again, not only across Europe as a whole, but also in the large majority of individual countries. Finally, the end of the 1990s was also marked by a record decline, of approximately one third, in party membership levels across all of the long established democracies in Western Europe.

If we put these three points together, then what we appear to witness in the last years of the twentieth-century is evidence of, first, widespread popular disengagement from politics, and of, second, widespread popular disillusion with politics. Moreover, both disengagement and disillusion seems to be particularly pronounced in the traditionally more centrist and more consensual democracies. What this also appears to reflect is a growing resentment and often even a blatant hostility towards the established political class – in the Netherlands, the ‘regenten’. This means that for the first time in the postwar years, the political class – the regenten – has become an object of political conflict and division. This is a crucial development in European mass politics, and it is characteristic not only of the Dutch case, but also, and to a greater or lesser degree, of almost all the EU member states.

So why is this attack on the political class relevant to the question of the progress of European integration? Quite simply it is because the issue of European integration – together with the issue of immigration (which is emphasized by the fringe parties on the right) and that of globalization (which is emphasized by the far left) – is one of that handful of issues that best lends itself to this assault. In other words, hostility to European integration is one of the best possible weapons in the political armoury of the anti-establishment forces, and unlike the other issues that are used in this assault, it is one that unites – or is at least shared by – the outsiders on both right and left. In this sense, it can, and does, play a crucial role in an attack against the mainstream.

This is hardly surprising. Indeed, it is well known that the long march forward towards European integration has always been a project driven by Europe’s political and administrative elites. By mutual agreement across the political mainstream, the steady incremental progress towards an ever closer and deeper Union was pursued without becoming politicized. In the spirit of the so-called Monnet method, the EU building process was kept out of conventional (party) politics. However, as an elite project – as *the* elite project – effective progress towards European integration could be made only as long as the elites in question were trusted. This was the essence of the so-called permissive consensus: there was a consensus in the sense that there was agreement more or less right across the mainstream; it was permissive in the sense that popular trust in the elites ensured that there was also popular deference to their decisions.² But once that trust and deference began to fade, and once disengagement

2) Note the typically acerbic observation by the late Ken Tynan in his 1975 diary: ‘Roy Jenkins, interviewed on TV after the result [of the Common Market referendum] was announced, made an unguarded remark that summed up the tacit elitism of the pro-Marketeters. Asked to explain why

and disillusion began to set in, the elites became vulnerable. And as they became vulnerable, so too did their projects, and in particular that on Europe.

This is not to suggest that progress in European integration has now become threatened. That would be far too much of an exaggeration. But precisely because of the importance of the permissive consensus in the past, and precisely because that consensus so self-evidently concerned an elite project, the European issue has now become a hammer with which to beat the establishment. This occurs not just on the right, and not just because of some imputed swing to the right. Rather, it is a hammer that can be used by the anti-establishment forces on both left and right, and both are more than happy to allow it to increase their support. Here in the Netherlands, Euroscepticism helped win support for Pim Fortuyn. In more recent months, it has also helped to win support for the Socialist Party (SP). In France, it has not only helped fuel the challenge from Jean Marie Le Pen and his Front National, but also the various far left groupings, a number of whom were among the real vote winners in the presidential elections of 2002. The real danger, however, does not simply lie in the attack from the margins of both left and right on the establishment, and EU being used in this assault, but in its implications on EU integration.

Nevertheless, there may be a wider problem also emerging here: as Euroscepticism becomes electorally and politically more successful, the pressure grows for it to expand beyond the margins and to move towards the mainstream itself. Part of the problem here is the pressure of competition, for with the growth in support for the once marginal forces of both left and right, the traditional centre left and centre right begin to feel vulnerable. And in an effort to see off the potential challenge that comes from the margins, they inevitably try to adopt as their own elements of the programmes with which these parties have risen to prominence. For a variety of reasons, this process is more pronounced on the right of the political spectrum, and hence in this particular case we see Euroscepticism beginning to find favour among some of the more ambitious, and perhaps even more opportunistic elements of the centre right, such as the VVD in the Netherlands or Forza Italia in Italy. It is here that the real problems for the progress of European integration are likely to emerge.

There is a certain irony involved in this, however, and perhaps even some false logic. In taking up the stance it does, the more traditional centre right appears to assume that Euroscepticism is one of the factors that can explain the appeal of the anti-establishment right. Hence by becoming more Eurosceptic itself, the traditional centre right hopes to defuse the threat posed by these new parties and movements. What is more likely, however, is that the process works the other way around. That is, the anti-establishment parties are not necessarily popular because they are Eurosceptic,

the public had voted as it had, Roy Jenkins....smugly replied: 'They took the advice of people they were used to following.' (6 June, 1975; see John Lahr (ed.), *The Diaries of Kenneth Tynan*. London: Bloomsbury, 2001, p. 248).

although this certainly will help their case; rather, they are Eurosceptic because they are anti-establishment. And if, then, the Eurosceptic agenda is taken over by part of the mainstream against which it was initially directed, this may not serve to defuse the any anti-establishment sentiment, but may simply displace that sentiment into another arena. For the centre right to follow the far right in this particular respect is therefore likely to prove futile. It is a no-win situation. However, it may well prove problematic for the future progress of European integration.

In summary, if there is an obstacle to EU integration, it does not come from any putative swing from left to right, but from the shift from the mainstream to the margins, both left and right. However, where the right becomes relevant is in its position as the governing parties, hence the more vulnerable parties, and its misinterpretation of this challenge. By responding in a way that takes on the anti-European issue and adopts it to a degree, the mainstream right risks undermining the process of EU integration.

Discussion

Alfred van Staden: Thank you. Ladies and gentlemen, you will agree that this was a most challenging and fascinating speech. Taking up the drift to the right, Prof. Peter Mair then elaborated on the complexity of the issue by speaking about the disillusionment and disengagement of the voters, their rebellion against the political class, and its implications for the process of European integration. Two great speeches to start, now let's move to questions.

Marnix Krop: I fully subscribe to the observation that these were fascinating introductions and would like to raise a question that aims to challenge the two speakers separately. I think the analysis carried out by Prof. Mair is compelling. The essence of what we are seeing across Europe is a loss of trust in the establishment and in the functioning of the political system as such. Although there is a whole host of reasons for this, Europe does play a part in this essentially elitist project of integration. However, if one cannot use Europe to restore trust in the political system, what are the ways in which one can restore trust in the functioning of political democracy by a great majority of its citizens? How can the Convention, and a discussion on the functioning of Europe play a role in this? In Dutch politics, we have lately seen an emergence of the referendum discussion. Can this possibly infuse the political system with elements of direct participatory democracy? Does this provide us with the means by which to restore confidence in the political system and the functioning elite? Can this apply to Europe?

Edmund Wellenstein: I read some time ago that Gijs de Vries defined the skeleton produced from the cupboard of Giscard d'Estaing as a 'table of contents, but not a book'. What he told us this morning, however, is that there exists at least a semblance of a book. By highlighting the unsuitability of certain Convention recommendations,

such as making the presidency of the European Union Council an independent long-term autonomous affair, changing the decision-making rules in the Commission, and calling a people's congress, Mr. de Vries implied there is a book, but that he is against it. I would like to challenge two points in this: would it be a terrible thing, for example, if the EU Council in the year 2017 were to choose someone other than the Maltese head of government as its chairman for two and a half years? That is about half of the term of the Parliament and the Commission. Would this be cause for a drama? I don't think so. Secondly, on the topic of the decision-making process, although perhaps this should be taken up after Dr. Michalski has spoken, do you see a Commission of twenty-five members continuing to make decisions according to simple majority? There is also something very odd about the suggestion that the Commission should be made up of commissioners who are autonomous political actors, independent of their home countries, and serving only the interest of the EU community, but who must simultaneously be called from individual member nations to fulfil this function! This creates a picture of one-on-one country commissioner, exactly the opposite of what the Commission should be. Is Mr. Giscard's raising of such issues really such a terrible thing?

Joost van Iersel: It is not so easy to combine the speeches of Gijs de Vries and that of Prof. Peter Mair. They are speaking from two different worlds. I will try, however, to put forward a question that is relevant to both. Mr. de Vries started by referring to a number of percentages, which show that European citizens by and large want common policies on foreign affairs, immigration, and crime, respectively. On the other hand Peter Mair referred to the fact that certain political parties in Europe increasingly draw support from people who are against the EU because it represents an elitist project. These two theses are not compatible with one another. Either the population wants European solutions for European questions, or they are against such an approach. Would increased transparency, and a less divided position in the European Council not be largely applauded by populations and political parties? In addition to Mr. Wellenstein's statement, could this not be achieved through measures such as allowing the European Council to pick a chairman for two and a half years amongst themselves? As we all know, the more such a President will be involved in European affairs, the more he will 'go native', as Mrs Thatcher once so keenly pointed out. Is there, in fact, anything wrong with this?

Eppo Jansen: I address the following question to Mr. de Vries. Is there any sympathy in the Convention for the idea of giving the European Parliament the right to dismiss individual Commissioners, an idea supported by the European Parliament itself and by previous Dutch governments? Secondly, is there any discussion in the Convention about reshaping the principle of enhanced co-operation, also referred to as flexibility?

Geoffrey Edwards: A question to Peter Mair. In looking through your crystal ball, just how long will the right and the fringe be on the same platform? Will this common platform actually last for the next two or three years when we are discussing

enlargement, the Convention and the IGC, and if so, what role will this play in how they work together?

Response

Gijs de Vries: I will start with the nuts and bolts issues that were raised concerning the technicalities or the politics of the Convention. I will first address Mr. Jansen's question as to whether there exists a debate on the idea that the European Parliament be allowed to dismiss individual members of the Commission. There has not yet been an in-depth debate about institutional issues.

Same reply with respect to enhanced co-operation. As you may have noted in President Giscard's proposition, a number of articles in the constitutional section of the draft-Treaty do refer to the question of enhanced cooperation. One interesting question is: to what extent do the clauses that have been agreed upon during earlier IGCs actually work? Are they perhaps not too complicated? But opening this can of worms might go beyond what government representatives are willing to do. Mr. Wellenstein, with respect to the titles in the 'book', the president himself is the first to remind us that he has done no more than put forward a sketch for a building. However, if we listen to his interesting presentations outside the Convention, he appears to be studying a book in which no other members have had the privilege to read. Therefore, it is perhaps not unwise to anticipate the contents of such a book, and suggest a few issues of substance in the meantime. With respect to the rotating principle that is currently being applied to the Council of Ministers, the six-month residency does have a significant number of advantages. It secures the equality among member states, and, in terms of democratic legitimacy and understanding of union processes, the country that runs the EU suddenly sees an upsurge of coverage from the media and interest in its political and administrative elite. There are also drawbacks in having the presidency rotate every six months. Consequently, the Dutch presidency has suggested that one could move to dual-presidency – two countries governing together. Other models include one in which a wider group of countries are chairing certain Councils. Another suggestion, made by Joschka Fischer a.o. is the proposal for double hatting of the High Representative and the External Relations Commissioner. Fischer has also let up a trial balloon with respect to the idea that the President of the Commission should be the same as that of the European Council, implying that the Commission President would share the European Council for a five-year period. No consensus on such topics, however, has been reached. From the Dutch perspective, it is crucial to preserve a degree of flexibility and treat member states equally: the presidency of the EU should not privilege the larger member states! I would argue that this is what lies behind the idea to have a full term EU presidency, thus gyrating automatically towards the 'responsible' member states, rather than the 'irresponsible' small ones, such as Malta. On the question of the Commission, a consensus has yet to be reached. Again, equilibrium and balance remain important to the Dutch government. There are two theoretical options: either each country will have a

Commissioner, in which case there will be many commissioners, and the operation of the Commission will need to be reviewed, or the Commission is reduced in size, in which case a system of rotation would have to be introduced – thus, ensuring the equal representation of all member countries.

Turning to the fundamental question of democratic support and legitimacy, we must be mindful of the different approaches to the EU used in different member states. According to the Eurobarometer, the Italians often demonstrate a higher degree of trust in EU institutions than those of their domestic government. The Greeks also rate the institutions of the EU as more reliable than their national ones. While critics might question the way in which support for the EU institutions and policies were measured, there is a commonly held view that the EU should help solve certain domestic problems. Consequently, I feel that the discontent being voiced by Europeans has little to do with how much the Union is doing, rather its ineffectiveness in dealing with specific areas directly relevant to the citizens. If this is the case, the legitimacy of the EU must be enhanced. National political parties and systems would also benefit in term of increased trust in the EU, especially at the international level. The nation state is no longer acting on its own. It plays at two chessboards simultaneously: the domestic and the European one.

On the topic of direct democracy, I feel that referendums are a cop-out. They provide politicians with an easy solution when presented with difficult issues. Should national ministers, Prime ministers and parliamentary party leaders be allowed to shirk their leadership responsibilities?

Finally, a question to Prof. Mair. What is your explanation for this evenly spread and general rise in disillusionment and malcontent with respect to domestic political institutions?

Peter Mair: These are ostensibly simple and straightforward questions, however, they tap into something very complex and not easily answerable. I will not go through these questions one by one, but I will attempt to address them all by pointing to a number of items. In response to Dr. Edwards' request that I search my crystal ball in an attempt to determine how long the right wing parties will continue to share a platform with the far right, I feel that it will be for some time now. More and more, they need them for governing, as can be seen in Italy, the Netherlands, and Austria. If you look at the last fifty years of mass politics in Europe, it was the left who had a problem with its pariahs. In fact, it could never govern due to the fact that so many of its votes were taken by the communist parties, which could not even be brought into government. Consequently the left was always at a strategic disadvantage. Now it is the right that is suffering. The votes are presently being taken over by parties with which one would not want to share government! With that said, however, by treating these parties as enemies, one risks giving up the chance to govern at all. It appears that current right wing parties have chosen this option: to be part of the executive at the expense of having to share power with unwelcome partners.

Turning to the question of how to explain disillusion and restore trust, I use the example of Malta. Although it may not be the best candidate to run the EU, due to its

low number of civil servants, Malta is currently the country where trust in the government is at its highest. Disillusionment and disengagement are at their lowest. Despite the fact that this is a country in which there exists no compulsory turnout, 96 per cent of the population vote. It has the highest party membership in Europe and a completely engaged political system. In part, this is due to its bi-polarity. In a country where there are two political parties, which together command almost 100 per cent of the vote, politics clearly matters. The race is always tight (varying only between one and two percent). Disillusion is at its highest in countries which are governed from the centre. What we are seeing more and more is that systems are becoming bi-polar, where alternative coalitions are being presented to voters who must then choose between them. This appears to be encouraging a better sense of accountability, and a better sense of responsiveness from the populace. Giving a clearer choice of government policy, or at least governors, seems to be an acceptable solution for the voters.

Returning to the issue of restoring trust in the European Union, I share the opinion of Alfred Pijpers: I do not believe that the solution lies in strengthening the European Parliament. I feel that the more the Parliament has been strengthened, the more the disillusion has grown. In fact, there should exist real concern about the Parliament's inability to engage the confidence of Europeans, as it was primarily set up as a means of legitimising the EU. My fear here is that once it becomes discredited, the whole project risks being damaged. In another form, the Parliament could very well serve a useful purpose, but that is another story.

On the issue of whether people like Europe better than their own governments, this is certainly the case in Italy. However, there are two problems here. Although there is a high percentage of voters who want European solutions for European problems, they do not want European solutions for non-European problems. They become unhappy when they are presented with European solutions for what they see as domestic affairs. A real difficulty lies in the fact that it is hard to distinguish the difference between the two. There is the added fact that even when 75 per cent of the population supports European solutions for European problems, 25 per cent do not. This 25 per cent might well be voting for a party that is causing problems within the party system in the governing arena, which ultimately leads to the spread of tension across the domestic sphere as a whole. Consequently, it remains important not to make assumptions about the problematic nature of an issue based on aggregate figures! I am also not in favour of referendums. In fact, I come from a country in which, as Gijs de Vries says, they have been used as a means of taking the burden of decision-making off political parties, which has allowed them to be in government and irresponsible. It is also too majoritarian an instrument. It is not simply a case of having to reduce a complex issue into a simple question of yes or no, but it is also the fact that if 51 per cent say yes and 49 per cent say no, then those who voted no lose entirely! This is no way to make policies.

Europe is very important in explaining why there exists declining trust. People see that their governments have less and less power, and less of a hands on role because of the Europe project, and yet at the same time, have fewer means with which

to hold it accountable. Therefore, they respond by becoming disinterested in politics at the national level and begin exploring and experimenting with their vote.

Beyond explaining disillusionment and disengagement, Europe plays another important role. It has taught the elites and the voters that you can build a system of decision making which is complex, removed from the voter and the citizen, non-transparent, and technocratic; and that abstentionism and withdrawal from politics is permissible for voters, respectively. However, this lesson cannot be applied to the domestic level. You cannot govern in this way. This is something that the Convention appears to recognize, and the sooner this idea disappears from the agenda of national governments, the better.

Discussion

Boudewijn Dereymaeker: We heard two most interesting introductions this morning. Concerning that by Mr. De Vries, I have no questions as I fully subscribe to the great outline that you depicted, and I feel that I also speak on behalf of Belgium. Of course there are some outstanding issues, but these are the subject of the forthcoming Benelux memorandum (5 December 2002). My question relates to Prof. Mair's claim that the issue of Europe is being taken up by the fringe parties in an attempt to attack the elites. Could the current situation in Europe not be interpreted as a formation of different political currents at a specific moment in the history of our continent? Turning to the example of 18th Century United States, for example, the same debate once took place between the federalists and the con-federalists, which ultimately led to two main political streams and parties: the Democrats, emphasizing the rights of the state; and the Republicans, emphasizing the federal element in their constitutional set-up. Is it not possible to interpret the development of Europe along similar lines? If so, is it not natural, even desirable, in a democratic society to have these different currents vying for power and fighting over how best to run a government?

Willem van Hasselt: My question on the topic of economic governance is directed to Mr. de Vries. While the word Euro hasn't been dropped yet this morning, I point to it now as an example. Despite its being a highly political project, it came about by avoiding political debate. This leads me to ask what would be the consequence of discussing economic governance in the Convention? Taking into consideration the debate surrounding EMU, including the question of an appropriate policy, the stability pact, and even the mandate for the ECB, what are the advantages and risks? Since Maastricht, EMU has never been included in any IGC and the treasuries have done their utmost to avoid this. Is it, therefore, wise to do more?

Hans Labohm: On the topic of achieving greater public involvement in the debate about the European Convention through the implementation of alternative formulations, what would the effect of such action have on the national interest of the Netherlands? Although I agree with Mr. Mair's remarks that there has not been a shift

to the right in politics, it cannot be ignored that, within the parties and European policies, there has indeed been a swing to the right (more market, less government), which in my mind is a positive development. He also said that mainstream parties, such as the VVD in the Netherlands, have jumped on the bandwagon of the anti-establishment parties. However, I would argue that the term Euroscepticism, especially when used in the context of the Netherlands, is a misnomer. If an institution becomes important for your national interest due to its impact on your quality of life, standard of living, way of life, your budget, on your net position, than you become more critical and pragmatic. It has nothing to do with the emergence of anti-establishment parties because this so-called Euroscepticism was already in the making ten years ago! In my mind, there exists no causal relationship between the two. Finally, I do not agree with the argument that the abstentionism demonstrated by the voters at the European level has undermined voter turnout in domestic elections. Low voter turnout in the European elections is simply reflective of there being nothing to vote about, whereas there is at the national level. What are the alternatives in the European elections? All parties are in favour of European integration, albeit to various degrees. Moreover, the difference between these degrees is, at times, imperceptible to the politicians, who even confuse the programs of the various parties themselves, let alone the electorate!

Jan Rood: In reference to Peter Mair's comment that we can no longer stick to the Community method within the European Union, I want to point out that up until now, this has been the basis for the success of the integration process. It was this method which gave the community, the Union and its member states, the ability to depoliticize discussions, decision-making, conflicts, and so on. If we can no longer stick to this method, as it is seen in the expression of Europe being an elite driven project, and start to introduce more political elements in the decision-making process, such as making it possible to elect the President of the European Commission (perhaps not by the population, but by the Parliament), are we not running the risk of destroying the integration process itself? To what extent can European integration really be politicised?

Alfred van Staden: In closing off this first round, I would also like to add a short comment to the debate on the growing disenchantment with the European project among voters. In doing so, I want to insert the idea that the very success of European integration is at the root of this frustration. In the past, the process of European integration was a highly depoliticized process, related to technical policy fields. Due to its great progress, successful attempts have been made to strike at the heart of national sovereignty, forcing governments to reset national priorities, and their tendency to scapegoat European institutions for unpopular measures they took. My second point concerns the notion of legitimacy. There is a tendency, especially amongst policy makers – exemplified by the Dutch foreign minister's expounding that 'Europe has to deliver!' – to claim that European institutions have a responsibility to provide security for its population. Like any system of political authority, Europe has to pass the requirement of effectiveness, however, this is simply the output side of legitimacy. I

turn to the example of Korea to illustrate my point. In the 1970s and 1980s, its government was perfectly able to provide all sorts of permanent goods. Nevertheless, there was a movement towards democratisation because people also attach value to input legitimacy. They like to play an active part in the political process. My fear is that in the context of European integration, this side of legitimacy is being neglected.

Response

Peter Mair: These above-mentioned issues reflect the contradictions that we are facing today. On the one hand, there are those who posit that the politicisation of Europe indicates that we are having a new cleavage and a new alignment in European politics, and as such should be welcomed, while on the other, some refuse to conceive the notion of increased politicisation, arguing that the very success of European integration lies in its lack thereof. This is a judgement call. My inclination is to go with the view that, in the long run, the process of European integration will benefit from being politicised. I turn to the case of United Kingdom to illustrate my point. Under the Margaret Thatcher, later John Major, even Tony Blair, the issue of Europe festered like an untreated wound for a long time. It was finally put to the public by the conservatives, who were roundly defeated. Although the issue has since been taken off the agenda as a result, it was at least dealt with due to partial politicisation.

On the question of legitimacy, I do not feel that we can go on introducing new policies, such as a new currency, or a single market, without letting them be debated in public channels, that is, in parliament or within the public sphere. We might say that the VVD is right and is not jumping on the bandwagon, but taking issues as they come. But for the first time, due to the rise of LPF, Europe is on the agenda in Dutch politics. And yet, we have gone through momentous European decisions, such as the decision to adopt the Euro, Maastricht and Amsterdam, which were not put on the agenda and where public consultation did not take place. The danger of discouraging the public from engaging with these issues lies in the fact that when, suddenly, European citizens want to voice objection against particular policies, and are left with no channel through which to do so, they will simply turn to Eurosceptic parties. I am concerned about this because I feel that Euroscepticism results in major decisions being made without popular consultation. I would argue further that the proposal (by D66 among others) to organize in the Netherlands a referendum on enlargement is tapping directly into this Eurosceptic sense.

Gijs de Vries: Mr. van Hasselt asked about the Euro and the debate about economic governance in the Convention. The working group on the subject has been politicised. In fact, there was an enormous left/right divide in the working group, which resulted in its not coming up with any proposals that carried the assembly. Should we touch the mandate of the ECB? There is little support for this at the Convention, except for a small number of outspoken critics of European integration. While the President may well address them in his proposals, three main questions have failed to gather much

consensus. First, what monitoring role should the European Commission have with respect to economic governance, such as policy and budgetary coordination?

Should the European Union have more of a whistle blowing role – should it be allowed to slap member states' wrists or not? Second, what of the Euro zone? In an enlarged European Union, the current member states will become a minority. Does this imply that we aim to preserve the current role of the Ecofin Council as the deciding body, or, do we intend, in effect, to have more powers for the Eurozone within the Ecofin Council? The Dutch feel that Ecofin's role should be preserved. However, there is debate about the Eurozone within the Ecofin. And finally, what about external representation? Who speaks on behalf of the Eurozone in international meetings?

In response to *Jan Rood*: In most member states governments tend to be risk averse. Although they would always prefer to play according to the rules of the current system as much as possible, this strategy has been interrupted by public discontent. However, this is not being addressed as such at the Convention. In fact, there is no mention of this in the proposals of the President or the Praesidium, nor has it been the prime focus of the proposals made by members of national parliaments, the European Union Parliament, or government representatives. This debate is hovering in the wings which is why I am so pleased to have had the chance to enter into it today.

Finally, returning to the question of legitimacy, I accept that there exists both input and output legitimacy, but how do we assess the degree to which people find certain decisions legitimate? There has not been a real party political feud about the Maastricht Treaty in the Netherlands, yet it was passed. Does this make it an illegitimate Treaty? Is a political decision legitimate only after there has been a party political fight about it? This begs the question of whether a political decision should be deemed illegitimate if it is reached through a consensus.

3 Future Models for Council and Commission

Anna Michalski

The aim of my intervention is to try to bring some conceptual clarity to the current debate surrounding the European Convention and offer some elements of reflection for our discussion today. The theme ‘the Council and the Commission’ was chosen to illustrate a key institutional relationship that will set the tone for the overall institutional structure to emerge from the Convention’s final proposal. At this stage, the Convention has not yet discussed an overall institutional design and therefore we will have to rely on contributions made from different quarters and some few crumbs of information from the Convention’s draft Constitutional Treaty.

Some initial remarks of a general character

My first remark is intended to remind us that the institutional reforms of the EU are taking place in a continuum in which the fundamental considerations have remained surprisingly constant over the years. Therefore, with hindsight, the Convention will perhaps be seen as one important step in a wider process that began with the Single European Act in 1986, produced three intergovernmental conferences (IGCs) in the 1990s and is now gearing up to another in 2004.

Secondly, I would like to underline that in a system of collective governance, such as the EU, there can be no viable long-term solution based on a zero-sum game among institutions. In the current institutional debate, this seems to be forgotten.

Thirdly, the evolution of the EU seems to be governed by a natural law of balancing institutional power, sometimes likened to a pendulum-swing movement. However, if there were to be a permanent erosion of a specific institution, we would have to ask ourselves how tenable such a development would be in the present stage of integration.

Fourthly, although there is a definite move away from the sterile debate ‘for or against’ European integration *per se* towards a debate on what kind of integration is desirable, there is still a marked absence of an ideological debate. The debate can be described as instrumental rather than programmatic.

Fifthly, any real-life solution will be a compromise between the push of Supranationalism and the pull of Intergovernmentalism. What will matter the most in the coming months is to strike the right balance. The snapshot-like models, which will be discussed in this presentation, serve to highlight three outcomes and to act as a yardstick to evaluate the direction of the work of the Convention thus far. For the sake of debate, I have deliberately made them reflect different dominant tendencies, not compromise solutions, which are, of course, the more realistic outcomes.

A debate of a different nature?

At this stage, the debate surrounding the European Convention displays a curious absence of certain notions hotly debated in previous reform processes.

The first is the democratic deficit. Should we regard it as solved? I do not think so. In fact, it has simply changed its conceptual locus and is now being debated in the context of the role of national parliaments.

Second is the role of the European Parliament (EP). There is curiously little debate on this issue. Is this because its position seems secure, and a move towards a generalization of the co-decision procedure is expected? Most commentators, however, would agree that a constitutionalization of the institutional framework concerns all institutions, and that the role of the EP will be assessed as soon as the Convention starts to discuss in earnest the Union's institutional architecture.

There is also the question of transfer of competence to the EU. Although this was perceived as a fundamental concern, as reflected in the Laeken Declaration – 'What should the Union do?' – the debate is presently couched in terms of the codification of existing exclusive and shared competences, focusing on the safeguarding of national competences against the Union's creeping powers. We see evidence of this in the so-called areas for supporting action.

Fourthly, let us consider the effectiveness of Union policies. The Conventions has thus far de-routed this debate to the question of simplification of instruments and decision-making procedures. Outside the Convention, however, there is serious discussion on the effectiveness of a number of Union measures and policies, such as the stability pact, external policy, the ESDP and JHA as well as some traditional Community policies, such as agricultural policy.

Finally, what of flexible integration? Besides the introduction of a new exit-clause in the draft Treaty, there is little discussion of differentiated integration or the provisions and application of enhanced co-operation. Reading between the lines of the draft Treaty, the authors of this document seem to be taking a hard line by suggesting that the new Treaty could be ratified by a majority of the member states leaving those unable to ratify to face an unpredictable future. Thus far, there is also silence on the fate of a number of ad-hoc flexibility arrangements pertaining to the Euro, Schengen and the European Security and Defence Policy.

We should, however, remember that in a few months' time the Convention might have addressed these issues extensively and that we might be in the midst of a

real debate on their implications. Before looking at the models, I would briefly like to elaborate on the three dominating trends upon which I have based them.

Current trends influencing European integration

Three major trends seem to set the direction of change in European integration at present. They are the politicization, Europeanization of the EU, and the increasing diversity among the member states (in terms of member states' economic performance, institutional capacity, democratic experience etc.) introduced through past and future enlargements. Their implications for the Commission and the Council will be discussed:

Politicization of the EU:

Implications for the Commission:

- A *de facto* erosion of its power of initiative.
- Loss of political influence in the European Council.
Weakening of the Community Method due to the malfunctioning of the Council of ministers, the rise in importance of the European Council and the co-decision procedure.
- Increasingly sidelined in highly sensitive policy areas, such as ESDP, certain aspects of JHA, or in final discussions on institutional reform and enlargement.

Implications for the (European) Council:

- Increased involvement of national political leaders in policy-making through the European Council who are showing a heightened willingness to discuss issues of common concern in the European Council, but on their own terms, and free of the constraints of institutional procedures. While this has the potential to sow the seed of a collective political leadership, it might also cause serious competition among member states.
- Gradual institutionalization means that the European Council is becoming the undisputed centre of gravity of the Union – the Union's main agenda-setter and political arbiter – at the expense of the original institutional balance.

Europeanization of the EU

Implications for the Commission:

- An increasing inter-penetration between national and European levels in policy-making and management of EU policies. At present, almost all policies of the Member States have a European dimension.
- An administrative over-stretch leading to a *de facto* decentralization of the management and implementation of EU policies. The emergence of new modes of governance is leading to a more diversified European policy regime

and a decentralized European administrative network. On the downside of this trend, we glimpse the threat of fragmentation and lack of policy coherence.

- A professed readiness to make a greater use of more flexible legislative instruments and combine non-coercive instruments with a legislative approach

Implication for the (European) Council:

- An increasing number of Council formations have led to confusion and lack of coordination and leadership. While several attempts at reform have been made, the fundamental reasons behind the weakening of the General Affairs Council remain unresolved.
- The rise of expert-based policy-making in some policy regimes is gradually crowding out diplomats and politicians in the Council.

Increasing diversity in the EU

Implications for the Commission:

- The implementation and enforcement of EU policy regimes is becoming increasingly difficult to the point that their cohesiveness might be threatened in the enlarged EU.
- A diminishing enthusiasm for financial solidarity is steadily eroding the support for policies based on financial transfers.
- Having to cope with multiple political bases (changing alliances between member states) as well as having to cope with Member States' increasingly diverging needs and aspirations.
- Competing readings of economic and social contexts and needs could make agreement on the right policy-mix more difficult to achieve. Package deals will become more complex and difficult to put together.

Implications for the (European) Council:

- Diverging interests and demands on the EU among member states.
- Multiple political bases, changing alliances and a risk of increased volatility due to the influence of many more national political contexts. The Council will be venturing into an area of unknown political dynamics.
- A larger discrepancy in member states' capacity to fulfill the obligations of membership will influence the functioning of the Council. Even though support to weaker members (future and existing) seems the obvious route to take, thus far we have witnessed less willingness to show financial solidarity among the Council's members.

Three institutional models of the Commission and the Council

By combining these three trends with aspects of the current institutional debate, we arrive at three qualitatively different models.

1. A League of Nation States

In this model the European Council is the centre of gravity of the EU. It sets its strategic priorities, decides on the annual work program of the EU and strikes political agreements on the highest level.

A nominated President for Europe of the European Council has indirect legitimacy that varies with the capabilities and personality of the incumbent and the support that the national leaders in the European Council will want to offer. This situation is actually not very different from the one enjoyed by the Commission President today (although the President for Europe is not accountable to the EP and cannot rely on the Commission services). The incumbent has no direct support from the Commission administration. The President for Europe could wield considerable power, but could also be reduced to exercising relatively little independent power/influence.

In this scenario tensions between the member states will be accentuated. A weakened Commission will become increasingly receptive to external influence and deadlocked or lop-sided policy proposals might block the legislative procedures. The EU will produce little in terms of innovative policy activities.

The EU's external visibility will be strengthened and its political symbolism greatly enhanced. 'Political' policy areas, such as the CFSP and ESDP, will be upgraded through parallel non-Communitarian channels and the Council Secretariat will take on an inter-institutional coordinating role, up-graded to deal with foreign policy and external representation.

The Commission will see its authority erode with no substantial reform to either the appointment procedure of the Commission president or its internal status in the College. The Commission's innovative capacity will be diminished gradually as it becomes dominated by the European Council and its President.

The Council and EP legislative tandem functions satisfactorily. In fact the conciliation procedure has given them a sense of shared legitimacy and enhanced democratic quality. The new treaty has provided an extension of the co-decision procedure but not of qualified-majority voting as co-legislation continues to be coupled with national veto power in some provisions. National parliaments are supervising subsidiarity restrictively in an *ex-ante* scrutiny procedure adding to the unwieldy character of EU decision-making.

2. A Status-Quo Community

This model is built on the basis of limited institutional reforms. The European Council will appoint an experienced European statesman to chair the summits but who will

otherwise not be given any autonomous executive competences. The Council will continue to be organized on the basis of rotating six-months periods with member states sharing the responsibility of being at the helm of the Union. There will be no further reforms with respect to the powers of the President of the Commission.

The EU will suffer from a high degree of confusion in terms of representation and agenda setting: the European Council will be setting political priorities, but in competition with the Presidency of the Council and the Commission. There will also be competition between Mr. CFSP on the one hand, and the Commission President and Commissioner for External Affairs on the other.

The main achievement of the Convention will be in the area of the rationalization of legislative instruments and procedures. These reforms will strengthen the Council/EP legislative tandem and the Commission's executive powers, but the effects of these reforms will be marginal due to its lack of clarity on political objectives. Competition between institutions instead of political leadership will increase the difficulties in finding compromises between competing interests and hamper the development of policy regimes. The Union will suffer from weak and patchy enforcement of EU legislation, which will hamper the application of policy regimes and lead to their gradual erosion.

In terms of substance, the lack of political and functional leadership will prevent any breakthroughs concerning economic policy, defense policy and the democratic dimension of the Union.

3. *An Integrated European Union*

In this model, the European Council sets the strategic priorities and gives overall direction to the development of European policies. The European Council is organized around the principle of equality among member states, with the Commission President assuming the role of functional chair of the European summits.

The legitimacy of the President of the Commission is strengthened by the incumbent's election by the EP and confirmation by the European Council, and his/her accountability to both. Members of the Commission chair different key formations of the Council, while Mr. CFSP, merged into the Commission, chairs the General Affairs and External Relations Council, with dual-accountability to the Commission President and the European Council.

The Union's decision-making efficiency is largely maintained thanks to a general shift to majority voting in the Council and a consolidation of the legislative tandem through the co-decision procedure.

The EP and the European Council share the role of overseeing the enforcement of the Union's values, rights and obligations, and determining its strategic interests, which work to endow the Union with a stronger international personality and internal identity.

National and European institutions are recognizing the importance of developing a fully-fledged system of governance of European policies. Joint efforts have resulted in a decentralized European Civil Service (e.g. the European Foreign Office,

the Competition Authorities' Network, the European Border Guard, the European environmental inspectors) as intense and systematic co-operation is codified in a European Public Administration's Act.

Agreement among the member states on the Union's beefed-up institutional framework has helped to pave the way for a strengthened economic policy and external relations policy, a communitarization of the JHA and a consolidation of the European Security and Defense Policy.

The Union has refrained from creating new institutions on the European level. It has pledged to guarantee national parliaments better access to the decision-making processes but without granting them formal power of scrutiny on the compliance of the subsidiarity principle. This role has *de facto* fallen on the ECJ, which is through its rulings on subsidiarity taking on the role as the Union's constitutional court.

Against this background we should now be able to analyze some of the provisions of the Preliminary Draft for a Constitutional Treaty released by the Praesidium of the Convention in October 2002.

Where does this preliminary draft treaty leads us?

- The nature of the draft suggests that its authors are aiming for completion by transforming European integration from an open-ended process to a more-or-less finalized political system (gone is the reference to an 'ever closer Union' from the Treaty of Rome).
- The authors are aiming to create a state-centered structure by consolidating the supremacy of the national state (reference to a 'Union of European states' and a 'Union citizenship' while the reference to 'the peoples of Europe' has disappeared) and by giving national parliaments a greater say.
- The introduction of a legal personality will end the possibility of dissimulating the existence of a new political entity on the European level. This could lead to more frank national debates, but also poses the risk that the new treaty will not be ratified by all existing member states in the event of a highly politicized debate.
- Political symbolism and representation seem to be all-important. The institutional balance is tilting towards the European Council.
- The pillar structure is formally abolished but re-introduced by formalizing different modes of operation in the treaty, including a formalization of the 'open method' of co-operation. There is an attempt to arrive at a clearer codification and attribution of competences between the national and European levels so as to stop the 'drift' of national competences to the Union.
- It represents a consolidation of the Union's legislative arm with open legislative debates in the Council and a generalization of the co-decision procedure, with a possible extension of QMV in certain areas.
- Legal personality, the attribution of its own resources and the abolition of the pillar system may lead to a more efficient EU external policy. In this context, it

is interesting to note the reference to 'Union's interests', which despite various aborted plans in the past, have never been defined.

- Any ambition of additional powers held by the Committee of the Regions and Economic and Social Committee is rebuffed as these bodies are referred to as 'advisory bodies to the Union' only.

Outstanding issues

The Preliminary Draft Constitutional Treaty leaves many issues open, as should be expected at this stage of the reform process. However, the following unanswered issues seem particularly important in deciding the nature of the final treaty:

First, the relative powers of the institutions, in particular the European Council, the Council of Ministers and the Commission, will have a great impact on the development of the Union. The following litmus tests will give clear indications as to the nature of this development: the nomination of their presidencies and hence their democratic legitimacy; the attribution of power in individual policy areas where External Policy and Economic Policy are the most crucial; the chairing of Council formations; and finally, the attribution of power to Mr. CFSP, his institutional position and to whom he is accountable.

Second, the issue of executive powers – for example, a streamlining of the Union's instruments – could result in stronger executive competences being attributed to the Commission. However, the reference in the Draft Treaty to the effect that 'the acts of the Union are implemented by the Member States' seems to suggest that the Council will remain the chief executive power.

Third, the most serious omission and contradiction to the notion of democracy and rule of law, is the unsatisfactory state of democratic checks and balances in the Union. This is reflected in the fact that no additional institutional checks and balances, nor judicial controls are recommended for either the Council or the European Council. This is particularly serious given a number of recent and anticipated developments: the self-institutionalization of the European Council, the up-grading *de facto* of its institutional position, and the attribution of a legal personality and financial resources to the Union – such as the power to enter contractual agreements, take independent action and construct policies. As the Draft Treaty stands, the EP's scrutiny is solely directed towards the Commission. This implies that either the Commission will be given extended executive powers in traditional policies, as well as outside the Community sphere – for example, external policy, JHA and economic policy -, or the Union will have consolidated its political structure while becoming less accountable in democratic terms. The idea of giving national MPs and MEPs the right to screen for subsidiarity does not go far enough in terms of democratic control since it concerns only areas of shared competences.

Conclusion

The President of the Convention has stated that European integration has now reached a new stage of development – one that is definitely more political – which warrants the elaboration of a new treaty. This is a statement with which it is difficult not to agree. However, it is curious that a powerful current of opinion equates the constitutionalization of the Union with a trade-off between the intergovernmental and communitarian approaches to the detriment of the latter. I feel that the unique set-up of the EU warrants a combination of elements from both above-mentioned approaches. Moreover, due attention should be paid to the lessons of almost 50 years of Community experience, which after all has seen the emergence of a new political system on the European level.

Alfred van Staden:. Thank you for your contribution. You certainly did not betray your past in building scenarios, which we realize are not predictions about the future. We have also taken note of the fact that you seemed to suggest that the intergovernmental forces might be given the upper hand. We now look forward to three reactions, from Germany, the UK and Brussels.

4 Key issues for the European Convention – a German point of view

Joachim Schild

I was invited to expose German national priorities with regard to the European Convention. I would like to begin, however, with some remarks of caution: So far, there is no comprehensive position or doctrine of the German Federal Government on the Convention. There are various views. Two social democrats, members of the German Bundestag, recently published a 'Berlin draft of a Constitution for the European Union', but this does not reflect the positions of the Government. There are other powerful German actors inside the Convention besides the representative of the Government, especially the Minister-President of the Land Baden-Württemberg, Erwin Teufel, who represents the Bundesrat, but also members of the EP, Klaus Hänsch, member of the Presidium and Elmar Brok, a spokesman of the PPE-group inside the Convention. The views expressed by these Convention members do not necessarily reflect the views of the Government.

I have three points: a first one on the method of the Convention and its desired general outcomes; a second one on the top-priorities for Germany, and finally, a point on the political strategy adopted by the German Government within the Convention.

I Methods and objectives

There exists a consensus inside Germany that the Convention should draw up a comprehensive European Constitution, not only a set of proposals and guidelines for the following IGC. As one official recently declared, the Convention should be the 'real IGC'. As such, the Convention should come up with a comprehensive draft, leaving only some options open for the following IGC. This draft should be made up of two distinct parts, which broadly reflect the approach of Giscard d'Estaing and his Praesidium: first, a Constitutional treaty, containing the Charter of Fundamental Rights, which defines objectives, tasks, competences, institutional framework, legal personality and abolishes the pillar structure of the treaties. The second part intends to give the details of the policies of the Union and would contain the more technical treaty clauses. In the view of the German government, it should be easier to amend

this part than the constitutional provisions. It has also been recommended that amendments be made by Council decisions and national ratification, following the example of the decisions taken on the system of the Community's own resources.

If the Convention does not come up with such a comprehensive text, this could lead to a serious crisis inside the EU. The importance attributed to the work of the Convention is reflected in the presence of Foreign Minister Joschka Fischer and, as his deputy, of Minister of State Hans Martin Bury, a former close collaborator of Chancellor Schröder.

II Let us now turn to the priorities that are visible in the German debate.

1. The first is a better delimitation of competencies between the EU and the Member States, and improved control of the principle of subsidiarity by:

- Upholding the principle of conferred competencies, without turning to a catalogue of competencies, as asked for by some Bundesländer and Erwin Teufel;
- Defining the categories of competencies: exclusive and shared competencies and supporting measures;
- Assigning concrete fields of competence of the Union, defined in the second part of the Treaty, to those categories of competencies as defined in the first part;
- Maintaining Art. 308, in an attempt to keep some measure of flexibility, despite its being heavily criticized by some Bundesländer;
- Refraining from the creation of a new European-level institution in the hopes of better controlling the principle of subsidiarity;
- Avoiding the slowing down of the decision procedure through a subsidiarity-control-mechanism;
- Retaining the right of the European Court of Justice to take the final decision in competency and subsidiarity measures.
- And finally, although there is a difference of opinion amongst the federal level and the Länder representatives, applying certain procedural controls to the principle of subsidiarity.

2. A second priority regards strengthening a politically responsible Commission by:

- Electing a Commission President through the EP, eventually with a confirmation by the European Council;
- Increasing the Commission's executive powers in the implementation of laws, for example, by a simplified comitology procedure with a fall-back possibility for the Council and the EP if the Commission implementation measures depart from the intentions of the two legislators;
- Giving the Commission a right of initiative, even in the realm of the CFSP. Please note, however, that the majority of the German Government seems to

be in favour of a right of legislative initiative for the Parliament and the Council;

- Adopting an 'if-then-approach' to the issue of the European president: if there were a President of the European Council, then, the power of the Commission must also be enhanced. The preferred solution is to give an European president a mere representative role. This would be much more like the German type of 'Bellevue'-President than like the French Elysée-type President. There has also been an informal proposal by Fischer that there could be a double headed presidency (although that is far from being settled).
- And finally, changing the presidency system, whereby the presidency of the General Affairs Council responsible for external relations would be shared by the double hatted High Representative and the External Relations Commissioner. With regard to specialized councils, there is support for increasing elected presidencies for a longer time period (2-3 years).

3. A third German priority is to strengthen the European Parliament by:

- Extending the co-decision procedure
- Strengthening the EP in the budgetary procedure (including the now 'compulsory' expenditures)
- Withholding support for a Congress of European Peoples or any other institutional representation of national members of parliament on the European level, due to the belief that this would make the institutional structure ever more complicated and might call into question the powers and rights of the EP

4. Generalization of QMV as the voting procedure by:

- Implementing QMV with a double majority of member states (weighted or unweighted) and population. However, this would not extend into the field of constitutional amendments, the ESDP, immigration policy issues, or the field of economic policy co-ordination.

5. Improving the CSFP and ESDP by:

- Extending QMV in the field of CSFP;
- The 'double hatting' of the High Representative and External Relations Commissioner, without merging their respective administrative apparatus;
- And finally, extending the mechanism of enhanced co-operation in the ESDP.

III Political Strategy

Let me conclude with some remarks about the political strategy of German actors with regard to the work of the Convention:

- The Government seems to have adopted a strategy of searching for compromise, instead of fixing maximalist national positions. An example of this is a paper tabled in June 2002, which dealt with the question of competency and subsidiarity control. Signed by the then German Government representative Peter Glotz, Peter Hain (UK), Moscovici (France), Danuta Hübner (Poland), and Ray McSharry (Ireland), it outlined the broad lines of compromise which found their way into the paper of the working group on subsidiarity. Further proof of this search for compromise is the fact that the German Government did not reject outright the proposal to create a European President.
- Although it would surely be much easier for Germany to find a common ground and to define a common political approach with the Benelux Countries, there exists a certain reluctance to adopt a more assertive approach together with other countries, closer to its own positions than to those of France.
- Coupled with this wish to give a new dynamic to the Franco-German privileged relationship, is the German Government's search for a coherent common approach with France. The last bilateral summit meeting at the end of July 2002 set up a bilateral working group, headed by the two Governments' representatives inside the Convention. This working group intended to come up with a series of common proposals to be published in January 2003, in the context of the 40th anniversary of the Franco-German friendship treaty to be celebrated on the 22nd of that month.

This will be a test case not only for the German Government's capacity to influence the course of events, but also for that of the common European leadership role of the Franco-German couple inside the European Union.

Alfred van Staden: Thank you very much for this perspective. Of course we have taken note of the German resistance towards the creation of a European President, but you added some interesting points. The 'if-then-approach' to this notion has the smell of a pre-emptive surrender. Especially in the Netherlands, we are also keen to your being exposed to cross-pressures from, on the one hand, your loyalty to the federalist position, and the priority of maintaining your relationship with France, on the other. To strike a better balance between Germany and the UK, let us turn now to our next speaker.

5 Key Issues for the Convention: A British Perspective

Geoffrey Edwards

There has been considerable change, and some degree of flexibility in the British approach to the Convention. Despite the rebuff that Mr. Blair suffered at Brussels in October 2002, we believe that our assiduous bi-lateralism will pay off and that we will not be an awkward partner by ourselves. But, we are a reluctant Conventioneer. New Labour, as traditional governments, prefers to do these things either via traditional methods of diplomats gathering in secret, or via focus groups of nameless people. Open covenants, openly arrived at is a very Old Labour idea, it is not New Labour.

Secondly, it found this new 'popular' involvement in Treaty making distasteful because its experience with the Convention on Fundamental Rights showed that these things can get out of hand. I am not saying that Mr. Blair is a control freak, but it is very difficult to keep government control over a convention, if that is already the case with a Charter. For example, the Charter of Fundamental Rights is already being referred to in Luxembourg before the European Court of Justice despite its not being legally binding. The British are absolutely appalled by the idea suggested by the chairman of the Convention, Giscard d'Estaing, that its findings, in the form of a constitutional Treaty, should be put to a referendum, as well as with all his reminders of Philadelphia etc. The British are already facing a referendum on the Euro; the possibility of another on something so 'alien' as a constitution is too much – not least when we don't have one of our own. But Mr. Blair came around to the idea – not wishing to be seen standing out against his colleagues – and clearly many of the British concerns were met in the range, number and tone of the 60 odd Laeken questions, not least those about resisting EU encroachment on national systems and intrusion into the 'nooks and crannies' of national societies. Plus, he sought to limit any possible Giscardian domination by securing Sir John Kerr, a very canny, archetypal 'fixer', a former UK Permanent Representative and head of the FCO, as secretary of the Convention.

The basic position of Britain towards the Convention has not much changed from that outlined by Mr. Blair in Warsaw in October 2000:

“The issue is: not whether we do this, but how we reform this new Europe so that it both delivers real benefits to the people of Europe, addressing the priorities they want addressed; and does so in a way that has their consent and support... Europe is a Europe of free independent sovereign nations who choose to pool that sovereignty in pursuit of their own interests and the common good, achieving more together than we can achieve alone. The EU will remain a unique combination of the intergovernmental and the supranational. Such a Europe can, in its economic and political strength, be a superpower – a superpower but not a superstate.

We should not therefore begin with an abstract discussion of institutional change. We begin with the practical question, what should Europe do? What do the people of Europe want and what do they expect it to do?... The problem Europe’s citizens have with Europe arises when Europe’s priorities aren’t theirs. No amount of institutional change, most of which passes them by completely, will change that...” and so on..

Let me deconstruct that a little in terms of the principles underlying it:

1. Mr Blair seems to be following a good old functionalist principle: form should follow function: i.e., institutions should reflect the purposes of the European Union – to quote Blair again: ‘We should not start this debate with an abstract discussion of philosophy or institutional change. We should start with what we want the European Union to do.’ Mr. Blair is not of course alone in this approach – it’s been repeated frequently by British Conventioneers.
2. This approach is therefore a very ‘output’ oriented approach. Perhaps this is not surprising coming from a national leader who went to the country last year on the basis of ‘deliver, deliver, deliver’, having been insofar increasingly challenged about the delivery of public goods. As Mr. Blair put it after Laeken: ‘What they [the people] expect is more results, better responses to practical issues and not a European superstate or European institutions inveigling their way into every nook and cranny of life...’
3. It does also suggest a certain flexibility in the British approach. Indeed, Mr. Blair, is not necessarily restrictive in his view of what the European Union should look like. When asked what the limits might be of European integration, he replied: ‘It is better to say, what are the things which Europe wants to develop?... I don’t think it is a question of saying there is an arbitrary limit but saying, what can we do together?’ That element of flexibility tied closely to British concepts of efficiency and effectiveness, whether in relation to asylum and immigration or to exercising influence in the world, mean that there might well be added malleability in the British approach in the end.

However, this flexibility needs to be set against the basic principle of the Blair approach that Europe is a union of sovereign nation states. So much flows from that approach in terms of the Union’s legitimacy: the emphasis placed on subsidiarity and proportionality, on cooperation and coordination and, in terms of institutions, on the Council and its structures. Legitimacy, first and foremost, derives from member states and their governments. Therefore, the emphasis must be on the representative that

epitomizes that government, which is on the European Council. It is very interesting that those in support of a strong President of the European Council come from backgrounds where either they are in a strong political position such as Chirac, such as Mr. Blair, or would like to be, such as Aznar and Berlusconi.

- In January, elements within the British government not far from the Cabinet office floated the idea of a Security Council type model of an inner Council of the larger Member States, and the wider Council chaired by a permanent secretary general, in the same way as NATO. It reflected perhaps a certain disregard for the sensibilities of smaller states and met, unsurprisingly enough, with a certain resistance from them. But writing in a bigger role for the European Council, with all the legitimation that flows through Heads of State and/or Government has been a consistent theme.
- Running alongside that, is the belief that reforms are necessary to make the European Council and, indeed, the whole Council structure, efficient and effective. Much done at Seville in terms of procedural changes pleased Mr. Blair. But there is the shared conviction that more needs to be done. In terms of the Convention, this manifested itself in the call for changing the position of the Council Presidency. In Mr. Hain's words: 'You need a longer presidency. The current system causes a lack of strategic grip and doesn't give Europe political leadership and clout.'
- Hence the idea, put forward in February, about team presidencies, not in the usual sense of a group of member states, but rather, a team of elected chairmen of different councils, with an elected chairman of the European Council as a sort of President of Europe. These new presidents, including the president of the European Council would be elected for two and a half years or even longer. As Mr. Blair put it:

"The point is that you can't go on any longer with this six-month rotating presidency – it's absurd, and I think there is a broad acceptance of that now. We must have a strong head of the Council of Ministers. But the interests of the small countries have to be looked after too; it can't be seen as big countries ganging up against small..."

And an election would after all allow the smaller member states to have their say. But, rather than allow the President of the Commission somehow to win a majority in such an election, the British are suggesting that any elected president of the European Council would need to be a former head of government. In July 2002 Mr. Blair declared that he had no interest in the post (though by 2005 he will have been PM for eight years...). It would be interesting to ponder over whether such a President of Europe would have gained much credibility or maintained much legitimacy for the EU if the post had been in existence over the last few months with the divisions over Iraq.

- Legitimacy is also the key concept in terms of an enhanced role of national parliaments (again an interesting, if cynical, reflection given that Mr. Blair is frequently accused of ignoring Westminster as much as possible – his reluctance to recall Parliament over Iraq – preferring press conferences etc.). Initially, Mr. Blair showed strong support for an enhanced role, seemingly in the form of what he termed a second chamber, made up of national parliamentarians, but has since been persuaded that this would not be in the best interest of efficient and effective decision-making. There is now generalized support for the consensus within the Convention working group that national parliamentarians should provide some sort of subsidiarity check on EU legislative proposals.

- A further dimension that can be linked to both legitimacy and this clear ‘output’ orientation of the British government is in relation to a European Constitution. This reflects a real change in British attitudes, in part, at least because of the trend within the Convention that does not seem to be moving wholly in a ‘super-federalist’ direction under Giscard. It is potentially a significant change given that the UK doesn’t have a written constitution of its own, and tends toward emphasizing custom and convention. And yet since February 2002, led by the Foreign Secretary, who again expressed his support in an article in *The Economist* (12 October 2002), the British have been talking about the usefulness of a European constitution, so long as it is short and understandable. There has been much about the need for a short, clear statement of ‘purpose, principles, then organs and institutions.’ As the Foreign Secretary pointed out, a constitution ‘would improve the EU’s capacity to act’ i.e. the efficiency argument, and, insofar as it might lend clarity to the EU and its structures, its decision-making etc., it might help to ‘reconnect European voters with the institutions which act in their name,’ i.e. the democratic legitimacy argument. As Mr. Straw put it :

“The Convention’s main aim must be to design a written constitution for the people and communities of Europe, not the political elite. There is a case for a constitution which enshrines a simple set of principles, sets out in plain language what the EU is for and how it can add value, and reassure the public that national governments will remain the primary source of political legitimacy.”

- It would also, one presumes, undermine the usual Eurosceptic argument about creeping integration even if it might, depending on how it was written, also undermine the need for flexibility to meet new challenges that British ministers have so often spoken about. There is a certain irony in Britain being part of a European constitutional order, as well as having a subnational constitutional order in terms of devolution, not having a written constitution itself! But note the tenor of the proposal put forward by Mr. Hain, which

includes the 'Cambridge' constitution: its emphasis is on a union of sovereign states; it's not quite a federation, but one gathers that the 'f' word might not actually be thrown out in the negotiation; the EU's authority derives from the states, not the Treaty; all powers not conferred remain with the states; it also emphasizes subsidiarity; it doesn't quite list all areas of competency simply because so many are mixed, but the emphasis is on limiting exclusive competence for the Union, ensuring that shared competences are clear, and adds a third type, complementary competences (the indicative list of which includes most areas that come within the Lisbon framework, of open method of coordination...); and it doesn't quite end a pillar structure since it maintains a separate structure for CFSP/ESDP.

- What legitimacy hasn't yet meant to the British government is any real strengthening of the European Parliament, nor the enhancement of powers, accountability or legitimacy, of the European Commission and its President. The British Government has been decidedly quiet on these areas. Doubtless, a case of keeping powder dry for coming disputes.

In the first phase of the Convention, these ideas put forward only generalities and during the 'listening period' a fair amount of flexibility being exercised by Mr. Hain, for example, apparently going with the flow rather more than his instructions – seemingly with a license to improvise. It may well be rather different as the task of drawing up a document moves on. It is unlikely that the British will be able to unite as some of the other 'Conventioneers' have done. There is little likelihood for example that the federalist Duff will have much in common in terms of the distribution of powers with Heathcote-Amory, representing Tory Euroscepticism, even if there may be some agreement on greater clarity, on instruments etc.

In conclusion, I would like to say a word or two about the context of the Convention and the IGC. It is important to remember that Britain has yet to have its referendum on the Euro – possibly for autumn 2003. As this coincides with the timing of the end of the Convention and IGC, Europe is very much on the political agenda and the British position in it. This is also tied to the position of Mr. Brown, the Chancellor, his five economic tests, and his keenness to succeed Mr. Blair. His stance will be critical in the British attitude towards the Convention as it is likely that he will only agree to British membership if his critical/pivotal position in the process and his leadership possibilities are enhanced. Much will inevitably depend on the government's standing both in relation to the Labour Party (some of whom are opposed) and its support in the country, and the extent to which long hostility to British membership of the Euro can be swung around, and people can be persuaded that the Convention is a good thing. Mr. Blair's ability to retain leadership of the country and the Labour party, which at the moment is undergoing something of a strain, not least over Iraq, will also affect the final outcome.

6 Key Issues for the Convention: A Contribution from Brussels

Stefaan de Rynck

I intend to make six brief points to leave some time for discussion. First however, in picking up on the ‘deliver, deliver, deliver’ issue, it cannot be ignored that there does exist a delivery gap which is should, in part, be held responsible for the disillusionment and disengagement of Europeans. The disaster with the oiltanker ‘Prestige’ off the coast of Spain is a case in point. The inability of Europe to cope effectively with this situation is cause for concern for its citizens. When we talk about stronger executive powers, it is precisely to avoid such events from taking place. Do people not have the right to hold Europe accountable for the day they find their waters barren? Of course, there is the option of blaming a weak executive, but this answer will not convince, nor satisfy the population of Europe. When you discuss the co-ordination of national macroeconomic policies, you do so in the context of wanting to create the type of climate that keeps its interest rates low, that gives citizens the opportunity to buy houses, etc. What is important is to ensure that decisions taken at the European level are relevant to its citizens.

1. This leads me to my first point, which is a critique of the Giscard draft. In its core part, which will be most difficult to change according to the new ratification process that has been envisaged, there should be a reference to the common policies. Using functional logic, policies, such as those of cohesion, competition, and the internal market are what bind states and the peoples of Europe together. Consequently, and especially in view of enlargement, which will no doubt add strain on policy co-ordination, there should be a mention of them.
2. With continued reference to this draft Treaty, my second point echoes Gijs de Vries’ sentiment. Although there exists a consensus at the Convention to make the EU into a global power, what does this entail? What is our relationship with Russia, for example? If Chris Patten goes to Russia, he discusses energy, Pascal Lamy ventures into debates as to whether or not Russia meets the WTO criteria for a market economy. Although this goes beyond traditional diplomacy, it is essential to an effective foreign policy. Linked to the issue of increased globalization, there is no longer a strong

separation between domestic, internal policies and external policies. Consequently, there is a real need, if Europe is to become a world player, to turn to community competencies. From this perspective, the Giscard draft is cause for concern, as it seems to impose barriers among different types of policies. Quite paradoxically, this potential for the establishment of a blockade runs the risk of simply replacing the EU's current pillars, which we all agree should be abolished.

In the same vein, we need QMV for all decisions that relate to foreign and trade policy. If there is something to defend at the global level, such as the European social model, you cannot be held hostage to the right of veto in the Council. In this increasingly globalized world, you must have access to resources that allow you to speak with one voice at the international level. If you stick to unanimity, this will not be possible.

3. My third point refers directly to current Commission thinking about the architecture of the institutions. First, I would like to make the distinction between all aspects that concern legislative and governmental functions. At the legislative level, we would like to see co-decision everywhere, which would necessitate a substantial enhancement of the role of the Parliament, based as always on Commission initiatives, thus maintaining the monopoly of the Commission initiative – which appears to be in line with the Convention. The Council and EP would become two branches of the legislature.

As far as execution is concerned, this falls under the jurisdiction of the member states who transpose the (framework)-directives. If there is a need for executive measures at the European level: internal market, environment, public health, and for a harmonization of such standards, the Commission should be in charge. With a huge simplification of comitology, there will be no need for all these management and regulatory committees, or national civil servants.

The Council will adopt legislation by what we call double majority, which means a majority of member states representing a majority of the European population. The Council deliberations should also take place in public. What I set out meets three main principles: simplicity, accountability, and co-operation among the three EU institutions.

Turning to governmental functions– i.e. issues of foreign policy and that of macroeconomic national budgetary policies, which do not require European legislation, but do require a European governance function – the current system is not satisfactory. On the issue of foreign policy, we propose a new position: a Secretary of the European Union, along the lines of the American Secretary of State, Collin Powell, who would be the double hatted Mr. CFSP and the Commissioner of External Relations. But we are willing to make concessions according to the Community method. S/he should act on her/his right of initiative on a specific mandate of the European Council, but nevertheless be based in the Commission due to its advantages of coherence between our external policy instruments. Operationally s/he could draw on

Commission resources and access to national administrations. We foresee that this could lead to a kind of European Foreign Service.

4. Fourth, we are also all aware (as you all know) that the Convention supports the role of the Commission as the coordinator of national budgetary policies. In fact, the Convention President has himself concluded that the Commission should be allowed to give proposals to the member states, based on the broad economic guidelines, rather than its present recommendations, thus reflecting the seriousness with which the Council will be expected to treat those economic guidelines.
5. Fifth, turning to the institutional architecture per se, we are claiming an enhanced role for the Commission. With this enhanced role, comes a heightened standard of political accountability. We are thinking along the lines of a double accountability of the Commission as a college, both to the House of States (European Council) and to the House of Peoples (European Parliament). We intend to give both institutions an equivalent role in nominating the Commission which implies that elections be organized by the EP for the European Commission President, therefore, politicizing this function without touching upon the appointment of the rest of the Commissioners, which are to remain purely national, purely partisan. So, what does it mean to be neutral? What does it mean to be politically independent? There is a show on television in Belgium called big brother in which about ten individuals are isolated from 'reality', that is, television, newspapers, and assigned certain tasks. Perhaps therein lies the solution to ensure political independence in the Commission: stick twenty Commissioners in a room for five years, restrict their access to the media, give them data on the Cod fish stocks and wait for their final decision. This would be a perfectly neutral Commission! We also argue that Commissioners should not be subjected to hearings by the European Parliament when they take office, despite the fact that some feel this measure would ensure greater accountability of the Commission. We are also not in favour of the proposal that the EP be allowed to dismiss individual Commissioners. There is also the thorny issue of the size of the Commission as it is fundamental to the maintenance of the equilibrium amongst member states. Fundamental to this, is the need for the Commission to retain the confidence of the big member states.

For the European Parliament we have recommended between sixty to seventy MEP seats that would be elected on transnational lists. On the topic of the Council Presidency, the equality of the member states must be taken into account. We foresee different solutions according to the different types of Councils. While one could maintain the rotation system for a number of Councils, which is a fundamental element in the life of a national administration, as is presently the case in Denmark, we do not support the call for a double-headed executive.

6. My final point is on tactics and includes one of the key questions for the future: who will seduce Joschka Fischer? I conclude that the decisions being taken in

national governments, the replacement of Moscovici by de Villepin in France and increased Franco-German co-operation, for example, clearly reflect the political importance that Europe as a whole seems to be attaching to the Convention.

Alfred van Staden: Thank you for the frank account of the European Commission. The myth of the Commission as the neutral arbitrator who embodies the general European interest was well taken. From such a stance, the move towards the development of a European government will prove fascinating. Some choices will have to be made. Before turning to the next question period, one point of clarification: you made the case for a dual accountability of the Commission to both European Parliament and the European Council. Did you mean rather the Council of Ministers?

Stefaan de Rynck: No, absolutely not. I meant the European Council only!

Discussion

Alfred Pijpers: I have one question that is split into various parts so as to permit each speaker to respond accordingly. I address the first one to Joachim Schild. In a speech given at the Humboldt University in Berlin in May 2000, Joschka Fischer made reference to a 'Gravitationszentrum', an avantgarde inside a larger EU. He referred also to the possibility of a constitutional refoundation ('Neugründung') for a smaller group of states in the EU which are prepared to take further integration measures than the others. Is this still on his mind? Anna Michalski referred to the preliminary draft for a Constitutional Treaty, presented by the president of the Convention on 28 October 2002. In this draft it is suggested to create a new kind of European Union with a different label, while Giscard has also proposed to proceed according to a 'consensus de la majorité', thus implying that certain countries might not be part of the future constitutional set-up. Are these also the preliminaries for a core group in the future EU? I would like to ask Geoffrey Edwards whether the UK is prepared for such developments. And finally, to Stefaan de Rynck, will this core group theme be a point of discussion in the paper that the Commission plans to present in December?

Willem van Hasselt: A question to Dr. Edwards. It is always fascinating to hear the British discuss a written constitution for Europe. Is this a revolution? If, in light of Britain's distrust of Europe being anything more than a union of sovereign states, will the framework of Giscard be acceptable?

Peter Mair: If the Commission intends to accept its political responsibility, and becomes accountable, has there been any discussion of implementing a direct election of the Commission President, instead of the indirect nomination and accountability by the member states? Is this a step too far?

Eppo Jansen: I direct my question to Dr. Edwards. In his speech, Mr. Blair placed function before reform, that is raising the question 'what do we want the union to do for us' rather than beginning with the institutions first. He also put forward the need for the Union to become a superpower, not a superstate. How can one be a superpower, if this is based on a union of states? How does 'function' translate into institutional reform?

Willem van Hasselt: One of the most important issues brought up this morning was that of who will seduce Joschka Fischer. Related to this, I pose the following question to Dr. Schild: if the German government still lacks a strategic and coherent view at this moment, six months away from the end of the Convention, how much longer will it take?

Response

Stefaan de Rynck: The Commission must consider the legal consequences for those member states who might not be capable of ratifying the new constitutional treaty. On the question of the direct election of a Commission President, this would be a step too far. Having said this, since Nice, which has provided us with a legal basis upon which to work, the process of structuring political parties at the European level can once again move forward.

Geoffrey Edwards: Let me begin with the question of the written constitution. The British are coming around to this, although the Parliament is sure to retain sovereignty, insofar as we have been busy constitutionalizing ourselves. The emphasis, however, if the Brits have their way, is that the 'European constitution' remains a treaty among states because as we all know, a treaty can be defeated by one vote of the House of Commons. This leads me to my next point. In the British case, given the control of the media by a small and powerful few, the question of who will seduce Joschka Fischer is less relevant than that of who will seduce Murdoch, thus allowing the government to get its point across without the continuous drip of anti-European sentiment in the tabloids. Turning to the plausibility of the Union becoming a superpower without a superstate, according to my sources this was inserted into the Warsaw Speech by Mr. Blair himself, so perhaps he knows how this can be done, because I am afraid that the Foreign Office is at a loss.

Joachim Schild: Let me first deal the question of Alfred Pijpers on the center of gravity, or 'Gravitationszentrum', and whether or not it remains a concern of Joska Fischer. The threat to proceed with a restricted number of member states is simply a means with which to apply pressure to reluctant member states during the initiation process. Is this really seen a solution to problems? I have my doubts about this. But in the mind of Joschka Fischer and others, this might very well provide a way out in a situation of crisis. Closely linked to this notion, is whether or not a threshold should be fixed for

the number of countries that must ratify this constitution in order for it to gain legal force. With respect to the cohesion of the German government's strategic view, there certainly exist clear priorities. At the same time, the search for compromise with particular member states is on the government's agenda. This is also reflected in the political style of Joschka Fischer, who shies away from fixing priorities in an attempt to leave doors open for compromises. Perhaps this refusal to rebuff fellow players illustrates his desire to be seduced?

Anna Michalski: If you believe that the EU is going to become something different, for example, that there be an entity superseding the EU, this you can read into the draft Constitutional treaty in many places. Its reading may also be affected by the country in which you find yourself. However, I feel that the Convention's work can and will contextualize such a new framework, especially visible in the introduction of an exit clause, and the notion that the new political system should proceed even without the member states who refuse to ratify the new treaty. As others have said, there is also the issue of tactics. There has always been pressure applied to the recalcitrant member states to conform and to enter mainstream thought. What I can see as crucial is timing. In the near future, referenda will be held in both Sweden and the UK, and parliamentary votes, or referenda in future member states or existing ones on the topic of enlargement will take place. In the meantime, this new treaty is at least on the table. This makes for a real build-up of political tension and anticipation for what the next six or seven months will bring.

Alfred van Staden: We are seriously running out of time. We must draw this meeting to a close. I thank the speakers for their highly interesting contributions, and the other participants for having joined us in a most stimulating debate about the future of the European Union.

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**‘Debating Europe’s Future:
The Political Setting of the European Convention’
Friday 22 November 2002**

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