

30 July 2003

Dear Colleague

Thank you very much for attending our Conference on the Convention on the Future of Europe on Friday 27 June. We hope that you found the event informative and stimulating. I am enclosing a copy of the report of the Conference that you may find interesting.

The Convention produced its final draft constitutional Treaty and presented it to the Italian Presidency of the European Council on 18 July. The Intergovernmental Conference (IGC), where the 25 Heads of State and Government will debate and amend the draft, will begin in Rome on 4 October and the Italian government expects it to conclude before the end of the Italian Presidency on 31 December 2003. A new Treaty of Rome, could then be signed on 9 May 2004 just before the next Elections to the European Parliament, which will take place in June 2004. Between May 2004 and the end of 2005 the Treaty will be ratified by the 25 national parliaments of the enlarged EU.

As you will know from the Conference, the Convention proposes that under the new Treaty the European Parliament will have significantly increased powers, mainly through the extension of the co-decision procedure whereby legislation must be agreed by the European Parliament and the Council of Ministers. This Office focuses its work on raising awareness of the role of the European Parliament, the fact that it takes important decisions on a wide range of policy areas that affect our everyday lives and that its already considerable powers are likely to increase still further under the new Treaty.

The turn-out in the UK in the last Elections to the European Parliament was the lowest in the EU at 24%, and we hope that you will wish to play a part in helping to improve the turn-out at the next Elections. We are planning a wide-ranging programme of activity in the run-up to the Elections, organising a series of events, the production of publications and other promotional material. Please let us know if you would like to be kept informed of our future activity to raise awareness of the role of the EP and the future Constitutional Treaty.

If you would like further information, please contact our Public Affairs Officer, Daniel Ractliffe on [dractliffe@europarl.eu.int](mailto:dractliffe@europarl.eu.int) or Jo Oxenbould on [joxenbould@europarl.eu.int](mailto:joxenbould@europarl.eu.int)

Yours sincerely

DERMOT SCOTT

Director

**Report from the Conference on**

# The Convention on the Future of Europe

Local Government House, London

Friday 27 June 2003

organised by

The UK Office of the European Parliament

## Introduction

**Dermot Scott**, Director of the UK Office of the European Parliament, welcomed the audience and the Conference speakers and said that the Conference was intended to reach out to a wider area of civil society than might normally attend such an event, in order to explain what the Convention on the Future of Europe had achieved in an open and democratic forum and what may happen when the draft constitution is examined by the Intergovernmental Conference.

## First Session: What is the Convention all about?

**Polly Toynbee**, from the Guardian, introduced the first session by saying that the British public were perhaps the least well-informed about EU matters. She hoped that the Conference would be able to "leapfrog" the press and reach out to various areas of society represented by the organizations present and to their members via newsletters, websites etc., would provide an opportunity to hear both sides of the argument and to ask questions.

**Andrew Duff MEP** said that there had been surprising and impressive agreement after protracted debate in the Convention. Only five full members of the Convention refused to accept the consensus. He felt that the text of the draft Constitutional Treaty had achieved a better division of competences; a merger of the Maastricht pillars; creation of a legal personality; streamlining of the decision making process; more clarity of language and transparency of procedure and performance; a strengthening of European Parliamentary democracy; a strengthening of the EU's capacity to act effectively abroad; and a mandatory regime of fundamental rights.

The Convention had also been quite forceful in suppressing some ideas that had been put forward, such as a third legislative chamber, and the proposal for a "super-president", which had survived but with

constrained powers.

The permissive nature of the drafting of the Convention Treaty would be sufficient to ensure that further improvements could be made in the light of experience. He felt certain that the final package was one that those privileged to have taken part would be proud of for decades to come.

**Dr Kaja Tael**, Ambassador of Estonia, said that the different views and reactions of the participants in the Convention might have led people to believe that there were several parallel Conventions taking place. If the interests of Estonia were seen to be overridden in the Convention, this would not bode well for their entry into the European Union. Most of the applicant countries were not, she felt, federalist by nature, as their regained independence was too precious, but so too was stability and prosperity. It was necessary to pool some sovereignty in order to become stronger collectively. But the smaller states would not like their sovereignty to be pooled more than other states.

**David Heathcoat-Amory MP** said that he was pleased that the UK Government had now dropped the description of the Constitution as a "tidying up exercise" and was recognising its huge constitutional significance. He said that it had not been necessary, under the terms of the Laeken declaration, for the Convention to produce a Constitution. What they were told to do

was to create a Europe that was simpler, more efficient and democratic, closer to its citizens. Had they succeeded?

He did not think that it was simpler. In the matter of shared competences - of which there was a very long list, including social policy, environment policy, and criminal justice - it was not clear how those powers would be shared. He felt that all too often in the EU the idea of efficiency was confused with

centralisation but there was no evidence that centralisation did lead to more efficiency and that decisions had actually been taken further away from the ordinary citizen.

They had missed opportunities and their mandate had not been fulfilled. No effort had been made to simplify the acquis, and the instructions of Laeken had been overlooked and downgraded. He feared that the result was a Europe of politicians, not one closer to the citizen. No powers had been repatriated; instead the flow had been upwards to the more remote tier of government. For those reasons he had not signed the text but had presented to Giscard a minority report "on a silver salver". The final arbiter should not, he felt, be politicians but the people themselves in a referendum.

## Discussion

**Kirsty Hughes**, Centre for European Policy Studies, disagreed with David Heathcoat-Amory on the question of efficiency. She felt there had been a big reduction in the number of decision-making instruments and procedures, an opening up of the Council and new subsidiarity procedures. She agreed that accountability had been ignored.

**Robert Moreland**, Chairman of London Europe Society, asked if the speakers were to repatriate anything what would it be.

**Bryan Cassidy**, member of ECOSOC, felt that there was "nothing in it for us" - the citizens did not get a look in - a huge weakness which may lead to difficulties.

**Ben Richards**, Research Officer for UNIFI, the finance sector trade union, referred to the Charter of Fundamental Rights and was reassured by Andrew Duff that it was to be incorporated into the Constitution with mandatory effect. Mr Duff felt that it was absurd to say that the citizen had not been considered as the Charter was for the citizen.

## Second Session: The Future Political Leadership of the EU.

**Jon Snow**, Presenter of the Channel Four News, introduced the second session by saying despite having voted against membership of the European Union in 1975, he would now regard himself as an out and out federalist and an optimist about the future of the EU.

**John Bruton TD** presented his written paper\*. He began by saying that the institutional context for this Convention was enlargement. The logical corollary of the decision to have 25 members

of the EU is that it was necessary to move to more majority voting.

He felt that it was disgrace the way the Treaty of Nice had been presented as a last-minute deal between France and Germany. It was rejected in Ireland because it was not capable of being understood or explained adequately. Therefore people felt that a new way of making treaties was needed, to open the process up to governments and oppositions, which had not happened before. He was disappointed that not enough had been done to address the issue of democratic legitimacy, but thought that the new Treaty would be easier to read than the previous ones.

He stated Europe had completely failed to deal with the genocide in Bosnia; a common foreign and security policy was needed as a basis for making decisions to deal with such situations.

For the first time this was a European Treaty based explicitly on fundamental rights and brings those rights to the heart of EU policy making. All EU legislation would in future be passed in public. The European Parliament already made its decisions in public and in future the Council of Ministers would also meet in public. National parliaments would be involved from the earliest stage in the consideration of draft legislation. If they felt that legislation went too far they would be able to stop the procedure by holding up a 'yellow card' and if one third of parliaments did so, then the procedure would be halted.

Current decision-making was taking place in a bureaucratic rather than a political context. Now ministers would be better informed, and at an earlier stage, about legislation than they had been in the previous system. This would radically change the whole dynamic of government as far as EU matters were concerned.

He felt that there were some unresolved issues. They had not made proper decisions about the budget and democratic legitimacy. He felt that the people should elect the Commission rather than the European Parliament. The latter would go against the principle of the separation of powers.

He concluded by addressing the question "is the European Union a superstate?" It had no right to raise taxes, run a budget deficit, could act only on competences that had been conferred on it by its member states and had no autonomous right to raise a military force. Therefore the European Union was not a superstate. It was rather a co-operative arrangement between states that have voluntarily limited their sovereignty in order that they could do things together more efficiently, effectively and comprehensively than they could separately.

**Alain Lamassoure MEP**, the former French Europe Minister, began by saying that he would start where John Bruton ended, and say that the European Union was not and would not be a superstate. New words were needed to describe it.

What the Convention had written was not a Constitution, but a Treaty. The EU was not a federation nor a confederation, but something different - a Community. Sovereignty, he said, was not a word used in France any longer. In the EU there were already some elements of federalism, such as the common currency and a decision-making process that looked federal, but national sovereignty was guaranteed and countries could take the institutions to the Court of Justice. Also, there was a new voluntary withdrawal clause that would allow member countries to withdraw unconditionally from the European Union.

Seen from France, the Convention succeeded in inventing a novel political system combining the federal and confederal model. There had been unanimous agreement on the distribution of competences

between the Union and the member states. The Commission would in fact turn into a kind of European Government, without the name, with a president effectively elected by the, European citizens through the European Parliament. The big difference between the EU and a classical federal system was that not only were common competences conferred but that there was also co-ordination of all other competences retained by member states.

To achieve the objectives that had been set, not only must the Union function well but also it was necessary to mobilise all the competences of national governments to reach those goals. He felt it was like an orchestra that needed a good soloist and also all the musicians playing in tune with the conductor being the President of the European Council.

He felt that the Convention had failed in certain areas: the composition of the Commission had not been properly designed as only half the members would have the right to vote, which was unacceptable in France, and probably in Britain and most of the member states. The IGC must review this proposal.

There had also been an absence of progress on the Common Foreign Policy. The Iraqi crisis revealed the divisions between member governments on this subject but the same crisis demonstrated the expectation in Europe for a European stance in foreign policy. We needed a new political initiative.

**Richard Corbett MEP** \* asked what would be the leadership in the future European Union? There would be two presidents, one of the Council and one of the Commission. How would that relationship work?

The Convention had written a job description for the President of the European Council, which was such that he or she should not trespass on the role of the Commission and its President. Who would give executive leadership in Europe? How constitutions worked in practice evolved over time and depended on who occupied the positions and on experience.

The Council had the power and authority of all the heads of member states united but its capacity to work would be handicapped by the number of people around the table. The Commission had less power but a greater degree of permanence. There would, he felt, be a degree of creative tension between the two. The traditional "methode communautaire" had been reinforced both in scope and in substance.

A bicameral legislature had now been created, where legislation would have to be approved after prior scrutiny in national parliaments and a double test at European level: acceptability to the governments meeting in Council and to the European Parliament. This made the European Union the most scrutinised international structure in the world and brought more openness and democracy to the European system.

Power would still be diffuse; it would not be a system with strong central leadership. All policies would involve a lot of steps, a lot of scrutiny and a high majority. The system would be better balanced, more open, more capable of acting, and more democratic. The Constitution was an improvement on all these fronts. But it would not create a central powerful leadership.

## Discussion

Professor Sir Neil MacCormick MEP disagreed with John Bruton about the issue of separation of powers in connection with the election of the Commission President by the European Parliament. **John Bruton** felt that it was an important point and said that although nobody agreed with him, he felt he was still right. **Richard Corbett** pointed out that the Council now chose the President of the Commission and he did not see that it would upset the balance of powers if in future it were to be elected by the European Parliament.

**Richard Burge**, Chief Executive of the Countryside Alliance, felt that the Convention was a massive step in right direction, but wondered where would the political class come from in the future? Alain Lamassoure said that a European political class would emerge as a result of elections to the new



presidency posts and as political figures became better known to the electors.

**Quentin Peel**, from the Financial Times, felt that the most powerful institution had always been the Council and that the greatest disappointment from the Convention was that they had not got the Council right and had created a bigger muddle, with a strange split between the "Summit" and the Council of Ministers, an incoherent system with different leadership and different rotation. Had the small countries or the large countries won?

**John Bruton** felt that that their work on the Council was far from perfect but would not say that they had failed. He thought that there were two things that would create a political class in Europe. One was the "yellow card" system he had referred to previously, which would mean much more contact between the specialist committees of the national parliaments. Referring to Alain Lamassoure's comments on the Commission, he had the impression that the pressure for a smaller Commission had in fact come from France.

Tessa Keswick, from the Centre for Policy Studies, asked the speakers to comment on the suggestions in the press of an "inner core" of countries, comprising France, Germany and Belgium.

Alain Lamassoure's view was that there would be two kinds of members, members of the common currency and the others. Members of the common currency would need more coordination among themselves. The Constitution did not enable us to make sufficient progress in the matter of foreign policy. A new political initiative was needed and he felt that this should come from Paris and Berlin and also from London.

Kirsty Hughes, Centre for European Policy Studies, asked where strategic leadership is to come from. It used to come from the Franco-German-relationship but that was clearly inadequate in the larger Europe.

**Richard Corbett** felt that the Franco-German partnership is misunderstood in Britain. The reason it had been so vital was that France and Germany disagreed on so much but both were willing to talk and negotiate compromises.

**John Stevens** asked whether a situation emerged from the Convention that was parallel with the Council of Europe; had the Convention revealed that a seriously integrated Europe was incompatible with this number of member states.

**John Bruton** disagreed; he felt that the Council of Europe had not succeeded because it operated on the basis of unanimity, whereas the EU agreed important things by majority. He also said, in response to Kirsty Hughes's question, that strategic leadership of the kind referred to was not possible without a merger of the French and British armies; strategy was based on power and the ultimate power was military. He personally regretted the fact that there was no will to create a united European military power at this stage.



## Third session: Question Time

**Paolo Buonadonna**, from BBC TV's Politics Show, began by saying that it had been an intense morning and that the issues dealt with were not easy to encapsulate in "soundbites". She paid tribute to the European Parliament. She felt that there was a lot of whinging about Europe not being accountable or democratic or legitimate and yet here was an institution which was all of those three things, with Members who worked hard. The European Parliament had an increasing power and say in what happens at European level and people who wanted their voice heard should turn out and vote in the next European Elections in June 2004.

**Robert Moreland** asked the panel what they would do to ensure that the EU has an image more related to democracy than bureaucracy.

**Gary Titley MEP** hoped that the IGC would be over as soon as possible and would be the last one for some time. Since Maastricht we had spent ten years arguing about processes and not outcomes. He hoped that the closer involvement of national parliaments would lessen the division between "over here" and "over there" and lead to greater political dialogue.

**Timothy Kirkhope MEP** stated that the Convention had looked at ways of shifting power from the unelected to the elected. Although not liking some of the outcomes of the Convention, he felt that the Convention method had been a good one, although it had failed a bit on the Laeken requirement of involving the citizen. The outcome should be put to the people in a referendum.

**Professor Sir Neil MacCormick MEP** felt that it was a shame that the referendum idea had been hijacked by eurosceptics, but felt that the Constitution should be adopted with clear popular approval in all member states. Legislation had hitherto been too much "precooked" by bureaucrats and he would like to see methods adopted to try to ensure that ministers did not adopt legislation in Council without its being well-known in their national parliaments. The European Parliament was fully accountable but too few people bothered to hold it to account at the ballot box. He said that there was a provision in the draft Constitution for a citizens' initiative: if more than one million citizens signed a petition the Commission would be obliged to bring forward a proposal.

**Gary Titley MEP** said referenda were a way of undermining democratic government and in his view governments called referenda to "cop out" of making a decision: parliamentarians were elected to make decisions.

**Timothy Kirkhope** pointed out that there were referenda on other issues such as mayors and regions, but this was a significant move forward and they should have enough confidence to put it to the people. **Jean Guise**, from the Industry and Parliament Trust, said that she was puzzled why it was considered essential to have a referendum on regional assemblies that were nothing like the same order of magnitude as the constitution. She felt it important that if there were to be a referendum, the question should be posed in a neutral way. **Neil MacCormick** pointed out that we now had an Electoral Commission to ensure that any referendum question was clear and fair.

Anna Verges, from the Federal Trust, asked how far have we really got in improving the scrutiny of national executives at EU level.

Gary Titley felt that progress had been made but felt that the Council, when acting as a legislature, should do so in public. There was currently the suspicion that governments were saying things behind closed doors that they would not say openly. Scrutiny was in the hands of national parliaments and he felt that the UK had been weak on this. Danish and Finnish parliaments had a system of calling ministers to account before Council meetings. The European Parliament and national parliaments should not be seen as being in opposition to one another but as two sides of same coin. **Timothy Kirkhope** said that the work of the Convention had tried to open up the decision-making process so that it would be more obvious to people what was going on. He agreed with Gary Titley that the scrutiny process in the UK was not good enough and also wanted to bring MPs and MEPs closer together in joint committees.

**Paola Buonadonna** found it difficult to understand the idea that sovereignty was in some way guarded by unanimity in voting, when in practice the opposite can be true, and cited the example of the European arrest warrant. **Neil MacCormick** agreed and said that it had been an example of legislation by panic. He pointed out that Justice and Home Affairs was then a separate pillar but, in the Constitution, had been brought into the ordinary legislative procedure. He also pointed out that legislation takes some time before new legislation actually affects the citizen, particularly in the case of directives that made answerability difficult.

**Sacha Cleminson**, Royal Society for the Protection of Birds, stated that in his view the European Constitution has a fundamental flaw in it: at one end there is an overall EU view of sustainable development whereas at the other end we have policies which clearly contradict integrating the environmental dimension. Is there any will to rectify this internal contradiction? Gary Titley felt that this was a problem of politics, not just the Constitution, and that the Constitution will make easier the kind of "joined-up thinking" necessary to try to resolve this situation. **Timothy Kirkhope** said that during the "listening phase" of the Convention he had spoken of the RSPB as having more members than the UK political parties put together and felt it was necessary to listen to the concerns of such organizations, but thought that not enough attention had been paid. **Neil MacCormick** said that there was a "horizontal clause" in the Constitution that meant that environmental stability would be considered across the whole range of other policies. But how far was it appropriate to write in at the beginning of a project of this kind, constraints on the democratic process? Environmental stability had to be balanced against economic growth. He felt that they had got the balance not far short of right.

Neil Marrs, Forum of Private Business, said it was perplexing that there is no mention of small business in the constitution and would a change of wording be possible, to give equal status to small businesses in the term "enterprise"? Should the SME Charter be incorporated into the Constitution? Neil MacCormick had found in Part III (the old treaties rewritten) a commitment to SMEs. He felt the point was not whether it was in the text but whether it was sufficiently prominent. **Timothy Kirkhope** felt that it was inevitable that there should be items "missing" but did not feel that the question of SMEs needed to be spelt out, when national governments could help them within the national competences that they retained. Gary Titley agreed and

said that the Constitution was a framework and not a prescriptive document. It should not be forgotten that the IGC could make substantial changes.

## Conclusions

Gary Titley concluded that the test of the Convention was whether it made the EU easier to understand, more accessible and accountable, and he thought that it did. To involve politicians and others from all countries and parties was a huge step forward. He thought the Convention idea had been successful and it was now time to move on.

**Timothy Kirkhope** felt that it was an important moment to reflect on what was wanted for the future and that the Convention had helped to do that. The Convention had been successful even though he did not much like the text that had emerged. He felt that the European Parliament had done itself a lot of good and hoped that it would henceforth be much more linked to national parliaments.

**Neil MacCormick** said that he was very proud of the document and glad to have taken part in the Convention. For the first time a treaty had been written, at least in draft, by a parliamentary process. The text was much clearer and more accessible. He would like to see it adopted by the popular choice of all the peoples of Europe.