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The Revision of the European Treaties: the Convention Moment. Six arguments for its Continuation, six Proposals for its reform

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VISIONS OF EUROPE

The revision of the European treaties: the Convention moment: Six arguments for its continuation, six proposal for its reform

The new Lisbon Treaty provides for the Convention approach to become the "ordinary" procedure for any significant revision of the European treaties. But will EU Member States be willing to go down the Convention route again after their two previous experiences with the Convention on the Charter of Fundamental Rights and the one leading to the Draft Constitutional Treaty? In this Policy Paper, *Notre Europe* makes a stand in favour of the Convention approach on the grounds that it represents a fundamental stage towards the democratisation of the Treaty revision process as well as presenting numerous advantages by comparison with classical Intergovernmental Conferences. Taking into account the criticisms that were levelled at the Convention, this paper also opens avenues towards the improvement of its operation be it in terms of democracy or efficiency. A panel of experts brought together by *Notre Europe* sets forth recommendations designed to deepen the thinking behind the revisions of the founding EU texts. These are momentous for the Union as those texts underpin the European project it aims to nurture at the dawn of this 21st Century.

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The revision of the European treaties: the Convention moment

Six arguments for its continuation, six proposals for its reform

Gaëtane RICARD-NIHOUL

On the basis of the contributions of a working group including : Hervé Bribosia, Alain Dauvergne, Renaud Dehousse, Florence Deloche-Gaudez, Clemens Ladenburger, Elise Launay-Rencki, Lukas Macek, Peter Norman, Alessandra Schiavo.

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Summary

The proposed solutions towards pulling through the European crisis caused by the French and Dutch rejections of the Constitutional Treaty focussed on the Treaty provisions which were to be upheld. They never, or very seldom, addressed the issue of the method that should be used to organise this new negotiation. Yet the citizens' disenchantment with the European project, observable from the early nineties, requires recognition of the necessity to associate those citizens to European decision making, and in particular to the revision of such founding acts as the European Treaties.

The Convention approach, warts and all, was an essential step towards the democratisation of the Treaties' revision process. Whilst the Lisbon Treaty provides for it to become standard procedure for the reform of all significant treaties, its implementation remains in doubt, tributary to Heads of State and Government's say-so. Accordingly, this paper has two aims: on the one hand, it will promote the Convention model, asserting its advan-

tages over the time-honoured Intergovernmental Conferences and, on the other hand, set forth solutions to improve its operations both in terms of democracy and efficiency.

Far from being an accident in the history of European integration, the Convention is indeed one of its achievements, a crucial stage in the bringing together of Europe's elites and citizens. Its pragmatic model reflects the double legitimacy of a Union of States and citizens. Thus, the Convention, which yielded the Charter of Fundamental Rights and the Constitutional Treaty turned out to be a body rich in its cleavages, conductive to fruitful debates, open to the public, the media and civil society. It ran effective deliberations and arrived at a consensual result, lifting constitutional blockages which had held back Community dynamics for years.

However, the Convention model has been through only two runs, under very different mandates. It was the butt of a number of criticisms, some of which were justified. It is therefore important to look into the means to improve its operation, in the most feasible way compatible with the new terms under the Lisbon Treaty. The proposals outlined in this text address five key points, fundamental to the future of the Convention: its composition, its Praesidium, its mandate, its schedule, its debating formula, its exchanges with civil society, its visibility to the general public and finally its relationship with the IGC and its implications for the ratification phase.

The reader will find in particular the following proposals: allowing for the representatives from the National Parliaments to be elected in the Member States who so wish; getting the Convention to approve the European Council's appointment of the Chairman and Vice-Chairmen triumvirate and making the workings of the Praesidium more collegial; ensuring that this consensus driven decision making formula be as fair as possible; entrusting to a group of Wise Men the decisions concerning the Convention's mandate and work schedule; setting up mechanisms genuinely suited to exchanges with civil society and citizens' involvement on a local as well as a European scale. This text concludes with a very practical proposal: the convocation of a Convention on EU policies after the 2009 European elections.

The revision of the European treaties: the Convention moment

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Introduction

After the French and Dutch rejection of the Constitutional Treaty and the suspension by seven Member States of their ratification process, the solutions proposed here and there to exit the European crisis were many and manifold. The 18 countries having ratified the Draft Treaty called for upholding its "substance" whereas, in France and elsewhere, a scheme for the prompt adoption of a strictly institutional text gained ground. The three countries most refractory to institutional advances – the UK, Poland and the Czech Republic – sought to retrieve from the rubble a minimalist Treaty which would have enabled them to weaken, indeed to suppress the provisions they perceived as most inconvenient. The new "Reform Treaty" is in some way a synthesis of these three positions.

In spite of differences, all the stated options had the common merit of addressing mainly what in the Constitutional Treaty would need to be revised, at best including the ratification formula for this new text. But, strangely enough, they all afforded but scant attention to the method to be used to organise this new negotiation. The problem often appeared as minor, or else, with in mind

the urgent need to find a re-launch solution, it was dismissed on the grounds that the only way forward was through a short Intergovernmental Conference[1] mandated to arrive at a fresh political trade-off. Some mooted the idea of a Convention as a further stage towards a more significant revision of the fundamental texts; this would have the benefit, through the discussion of EU policies, to launch a great debate on what the Europeans really want to do together. Those behind this idea – among which the French Government – soon gave up on it and had little to say about the added value of a Convention or the way they envisage its role and operations.

And yet, the debate on the way to revise European treaties is vital to the future of European integration. Among all the reasons explaining the rejection of the Treaty, the one concerning "public disengagement" with the European Project is one of the very few common strands to the French and Dutch contexts. Now, this "public disenchantment" is in fact a phenomenon which has emerged in the European Union over the last 15 years and which accounts to a great extent for the identity malaise experienced by all EU citizens in today's globalised environment. If remedying this growing gap between the European construction and the citizenry on which it is supposed to rest is deemed paramount, one cannot dispense with probing the ways to associate the citizens to the most fundamental act of this Construction, namely the revision of the texts which frame it.[2]

The Convention approach, with its strengths and weaknesses, has been a crucial step towards a democratisation of the Treaty revision process. If the Reform Treaty is ratified, it will even become the "ordinary" process adopted for any far reaching revision.[3] In a first section, we shall address the basic reasons that incline us to uphold this model and to wish for it to endure. However, the operations of the latest Convention also raised many questions regarding efficiency as well as democracy. It is not possible to advocate the Convention approach without taking into account these criticisms and reservations and without suggesting solutions for its improvement.[4] Those are developed in the second section. It is only in this manner, with a new legitimacy that the Convention will be able to find its place in the European institutional landscape.

1 Conference of the governments of the Member States convened in order to negotiate amendments to existing treaties.
2 The measures to take in order to reduce the growing gap between citizens and the European project obviously go well beyond the methodology Treaty revision.

3 According to Article 48 of the EUT as modified by the Lisbon Treaty, treaties can be modified in accordance with ordinary or simplified revision procedures. The ordinary revision procedure is as follows: the government of any Member State, the European Parliament, or the Commission can submit bills towards the revision of the treaties to the Council. These bills may, inter alia, push for the increase or reduction of competences granted the Union in the treaties. These bills are transmitted by the Council to the European Council and notified to National Parliaments. If the European Council, after consultation with the European Parliament and the Commission, passes by simple majority a decision in favour of the examination of the proposed modification, the President of the European Council calls a Convention made up with representatives from the National Parliaments, the Heads of State or Government of the Member States, the European Parliament and the Commission. The European Central Bank is also consulted in the event of institutional modifications of a monetary nature. The Convention reviews the revision bills and adopts by consensus a recommendation for a Conference of the representatives of the governments of the Member States. The European Council may decide by simple majority, upon approbation by the European Parliament, not to call the Convention when the scale of modification does not require it. In this latter event, the European Council establishes the mandate for a Conference of the representatives of the governments of the Member States.
4 It should be made clear that the improvement proposals set forth in this text are compatible with the new arrangements for the revision of treaties provided in the Lisbon Treaty.

I - Six arguments towards upholding the Convention Model

Before looking into the weaknesses of the Convention model, it behoves to recall its assets and the progress it represents for the EU in terms of democracy and efficiency. The virtues of the Convention cannot be stated too often as, through the same device which was seen in operation with regards to the Constitutional Treaty, those who criticise it on the grounds that the system does not go far enough, contribute in effect to preserve the status quo in the shape of Diplomatic Intergovernmental Conferences (IGC). Yet IGC proceedings never fail to show that the system favours those Member States who, in the name of this or that national interest, wield their veto, with scant regard for general European interests. This, over and above holding back the European construction – which some may consider desirable – often results in preventing its democratisation – which is not outwardly the aim of any Eurosceptic. It is also worth recalling that the Heads of Government themselves, at Nice then at Laeken, acknowledged the limitations of the IGC as a means to extract the EU from the institutional deadlock it had got itself into on the eve of the most important enlarge-

ment it had ever known. There is no reason why the Convention should go the way of the Constitutional Treaty which it devised – quite successfully at that.

Even if it should henceforward – provided the Reform Treaty comes into force – become standard for any treaty reform of some importance, its use remains tributary to the Heads of State and Government say-so. Now, they have become aware, on the two occasions when this method has been used, that the Convention caused them to lose some of the control they are used to hold over treaty revision in favour of a system more open to public debate. They are not going to be in a great rush to use it. The Convention approach must therefore be defended for its obvious qualities in order that it becomes gradually a requisite within the European institutional system.

1.1. A historical stage in the European Construction

Outwardly, the convention on the future of Europe was relatively short-lived, from February 2002 to July 2003, so that it could appear as one of many episodes in the European construction, no doubt interesting but over and done with. But it did not fall from the sky and, in order to understand its importance in the history of European integration, we shall do well to remember where it came from and why. Actually, the reasons of its origins go back a long way. Alain Dauvergne (2004) rightly accounts for its genesis by taking us back some twelve years, somewhere in the mid-nineties. The year 1994 is a turning point; marking the end of the Delors Commission and the European dynamism associated with it, it witnessed the failure of German Christian-Democrats Wolfgang Schäuble and Karl Lamers' proposals for the creation of a "hard core" and the enlargement from 12 to 15 Member States. It ushered in the long probing of reforms needed by Europe and a string of fruitless attempts to reform the institutions.

The Treaty on European Union (Maastricht Treaty), came into force in 1993, already provided for the convocation of an Intergovernmental Conference with a view to revise some of its provisions. The Treaty of Amsterdam, taking force in 1997 after two years of studies and negotiations within an IGC did not achieve a settlement of all the issues pertaining to the workings of the Union. For it left unresolved a number of points going under the name of "Amsterdam leftovers": size and composition of the Commission, weighting of States' vote at the Council and shift from unanimity to qualified majority voting in a number of fields. Thus, ten months only after the coming into force of the new Treaty, a further ICG was called. It was to be short: taking place from February to December 2000, it would be remembered by those who took part in as by those who observed it as the most disappointing in integration history.

In this respect, Nice heralded a real shift. The negotiations slid into horse-trading to a point probably never reached previously. The results wrangled at the dead of night – more for fear of unpreparedness for an unprecedented enlargement than for the sake of a common vision – were almost unanimously considered as inadequate and warped. As they left the European Council in the small hours, the Heads of State and Government themselves expressed their intent to change their working method. Tony Blair's "we can't go on like this", coming from such a champion of intergovernmental decision-making was undoubtedly the most indicative of the general state of mind inside the European Council.

This dissatisfaction actually found its way into a written Declaration "on the future of the Union" annexed to the Treaty and calling for a deeper and wider debate on the future of the European Union, involving National Parliaments and public opinion as a whole, along with the applicant countries. It also provided for the adoption by the Council at its December 2001 Laeken meeting under Belgian Presidency, of a declaration containing "appropriate initiatives for the continuation of this process" which

should address, inter alia, four issues: a more precise delimitation of powers between the European Union and the Member States; the status of the Charter of Fundamental Rights of the European Union; the simplification of the Treaties and the role of National Parliaments in the European architecture.

However, this resolve to change tack did not stem from the feeling of frustration among IGC participants alone. The nineties also open a new era in the European construction, when the gap gradually grows between the citizens and the European project. It is indeed at the beginning of the nineties that the Eurobarometer surveys begin to show a drop in the support for joining the EU, which had been rising fairly steadily since 1973, peaking at 70% in 1990 to hover today around 50%. One specialist of European public opinion, Bruno Cautrès, identifies the Maastricht Treaty period (1991/92) as a turning point for integration, marking the end of the "permissive consensus" which had hitherto been the hallmark of the relationship between European decision makers and citizens. As Peter Norman (2005) points out, participation to European elections in June 1999 fell for the first time below 50%.

By 2001, this trend had therefore been perceptible for 10 years and started to give cause for concerns. As Jacques Delors emphasises in his preface for Alain Dauvergne (2004): "As the EU intervenes more manifestly in Europeans' life but in more opaque conditions, there are not many citizens in a position to say 'who does what' and 'who controls whom'. For want of fostering the conditions for its democratic support, the EU, no longer an object of soft consensus has become the butt of harsh disputes. In fact, since Maastricht, the ratification of treaty modifications has grown increasingly dicey and the impending expansion to 25 members makes the exercise virtually unthinkable."

In this context, should the Nice Declaration lead to the convocation of a new ICG in 2004, the members of the European Council further accepted the "need to improve and to monitor the democratic legitimacy and transparency of the Union and its institutions, to bring them closer to the citizens of the Member States" That is why the Laeken Declaration on the Future of the European Union, a document of some breadth, adopted on the occasion of the December 2001 European Council provided, "in order to pave the way for the next Intergovernmental Conference as broadly and openly as possible", for the gathering of a Convention "composed of the main parties involved in the debate on the future of the Union".

The Convention object is not unidentified since it had a precedent. Indeed, in June 1999, at the Cologne European Council, the 15 had set up a "body" composed of "representatives of the Heads of State and Government and of the President of the Commission as well as of members of the European Parliament and National Parliaments" to draft the Charter of Fundamental Rights of the European Union. This body would take for itself the name of "convention" and would prove a success since it was to achieve the feat of submitting a text which, short of being included in the Treaties, in deference to British reluctance, would result in an official proclamation in Nice without any Head of State and Government seeking to alter it by an iota.

Beside this impressive achievement, the "Charter" Convention was mostly applauded for its deliberative style and a transparency in sharp contrast with the diplomatic wheeling and dealing and opacity customary to IGCs. In Jacques Delors' words (Dauvergne 2004), « the Convention formula won the day because the issue of the Union's 'democratic deficit' in a climate of 'democratic disillusionment' in most Member States has become crucial". Far from being an accident in the history of integration, the Convention is in reality one of its achievements.

1.2. A democratic body, prolifically divided

Contrary to what some may have claimed during the 2005 referendum campaigns, particularly in France, the Convention on the Future of Europe, which started its proceedings on 28 February 2002 in Brussels was a democratic body. Its composition, reproducing to a great extent the "Charter" Convention, rested essentially on three types of representation, the democratic legitimacy of which can hardly be questioned: national governments representatives (15 of them, that is one per then Member State), MEPs (16) and national MPs (30, that is two per Member State so as to take into account double chamber systems where they occurred).

The European Commission was represented by two Commissioners, Antonio Vitorino (Justice and Home Affairs) and Michel Barnier (institutions et Regional policies). Unlike its forerunner, the Convention on the Future of Europe also included representatives from the applicant countries (amounting to 13 including Turkey): one per government and two per parliament, with a slightly different status since they could not forestall a consensus emerging among Member States. To those were added Chairman Valéry Giscard d'Estaing, and Vice-Chairmen Jean-Luc Dehaene and Giuliano Amato, nominated by the European Council, coming to a total of 105 full members. In practice, however the distinction between those members and their alternates[5] proved academic. Including the 13 observers from the Economic and Social Council, the European social partners and the Committee of the Regions, the convention assembly numbered 220 people.

By its make-up, the Convention proved a novel, groundbreaking model, as compared with Intergovernmental Conferences' current practice. For the latter operate on the basis of diplomatic transactions between sovereign States, thus requiring unanimous decisions, and it is made up strictly from national governments representatives. The Convention was open to members of parliament, hailing – in an interesting innovation – both from the institution representing the citizens at European level and from the national legislative assemblies. It established a deliberative mode of decision making by consensus, generating much more fertile and varied cleavages and alliances than a classical IGC.

Indeed, conflicts between national interests were overlapped by at least two other types of cleavage: along "components" lines (government representatives, MEPs, national MPs) in the Convention and along party political lines (that is, for European parties, the European People's Party, the Socialist Group, the Alliance of Liberals and Democrats for Europe, the Green etc.). Furthermore, national delegations were comprised of representatives from the governing majority as well as from the opposition. Before plenary sessions, Conventionals met both by institutional component and by political affiliation. Taking their seat by alphabetical order rather than aligning from the outset on one of the three cleavages, the convention opened up the range of possible alliances; this turned the zero sum game Intergovernmental Conference negotiations are often reduced to into variable geometry debates, the intertwining of which often proved extremely fertile.

As Florence Deloche-Gaudez (2007) stresses, «the break-through brought about by the Convention was not so much down to the nature of the cleavages (be they institutional, national or political) than to their co-existence and overlap". The complexity of those cleavages no doubt made the Praesidium's task more difficult but it is also to a large extent thanks to their richness that it was possible to reach beyond the limitations of diplomatic negotiation. "Strong in their association to several types of groups (countries, parties, institutions), members could 'change hat' to support such and such position and increase the support it enjoyed" (Deloche-Gaudez 2007). Notably, as will be shown, the Convention made possible

5 The President and Vice-Presidents did not have alternates.

a settlement on institutional matters in contention for over ten years, such as the voting system and the weighting of votes at the Council.

Many observed, for instance, Peter Hain's change of attitude; the British government's representative, when he saw that a strictly national strategy was wearing thin, tried hard to form different types of coalition. The arrival en route of such political heavy weights as the French or German Foreign Minister may have looked like attempts to steer the debates along more intergovernmental lines. But it no less signalled the Member States' realisation that public deliberation within the Convention was likely to be more effective that 10 years of diplomatic conferences and that they had better "join in".

1.3. A model founded in the Union's double legitimacy

For all its innovative fibre, the Convention was sometimes criticised because of its hybrid nature, halfway between an IGC and a Constituent Assembly. Many would argue that the latter model, that of an Assembly composed exclusively of parliamentarians elected for this express purpose, is the only one acceptable to conceive a revision of the Treaties that remained totally legitimate at a democratic level and liable to lead to the adoption of a European Constitution. Yet this is a debatable point if the object is not only to remain pragmatic but also to stay true to the nature of the EU system.

The debate on the suitability of a Constituent Assembly is not new. The most orthodox federalists have often called for the adoption of a European Constitution via a genuine Constituent Assembly. Altiero Spinelli, a doughty opponent of fascism and European parliamentarian was one of its greatest exponents throughout his political career. As early as the fifties, following France's rejection of the EDC Treaty, the European federalist movement proposed, under Spinelli's aegis, to turn directly to the citizens with a view to call a European Constituent Assembly. As soon as the European Parliament was elected directly, in 1979, Spinelli started the fight to turn the European Parliament into a Constituent Assembly. In 1984, he succeeded in having a draft treaty for the European Union adopted; it did not come to fruition but it undoubtedly contributed to the considerations towards an institutional re-launch. The idea of a Constituent Assembly regularly crops up when a democratic approach to the review of the fundamental treaties is being debated.

Yet, there is no escaping the fact that for all its allure, the Constituent Assembly project has never taken off. The Convention, meanwhile, has chalked up two achievements and its hybrid nature has been a key to its success. The European Union's legitimacy is twofold, founded in the citizens' and the States' consent. The Convention draws its strength from the fact that it accounts, all in all quite even-handedly, for this double legitimacy, combining as it does representation from national and European parliaments with that from governments. Excluding the latter from the process would be tantamount to disregarding the nature of the EU's political system as it was first conceived and as it will continue to develop towards what Jacques Delors called a "Federation of Nation States".

Besides, for as long as the EU founding texts come in the shape of treaties, they will have to be approved by the Member States via an Intergovernmental Conference and mere pragmatism induces us to reckon that this state of affairs is there to stay. An IGC will therefore have to take place to enact the Convention's transactions and it would seem more constructive, under the circumstances, and more interesting, to associate representatives from the governments to the Convention's debates. They may, in that way, not only feel more bound by them but also be both convinced and constrained by the deliberation process described above.

1.4. Consensus or the veto in question

Decision making by consensus became pre-requisite to the Convention for two reasons: first as a legacy from the Charter Convention which, as F. Deloche-Gaudez (2007) reminds us, began its proceedings with a few votes but concluded that they were unworkable (translation problems, confusion as to what the vote was about, divergent results etc.) and turned to consensus dynamics instead. The second reason is linked to the relative disparity between convention components: with members representing the governments being in the smallest, it would have been difficult to come up with a voting system wholly excluding Member State's weighted votes (vote weighting being systematic at the Council). Meanwhile, the Laeken Declaration invoked consensus in two provisions: that candidate countries could not stall a "consensus" emerging between Member States for one and that the Convention produced a final document to be drafted either as a range of options or of recommendations "in the event of a consensus" for the other.

In the first as in the second Convention, this consensus working model was in fact rather hazy. President Giscard d'Estaing simply made it clear that he wished to "allow for the Convention to ripen" rather than resort to the vote. There were calls for the retention of the vote option, if only for indicative purposes but they went unheeded. It is generally accepted that consensus consolidates somewhere between majority and unanimity and closer to the latter. It is, so to speak, the absence of apparent dissent. It is patently clear that consensus is not unanimity and, on that count, the Convention was as distinct as could be from an IGC.

Consensus decision making is not without its own weaknesses and we shall return to them but it does have the crucial advantage of calling into question a Member State's absolute right of veto which makes classical Intergovernmental negotiation sterile and which unfailingly gives the upper hand to the country threatening to use this right. In both Convention outings, the consensus rule made it possible to achieve a result leaving a weak opposition behind. In the case of the Convention on the Future of Europe, only one "minority report" was adopted by eight Eurosceptic members (four full members and four alternates) complaining of the poor representation of their movement.

1.5. Opening up to civil society and debates transparency

Therein undoubtedly rests the major argument in favour of the convention approach to the revision of European treaties. Even if a degree of intergovernmental dynamics is prerequisite in a system based on the international treaty instrument, the opacity which appears inherent to diplomatic negotiations becomes more and more questionable. An IGC meets behind closed doors whether at the technical or political stage and the information trickling through via the media focuses on the power games and the minutiae of national interests without the benefit of any overview.

The great asset of the Convention is not only the opening of its debates to the public but also its efforts to take into account, via a range of mechanisms, the positions of civil society. The activities of the Convention started with a long listening phase, indeed, some thought, too long. One of the Vice-Chairmen, Jean-Luc Dehaene had the task of dialoguing with civil society specified in his brief. Besides the setting up of an online forum where it was possible to leave a written contribution, two more "formal" consultations were organised: a hearing of civil society organisations in June 2002 and a "youth" Convention in July 2002. By and large, with all Convention documents being accessible, it was easier for debate participants to react through making contact, be it informal, with any number of Convention delegates.

This hearing of civil society caused frustration in both quarters and we shall take another look at how to turn this hearing into a genuine exchange. Neither was the Convention's visibility to the public at large sufficient. But still, the qualitative leap brought about by the Convention in terms of openness and transparency by comparison with IGC is enormous. Among the factors increasingly driving apart citizens and European construction, the sense that the decision making process is opaque and the lack of democratic vectors towards influencing it appear to play a major role. So that the exposure given the deliberations affecting the revision of the EU's founding texts is no luxury, it corresponds to a vital necessity for the future of the European project.

1.6. Achieving results

This may not appear as the most obvious point in favour of the Convention approach. Yet, under closer scrutiny, the effectiveness of conventions is superior to that of the IGCs that came before or after them. As we pointed out earlier, the European Council had been trying over some twelve years, from one IGC to the next, to solve a number of equations fundamental to the future of a Union whose number of Member States was about to double. The question of institutional balance – between old and new Member States, between small and large countries, between federalists and intergovernmentalists – had come to seem devoid of any solution.

Part 1 of the Constitutional Treaty was not perfect but it had the merit to propose a cogent compromise to these institutional issues. This compromise has incidentally been subsumed, for the best part in the Reform Treaty. Advances which had hitherto appeared unlikely, such as the suppression of the treaties' three pillars structure, the granting of juridical personality to the Union or even the reduction of the size of the Commission can be quoted as examples of the Convention's ability do deliver. Conventionals freely admit that Part 3 of the Constitutional Treaty on EU policies left something to be desired but it should be remembered that the Convention mark II had asked the European Council for a time extension that was denied. It is not unreasonable to suppose that, granted the extra time, the Convention would have put it to as good a use as it had in the first part of the text.

But the most telling criterion to judge of the Convention's work efficiency lies with the IGC's response to its conclusions. The two IGCs that followed Conventions took the latter's proceedings into account in a most remarkable way since the Charter of Fundamental Rights was adopted "as is" by the European Council; the same who went on to uphold almost 90% of the Constitution text (in the Constitutional Treaty but also, albeit to a lesser extent in the Lisbon Treaty). In so doing, the Council was not only acknowledging the quality of the work completed, it also deemed it unnecessary to revisit a number of debates during which it had been possible for all feelings – including national - to be felt.

Whereas the Convention had originally been intended as a mere preparatory body to aid the IGC' work, just as a panel of experts might have done, the relationship between the two bodies was actually reversed. The import of the Convention's activities, because of its greater democratic legitimacy and because of the public nature of its deliberations and outcomes, prevailed over the IGC whose room for manoeuvre probably ended up tighter than the Heads of State and Government had anticipated on the day they somehow confirmed the model in Laeken.

II - Six proposals to reform the Convention

The supposedly undemocratic nature of the Convention' activities and its lack of transparency were one of the points brought up by the "No" camp and which was aired at length in the civic debates of the countries which had a referendum on the Constitutional Treaty, particularly in France. Given the arguments developed above, this analysis rather points to the disingenuousness of a number of nonistes. Yet sweepingly to dismiss these views would be counterproductive. Besides, more considered criticisms were expressed by stakeholders in the process and by observers. The Convention was only on its second outing and withal under a mandate very different from the Convention's Charter. It is therefore normal to take stock of its operation both on counts of democracy and efficiency and to look into means to improve it.

2.1. A more "representative" and transparent composition

The composition of the Convention is undoubtedly one of the major issues at stake for the model's future as it plays a key role in the perception of its nature as democratic or otherwise. As was stressed above, the democratic legitimacy of those participating in the Conventions was unquestionable since they all owed it – more or less directly –to popular vote. It remains that they had not been elected for the specific purpose of recasting the treaties in force.

As was also said earlier, the mix between representatives from Member States governments and MPs is essential in order to account for the double legitimacy of the Union and to ease the interface between Convention and IGC, indeed, in due course to envisage that the former supplant the latter. This is why, also taking into account the practical difficulties of such an exercise, the election of an assembly for the sole purpose of revising the treaties is not, in our view the solution to this problem. If the representation of Convention mark II (national and Euro MPs, representatives of the Governments and the Commission) is to be preserved, how then can its "representative" value be reinforced with the citizenry?

A dedicated election is hard to contemplate. It is nevertheless possible to come up with three procedures for components appointments offering greater transparency. First, the election of the European Parliament offers the opportunity to turn the eventuality of a Convention into a proper campaigning issue: candidates would have to explain what reforms they would fight for as a matter of priority should a Convention on the future of the Union be called. Secondly, there should be a provision enabling a State to organise the election of representatives from the national parliament, for instance alongside other national regional or local elections, in order to avoid the cost of an election to that sole end. Whatever the case, should national MPs be chosen by their peers, their appointment should be conducted with the utmost transparency by means of a debate in Parliament, open to the public and broadcasted on a television channel. As for the appointment of government representatives, it should also be made publicly, with the Head of State or Government accounting for his/her decision in Parliament and in the media.

When it comes to the overall number of Convention Members, keeping the number to around 200 seems acceptable. Meanwhile, the rather artificial distinction between full members and alternates could be suppressed. The allocation of seats by alphabetical order rather than along of existing cleavages (by component, party or country) also seems worth holding on to for this formula is the only one which leaves the door open to every possible type of alliance. Two aspects of the composition of Convention II are however in need of improvement. First an effort must be made to ensure a better female representation. Only 40 Members, or 1/5 of Convention II, were women.

Finally (for the second aspect), the Commission representation, gone from one to two people between Convention I and Convention II remains inadequate. The Commission's lack of clout within the Convention on the Future of Europe was to a great extent due to the muddle resulting from the "Penelope" project. The latter, which happens to be a first rate document, had been commissioned by President Prodi to a group of civil servants. It was intended as the Commission's proposal for a constitutional text but the Commissioners delegated to the Convention had no knowledge of it. This regrettable episode not withstanding, it would be sensible to consider reinforcing the role of the Commission beyond its two Commissioner-members, for instance by granting all Commissioners observer status, ensuring that Commissioners attend working groups relevant to them and by setting up hearings for some of them in plenary sessions.

2.2. A more legitimate Praesidium, more open to dialogue

The Convention on the Future of Europe was chaired by Valéry Giscard d'Estaing, former President of the French Republic, assisted by two Vice-Chairmen, one-time Prime Ministers Jean-Luc Dehaene of Belgium, and Giuliano Amato of Italy. This triumvirate was nominated by the Laeken European Council in December 2001. The Heads of State and Government also agreed at Laeken on the composition of the Praesidium that is the core group assisting the above mentioned triumvirate and responsible for organising the Convention's activities. Nine Convention Members, chosen by each component were added to make up the Praesidium, namely three representatives of the Governments running the Presidency during the Convention's tenure, two national MPs, two Euro MPs and two members of the Commission. One of the Convention's first decisions was to add to these 12 a representative of the applicant countries: they nominated Slovenia's A. Peterle. The Praesidium was comprised of 13 people all told.

All the analyses show that this outfit, which had first sight of the whole documentation produced by the Secretariat before any of it were passed to the Convention, played a major part in the Convention's operation and this in spite of some internal tensions that may have surfaced with time. However, its composition and modus operandi had been rather perfunctorily thought through and both were the butt of much criticism during and after the Convention' activities, not all of it unjustified.

Before considering a few suggestions to address these criticisms, the essential function held by the Convention Secretariat ran by former UK Permanent Representative to the European Union, Sir John Kerr must get a mention. Made up with 15 drafters drawn from the European institutions or national diplomatic services working full time throughout the Convention's activities, it conducted the fundamental business of drafting proposals to be submitted to the Convention's deliberations and selecting the amendments tabled by Members. Fairly balanced and highly competent, the Secretariat hardly needs changing either its composition or modus operandi but for a closer collaboration with the European Commission.

As against that, the Praesidium of a future Convention could do with more significant modifications aimed at reaching a correct balance between the general course set by the European Council and the Convention's autonomy on the one hand and on the other, greater transparency and efficiency in its work. By stating the names of the personalities intended to make up the driving triumvirate and fixing the categories and number of Members required to form the Praesidium, the European Council set this body pretty constraining parameters. The convention was allowed some room for manoeuvre as shown by the adjunction of a thirteenth member but it could probably do with more in order to ensure the praesidium's better representativity hence greater legitimacy. Convention members do need to identify with the Praesidium.

It is proposed to maintain a triumvirate of one chairman and two Vice-Chairmen, though no longer imposed but proposed by the European Council to the Convention to whom it will fall to approve that team or not. The Convention's components would then have the task to appoint to the Praesidium their "representatives" thereafter responsible to keep – within reason to ensure the efficiency of the Praesidium's work – the members of their component informed of the evolution of the discussions within the Praesidium. The idea would be to provide for two members by component, including those representing the governments, who could be taken from the country holding the Presidency and the one next in line.[6]

6 Even if it came to a rotation of the government's representatives should the Convention term outlast two Presidencies of the Council.

The presence of three government representatives within the Praesidium does not appear necessary. With the three leading members appointed by the Council, the weight of the governments within the Praesidium is already preponderant. Component representatives' mandate could be renewed half way through, which would give members of the convention the opportunity to express their displeasure if Praesidium members neglected their reporting duties. The option should be there for one of the members to represent candidate states, as was the case in Convention II, but only in comparable situations, that is when the accession of the states concerned were imminent. Given two Commission representatives, two government representatives, a chairing team of three as before and two representatives for the European and National Parliaments components, that would bring the Praesidium membership to 10 (possibly 11 with a member from applicant countries).

Among the Preasidium's jobs that gave it undoubted power over the Convention was the setting up of working groups. The lengthy discussion surrounding the creation of a working group on social questions, originally rejected by the Chairman, is a case in point. Hence the need to nurture sound links between Praesidium Members and their component in order for the latter's wishes to be duly taken into account. Working groups can also be an opportunity for the Commission to reinforce its influence through the provision, say, for a Commissioner or a Commission senior official competent in the field addressed by a group to join it.

2.3. A mandate and schedule fixed by Wise Men

If there is one issue that strikes right at the core of a more effectively and democratically run Convention, it is the outlining of its working mandate. given the task to draft a Charter of Fundamental Rights, the first Convention had a relatively circumscribed mandate: it was to codify the whole array of existing rights in a single text, the status of which – political or legally binding – would be fixed by the European Council. The Mandate of the Convention for the Future of Europe was broader and more open-ended, even though it had singled out four main themes: the allocation and definition of EU competences, the simplification of the European Union's instruments, more democracy, transparency and efficiency within the EU and the simplification and reorganisation of the treaties. The Convention observed this mandate but fairly substantially upped its ambitions since, from the outset, the Chairman proposed to aim for a single text (rather than, as had been provided in one of the two options put forward by the Council, for a range of options) and for this text to be a Constitution.[7]

As the European Union is founded in treaties between Member States, it is not unreasonable for the European Council to work out an outline of the mandate assigned to the Convention. Equally, it is no less fitting for the Convention to be able to enjoy a degree of autonomy towards the initial mandate. There are however two snags to steer clear of. The fact that its mandate is somehow "imposed" on it by the European Council may present the Convention with the temptation to break free. If the manner of its answer is not in tune with the collective will of the Member States it may find itself on a path strewn with difficulties. Without getting into the debate over the real nature of the Constitutional Treaty, it is an averred fact that the name of "Constitution" which the Convention chose to give the text resulting from its proceedings caused unease in several countries, be it in the United Kingdom, which does not have a written constitution in its own right or in France where the no-sayers warned against the so-called "constitutionalisation" of neo-liberal policies.

7 Even if the Laeken Declaration tentatively mentioned the prospect of the adoption *in due course* of a Constitution, the Convention clearly expanded the field of its mandate.

The second – highly significant – snag to eschew regards the citizens' feeling that they were not given a voice on what should have been a democratic body's mandate to rethink the contents of the founding Treaties. For the Convention will only be fully legitimate in the eyes of the citizens if they are given the sense that they have an influence not only on the appointment of those who will represent them but also on the subjects they are meant to debate. These two requirements – avoiding a counterproductive show down with the European Council and giving the citizenry the feeling that it has a stake in the definition of the mandate – could give rise to a preliminary phase before the Convention begins its work. The European Council could ask a group of Wise Men to ponder, on the basis of a broad outline, what should be the mandate of the next Convention. The period of reflection opening with the sittings of this group could be the opportunity to set up citizens' consultation mechanisms, the outcome of which could be passed on to the panel. This proposal will be enlarged upon in the section on civic dialogue.

Besides defining the mandate, the panel of experts would also be responsible for fixing the work schedule of the Convention as the time factor proved crucial to the running and the success of the Convention experiment. For instance, many Convention Members blamed the Praesidium for the too short period allocated to deliberation as compared to the listening phase. But above all one reason for the failure of ratifications, and particularly so in France, had to do with the timeframe. For the European Council had given the Convention a year to reach a final outcome. When the Convention expressed the wish to extend its activities in order to go further in rewriting the third part of the text on policies, the European Council denied it this extension on the basis that the recasting of the third part did not form part of the Convention's mandate.

Now everybody knows today how much Part III of the Constitutional Treaty – even though it mostly restated provisions which, for some of them, had existed ever since the Treaty of Rome – weighed in favour of the rejection of the text, particularly in France where the No-sayers claimed that it cast in stone the neo-liberalism inherent to EU policies. Again, in order to avoid this tension between the Council and the Convention, it would probably be worth entrusting the evaluation of a proper timescale for Convention sittings to an instance that would not allow it room for brinkmanship but seek to ensure both the efficiency of the operation and its accessibility for the public at large. It would then be on the basis of these mandate and schedule proposals that the European Council would decide to call on a Convention.

2.4. An effective and even-handed consensual deliberative model

From the moment the Convention composition is kept similar to the one in Convention II, consensual decision-making becomes mandatory as a general rule. Systematic voting would imply taking into account the Member States' demographic weight in a more formal manner. As was explained above, consensus is not the same as unanimity. It supposes the support of a large, apparent majority of the participants. Two adjustments seem, however, the necessary counterpart to upholding the consensus rule.

First of all, the consensus rule can easily lead to an imbalance between Convention delegates and between components. Power of persuasion becomes a key issue, which is linked to speaking time and the way it is used. The President has the upper hand since he is the person who will declare a consensus reached or otherwise. This ascendancy is natural enough – it goes with a chair's purview – but it must be set within as collegial as possible an exercise of the Praesidium. In the case when the consensus

seems less assured, the Praesidium should enjoy a right of evocation and rule collectively on whether it is fitting to proceed with the deliberation, including, as the case may be, after consulting every component on the matter. The same goes for the choice of topics intended for the ad hoc scrutiny of a working group. The Praesidium must be in a position to make proposals reflecting a genuine consensus.

Powers of persuasion and effective public speaking are also tightly linked to levels of preparation. Preparation supposes facilities and, in this respect, not all Convention components benefited from the same treatment. For whilst euro MPs operated on home ground with the full assistance they can avail themselves of in Brussels, national MPs did not benefit from similar local infrastructures and were disadvantaged by the frequent journeys they had to undertake. As for government representatives their ease was directly linked to their profile and their familiarity with European institutions. (the profile of the first persons appointed by the States varied quite noticeably from one representative to the next, with some hailing from Academia and others from the political scene). A Foreign Secretary's address would obviously get a ready audience. Should some national MPs be elected, as advocated above, to take part in the Convention, it is likely that the weight of their opinion would increase accordingly. Neither is it beyond the realm of the possible to make a secretariat and a few offices available to the national parliamentarians when in Brussels.

Second possible adjustment to the consensus rule: allowing for a vote to be taken in some very circumscribed cases. For consensus is not necessarily exclusive of voting. Two avenues are open: resorting to indicative voting when a deadlock seems intractable, or opting for a vote within Convention sub-groups. As an indicative vote is not binding, it has the advantage of reducing issues of representatives' demographic weight whilst making it possible to measure the actual support enjoyed by the positions causing the deadlock. Those sub-groups could be the components, the political families or the working groups, the object being to give credence to some interventions when presented as representative of a majority view within one of those more restricted groups.

2.5. More widespread visibility and civic dialogue

The transparency of the Convention's proceedings was ensured, as developed above, by the publicity of the debates and the ready availability of the documents but also by consultation with "civil society". However, those two instruments rather failed to deliver since, on the one hand media coverage and people's knowledge of the deliberations content proved wanting and, on the other hand, civil society organisations, whether consulted or not, were almost unanimous in their criticism of the expeditious and poorly thought through nature of the consultation model. Should a Convention be called again, this aspect of the process is of the essence and must be reviewed in order to ensure its success.

This critical analysis must address at least two facets of the civic dialogue that are both distinct and closely connected. The first concerns matters relating to the consultation of organised civil society. In this field, Convention II was, as it were, feeling its way by resorting to the fairly standard method of hearings in the framework of a devoted "listening phase" and with little means to ensure a follow up with the organisations concerned. The model needs attention on both scores. Hearings and the option to file contributions on line or to direct them to particular members must of course remain available. But other consultation approaches, more sectoral and more deliberative (allowing for exchanges between different organisations as well) could be considered, and there is no need to interrupt them at the end of a hearing phase all in all rather contrived.

It could, for instance, be arranged that each plenary be preceded by a civil society open forum the deliberations of which would be transcribed and transmitted to Convention Members before the opening of the plenary session. The same type of process could be applied to a sectoral approach, before working group meetings. Finally and so that this consultation be more than a purely formal exercise, a team attached to the Convention secretariat should be entirely dedicated to the analysis of civil society's contributions and their dissemination among Members and even more to the feedback to give these organisations. The Economic and Social Committee whose job it is, among others, to liaise with civil society for European institutions could be given the task to organise this secretariat.

Yet, as many commentators pointed out, for all that this organised civil society consultation is crucial, it only gets through to what is known in political science as the "strong publics", who, in Fraser's terminology (1992) correspond to those who have the possibility to take part in institutionalised deliberation settings, whose pronouncements impact both on opinion forming and decision making. Meanwhile, it involves but poorly the "general publics" that is the public arena in which deliberation acts only towards opinion forming.

The key question is therefore to ponder the different way to reach the "general public", an objective but very partially reached by earlier conventions. Two avenues are worth exploring. Citizens' interest is first in direct proportion with the coverage the media give an event. Now the media did not much relay the Convention's deliberations. It would therefore be good to consider what elements are likely to increase media interest in the process. It is conceivable that the election of some national parliamentarians would have the power both to clarify what is at stake for the citizens and the media and to stir up some expectations as to what they will do with their mandate. It is also likely that a third outing of the Convention would benefit from a tried and tested system in which some media already familiar with two Conventions will be adept at spotting in the deliberations the key moments liable to interest the citizens at large.

Besides, consensus does not exclude differences. It is important that Convention Members state clearly the points on which they agree and disagree so that the political tension is palpable. Yet, no matter how intense the confrontations and the rhetoric fireworks within the convention, media interest will remain in hock to what the Member States intend to make of it: will they appoint high-ranking representatives? Will they show willing to communicate on the issues at stake in the convention? We know today that a fair part of the EU's communication deficit is linked to the schizophrenia of those national political leaders who stigmatise in their country what they had agreed to but a few days before in Brussels. The priority would therefore be for national leaders to play fair and respect the work of a Convention initiated by themselves.

There remains one more element crucial to the general public's understanding of the Convention's debates. It is not enough to keep the debate alive in Brussels by bringing in civil society's organisations with a shop window in the European capital. It is equally vital to facilitate the debate within each Member State, from the national to the local tier. Throughout the period devoted to the panel of experts' and the Convention's proceedings, each country must commit to keeping up the citizen's interest as well as the media's. And this purpose is too important to just get lip service, as was the case during the "period of reflection" which followed the negative results of the French and Dutch referenda.

The national promotion of the debate could go down at least two separate roads. The first could centre on national parliaments through the organisation of public meetings with government and parliamentary representatives at the Convention. This would increase the chances of these meetings being broadcasted on one or more television channels. The second would

consist in using one of the many instruments of participative democracy in order to involve at every level citizens from all walks of life to the deliberation on the issues discussed in the Convention. From Citizens' forums to Youth Parliaments up to and including deliberative polling, there is no shortage of instruments, and there should be inducements to use them through adequate funding. Websites accessing the Convention's own should be set up in the Member States.

2.6. A more unassuming IGC and the Europeanisation of ratification

It is hard, nay unthinkable to come up with a Treaty revision process that were more effective, more democratic and more "European" without looking into the way this ties in with the principle of unanimous approval by EU Member States, whether through governments at the IGC which follows the Convention or on the occasion of the text's ratification. This "double unanimity" requirement for the adoption and the ratification of treaties is bound to create numerous deadlocks in an enlarged Europe. This subject deserves a full study in its own right, which Notre Europe intends to produce. Admittedly, at this point in time, the mood is not to thinking up transformations comparable to those induced by the Convention approach. It remains no less necessary to highlight some implications of the use of a Convention for the phases of the IGC and of ratification.

Though it is conceivable in the long term for the Convention to supplant the IGC as the Treaty revision instance, as long as the EU remains founded in a classical international treaties system, these will have to be ratified by Member States governments gathered in an Intergovernmental Conference. We have, however, represented that maintaining government representatives in attendance at the Convention should allow for smoother relationships between the latter and the IGC. This also means that, in so far as the European Council has delegated the groundwork for the revision of the treaties to an other body, one within which national sensitivities can be aired, the IGC is left with a simple alternative: it can either ratify "as is" the text resulting from the Convention's proceedings, as was the case following the Charter Convention, or modify it only marginally, as it did – or near enough – after the Convention on the Future of Europe. This division of labour between Convention and IGC should be the object of a steadfast agreement, short of which the Convention would be devoid of its democratic essence and of its efficiency.

Such a disposition should include a mechanism allowing the continuation of a dialogue of sorts between the Convention and the IGC and, as far as it is possible, the preservation of the text resulting from the Convention's proceedings. Keeping the Convention going throughout the IGC period could be a way forward but not necessarily the most effective as the aim is also to enable the Member States to arrive at an agreement, on the basis of the text already submitted by the Convention. The decision to break up the IGC to return to the Convention at such and such a juncture would be tricky. Badly timed, such an interruption could achieve the opposite of the desired effect by adding pressure on states who might harden positions now made public and on the Convention who might have to review some treaty provisions difficult though they were to achieve through a consensus between many concerns.

As against that, the Praesidium could indeed continue its existence during the IGC period with a two way information and overseeing brief. Supposing a breakdown of its members by topic, the Praesidium could have the charge, at first, to account for the Convention's activities to the IGC as it opens, and thereafter according to the subjects under review and/or upon request for as long as it lasts. The Praesidium's personalities would also remain responsible for informing the members of their component so that they may if necessary bring pressure to bear on their government to respect the spirit if

not the letter of the Convention's achievement. Finally all the instruments furthering the transparency of the debates or the ready availability of the documents should remain in use during the IGC period, while the team responsible for the relations with civil society should also remain active. The idea behind these changes would be to prevent, while still allowing the efficiency of diplomatic negotiations, the convention's open gates to slam shut during the IGC, thereby taking away from the citizens their right to information and the power to inflect the evolution of a text they or their representatives must later ratify at national level.

Let's take a look at the ratification question. Whether in the shape of a referendum or of a parliamentary vote, the current UE treaties ratification model requires the approbation of the text by each Member State. Rejection by one single state results in the death of the draft Treaty as it was originally submitted, as the French and Dutch "no" to the Constitutional Treaty in the spring of 2005 has shown. The options for a second vote in the Member States rejecting the text are in fact very limited. The occurrences in Denmark in 1993 and Ireland in 2002[8] were feasible either because the reason for the rejection was identifiable, and could be addressed in a specific response or because the turn out had been very weak for the first vote. Besides, those were not very big countries. We know today that in a 27 Members Europe which will grow to more than thirty, the rise in deadlock probabilities for draft treaties at ratification stage has as much to do with politics as with maths.

The Convention opens a breach in the unanimity wall and the Member States have themselves set up simplified revision models via the so-called passerelle clauses which will not require a ratification process. Nevertheless, in a Union that rests its legitimacy both on its citizens and its States – Nation States whose political tradition and culture are often steeped in a long history – the odds favour a persistent demand for unanimity.[9] This needs not detract from an analysis of the means to organise these ratifications in a way compatible with the efforts to europeanise and democratise the revision model. First of all, it is paramount that ratification should take place over the same period of time in all Member States. This is the only way that it might be possible to decompartmentalise the diverse national debates and inject them with a European dimension.

Meanwhile, it behoves to anticipate what could be an adequate joint EU response in the event of non-ratification by one or more Member States. Hitherto, each episode was found an essentially political solution. Declaration 30, annexed to the Constitutional Treaty recommended that if 4/5 of the Member States had ratified when other countries were experiencing difficulties, the matter should be referred to the European Council. Its contents have now been incorporated to the Reform Treaty. This decision is of no great legal import since it gives no indications on the response the European Council may make. But it is not without interest, given that, for the first time, a ratification threshold is being considered which if reached is vested with some political if not legal significance. It would be useful to dwell on its potential implications. First, it supposes that Member States as a whole respect the obligation the signature of the treaty places on a government to undertake a ratification process. One could also envisage this threshold as the point when the text has acquired enough legitimacy to form the basis of a renegotiation which will uphold its substance. This threshold should also give rise to a closer examination of the ways to consider a differentiated implementation of a Draft Treaty, for instance by contemplating the possibility for Member States to allow the ratifying countries to form a sort of "vanguard".

8 The Danes had rejected the Maastricht Treaty by 52% of the vote in June 1992. They approved it by 57% of the vote in May 1993. The Irish, for their part, adopted (63%) the Nice Treaty at a second referendum in 2002 (rejection in 2001 with 54% of the vote).

9 Even if the ratification of international treaties by a majority, qualified or not, exists in other international organisations (c.f. Henri Oberdroff's paper for Notre Europe published in 2005). In the longer term a critical analysis of this question remains a non negotiable requirement for the EU, to which *Notre Europe* will devote a specific publication in 2008.

Conclusion

The title of this paper is unambiguous. Let us not pass by this historical moment, this "Convention moment". It is a culmination in the European construction we have experienced for nearly 60 years: a construction de facto, built on a "permissive consensus" between the elites and the European peoples which had been gradually frittered away under the joint effects of a growing sphere of community activity and a loss of clarity as to common objectives. A pragmatic model, which reflects the double legitimacy of the Union of states and citizens, the Convention which delivered the Charter of Fundamental Rights and the Constitutional Treaty has proved to be a body the varied cleavages of which gave rise to fruitful and stimulating debates, open to the public and civil society. It led an effective deliberation and resulted in a consensual result, lifting constitutional blockages which had held back community dynamics for many years. The proceedings of both Conventions, commended for their achievement and their democratic legitimacy, left the Intergovernmental Conferences which followed them no alternative to their adoption.

The Convention model has, however, known only two outings with very different mandates. It was the butt of a number of criticisms not all of them unfounded. To form a clearer idea of its future, the ways to improve its modus operandi both on counts of democracy and efficiency must be considered. This paper has therefore put forward a number of proposals on the composition of the Convention, its Praesidium, its debating formulae, its dialogue with civil society, its visibility to the public at large, its relationships with the IGC and the implications there of for the ratification phase. It has further been suggested to create a group of Wise Men whose task it would be to think over its mandate and work schedule. These recommendations are a first contribution to the critical analysis on how to review the Convention model so as to make it the obvious tool towards the revision of the European Treaties and help diminish the gap separating today decision making institutions and European citizens.

Epilogue: a Convention on the Union' policies post June 2009?

A fine opportunity to organise a third edition of the Convention experience arises in the period following the 2009 elections. The work of the Convention on the Future of Europe has not been completed. Many think – and among them many Convention delegates – that the third part of the Constitutional Treaty on Union policies should get a more thorough recasting. Some of the formulations in the Treaty still go back to the sixties; an update taking on board the *acquis communautaire* would be a minimum requirement. But there is more at stake than revamping. The Union must open a debate on the European Project it wishes to harbour in the context of globalisation and in the face of the 21st century's geopolitical issues. This project is then to be reflected in a set of policies to be run jointly. The citizens need to understand what a European project for tomorrow is to be made of. Defining it on a wing and a prayer, behind closed doors via a string of European councils and IGCs would be missing a unique opportunity to recreate the *affectio societatis* which appears to be in short supply within

the EU today. In 2013, the European Union will implement new financial prospects. It would be a shame to get into discussions on the European budget before openly debating the policies the EU wishes to develop.

The prospect of a Convention on Union policies to start in the second semester of 2009 would make it possible to use the European elections to choose the national and euro MPs who would sit at the Convention. It would also make it possible to entrust the Reflection Group chosen at the December 2007 European Council to think over the mandate and schedule for this Convention which could meet from the autumn of 2009 to the end of 2010. Its work could then be confirmed by a short IGC which, ratified, would lead to determining on a more democratic and transparent basis the political and budgetary priorities for 2013 and beyond. This is a great opportunity for The EU to make a grand entrance into a century which could become that of a true citizens' Europe, stronger in the model and the values she wishes to uphold in the world.

Group member's biographies

Hervé BRIBOSIA, Belgian national, trained as a lawyer and has a specialist degree in international and European law from the Catholic University of Leuven. He was rapporteur for the studies conducted by the Florence based European University Institute on the reorganisation of the Treaties and the treaty amendment procedures and on the staff of Belgium's Permanent Representation to the European Union during the Intergovernmental Conference that led to the Treaty of Amsterdam. From 2002 to 2004 he was a member of the European Commission Group of Policy Advisers assigned to the Convention Secretariat. He is currently visiting Professor at the University of Paris I Panthéon–Sorbonne. He is the author of several academic publications on constitutional developments in the European Union, addressing in particular the allocation of competences within the Union, subsidiarity, differentiated integration (reinforced cooperations) and institutional reforms.

Alain DAUVERGNE, was born in 1937 in Colmar. After completing a CFJ diploma at the Paris School of Journalism, Alain began his career as a journalist at the Agence France Presse (AFP) and went on to work at the newspaper Combat. For many years, he was editor-in-chief at RTL radio station. As a specialist in European affairs, he became deputy editor-in-chief at the magazine Le Point. He is currently an adviser for the Association *Notre Europe*. In this capacity, he followed for sixteen months the activities of the Convention for the Future of Europe and has published the book *L'Europe en otage ? Histoire secrète de la Convention*.

Renaud DEHOUSSE, was born in Belgium in 1960; he is a Jean Monnet Professor at the Paris Institute of Political Studies (Sciences Po), where he runs the European Centre. He studied law at Liege University (Belgium) and at the European University Institute in Florence (Italy), where he has also taught. He went on to lecture at the University of Pisa (Italy), then, as a visiting Professor at the University of Michigan and at the University of Florence. Renaud Dehousse has been a consultant for several units of the European Commission. His research work has focussed on comparative federalism and the institutional evolution of the EU. His most recent work bears on the transformation of governance at European level, notably regarding administrative structures (committees, European agencies), and the role of the Court of Justice within the European political system.

Florence DELOCHE-GAUDEZ holds a PhD in political science, she is the Secretary General of the Centre for European Studies and she is member of the Observatory of European Institutions (OIE) created by the Centre. She lectures at the Paris Institute of Political Studies (Sciences Po) and is often invited to contribute to political, academic or media debates. Florence Deloche-Gaudez specialises in the drafting process towards the EU founding texts and has written several books dedicated to the European institutions and decision-making processes. She has followed the European Convention's activities in Brussels very closely and has published a book on the European Constitution: *La Constitution européenne : que faut-il savoir ?*

Clemens LADENBURGER, born 1967 in Stuttgart (Germany), works for the Legal Service of the European Commission, within the Institutions Team. He has particular responsibility for Human Rights, and took part in the drafting of the EU Charter of Fundamental Rights. He read law at the Universities of Freiburg, Geneva and Chicago, and earned his Doctor iur. in 1999, collecting prizes from the University of Heidelberg and the European Group of Public Law in the process. He had joined the German Federal Civil Service in 1998 and worked in the Ministry of justice, in the Constitutional Law Department. He later became a Member of Cabinet of the Secretary-General of the Council, covering notably Justice and Home Affairs, before joining, in 1999, the Legal Service of the Commission.

Elise LAUNAY-RENCKI is EU representative at the French Ministry of Foreign Affairs' Centre for Analysis and Prevision.

Lukas MACEK, is a Czech national, currently Head of Sciences Po's "1er cycle" European Component at Dijon (Eastern and Central Europe). After studying at the Lycée Carnot in Dijon then at Sciences Po, Paris, he returned to the Czech Republic where he worked as a political adviser and a parliamentary assistant. He served as Secretary to the Czech Republic' Senate Delegation to the Convention on the Future of Europe. He has taken a close interest in the process leading to his country's adhesion to the Union and in the 2004 European Elections. In September 2004, he returned to Dijon as Director of Science Po's European Undergraduate Programme on Central and Eastern Europe.

Peter NORMAN is a British writer and journalist. For 22 years he was a foreign correspondent based in Frankfurt, Bonn and Brussels and working for Reuters, the Times of London, The Wall Street Journal Europe and

the Financial Times. He was the Financial Times Brussels Bureau Chief and Chief Correspondent between November 1998 and March 2002. He attended all the Convention sessions from its launch and has written the book "*The Accidental Constitution: the Making of Europe's Constitutional Treaty*" for EuroComment.

Alessandra SCHIAVO, was born on 12 October 1969 in Naples, Italy. She holds a degree in Political Science from the University of Bari (1991) and a Masters in International Relations, from SIOI in Rome (1992). Her research at the University of Leiden (the Netherlands) revolved on the development of a European defence policy. In 1993, she joined the Diplomatic Service, working for Italy's Ministry of Foreign Affairs, at the Division for European Integration, Office for External Relations, Euro-Mediterranean desk (1993-1996). Between 1997-2000, she was Press Attaché and First Secretary at the Italian Embassy in Tel Aviv before arriving in Brussels in 2001 as Head of the Commercial Office of the Italian Embassy. She was a member of the Secretariat of the Convention and later joined the President of the Italian Republic's office.

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