



## PREPARING THE EU FOR 2004

by Heather Grabbe

- The debate about the future of Europe is supposed to consider how the Union will function after enlargement. In practice, the agenda set at Laeken addresses long-standing institutional problems, but does not pay sufficient attention to the qualitative changes that enlargement will bring.
- Before 2004, the EU urgently needs to reform the European Council, the rotating presidency, and the organisation of its foreign policy-making. It should also increase the involvement of national parliaments. The Union should produce a short and clear constitutional document to set out its aims and explain the added value of European integration, for the benefit of its current citizens and those that are soon to join.

### Debating the future of Europe

To prepare for the inter-governmental conference of 2004, the Laeken European Council established a Convention to debate the future of the Union for a year from March 1<sup>st</sup> 2002. By the end of 2002, reform will become more urgent, because negotiations with the members-to-be will be close to conclusion.

The Laeken declaration set out a long list of questions for the Convention to answer (see box on page 2), with an agenda so broad that it is hard to see what exactly the Convention will focus on. The danger is that it will end up debating abstract points of principle, rather than the concrete problems that the enlarged Union will face. The debate could also be incoherent owing to the number of voices competing to be heard. The Convention will have 113 representatives from both current member states and the candidate countries – from governments, national parliaments, the European Parliament and the Commission. The chair, former French president Valéry Giscard d'Estaing, will have to give a very strong steer if the Convention is to produce some useful results rather than degenerate into a talking-shop.

The Laeken agenda is dominated by traditional remedies for long-standing problems, rather than the new challenges that enlargement will bring. There are some familiar refrains, for example, the suggestion of more qualified majority voting to ease decision-making, and enhancing the role of the Commission and the European Parliament in foreign policy and

internal security. The EU needs to look beyond the problems in its current system, and think imaginatively about how the political dynamics of the Union will change when another dozen members join.

The Laeken declaration set out four very broad areas for the Convention to consider, with many questions attached:

- ‘A better division and definition of competence in the European Union
- Simplification of the Union’s instruments
- More democracy, transparency and efficiency in the European Union
- Towards a Constitution for European citizens’

Three areas need radical change before 2004:

### ***1. Reforming the European Council and the Council of Ministers***

The Laeken summit demonstrated yet again that the six-monthly European Council is not an effective forum for complex decision-making and the solution of long-term problems. The agenda is too often overcrowded with items that the presidency has failed to resolve, or overwhelmed by a sudden crisis. It is a monumental waste of prime ministerial and presidential time to spend days haggling over minor issues, so that each has some small victory to present to the electorate on returning home. Often, the result is low-quality decisions, because the heads of government are prone to grandstanding and cannot necessarily follow all the details of the issues they are discussing.

The European Council needs a very tight agenda that sticks to the issues which cannot be decided below the level of heads of government. That requires more pre-cooking of the summits by senior civil servants and ministers, perhaps in a council of deputy prime ministers or senior ministers designated by the prime ministers. This ‘Council of Prime Representatives’ could meet more frequently than the six-monthly European Council to work on the detail of the dossiers. It would replace the co-ordinating role of the General Affairs Council, which currently comprises the foreign ministers. This new council would assist the European Council, by thrashing out deals before they reach the prime ministers. It would also help in co-ordinating the work of the sub-groups of the Council of Ministers: the Prime Representatives would try to resolve disputes across different dossiers. They would have greater authority than foreign ministers, because a Prime Representative could appeal to his or her prime minister in the event of a conflict between national ministries.

This idea would meet with opposition from the finance ministers, who are jealous of their powers, and would not want to submit themselves to the Prime Representatives. But even the finance ministers will have to recognise that the EU needs a more effective full-time horizontal co-ordination body, so that an EU of 25-plus members can take decisions.

The European Council needs a different mechanism to resolve disputes over the location of agencies and appointments to important posts, to avoid the unseemly horse-trading. The Union should establish an independent body of 'wise people' to consider the bids from candidates for top jobs and cities wanting to host EU bodies. The wise people should decide more objectively than prime ministers, and according to a set of clear criteria. As for the European Council's other business, the heads of government should vote according to the procedure used for a given policy area in the Council of Ministers, whether that is unanimity or a qualified majority vote.

## ***2. An integrated foreign policy organisation***

The rotating presidency for foreign policy has to be abolished if the EU is to be taken seriously abroad. The EU loses diplomatic clout when its agenda changes every six months, as a new group of officials takes over and starts promoting another country's own pet projects. The EU sends mixed messages because several people claim to speak for it. It has to send a three-person delegation around the world to represent the presidency, the Commission and the High Representative for foreign policy.

The EU's credibility may also suffer when a small country holds the presidency. Although small countries often run the most effective presidencies, they are not taken seriously in Washington, Moscow or Beijing. They may lack the diplomatic weight to speak for Europe. Instead of the rotating presidency, the EU should have a permanent staff for foreign policy, based around the office of Javier Solana, the High Representative for foreign policy.

The EU should also merge Solana's job with that of Chris Patten, the commissioner for external relations. In theory, the division of labour between them is clear. Solana does the diplomacy, while Patten implements the EU's aid programmes and manages political instruments. However, in practice it is hard for them to join up their resources. The money and the diplomacy need to be united. The most elegant solution would be simply to merge the two jobs, creating a new foreign policy supremo. The new High Representative could be placed inside the Commission – with a special status – but answerable to EU foreign ministers. The new foreign policy supremo should still be appointed by the European Council, to emphasise the member states' ownership of the common foreign and security policy.

More generally, the EU needs to overhaul its ramshackle decision-making structure for foreign policy. It has a huge number of policies that influence other countries, but they are made in separate fora by different ministers and too often with conflicting objectives. The EU needs to match its foreign policy objectives with other policies, such as trade, aid, migration and border policies. To achieve that, a new foreign affairs council is needed to ensure that the Union's huge range of policies supports an overall diplomatic strategy. If the General Affairs Council is to make way for the Prime Representatives, as argued above, then the foreign ministers need their own council to discuss external policy.

### **3. Involving national parliaments**

In his Warsaw speech of October 2000, Tony Blair proposed a second chamber of the European Parliament, consisting of national parliamentarians. The role of this chamber would be to check legislation for compatibility with a charter of competences, and also to oversee the EU's work on foreign and defence policy. However, this idea has not won support from many other governments, while the European Parliament – fearing a putative rival – is strongly opposed.

Nevertheless, all governments recognise the importance of involving national parliaments in the workings of the EU. Each member state has to work out how its parliament can best monitor the EU legislative process; for example, in Denmark the *Folketing* follows EU affairs closely and exerts great influence on the Danish government.

While there is little appetite for creating a major new institution consisting of national MPs, there may be a role for a more modest institutional reform that would enhance the role of national parliaments. More than a decade ago, Lord Brittan – then Sir Leon, a European commissioner – proposed a new committee of national parliamentarians. This would have the power to ask the European Court of Justice to rule on whether a law violated the principle of subsidiarity. The committee could make this request at any stage of the legislative process. The EU has since set up COSAC – the Conference of Community and European Affairs Committees to allow parliamentarians to meet and exchange views on European affairs. However COSAC remains an obscure body, unable to attract the best and the brightest MPs to sit on it, because it has no real power. The EU should consider remodelling COSAC to take on the kind of task envisaged by Lord Brittan.

This committee should also look back on past EU legislation, some of which may no longer be necessary. Once a year, this committee of national MPs could present the European Council with a list of outmoded laws. The heads of government would then take a political decision on which of them should be kept, and which repealed, and instruct the EU institutions to implement their decision. For example, should the EU really regulate the sale of ornamental plants, or the noise emissions of lawnmowers? Such a procedure might well have a positive impact on public opinion: people would see that the EU could give up powers as well as take on new ones. And national parliaments would gain a greater stake in the EU's political system.

#### **Principles for the 2004 debate: policies should shape institutions**

In reshaping the institutions, the EU's leaders should consider which policies will become most important over the next decade. The 2000 Eurobarometer poll showed that the top three concerns of EU-15 citizens are subjects which the EU has only recently begun to address: tackling unemployment; maintaining peace and security in Europe; and fighting organised crime and drug trafficking. The EU has moved only slowly into these areas. It still spends a wildly disproportionate amount of its resources – financial, institutional and political – on old policy areas of little interest to most citizens, such as agriculture. The EU needs to re-order its resources to match its new priorities; for example, nearly half the Community budget is spent on the Common Agricultural Policy, and it takes up over half

of the 80,000 pages of EU rules and regulations (known as the *acquis*). The EU also needs to re-deploy its officials to fit its changing activities. The old directorate-generals in the Commission – dealing with areas like internal administration – have plenty of bureaucrats, while new ones like Justice and Home Affairs consist of small teams stretched to the limit. There is a case for allocating more officials to the mergers task-force, and fewer to sport, for example.

Europe's leaders also need to show more imagination in thinking about how the enlarged Union will function. At present, they tend to assume it will just be a bigger version of the current EU. More member states and greater diversity will put the current structure under strain, but the difference will be more than arithmetical. There will be a qualitative change in the Union's ambitions, political dynamics and responsibilities.

In terms of ambitions, the enlarged Union should become a more important actor on the world stage because of its greater size and because of Washington's need for a strong ally. At the same time, most of its 25-plus members will have strong views on external policy. It will have to square a circle, between the small group of large countries which will drive foreign policy – owing to their size, and military and diplomatic assets – and the others, which will want to be involved, but are unwilling or unable to play a major role. The EU needs to find an answer to the question of how member states can meet in groups numbering between two and the total membership, without provoking resentment that a *directoire* of large states is running foreign policy. Soon there will be 25 members, increasing the risk of paralysis. The answer may lie in informal coalitions of countries with an interest in particular parts of the world: for example, Germany with the new member states on eastern policy, the southern member states on the Mediterranean and North Africa, or Finland and the Baltic states on the northern dimension.

The enlarged EU's political dynamics will change because it will have to become more flexible. The ability and willingness of member states to be integrated into the EU's policies will vary much more than in the current Union. Progress in individual policy areas – like economic reform, taxation and borders policies, as well as foreign policy – will often be driven by coalitions of the willing and able, rather than by the Franco-German relationship.

The old remedy for reconciling competing interests is an extension of qualified majority voting (QMV). This is unlikely to suffice in future: the policies left with unanimity are the most politically sensitive, so QMV will soon reach its limits. That is the reason why the open method of co-ordination – whereby governments set targets for themselves and publicly monitor each other's progress – should be used more often. In sensitive areas like taxation and labour markets, the EU will only be able to integrate through unanimity or the open method.

The EU already has a number of areas of flexibility, where the member states are involved in a policy area to different degrees – the most important are participation in the euro, border policies and defence. More issues like this will emerge after enlargement, where the new members are unwilling or unable to participate fully – energy taxation is one example. The Union needs to consider how to manage flexible coalitions successfully. The key is to

ensure that it can maintain a consensus on the broad principles of European integration, even if members' involvement in individual policies varies.

The accession of ten new members will also bring the EU new responsibilities. It will cover another third of the European continent, and share a border with poor countries that need its help to achieve stability. The EU may not want to continue enlarging indefinitely, so it will need to forge new bonds with neighbours like Ukraine and Russia that are not based on membership aspirations. The Union will also need a much more coherent aid and development policy for its poorer and less stable neighbours, to prevent them from becoming security threats.

The EU needs to consider how to unite its different internal and external security policies. In particular, the division of the Union into three different 'pillars' may be unsustainable; at present, there is an uneasy and increasingly fuzzy separation between the areas of inter-governmental decision-making – for foreign and security policy, and the police and judicial co-operation parts of justice and home affairs – and the areas that are dealt with through the EU's institutions. For example, every one of the three pillars now supports some form of police co-operation, but in different fora and potentially with different aims.

### **Aims for an EU constitution: short, clear and ambitious**

The Laeken declaration was right to call for a constitution for the Union. It needs a constitution not because of it aims to become a state, but in order to clarify the Union's purpose and the division of its powers. The idea of a constitution need not frighten the most eurosceptical member-states. A serious debate about the purpose and powers of the Union would draw the eurosceptics' sting. Those who want to clip the EU's wings should welcome an open debate about what the EU should and should not do. It is much better for Danish and British ministers to put forward publicly the arguments in favour of a constitution, and to lead the discussion on its content, than to play a defensive game by claiming that it will never happen.

A constitutional document or basic treaty is also essential to clarify to the people of central and eastern Europe what kind of Union they are joining and what its fundamental aims are. There is considerable confusion in the candidate countries that could turn to euroscepticism in some. The EU must be careful not to export its democratic deficit eastwards, and the candidate countries must be fully involved in writing the constitution.

But the final document has to be the right sort of constitution. It should not be just a messy amalgamation of the four existing treaties. The document needs to focus on outcomes, not just processes. Certainly, any constitution has to define the division of powers between political institutions. But the constitution's function should be to set out the EU's aims and clarify its purpose. It should not be concerned primarily with the minutiae of committee structures and competence-sharing. Those issues are important, but they should be detailed in an accompanying legal text. This second, technical part could then be changed by inter-governmental agreement rather than ratification by parliaments, to keep it up to date.

The constitution needs to be short, so that people will actually bother to read it. It needs to be clear and written in everyday language, so that children can read it and understand it in school. And it needs to be ambitious in setting out the EU's guiding principles and its aims. The document should state what the EU does, not just what the Union is. The aim should not just be an 'ever closer union', but rather to secure essential benefits for the population. The EU needs a sound-bite that people can quote when asked what the EU is for. It needs to explain the added value of the EU to nation states and regions in dealing with a complex world.

The CER's suggestion for a mission statement reads as follows: "The European Union exists to enable the peoples of Europe to achieve greater prosperity, security and democracy than any can achieve alone." That is an objective to which all Europeans could subscribe, but which does not bind them to any particular constitutional model. The EU can remain an 'unidentified political object' – as Jacques Delors calls it – but its purpose needs to be evident to all.

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