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de l'Europe de l'Europe

ROAD-MAP TO A NEW TREATY

EUROPE'S FUTURE – WHERE TO NOW?

A FRIENDS OF EUROPE DISCUSSION PAPER

Reflecting the views of a number of *Friends of Europe's*
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About this *Friends of Europe* discussion paper

The European Union has been in difficulties since French and Dutch voters threw out its proposed new Constitution and the reform process stumbled to a halt.

But now there is a chance to move forward again, if EU leaders remain cool and limit their objectives. This *Friends of Europe* paper argues that despite the Treaty's ratification by 18 Member States, it may have to be shelved for the moment. Beyond the political frictions this may cause, it does not need to be a great loss *per se*, provided that the leaders can extract from it those few practical steps that are urgently needed to produce a Europe that works better.

If the EU's organisation can be simplified, with better lines of communication, the Union could serve the people of Europe better. All the necessary ideas are in the Constitution, and have already been agreed by governments, so in this report we suggest options for further improvement that deserve consideration.

The vital thing will be to reach some agreement, and put it into effect within two years – a tight timetable, but possible, with goodwill. Otherwise the initiative is likely to pass to the EU “hard core” that has already formed around the single currency and Schengen's open frontiers. Nobody wants to divide Europe, but that is the risk if this “last chance” for reform is missed.

This report follows discussion with the Trustees of *Friends of Europe*. The belief that reform is urgently needed is widely shared among them, although some individual Trustees voiced reservations about particular proposals, especially the ‘options’, which are deliberately provocative, and which other Trustees wanted to be even more ambitious. The final responsibility for the text rests with me as Secretary General of *Friends of Europe* and the two Trustees, Keith Richardson and Robert Cox, who drafted the report and then finalised it on the basis of other Trustees' comments.



Giles Merritt
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Brussels, May 2007

T

his may be the last chance for the European Union to move forward together. The divisions that have appeared so far have done no fundamental damage. Most states are committed to the Eurozone, even if a minority turn their backs. Similarly with the Schengen accord. The single currency and the free movement across frontiers are for the ordinary citizen the two most visible benefits of the Union and those who want to do so are free to press ahead.

But *not* so with the institutional blockage. A majority of states have ratified the Constitutional Treaty and want to put it into effect, but there is nothing they can do if the minority continue to object. Hence the profound importance of reaching agreement on some measure of reform within the new timetable, being launched by the German Presidency and due to be completed under the French in 2008. Otherwise it is hard to see how the momentum for reform can ever be recovered – how the Union can ever regain the capacity to act decisively to protect European interests. It is equally hard to see why the majority who want to work more closely together should accept the veto indefinitely. If this initiative fails, it is the unity of Europe that is at stake.

The challenge to Chancellor Merkel and the European Council, meeting in June 2007, is to demonstrate unity and determination to break the logjam and to get the Union moving again.

The Union is not working very well. Its ability to solve urgent problems and launch major new initiatives seems limited. Opinion among Member States on what they actually want from the Union is sharply divided. Yet public opinion seems clear: most people want a Union that works better, that delivers results at a European level, that influences world affairs for the better and avoids meddling in issues that can be managed nationally or locally.

So how can this clear goal be attained? The best guidance can be found in two documents that have already been agreed by every member government.

The *Laeken Declaration* of December 2001 is the clearest and most eloquent statement of how the united governments perceive the risks and opportunities that the Union faces, and the questions that need to be answered.

The *Constitutional Treaty* of October 2004 sets out in detail what governments then regarded as the answers to those questions and the essential ingredients of a far-reaching solution. Clearly, time has moved on, much has happened, and we cannot simply take those documents as they stand. But between them they provide a solid and agreed basis for the next moves in Europe. Let us take them in turn.

RISKS AND OPPORTUNITIES

The *risks and dangers* that face Europe, and cannot be resolved by national states acting on their own, were spelled out at Laeken and have grown more threatening since.

War has since spread across the Middle East, from Afghanistan through Iraq to Lebanon. The problems of the Palestinians and the Kurds are unresolved. Confrontation with Iran still seems a very real possibility. Tensions are rising and Europe appears a helpless spectator.

There is continuing instability in Africa, Central Asia, the Caucasus, and still the possibility of another major crisis in the Balkans.

The mutual trust which once sustained cooperation between Europe and the United States has been damaged and shows no sign of recovery.

The security of the world economy is highly vulnerable to a surge in the price of oil, which could be triggered at any moment by developments in the Middle East, as well as by fundamental trade and financial imbalances which have arguably worsened since 2001. Security within Europe is threatened by racial and religious tensions and the pressures of immigration, all made worse by general economic difficulties and the lack of public confidence in government leadership at national and European level.

Yet there are *opportunities*.

Public opinion has developed over the past five years, partly in response to these dangers. People seem more willing to address issues of common concern, issues whose ramifications clearly spread beyond national boundaries. There appears to be:

- § a growing awareness of the need to husband energy resources more intelligently;
- § a growing readiness to tackle the problems of climate change;
- § a growing concern for better education as the answer to social and racial tensions;
- § a common desire to manage globalisation better.

QUESTIONS FOR THE EUROPEAN UNION

Given all that has happened since 2001, the Laeken Declaration remains remarkably valid today, as do the three basic challenges it set out.

The 3 challenges set out by the Laeken Declaration, 2001

1. *To bring citizens closer to the European design and institutions;*
2. *To organise the European political area;*
3. *To develop the Union into a stabilising factor in the new, multipolar world.*

From these it developed a set of questions, which became the mandate for the Convention of 2002-3:

- § the division of competence between Member States and the Union itself;
- § simplification of the Union's instruments;
- § democracy, transparency and efficiency, including the working of all the Union's institutions;
- § reorganisation of the various treaties, possibly leading *in the long run* to a Constitutional text.

What happened then was that the Convention produced a set of answers to these questions. Member States had a number of doubts, and the text was modified in an intergovernmental conference. But the final treaty that was signed in Rome by all (then) 25 presidents and prime ministers reflects a compromise that they were all willing to accept. The fact that voters in France and the Netherlands rejected the treaty in mid-2005, making some fresh start inevitable, should not obscure the underlying fact that every government accepted that text and 18 Member States have ratified it¹.

It can be argued that the Convention went “a bridge too far” by rushing immediately to a single constitutional text, which Laeken envisaged only for the long term. Clearly there are arguments in favour of a comprehensive text that could stand for many years to come. But that is not at present attainable, in view of the French and Dutch votes, nor is it essential.

What is now urgent and essential is to meet the challenges and to answer the questions set out at Laeken, so as to produce a *Europe that works*, for now and for the immediate future. The rest can be left for discussion later. And it must be clear that the essential ingredients have already been agreed and can be found within the text of the Constitutional Treaty itself, to which we now turn.

THE INGREDIENTS OF A SOLUTION

The first step should be for the European Council to confirm and where necessary update the analysis of risks and opportunities contained in the Laeken Declaration, and then to confirm that the Constitutional Treaty contains the essential ingredients for reform. Much of this was essentially done at the Berlin meeting in March 2007, followed up by a presidency questionnaire to focus minds more rigorously on aims and options.

The second step is to examine the Treaty and to identify those ingredients – what is the minimum needed to make the Union work better?

1. *Majority Voting*

Nothing could be more democratic than majority voting. The current voting system is cumbersome and ineffective; it has no rational justification and is beyond the power of public understanding. The priority must be to end the powers of a small minority to block progress demanded by a clear majority. There are two elements.

First, extend the use of qualified majority voting, as already agreed within the Treaty. It is well known that some Member States sought to limit this development, but when they signed the Treaty they in effect agreed that their reservations had been fully met and they had no further problems.

Second, simplify the definition of a qualified majority. What was agreed in the Constitutional Treaty is anything but simple. It is not even clear that in practice it is workable. Any improvement would be welcome.

¹ As of May 2007, 16 of the EU-27 countries have *formally* ratified the Treaty: Austria, Belgium, Bulgaria, Cyprus, Estonia, Finland, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Romania, Slovenia and Spain. The parliaments of 2 countries, Germany and Slovakia, have ratified it, but it is pending constitutional court decisions and final signature by the presidents of each country. And 7 countries have postponed a decision after the French and Dutch ‘no’ votes of May and June 2005 respectively. They are: Czech Republic, Denmark, Ireland, Poland, Portugal, Sweden and the United Kingdom.

OPTION 1: Would it be better to adopt another definition of 'majority'?

Would it not be better to adopt the only definition that makes democratic sense, that decisions should be taken which are supported by a majority of all Member States representing a majority of all voters? The Treaty backed away from this "double majority" and hedged it around with thresholds and percentages. That sort of numbers game cannot be justified - drop it.

2. **Coordination and Leadership**

It would be naïve to imagine that majority voting will solve all problems, given the Council's track record for hesitation and indecision. Experience shows that nothing much happens in the Union without a strong driving force to set the agenda and coordinate the action. These tasks are shared between the European Council and the Commission, neither of which is working very well at the moment. But the elements of reform are to be found, although not yet fully worked out, within the Treaty.

The Treaty proposes a president for the European Council, without giving him or her either the powers or the organisation to do an effective job of overall coordination. The Commission would retain the responsibility to promote the general interest, it has the right of initiative and the capacity to monitor and coordinate, but it lacks the political legitimacy to do so.

The Parliament has the full legitimacy of the popular vote and shares the powers of legislation, but is carefully shut out from too much say in what the Union actually does and who actually runs it. Somehow these elements still need to be drawn together. What is needed is simply to play to the strengths of these bodies rather than their weaknesses. The Treaty's proposals to share legislative powers between Council and Parliament are perfectly sound and should stand.

OPTION 2: Would it strengthen the Commission if it derived its legitimacy more directly from the Parliament?

The Treaty gives the Parliament a veto over the choice of Commission president. The text could simply be turned round so that political parties nominated their presidential candidates before the European elections, and the Member States agreed to accept the choice of the majority. The bonus is that people would know who they were voting for, which would greatly increase the legitimacy of the Parliament as well.

The Union would benefit from the enhanced authority of a stronger Commission president. It ought to benefit from a permanent president of the European Council. But can they both take the lead and set the agenda for Europe's future?

OPTION 3: Is there a case for combining the jobs of president?

If the president of the Commission, backed by an already strong organisation and by a new-found political legitimacy, also took the chair at the European Council, would we have the best of both worlds? This possibility is already allowed for in the Treaty, which says only that the president of the European Council should not have a *national* mandate. And it would serve the admirable purpose of simplifying the organisation rather than adding yet another competing centre of power.

To be clear, none of these options would diminish the decision powers of Member States. In no sense would they surrender their precious sovereignty to the Union, they pool it for their common benefit. The national presidents and prime ministers still determine the direction of the Union, but they would come under pressure to coordinate their debates, to make their decisions when they are needed, and to make their decisions stick.

3. Political message

Part of the reason why some voters rejected the Treaty must lie in its sheer complexity. None but an expert can make sense of its interlocking provisions. Perhaps one day some such document will be accepted. But it was too much to ask, and it must be no wonder that the underlying political content was lost from view. Even the first pages of Part One, which should contain a limpid statement of objectives, are buried by 'committee speak'. It is the political message that matters: what Europe needs is a Treaty that begins with a practical, low-key title, followed by four simple but forthright articles and continuing in the same vein. Along these lines:

A Treaty to strengthen the decision-making powers of the European Union

- 1. The aims of the European Union are peace, prosperity, freedom and social justice.*
- 2. The Member States establish the Union to achieve those aims.*
- 3. The Member States give the Union the powers to achieve those aims.*
- 4. The Member States give the Union the institutions to manage those powers.*

4. Format and Timetable

Part One of the Treaty, further simplified, is the essence of what is needed now. If the above principles are accepted, then other elements fall easily into place, including the legal personality of the Union and the role of the new foreign minister. Technical consideration is then needed only to ensure that the new decision-making procedures lock into place, and to check compatibility with the existing treaties.

Part Two is the Charter, itself a fully agreed text, and only one paragraph is needed to confirm it. One more would be needed to allow for all other detailed provisions, at present set out laboriously in Part Three, to be rationalised over time by a technical process, adapting the existing Treaty text under supervision of the European Council. There would then be a document that can be decided during 2007, ratified in 2008 and put into effect before the European Parliament elections of 2009.

No doubt the hope will be expressed that all these simplifications will one day be reassembled into a single basic Treaty, replacing all its predecessors. Yet even then the word "constitution" should be avoided. The time for a constitution will be when public opinion, as expressed by the popular vote, unequivocally demands it. Chancellor Merkel and the majority of Member States now have a chance, very possibly a last chance, to achieve their declared goal.

But if it fails? The Eurozone and Schengen are in place and working well. Nobody wants to divide Europe. But the basis for a cohesive and creative hard core is there – unless wiser counsels prevail.

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ABOUT FRIENDS OF EUROPE

Friends of Europe (FoE) is Brussels' liveliest think-tank, aiming to stimulate new thinking on the future of Europe and broaden the EU debate. It is non-profit, with no national or political bias and a membership base that is as youthful as it is influential.

Our goal since 1999 has been to discuss and debate the key issues confronting the EU outside the charmed circle of the Brussels elite by linking up with major think-tanks and media in Europe's national capitals.

Friends of Europe is proud to be a co-initiator of *Europe's World*. Published three times yearly, it is the only pan-European publication that can offer policymakers and opinion-formers across Europe a platform for presenting ideas and forging consensus on key issues.

KEY ISSUES

Friends of Europe's activities cover a wide range of topics and aim to take stock of the state of play in many of Europe's key policy areas. *Friends of Europe's* style and ethos is to provide an open forum for EU and national policymakers, business leaders and NGOs.

INFORMAL AND LIVELY

Our **Café Crossfire** evening debates, **Policy Spotlight** debates, **European Policy Summit** international conferences and **Press and Policymakers'** dinner debates at the historic Bibliothèque Solvay in the heart of Brussels are unique opportunities. They are often adversarial as well as being informal and lively and offer ample opportunities for networking and discussion with national policymakers, corporate as well as NGO leaders and top EU officials. Through our regular **Atlantic Rendez-Vous** satellite-linked televised debates between Brussels and Washington DC, *Friends of Europe's* network now extends to TV audiences across Europe as well as specialist audiences on the other side of the Atlantic.

Friends of Europe is dominated by neither academic nor corporate opinion. To stimulate public interest in the topics under discussion, the press is actively involved in many of our activities. Our goal is to inform a wider audience across Europe about the issues that will decide the future of Europe.

PUBLICATIONS

They are written in a readable and objective form by specialised journalists or Trustees, laying out the issues so that a layman can easily understand what is at stake. They are widely distributed to politicians, business people, civil society groups, students, the international media and any other interested party.

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- § **A President of Europe is not Utopian, it's practical politics**
JO LEINEN, Chairman of the European Parliament's Constitutional Affairs Committee
- § **The EU Constitution's 'yes' countries should push ahead regardless**
NICOLAS SCHMIT, Luxembourg's Delegate Minister for Foreign Affairs and Immigration

These are already available on www.europesworld.org

- § **Long on policies but short on politics, the EU needs a breath of fresh air**
LOUKAS TSOUKALIS, President of the Athens-based Hellenic Foundation for European and Foreign Policy (ELIAMEP)
- § **What France must do to repair the 'no' vote's damage**
NOËLLE LENOIR, France's former Minister of European Affairs
- § **Only strong leadership will get Europe back on track**
WILFRIED MARTENS, President of the European People's Party since 1990, and Prime Minister of Belgium from 1979-92
- § **EU reform: What we need to do**
NICOLAS SARKOZY, now President of France, then France's Interior Minister
- § **Why we've got to loosen governments' grip on EU policymaking**
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