



GROUPEMENT D'ÉTUDES ET DE RECHERCHES
N O T R E E U R O P E

The debate on the structure of an enlarged Europe

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¹ The cut-off date for the many views expressed in this debate was 10 October 2000.

The debate started with a memorable interview with Jacques Delors in *Le Monde* (19.1.2000), under the evocative title "*Jacques Delors critique la stratégie d'élargissement de l'Union*". It then received a spectacular boost with Joschka Fischer's speech at the Humboldt University in Berlin on 12.5.2000, which triggered an avalanche of political reactions which cannot all be reviewed here. The attached sheets, organised in chronological order, sum up those which seem most significant, despite the obvious risk of omission such an exercise entails.

I- The various positions

1°) At first sight, all proposals seem to be based on the same premise: enlargement is a historic imperative which the Union cannot escape. However, the enlarged Union will be so diverse that the Community approach will not be able to be applied uniformly, at least at first. It will therefore be necessary to make the European architecture somewhat more flexible in order to reconcile enlargement with continuing progress in the political sphere. Some observers believe the solution lies in closer cooperation, which is to be made easier with the reform expected at the European Council meeting in Nice. Others, however, think this is not enough and are calling for a formal institutional basis to be established for an open "avant garde" of countries (under a variety of denominations). All hope that this temporary break in the Community's unity will not cause lasting divisions and that all Member States – both current and future – will be able to take part in closer cooperation initiatives sooner or later and eventually join the open "avant garde". Lastly, all advocates of an "avant garde" have a common starting point: the political deepening of the Union cannot be pursued solely via the "Monnet-Schuman" method, which is no longer adaptable to the ambitious objectives of the treaties of Maastricht and Amsterdam. The Europe of the future must accept its federal dimension (the concept of a "federation of nation-States" is almost unanimously accepted). This entails clarifying the institutional framework and securing the democratic legitimacy a new "founding act" will require.

2°) However this initial overview does not give the full picture. For a more accurate typology of the options put forward we must distinguish between:

- Those who reject a "multi-speed Europe" and accept (in some cases) closer cooperation only as an element of flexibility required to ensure the smooth operation of a united Europe. This view is shared both by the tenants of *status quo* and the proponents of an in-depth reform of the Union as a whole. The sheet "A few British ideas" shows that the refusal of a multi-speed Europe is not necessarily synonymous with immobilism. Generally speaking, this first opinion has seldom been heard in the current debate, save a recent article by Tony Blair and Göran Persson (FT of 21.9.2000) and the views expressed by José-María Aznar. This does not mean it has no support, however.
- Those who believe a temporary break in the unity of the Community framework is necessary to prevent the States that want to go further or faster from being held back by their slower counterparts. This approach reunites those who think closer cooperation is an adequate instrument – or one that should at least be tried out before considering more fundamental and hence painful steps – and those who

believe it is not sufficient and are calling for a deeper institutional break. Here again, the former are keeping a relatively low profile and usually refer only to the outcome of the European Council meeting in Nice. Among the latter, only a few have attempted to describe the institutions of the future Europe in any detail (Delors, Fischer, Bayrou/Cohn-Bendit, and Juppé/Toubon).

- Whenever they speak out on the issue, the heads of State and government (Chirac, Amato/Schröder, and the three Benelux prime ministers) adopt a halfway stance, referring to a future constitution and insisting on the need for caution in institutional matters in order to avoid any lasting division of Europe. The hypothesis of an avant garde, while not rejected outright, is viewed as a last resort and with a number of reservations as regards its institutional structure.

We would therefore be seriously mistaken to believe that the tenants of an institutional break (an "avant garde" of whatever nature) are in a majority among the Member States or even within public opinion, merely because they necessarily have a higher profile in the public debate. The troubled progress of the current IGC and the scant interest it is prompting on the part of the general public clearly indicate this is not the case.

II- Is there life after the "institutional triangle"?

The "institutional triangle", a specific feature of the Community inherited from the ECSC treaty, is central to the method thought up by the "founding fathers" to reconcile, in the words of Joschka Fischer, "the sovereignty of States and the transfer of part of these of sovereign rights to supranational European institutions". It nevertheless deeply disturbs the many followers of Montesquieu throughout Europe in that it completely blurs the distinction between the executive and legislative powers. Therefore, it is very tempting to try to clarify this system and give it greater democratic intelligibility — a temptation to which many proponents of an institutional break have yielded (Chirac, Fischer, Bayrou/Cohn-Bendit and Juppé/Toubon). Others stress their attachment to the Community method founded on a balanced "institutional triangle", even though they usually admit that the "Community method" must be renovated to accommodate the intergovernmental element brought by the extended sphere of competence provided for under the Maastricht treaty (Delors, Ciampi/Amato/Dini, Verhofstadt).

The case for moving beyond the institutional triangle is far from convincing, however.

- The Strasbourg declaration of François Bayrou and Daniel Cohn-Bendit gives States a defensive role within a "Council of States", a second legislative chamber counterbalanced by a President of the Union elected by direct universal suffrage.
- Jérôme Monod and Alain Juppé/Jacques Toubon suggest abolishing the Council and Commission and giving a leading institutional role to the European Council, as the expression of the sovereignty of States. Jacques Chirac advocates a similar shift in balance in favour of the Council, at least during the transitional "pioneer group" phase.
- Joschka Fischer hesitates between two options (future executive based on the European Council or Commission legitimated by the election of its President by universal suffrage), prompting Hubert Védrine to point out that "the two are quite different".

The widening gap between the advocates of the Community method and the partisans of institutional clarification raises a very basic question as to how to strike a balance between states and supranational institutions.

III- Distribution of powers

The partisans of an institutional break unanimously agree that clarification is necessary on "who does what" in order for responsibilities to be clearly established. In fact, alongside the need for a formal framework for fundamental rights, it is the main argument of those in favour of a founding document, irrespective of whether it is to be a "treaty", "constitution" or "constitutional treaty".

This point made, most proposals (Juppé/Toubon, Chirac, Fischer and almost all declarations by heads of State and government) solemnly invoke the principle of subsidiarity but leave the nitty-gritty of its implementation to the future document. Those who do venture to describe – or even just outline – the distribution of powers (see attached sheets for details) raise far-reaching questions as to the very meaning of the concept:

- Can a clear line be drawn between the powers of the States and those of the federation? If not, any "grey area" of competing or shared powers would make the procedural approach highly complex.
- How can this procedural approach linking the institutions and the sharing of responsibility be precisely defined, in so far as the question "who decides?" complements the question "who has the right to decide?". This was what Hubert Védrine meant when he pointed out to Joschka Fischer that the choice of executive power for the federation has grave implications for power-sharing.
- Beyond the "horizontal" distribution by legislative area, how can a "vertical" distribution of powers – involving a hierarchy of acts – be organised? Several contributions refer to the possibility of a more flexible interpretation and implementation of Community law in the Member States. How can this concept be defined in constitutional terms?

In many cases, the references to a fundamental document therefore imply that the practical implementation of subsidiarity – something that is easier said than done – would be dealt with in more detail at a later stage. The alternative would be a "procedural" solution whereby the Court of Justice (or a constitutional court) would be the sole arbiter of the sharing of responsibility; this possibility is hinted at in various contributions, although never clearly expressed.

IV- What democracy on the scale of a continent?

The issue of democratic legitimacy is at the heart of all contributions, both because public opinion is seen as a necessary component of a revisited European project (as expressed in Delors's phrase "what do we want to do together?") and because any "recasting" project necessarily makes reference to popular support.

In almost all contributions, this is expressed in three ideas.

- Europe will enjoy popular support if it heeds the aspirations of the people: prosperity and the redistribution of prosperity, security within the Union (the fight against organised crime), and at its borders (protection against outside threats). In a way, that is the solution which mathematicians would call "trivial": the one that supposes that the problem is resolved.
- The powers of Parliament must be strengthened and a higher profile given to its members: this concern is generally addressed by proposals to involve national MPs in the workings of Europe, one way or another (if only by holding the elections at the same time). The obvious extreme is the parliamentary democracy option – an ambitious institutional choice found only in the Strasbourg declaration of François Bayrou and Daniel Cohn-Bendit.
- Universal suffrage must be introduced at as many levels as possible: MEPs, commissioners, Commission President and President of the Union. This, again, is connected with far-reaching institutional options in so far as the sanction of universal suffrage is a determining factor in the institutional balance.

It must be said that only "a few British ideas" shed new light on the shape democratic life could take on a continental scale. Options such as organising party caucuses on the eve of each major election, referendums on popular initiative and standing citizens' panels are worth exploring in more depth, not least because they are the product of approaches usually referred to as "sovereignist".

V- How can we put theory into practice?

The clearest contribution on this point is the Strasbourg declaration of François Bayrou and Daniel Cohn-Bendit, in which they called for the European Council, at its meeting in Nice, to start the drafting procedure for a constitution of a federal nature with a view to completing its ratification in 2003 after a decentralised debate. This proposal recently gained heavyweight support from Gerhard Schröder and Giuliano Amato, in an article published on 21.9.2000. They called for a constitutional process to be launched at Nice and followed up, after public debate, by an "wide-ranging conference in 2004". The three Benelux prime ministers also lent the proposal their support on 30.9.2000, albeit less directly. They proposed that the process be launched under the Belgian presidency of the Union (during the second half of 2001), in the form of a solemn declaration of the 15 Member States.

Jacques Chirac and Joschka Fischer are very clearly looking beyond Nice, since the second stage of their three-phase process consists of creating a formal framework for the group of States most committed to closer cooperation. While both mention the key role of the Franco-German tandem, neither took the risk of describing the form of the political initiative which would launch the process. The declarations of the heads

of government of Italy and the Benelux countries can be read as confirming their intention of taking part in the initial wave.

Jacques Delors speaks of an initiative on the part of a group of States and hints that these might be the six founding members, but does not specify either the form of the initiative or the procedure for drafting the treaty governing a future federation of nation-States. The reference to an initiative on the part of the six founding States, which would immediately be joined by others, can also be found in the declarations made in Italy and the Benelux countries.

Lastly, it is worth noting that, while democracy is a central concern in all projects, only Jacques Chirac and François Bayrou/Daniel Cohn-Bendit – and Giuliano Amato/Gerhard Schröder, albeit in more veiled terms – refer to a broadened drafting procedure and a process of popular ratification.

The precedent of the 1950 Schuman declaration seems to be in everybody's mind. Following an initial statement, the process would be immediately opened to "all those who can and want to join it". Neither the precise form of the statement, nor any detailed description of the procedure for renewing the institutions, nor the criteria for identifying "those who can join" have been clarified at this stage in the debate.

With the notable exception of Jacques Delors, the debate on the structure of an enlarged Union initially reflected a desire for institutional clarification. This took the form of various proposals for going beyond the traditional institutional triangle. In contrast, from the beginning of September, a number of positions emerged defending the Community method as the only way of ensuring a balance between the States and the common institutions. Ferdinando Riccardi shrewdly observed that these stances, taken at governmental level, bring together the six founding countries of the European Economic Community in a complex pattern and does not believe this is by chance.

This focusing of debate undoubtedly helped the Commission President, who had understandably been quite discreet until then, to speak out on the occasion of a keynote speech before the European Parliament on 3.10.2000. Without taking a stance on the future architecture of Europe, he underlined the risks related to intergovernmental practices and called for future developments to follow the Community method : "The European system is one of checks and balances, in which the smooth running of each institution serves the common interest. Any weakening of these institutions weakens the whole." While agreeing that "the time [had] come to open the debate on the distribution of powers between the Union and the Member States", he drew upon the conclusion that the High Representative for the Common Foreign and Security Policy (CFSP) should be integrated into the Commission with a special status, and that the Commission, acting on a mandate from the Council, should be the voice of the Union's economic policy.

The proposals of Jacques Delors

Jacques Delors initially set out his proposals in an interview with *Le Monde* published on 19.1.2000. He further detailed them in various subsequent contributions, including in particular: a presentation at a conference of the Europartenaires organisation (13.1.2000), an article ("*Ma vision d'une fédération des États-nations*", *Le Monde des Débats*, July 2000), interviews with *Libération* (17.6.2000) and *La Croix* (15.7.2000), and a hearing of the EP constitutional committee (18.9.2000).

I- Analysis and architecture

A 25 or 30-member Europe cannot take its first steps as a single, unifying entity unless the European project is diluted. If we are to make rapid enlargement possible without dilution, we will have to make a distinction between a geopolitical Union and an open "avant garde" established as a federation of nation-States. This federation would have its own institutions, governed by an ad hoc treaty, until the Union joined it.

II- Distribution of powers

The distribution of powers would be determined by a treaty between States (not a constitution).

The Union would be a free trade area (ensuring the four freedoms) governed by the provisions required to prevent unfettered competition and a few common policies (those indispensable to ensure convergence between the State and the regions, and a few more if possible).

The federation would be built around a political capability: economic and monetary union (EMU), common foreign and defence policy measures, an area of security and justice for citizens, increased involvement of citizens in the political integration process, and forging of ties of solidarity with countries to the east and south.

Employment, social policy, health, education and culture, and foreign policy would be subject to cooperation between States, and would therefore remain in their sphere of competence (although common foreign policy measures could be taken).

III- The institutions

The concept of "federation of nation-States" is designed to take account of the specific features of European integration: distribution of powers at federal level while maintaining the national framework, an irreplaceable factor for identification and

solidarity. Only the "Community method" makes it possible to take these specific features into account, at the cost of a degree of ambiguity in the separation between legislative and executive powers. Like the Union, the federation would therefore be based on an "institutional triangle", strengthened by the establishment of a semi-permanent General Affairs Council (separate from the Foreign Affairs Council) and by a yet-to-be-designed system for involving the Commission in non-legislative political tasks (intergovernmental components of the second and third pillars, steering of convergence processes, etc.). Within this framework:

- The Union and federation would share the same Commission and Court of Justice. The Commission would play a more important role in the Union than in the federation. It could some day be necessary for the President to be elected and become the head of the European executive.
- The federation would have its own Council of ministers. The Council of the Union would elect a President for two-and-a-half years. The federation would preserve the principle of six-monthly presidencies but would elect a President responsible for external relations for a term of two-and-a-half years.
- The federation would have its own Parliament, which would either comprise an equal number of European and national MPs or be divided into two chambers.
- The federation could decide on a more concentrated mode of representation within the Union (seats in the Council, number of commissioners, etc.). It would be able to conclude closer cooperation arrangements with other Union members (such as the United Kingdom, which does not belong to the euro zone, for CFSP matters).

IV- Launch of the process

On the initiative of a group of States (which may be the six founding countries). From the outset, the federation would be open to all those who can and want to join it.

The failure of the IGC would trigger a crisis which could require this process to be accelerated, in order to establish the federation before 2005.

The thoughts of Joschka Fischer

On 12.5.2000, the German minister, speaking "in a private capacity", made a speech in Berlin called "From Confederacy to Federation - Thoughts on the Finality of European Integration". He made a few clarifications in later declarations, in particular during hearings of the committee on foreign affairs of the French national assembly (14.6.2000) and the EP constitutional committee (6.7.2000). We have also drawn on the response of Hubert Védrine (*Le Monde*, 10.6.2000) and the debate between Joschka Fischer and Jean-Pierre Chevènement (*Le Monde*, 20.6.2000), which also contain interesting views.

I- Analysis and architecture

The inescapable enlargement process makes it necessary to complete the political integration of Europe. A balance must be preserved between respecting the sovereignty of the Member States and transferring part of this sovereignty to supranational European institutions. This used to be possible via the Monnet-Schuman method, with "closer cooperation" being its most recent instrument. But this method is no longer adaptable to the issues facing the Union today (see the debate with Chevènement: "We need a revolution against the old regime of Brussels"). We need a deliberate political act to reestablish Europe, leading to a federation of nation-States.

This act entails some sort of "centre of gravity". If the Union as a whole does not follow suit, this centre of gravity would need to take the form of an "avant garde" equipped with its own institutions.

Rather than a proposal for a given system, Joschka Fischer's contribution is intended as an exploratory venture comprising several options (even if the German minister does make his preference clear in a number of cases).

II- Launch and development of the process

The launch and development of the process form the core of Joschka Fischer's analysis. He makes a distinction between three stages:

As a first step, building on the results achieved at Nice, certain States would engage in closer cooperation in a number of areas (EMU, fight against crime, immigration and asylum, CFSP, etc.).

Then, a number of these States would establish an open "centre of gravity" that would be the "core" of the future federation. France and Germany would play a key

role (national assembly hearing). These States would be united by a "constitutional treaty" and would have specific institutions in or outside the current treaties, allowing them to speak with one voice within the Union.

This process would lead up to the **moment of truth**, when a European federation would be established. The German minister did not comment on the status of Union members which would not join the federation.

III- Distribution of powers in the federation

The distribution of powers is not dealt with in any detail. The constitutional treaty would set the federal powers (positive list) and would enshrine the principle of subsidiary. In his hearing at the national assembly, Joschka Fischer indicated that in his view, the European legislation should be designed as a "framework", leaving some leeway to the States.

IV- The institutions of the Federation

The institutional triangle would be replaced by:

1) A legislative body comprising two chambers.

- One elected by direct universal suffrage. In the Berlin declaration, Joschka Fischer suggested that its members should also be members of the national parliaments – an idea that was not reiterated in later statements.
- The other, a "chamber of States" (similar to the *Bundesrat*) or senate (similar to the US model), depending on its membership, would comprise members of national parliaments. Joschka Fischer seemed to indicate a preference for the senate option during his EP hearing.

2) An executive which would become the government of the federation. It would be formed either by developing and structuring the European Council or by transforming the current Commission, whose President would be elected by direct suffrage to lend it democratic legitimacy. During his hearings at the national assembly and European Parliament, Joschka Fischer indicated that he preferred the latter option.

In his answer, Hubert Védrine pointed out that the choice between the two options was not neutral in terms of the distribution of powers, stressing in particular that the direct election of the President of the executive had far-reaching implications.

The Strasbourg declaration of François Bayrou and Daniel Cohn-Bendit

On 13 June 2000, the two heads of the lists in the European elections issued a call "For Europe to become a democracy". Since the degree of endorsement of their political parties was not specified, we also referred to the article by Dominique Voynet, Guy Hascoët and Daniel Cohn-Bendit "*Construire l'Europe, allons-y Joschka*" (*Libération*, 18.5.2000) and the "*Projet pour une constitution de l'Union européenne*" submitted to the UDF for debate on 26.6.2000.

I- Analysis and architecture

"If we keep to intergovernmental methods, enlargement will be impossible", even taking the closer cooperation option into account. We must reestablish Europe on the basis of a "unified democratic system" governed by a constitution.

This call to the 15 Member States did not include any comments on the issue of an "avant garde" (in contrast to the *Libération* article). However, the UDF project does provide for a partner State status for "States which have previously adopted the TEU".

II- Distribution of powers

1) The exclusive federal powers relate to free movement (the four freedoms), monetary policy, competition, and the CAP (UDF project). The Strasbourg declaration also mentioned conflict prevention and joint external policy measures.

2) The powers shared with the States under the UDF project would involve the CFSP, development cooperation, regional planning and development, transport, the environment, social policy, industrial competitiveness, research and development, quality education, civil protection, tourism, and consumer protection. The Strasbourg declaration proposed an intermediate category – "coordination powers" – for areas such as harmonisation in the taxation and social spheres and foreign policy, allocating the status of "shared powers" to justice, the environment and cultural identity.

3) All areas not mentioned in the constitution would remain national prerogatives. The UDF project, which expressly refers to the principles of subsidiarity and proportionality (the Union intervenes only if the lower levels cannot act adequately and does not go further than what is required to achieve the objectives), also points towards wide-ranging implementation powers for the States in areas of federal and shared competence.

III- The institutions

A President of the Union would be elected for a (non-renewable) five-year term by direct universal suffrage or, during a transitional phase, by a "European congress" bringing together members of the European and national parliaments. (The Strasbourg declaration envisaged an alternative: the President would be the leader of the winning party in the elections to the Parliament.) There would be a legislative power and an executive power:

1) The legislative power would comprise two chambers that would co-legislate on "European laws" (by a simple majority) and "organic laws" (by a reinforced majority).

- The Parliament would be elected by universal suffrage under a uniform procedure. It would be able to adopt a motion of censure against the executive power, but could also be dissolved by the Union President after consultation of the Council of States. In the latter case, the President of the Union would have to resign (UDF project).
- The Council of States, chaired by the President of the Union, would be based on the current Council. It would establish its "executive and legislative compositions", which would each elect a President for a two-year term.

2) The executive would be based on the current Commission. The President of the Union would choose his or her commissioners and allocate their portfolios.

A Supreme Court comprising 15 members would rule on conflicts and safeguard citizens' rights. These would be set out in a charter which would form the first part of the constitution.

IV- Launch of the process

The Strasbourg declaration called for a process jointly involving the Commission and Parliament to be launched by the Council at its meeting in Nice (December 2000). The debate would be run by national parliamentary committees, which would organise conferences on a federal Union in Europe in each country. The ratification (under a procedure which was not specified) would take place in 2003.

**Neo-Gaullist views
and their influence on the proposals of Jacques
Chirac**

In April 2000, Jérôme Monod and Ali Magoudi published a "manifesto for a sovereign Europe" ("*Manifeste pour une Europe souveraine*"). On 15.6.2000, Jacques Toubon and Alain Juppé, in an interview with *Le Figaro*, set out a project for a "constitution for Europe" along similar lines. Although it would be exaggerated to say that it was a deliberate sequel, Jacques Chirac's speech "Notre Europe" before the *Bundestag* (27.6.2000) made indirect reference to some of the earlier views and outlined the path of the project in greater detail than the previous declarations.

I- Analysis and architecture

In a globalising world, "the legitimacy of political representation soon tends to disappear". If Europe is to respond to globalisation, it must recreate sovereignty in the democratic sense of the word. This entails establishing a constitution to determine the principles of European action (charter of fundamental rights) and clarify the role of the institutions ("who does what"), in particular as regards the relations between the Union and its members and between the legislative and executive powers.

Although the book of Jérôme Monod and Ali Magoudi contains no reference to an "avant garde", the concept does feature in the answers Alain Juppé and Jacques Toubon gave to *Le Figaro* and in Jacques Chirac's contribution (in the form of a "pioneering group" to last at least during an intermediate phase).

II- Distribution of powers

Although the distribution of powers between the Union and its members is a constant concern, it is not clarified in any of these documents. The issue is left to those who will draft the constitution.

The authors would nevertheless appear to view this distribution as a procedural issue, to a large extent. Respect for subsidiarity primarily depends on institutional balance.

III- The institutions

The current Council and Commission would be replaced by:

1) A legislative power comprising two chambers:

- The European Parliament, elected by universal suffrage (Juppé/Toubon plead either for large regions or for single-candidate constituencies).
- A Chamber of Nations comprised of national MPs. For Alain Juppé and Jacques Toubon it would be the guardian of the subsidiarity principle, subject to consultation of the Court of Justice, while Jérôme Monod and Ali Magoudi suggest a constitutional court.

2) An executive power, in the form of a "government of the Union" whose head, appointed for 30 months by the European Council from among its members or not, could be revoked by the Council (Monod/Magoudi suggest election by universal suffrage at the same time as Parliament). This President of the Union would choose the members of his government, who would be responsible before Parliament (in the Monod/Magoudi proposals, the government as a whole can be censured by both chambers acting together), and submit them to the European Council.

The President would represent the Union in its external relations, set the resource ceilings and have the power to dissolve Parliament (Juppé/Toubon). Jérôme Monod and Ali Magoudi suggest that he or she should be commander-in-chief of the armed forces and have a power of veto over all decisions.

Alain Juppé and Jacques Toubon further propose that the European Council should take decisions by a qualified majority under the double majority system.

IV- Launch of the process

Neither Jérôme Monod/Ali Magoudi nor Alain Juppé/Jacques Toubon put forward any schedule. In his "Notre Europe" speech, which did not go into very great institutional detail, Jacques Chirac did, however, propose a three-stage approach.

- The **first step** would be the European Council meeting in Nice, which is *inter alia* supposed to make closer cooperation practicable.
- As a **second step**, the "the countries that decide to participate in all the spheres of enhanced cooperation", "together with Germany and France", could form a "pioneer group" which could also engage in cooperation outside the treaty. Jacques Chirac went on to indicate that the group did not need a new treaty or sophisticated institutions but had to be able to rely on a "flexible cooperation mechanism, a secretariat tasked with ensuring the consistency of the positions and policies of the members of the group".
- The **third step** involves establishing a constitution for this group, which would reorganise the treaties and make them more intelligible, clearly define the division of responsibilities and "prepare the necessary institutional adjustments, as regards both the executive and the Parliament". This constitution would be prepared by involving all governments and members of the national and European parliaments, either on the basis of the findings of a "Committee of Wise

Men" or of an "approach modelled on the Convention". "The people would be called on to give their verdict" on the text.

A few British ideas

The British authorities have taken little part in the debate on the structure of an enlarged Union, apart from one article by Tony Blair and Göran Persson ("Reaching out to all of Europe", FT of 21.9.2000) and a speech by Tony Blair in Warsaw (6.10.2000). In the latter, he rejected the idea of an "avant garde", supported the legitimacy of the institutional triangle, and proposed reforms such as the adoption of a political and legislative programme by the European Council (in the form of an annual agenda), the creation of a second chamber of members of national parliaments which would be responsible in particular for ensuring compliance with a "charter of competences" ("statement of principles") and the establishment of "team presidencies" for the various Council compositions.

The issues mentioned bear some relation with the conclusions of British think tanks set out in two books about the future of Europe: "EU 2010: an optimistic vision of the future" (Charles Grant, CER, October 2000) and "Network Europe: a new case for Europe" (Mark Leonard, FPC, 1999).

I- **Analysis and architecture**

Enlargement is a top priority. Europe as a whole must undertake reforms to adapt to a global and networked economy and adjust to its new dimension. The vision excludes any concept of "avant garde" but does provide for the possibility of closer cooperation between States. The reformed Europe must be capable of organising "competitive cooperation" between States and accommodating the differences in pace that the diversity of an enlarged Union entails.

II- **Distribution of powers**

1) The Union's sphere of competence covers free movement (the four freedoms): competition policy, respect for liberal, and democratic rights (established by a charter enshrined in the treaty according to Charles Grant).

2) A second sphere of areas in which cooperation would be necessary would comprise "overseas issues": EMU, the Schengen area, a common weapons agency, and the environment. Mark Leonard also adds the fight against organised crime and the promotion of job creation. Charles Grant sees this as an area for closer cooperation, while Mark Leonard focuses on the methods (convergence criteria, constructive abstention and closer cooperation if necessary).

3) The rest pertains to "competitive cooperation" between States: benchmarking, exchange of best practice and peer pressure.

III- The institutions

1) The leading institution would be a more active European Council. It would meet every two months and be supported by a strengthened general secretariat and a group of sherpas (Grant) and have a collegial presidency – one head for each pillar – elected for two years (Leonard).

2) This supreme body would be based on a renovated General Affairs Council meeting weekly and chaired by an elected President (Grant), or meeting monthly (Leonard). The number of "specialist" Councils would be cut to three (economic and financial affairs, foreign affairs and justice and home affairs). The other compositions would become either committees (Grant) or temporary non-sectoral task forces (Leonard).

3) The Commission would concentrate on its technical functions: internal market watchdog, closer cooperation secretary, and technical negotiator of enlargement procedures. The CFSP, EMU and JHA duties would be entrusted to "independent" vice-presidents who would not be responsible before Parliament (Grant), or would be dealt with by specialist Commission departments headed by a vice-president (Leonard, who suggests that other issues should be dealt with by ad hoc working parties). National commissioners would be elected by universal suffrage in each country and the European Council would select the President from among them (Grant).

4) Parliament's democratic supervision role would take precedence over its legislative role: individual responsibility of commissioners, supervision of implementing agencies (Grant), access to the debates of the Central European Bank (Leonard). Charles Grant suggests that the European Parliament elections should no-longer be held simultaneously Europe-wide but should be coupled with national elections, and recommends a mixed European Parliament comprising 50% of national MPs and featuring specialist compositions.

5) Charles Grant also proposes to establish a "Standing Council on Subsidiarity" comprising former political decision-makers, while Mark Leonard suggests that the IGCs be replaced by "reform summits" held by the European Council.

IV- Democratic legitimacy

Democratic legitimacy is a central issue for both authors.

- Charles Grant emphasises making the treaty more intelligible, establishing a charter of fundamental rights that can be invoked before national courts and giving a higher democratic profile to decision-makers (commissioners elected nationally, EP elections coupled with national legislative elections, etc.).

- Mark Leonard focuses on establishing democratic processes on a continental scale: organisation of European party caucuses before each meeting of the European Council and General Affairs Council, referendums on policy orientations on popular initiative (significant percentage of the population in three-quarters of States),

systematic consultation of standing citizens' panels (5,000 people per State on average) about policy orientation and issues on the agenda of European Council meetings.

A few noteworthy stances

Joschka Fischer's speech at Humboldt University triggered an avalanche of responses. We chose to look more closely at those of government decision-makers.

I- Before Joschka Fischer's speech

1) **Johannes Rau** started the debate in an article co-published by *Le Monde* and the *FAZ* called "*Une constitution fédérale pour l'Europe*" (4.11.1999). The prospect of enlargement requires a fresh political impetus aiming to establish a federation of nation-States. This would be governed by a constitution, the preamble of which would be a charter of fundamental rights. The federation would have to be equipped with a representation system at two levels: the citizen and the State.

2) **Valéry Giscard d'Estaing and Helmut Schmidt**: "*Pour une Europe de l'euro*" (*Le Figaro/Die Zeit* of 10.4.2000) The enlarged Europe must comprise three circles: a European free-trade area with a low degree of political integration, an area of cooperation on European defence which would involve the United Kingdom, and a politically integrated area formed on the basis of the euro zone. The latter would have its own institutions: a Council and a "parliamentary structure" which would have links with national parliaments, but "probably not a Commission".

II- After Joschka Fischer's speech

1) **In Italy: Lamberto Dini** (interviews of 19.5.2000 with the *Corriere della Sera* and of 27.5.2000 with *Le Monde*), **Giuliano Amato** (interview with the *Corriere della Sera* of 4.7.2000, "*Un coeur fort pour l'Europe*" in *Le Monde* of 25.5.2000), **Carlo Azeglio Ciampi** (speech at the University of Lipsia on 6.7.2000, interview with *Le Figaro* on 25.7.2000). These contributors share a federal outlook in which closer cooperation is seen as a first step, but also view the concept of an "avant garde" equipped with its own institutions with great reluctance since they fear it might divide Europe instead of leading to further integration. According to Giuliano Amato, the United Kingdom must be a part of the "strong heart of Europe". All also insist on the need to respect the Community method and on the irreplaceable role of the Commission (including as a secretariat for intergovernmental initiatives, according to Ciampi).

In a joint article published in *La Repubblica* of 21.9.2000, **Giuliano Amato** and **Gerhard Schröder** expect a successful Nice meeting to make closer cooperation easier (in order to prevent the most advanced countries from acting outside the framework of the treaties) and to launch a constitutional process (charter of rights and distribution of powers) leading to a "wide-ranging conference in 2004", after an extensive public debate. This joint view formed the basis of the Italo-German

proposal submitted to the IGC on 4.10.2000, that aimed to make the closer cooperation mechanism more flexible, integrate it into the framework of the common institutions, and ensure that it contributed to the progress of European integration. The document made no reference to the period after Nice.

2) In the Benelux countries:

- **Guy Verhofstadt** set out his view of a fresh political impetus at a conference organised by the European Policy Centre on 21.9.2000. The enlarged Union must ensure respect for its values and establish a capacity for intervention abroad (CFSP, autonomous defence capability, judicial and immigration policy, socio-economic platform within the framework of EMU). The current system and the intergovernmental method are not appropriate for this purpose. What is required is a "federal Community" approach, even if intergovernmental cooperation can give a boost or serve as an intermediate stage. To avoid closer cooperation from degenerating into mere intergovernmental cooperation, it must be supervised by the Commission, the treaty must provide for "crossovers" towards the Community framework and the CFSP representative must have a seat within the Commission. The second phase should be more constitutional (charter and distribution of powers). The future European institutions should include a bicameral Parliament that could censure the Commission but could also be dissolved, a Commission with a renovated role whose President would be elected by universal suffrage, and a Council that would set priorities and legislate. **The foundations for such a project could be laid during the Belgian presidency**, in the form of a declaration of the Member States on the final objective.
- **Jean-Claude Juncker** (in *Les Échos*, 19.9.2000) puts forward an "Italian" view: closer cooperation is necessary to preserve the momentum of an enlarged Union, but should be a last resort, where the extension of qualified majority voting offers no alternative. As for the institutions of the future Europe, we must be careful not to create artificial divisions (Joschka Fischer's speech came "either too late or too soon").
- **The three Benelux prime ministers** summed up the proposals of Guy Verhofstadt and of Giuliano Amato/Gerhard Schröder in a memorandum issued on 30.9.2000: closer cooperation to avoid the most determined countries having to act outside the treaty framework, declaration of the 15 Member States on the broad orientations of the EU's political future "before the end of 2001" (Belgian presidency) in order to open a debate which would be concluded in 2004.

3) Elsewhere...

We have already mentioned the article by **Tony Blair** and **Göran Persson** published in the FT of 21.9.2000: priority on enlargement, the need not to divide, but, on the contrary, to reform Europe as a whole using the "open coordination method" devised at Lisbon. This position can be seen *a contrario* as opposing all forms of avant garde.

Along similar lines, **José-María Aznar**, in a conference at IFRI on 27.9.2000, pleaded for a unifying approach: priority on enlargement, restriction of closer cooperation to areas where European integration is not yet consolidated, and postponement of the debate on the architecture of an enlarged Union to 2005/2006.