

HOUSE OF LORDS

SESSION 2002–03
35th REPORT

SELECT COMMITTEE ON
THE EUROPEAN UNION

THE FUTURE OF EUROPE: PROGRESS
REPORT ON THE DRAFT
CONSTITUTIONAL TREATY
AND THE IGC

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THIRTY-FIFTH REPORT

By the Select Committee appointed to consider European Union documents and other matters relating to the European Union.

ORDERED TO REPORT

THE FUTURE OF EUROPE: PROGRESS REPORT ON THE DRAFT CONSTITUTIONAL TREATY AND THE IGC

INTRODUCTION

1. The Convention on the Future of Europe¹ has produced and submitted to the European Council a draft constitutional Treaty² which will provide the basis for discussions at the Inter-Governmental Conference (IGC) later this year. Any Treaty emerging from the IGC will need to be agreed unanimously before being presented to Member States for ratification in accordance with their respective constitutional requirements.

2. Our Committee³ has been keeping the work of the Convention under review and a list of our previous reports on the Convention is printed in Appendix 2.

3. The purpose of this Report is to inform the House of how the Committee intends to scrutinise the draft constitutional Treaty as it proceeds through the IGC.

TIMING

4. The IGC is expected to begin in early 15 October. How long the negotiations will then take is unclear but we intend to ensure that the results of our deliberations on the draft Treaty are made available as early in the process as possible.

5. We have, however, decided to ensure that, in completing our work, we can take account of the following:

- A possible Government White Paper expected in September;
- The Commission's response to the Convention and submission to the IGC, also expected in September;
- The House's own debate on the Convention on 9 September.

6. We accordingly make this report for debate, and recommend that such debate takes place jointly with that on the Government's motion on 9 September. We make this progress report to the House now so that Members and outside bodies and individuals are aware of our work. **We accordingly welcome evidence to help us with our final report. Evidence should be submitted in writing by 10th September.**

7. The Committee also intends to scrutinise the work of the IGC as it unfolds. To this end **we recommend that the Government publicises its strategy for keeping Parliament informed of the work of IGC (to include both written reports to both Houses and proceedings on the floor, including statements and debates). The Government is also working to present the draft constitutional Treaty to the public and should do more to make known the content and effect of the Treaty.**

SUBSTANTIVE QUESTIONS

8. The substantive purpose of this report is to show what questions the Committee will be considering over the next couple of months. These are as follows.

¹ www.european-convention.eu.int

² The versions of Treaty on the Convention's website are being updated as the final text appears.

³ Our members are listed in Appendix 1.

The proposed constitutional Treaty: a super state?

9. The Committee will press HMG to provide Parliament with a comprehensive written analysis of how the proposed constitutional treaty differs from the existing EU treaties which it replaces; and in particular how far the Treaty would extend QMV.

10. What will be the significant improvements? In the other direction, where are the “thick redlines” that HMG should not cross? In particular should more decisions on CFSP be taken by QMV?

11. Where the national veto remains, is it in fact realistic that one Member State would seek to frustrate the common will of the other 24?

12. What will be the future position of the various existing national “opt-outs” under the draft Treaty?

13. How far does the draft Treaty represent an increase in the powers of the European Parliament? Are these developments compatible with the current inter-institutional balance? Should corresponding provisions be made for national parliaments to scrutinise decisions by their own governments where the EP and Council will be acting together under the co-decision procedure?

14. What are the most significant reservations that other Member States have about the draft Treaty?

15. What in practice will be the significance of the proposed “exit clause” in Article I-59?

16. What will be the effect of the incorporation of the Charter of Fundamental Rights into the Treaty?

17. What will be the role of the European Court of Justice under the draft Treaty? What will be the effect of the Treaty on relations between the Court and national constitutional courts?

Institutional questions

18. What role will there be for the proposed non-voting Commissioners? How will an EU of 25 be able to function until the proposed changes to the Commission take effect in 2009?

19. HMG has supported the post of President of the European Council. What will be the functions of the post? What kind of person will be eligible to hold it? How will the post be filled and will that process be transparent and accountable?

20. To what extent should the proposed Minister for Foreign Affairs have the right of initiative on defence?

21. How is the proposed Legislative Council intended to operate? Will it be any more than a rubber stamp? How will open and accountable discussion of policy be secured? What records of deliberations should be made publicly available?

A more comprehensible Union?

22. How far does the draft Treaty satisfy the Laeken mandate in particular by making the EU more accountable and comprehensible to the citizens? How will this vast and complex document be presented so that it can be digested by the media and the public?

National Parliamentary Scrutiny

23. Do proposals giving national parliaments a “yellow card” procedure on subsidiarity go far enough? Should these be strengthened at the IGC? What rights should our national parliament have to bring actions before the Court?

24. What status should the Treaty give to national parliamentary scrutiny reserves? How could the requirements for national parliaments to have adequate time and proper information for scrutiny be better met than at present?

25. Do the proposals for national parliamentary scrutiny of foreign affairs and defence go far enough and if not what should be done to enhance them?

APPENDIX 1

European Union Select Committee

The members of the Committee are:

Baroness Billingham
Lord Brennan
Lord Cavendish of Furness
Lord Dubs
Lord Grenfell (Chairman)
Lord Hannay of Chiswick
Baroness Harris of Richmond
Lord Jopling
Lord Lamont of Lerwick
Baroness Maddock
Lord Neill of Bladen
Baroness Park of Monmouth
Lord Radice
Lord Scott of Foscote
The Earl of Selborne
Lord Shutt of Greetland
Baroness Stern
Lord Williamson of Horton
Lord Woolmer of Leeds

APPENDIX 2

Committee Reports on the Convention, Session 2002-03

Twenty-Seventh Report: Government Responses: Mid-Term Review of the Common Agricultural Policy: External Implications; and the Future Status of the EU Charter of Fundamental Rights HL 114, 9 June 2003

Twenty-Sixth Report: Government Responses: The Stability and Growth Pact; EU-Effective in a Crisis; and the Future of Europe: Convention Working Group – reports on Defence and External Action HL 112, 27 May 2003

Twenty-Third Report: The Future of Europe: Constitutional Treaty — Draft Articles on External Action HL 107, 15 May 2003

Twenty-Second Report: The Future of Europe: Constitutional Treaty - Articles 33-37 (The Democratic Life of the Union) HL 106, 15 May 2003

Twenty-First Report: The Future of Europe: Constitutional Treaty - Draft Articles on the Institutions HL 105, 15 May 2003

Eighteenth Report: The Future of Europe: Constitutional Treaty - Draft Articles 43-46 (Union Membership) and General and Final Provisions HL 93, 10 April 2003

Sixteenth Report: The Future of Europe: Constitutional Treaty - Draft Article 31 and Draft Articles from Part 2 (Freedom, Security and Justice) HL 81, 28 March 2003

Fifteenth Report: The Future of Europe - Convention Working Group Reports on Defence and External Action HL 80, 31 March 2003

Fourteenth Report: The Future of Europe: "Social Europe" HL 79 7 April

Twelfth Report: The Future of Europe: Constitutional Treaty - Draft Articles 24-33 HL 71, 13 March 2003

Eleventh Report: The Future of Europe: National Parliaments and Subsidiarity - The Proposed Protocols HL 70, 13 March 2003

Ninth Report: The Future of Europe: Constitutional Treaty - Draft Articles 1-16 HL 61, 27 February 2003

Sixth Report: The Future Status of the EU Charter of Fundamental Rights HL 48, 4 February 2003

Minutes of Evidence: The Convention on the Future of Europe (Ms Gisela Stuart MP, Mr David Heathcoat-Amory MP, Lord MacLennan of Rogart and Lord Tomlinson) HL 33, 24 December 2002.