

# THE FEDERAL TRUST

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## European Newsletter

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### Note from the editor

This newsletter monitors and analyses current developments in the UK and in the rest of the European Union on the future of the European Constitutional Treaty. It offers a particular UK perspective of these developments and provides a forum for differing views on the debate. Views expressed are those of the authors and are not necessarily shared by the Federal Trust. Back issues are available at [http://www.fedtrust.co.uk/european\\_newsletter](http://www.fedtrust.co.uk/european_newsletter).

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### 1. Many a slip 'twixt cup and lip

During the past month it has become much clearer how Mr. Blair at least hopes that the politically difficult question of the European Constitutional Treaty, the twenty seven countries of the Union now simply agreed on a number of amendments to the existing European treaties, incorporating only some of the less contentious elements of the failed Constitutional Treaty. In Mr. Blair's view, such amendments could be regarded as purely technical and administrative in character, involving little or no further pooling of British sovereignty within the European Union. In these circumstances, a purely parliamentary ratification process for the United Kingdom would be sufficient.

All the more attention was given to Mr. Blair's interview because of the report which accompanied the interview that this new British approach to the future of institutional reform in the Union was shared by Mr. Blair's likely successor, Mr. Brown. Mr. Blair's present intention is to attend as one of his last acts as Prime Minister the European Council in June, at which a timetable and negotiating mandate will probably be agreed for a new Intergovernmental Conference of the European Union. Mr. Blair now seems to share the hope of Mrs. Merkel, who will be presiding over the European Council in June, that this new

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### The Federal Trust for Education and Research

Brendan Donnelly, Director

Newsletter Editors: Joana Cruz  
Jonathan Church

Further copies available from:  
7 Graphite Square  
Vauxhall Walk  
London, SE11 5EE  
Tel: +44 (0)20 7735 4000  
Fax: +44 (0)20 7735 8000  
[www.fedtrust.co.uk/european\\_newsletter](http://www.fedtrust.co.uk/european_newsletter)

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Intergovernmental Conference will be able to present to another European Council this year or next a proposed series of treaty amendments deriving from the European Constitutional Treaty. If, from the British point of view, all goes well at the Intergovernmental Conference, it should be possible for Mr. Brown to accept these treaty amendments, argue that they are sufficiently marginal and technical in character not to merit a referendum in the United Kingdom and ratify them by using Labour's substantial Parliamentary majority at Westminster.

The attractions of this tactic will certainly have increased with the election as French President of Mr. Sarkozy, who is himself eager to avoid a referendum on a new European treaty. His proposals for a limited "institutional treaty," which would not need to be the subject of a further referendum in France, have clear common ground with the approach sketched out by Mr. Blair. There have been persistent reports over the course of the German Presidency of the Union this year that Mrs. Merkel was working discreetly to ensure a common view on the successor text to the European Constitutional Treaty between Berlin, London and Paris (if Mr. Sarkozy was elected), a common view which would find its expression in the decisions of the European Council in June.

There are, however, two possible barriers to such a smooth and in many respects satisfactory resolution of the problems arising from the impasse over the European Constitutional Treaty. The first is that over the next six months the new Intergovernmental Conference may find it impossible to agree on the amendments to the existing treaties that it wishes to extract from the Constitutional Treaty. Eighteen countries have already ratified the Constitutional Treaty and will naturally wish to preserve as many as possible of its provisions. Britain (and possibly others) will be at the other end of this spectrum, eager to limit to the absolute minimum the proposed amendments to the existing treaties, fearing in the British case particularly that no domestic referendum could currently be won on a wide-ranging set of European institutional in-

novations. Mr. Sarkozy's proposals for an "institutional treaty" sit somewhere between these two extremes, but in their present form are probably somewhat more substantial than Britain at least would wish. Another set of controversies may be raised by the Polish government, which is apparently still unreconciled to the new weighting of votes in the Council to Poland's disadvantage, which was so prominent a feature of the Constitutional Treaty, but is regarded by all Poland's partners as an essential element of the Union's new institutional balance.

The second unknown factor in this new emerging European equation is the role of Mr. Brown as Mr. Blair's likely successor. It may well be that he has acquiesced until now in the proposed tactics of Mr. Blair. But political and personal relations over the past ten years between the two men have been notoriously volatile. It is entirely conceivable that once Mr. Brown becomes Prime Minister he will strike an entirely different tone to that of his predecessor. The recent local and regional election results suggest that the current political position of the Labour Party is an uncomfortably weak one. Mr. Brown may well find himself at the end of this year or the beginning of next on the horns of a (largely self-created) dilemma. He does not wish to be isolated in the European Union in the now increasingly plausible event that a consensus on institutional questions can be achieved between Britain's twenty six partners. On the other hand, he will be reluctant to sign any agreement which makes him vulnerable to apparently persuasive calls for a referendum in the United Kingdom to endorse the contents of this agreement. Having accepted the (flimsy) case for a British referendum on the original Constitutional Treaty, Mr. Brown and New Labour will be very sensitive to accusations that he is now trying to implement its provisions "by the back door" without a national referendum.

Mrs. Merkel has been more successful than many observers hoped (or feared) in reviving under the German Presidency the European debate about a successor text to the European Constitutional Treaty. In six months time, Mr. Brown may find

himself not thanking her for doing so. It is overwhelmingly likely that David Cameron and the Conservative Opposition will call for a referendum on even minor changes to the existing European treaties. A number of factors will influence Mr. Brown's willingness and ability to resist these calls in late 2007 and the first half of 2008. Principal among them is likely to be his perception of the impact of such a debate on his and his party's electoral prospects in the next General Election, which might well take place in 2009. He may conclude that the Conservative Party will be damaged by shrill and obviously unreasonable calls from the major Opposition Party for a referendum on a text which is being ratified by parliaments in other member states. This would presumably encourage him to sign the agreed amendments to the existing treaties and subject them only to parliamentary ratification in the United Kingdom. On the other hand, he may conclude that Mr. Cameron would be the beneficiary of a debate about whether there should be a referendum on whatever new elements of sovereignty-sharing (real or imagined) the adopted amendments contain. This would be an uncomfortable risk for Mr. Brown to be taking in six months time, particularly against the likely background of unfavourable opinion polls for the Labour government. Had Madame Royal been elected French President this month, Mr. Brown would have been much less likely to face that risk in late 2007. Mr. Brown might well end 2007 in consequence regretting the defeat of a left-wing candidate for high office in a major European state. This would certainly be a novel and probably deeply unwelcome experience for him.

Brendan Donnelly  
The Federal Trust

## 2. The European Union Treaty and prospects for institutional reform

Implementation of the European Union "Constitutional" Treaty agreed by all the (then) 25 Member States in 2004 remains deadlocked. Of the (now) 27 Member States, 18 have ratified the treaty, 2 (France and the Netherlands) have rejected it and five have not yet passed formal judgement, although most of those support the proposed treaty. The fact remains, however, that implementation of the treaty requires the assent of all 27 Member States.

Although most comment on the treaty crisis has focussed on the impasse created by the Dutch and French referendum "No" results, the tempo of diplomatic activity to find a solution has been stepped up considerably since the start of 2007 under the EU Presidency of Germany. A few weeks before the European Council in Brussels it is already possible to see the outlines of a new consensus on the way forward. There is growing confidence that the Heads of Government will agree on a broad mandate for reform of the EU institutions and decision making processes which lay at the heart of the Constitutional Treaty. This, it is hoped, will then be converted by means of a new Inter-Governmental Conference into a detailed agreement to be concluded under the Portuguese Presidency in December. But the old adage remains truer than ever ... "there is many a slip between cup and lip."

### AN EMERGING CONSENSUS?

There appears to be a very widespread agreement to proceed with virtually all of the specific institutional reforms contained in the Constitutional Treaty (agreed by the 25 heads of government in 2004) notably those outlined in Part 1 of the treaty. These include:

- A new and simpler system of decision making by the Council of Ministers through the "double majority" principle (normally 55 per cent of Member States representing 65 per cent of the EU population)

- An extension of decisions by Qualified Majority Vote including aspects of Justice, Migration and the fight against crime - but with a possible "opt out" for certain of these QMV decisions for the UK

- A consequential enlargement of the co-decision powers of the elected European Parliament

- The replacement of the rotating Six monthly Presidencies of the Council with 3 Member States "Team Presidencies"

- The creation of a new post of President of the European Council (for a 2 1/2 year term)

- The appointment of a European Union Foreign Minister and the creation of a European External Action Service (the embryo of a European Diplomatic Service)

- A reduction in the numbers of Commissioners from 27 to 18

The new approach envisages no references to a new "Constitution" (or to any Constitutional symbols). This will also mean deleting or rewriting references in the present text to the "primacy of EU law over national law." Difficulties remain with getting UK agreement to giving the EU its own "legal personality" and to the status of the Charter of Rights (which was originally accepted by the British Government in the proposed Constitutional Treaty. The changes above (and a number of additional policy commitments such as climate change) would probably be implemented not through a new treaty but by a series of amendments to the existing Treaty of Nice.

### STILL UNANSWERED QUESTIONS

There are some other difficult problems to resolve before this outline consensus become *acquis*. Some Member States want to balance the commitment of the European Union to drive for greater competitiveness with a more explicit commitment to social cohesion and sustainable development. The new French President may want language on industrial policy

which others will see as conflicting with the dynamic of the internal market. Poland, the Czech Republic and the Netherlands also want to give new powers for coalitions of national Parliaments to block proposed EU legislation at an early stage and (like the British do not want the title of "EU Foreign Minister" for the new post .

The British government will raise difficulties about the precise relationship of the Charter of Rights in the existing Constitutional Treaty text to the new amended treaty (specifically whether it will be judiciable by the European Court of Justice). The UK government is also unhappy about the title of EU "Foreign Minister" (though not the functions of the new post). Some British ministers may also press for a last minute dilution of the decision to make areas of justice, migration and the fight against crime to be subject to possible decision by qualified majority vote. There may also be some last minute haggling over the precise division of votes between Member States in the Council (the Polish government would still prefer an allocation of votes in relation to population based on the "Square Root" principle.)

On the other hand, since the last European Council, there is agreement on giving the EU new, legally based powers, over the CO2 emission targets which are at the heart of the new climate change and sustainable development strategies. Moreover, to compensate the great majority of Member States who are in favour of the existing proposed treaty, there may encouragement for Member States who so desire to integrate more closely with each other on the principle of "enhanced cooperation" - providing the door is kept open for all other Member States who wish to join in future.

There are now reliable reports that the German Presidency of the European Union may approach these issues with a proposal for two treaty separate processes. The first would isolate all the issues of practical institutional reform. The second would embrace all the policy questions in Part 3 of the original treaty but in a greatly simplified and somewhat modified form. This suggests that Chan-

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cellor Angela Merkel might be ready to settle for an agreement this year on the treaty changes designed to give effect to institutional questions while allowing more time for debate on a new treaty dealing with strategic policy.

#### TARGET DATE FOR IMPLEMENTATION

If these issues can be settled by the end of this year (after a relatively brief Inter-Governmental Conference), it now also seems likely that ratification of the package of treaty amendments will – almost universally – be by Parliamentary procedure not by referendum. One exception may be Ireland which is bound by its own constitution to have a referendum to approve any new EU treaty. This has been stated publicly recently by Tony Blair, by President Nicolas Sarkozy and by the Dutch premier, Jan Peter Balkenende although the coalition in The Hague has not yet formally taken a decision).

The Danish government believes that with some minor legal adjustments to the emerging new text it can also proceed through Parliamentary ratification. Interestingly the Danish government is confident of being able to win a referendum if necessary, not least because of a “pro-European” shift in the position of one of the smaller left wing parties. In principle this should make it possible to achieve complete ratification in the course of 2008 so that the treaty changes can be signed in 2009 in time for the election to the European Parliament and the installation of a new Commission. An alternative might be for a final agreement to be concluded under the Presidency of France in 2009 which would delay actual implementation to after the EP elections.

The price to be paid for this sort of compromise should not be ignored. A key objective of the original Constitutional Treaty was to integrate and simplify into one document the existing treaties of the European Communities and the European Union (and the various amendments to both). This would also allow a new clearer definition of the differing responsibilities of the Union and its constituent Member State governments. In

the view of at least the 18 Member States which have already approved the original Constitutional Treaty it was designed to give the EU a more explicitly constitutional character. By proceeding on the basis of technical amendments to what is widely recognised as a thoroughly unsatisfactory Nice Treaty, the task of giving citizens a clearer understanding of the functioning of the EU has not been made any easier.

At the very least the hoped for year-end agreement on amendments to the Treaty of Nice should contain a Review Clause which would allow consideration of a new integrated treaty with (potentially at least) an explicitly constitutional character. Indeed a new rendez-vous date around 2015 should be fixed because soon after decisions will probably have to be taken on the accession of Turkey and countries in the Balkans. The final constitutional character of the European Union should be determined prior to this final stage of classical EU enlargement.

The priority should be to get agreement on as many of the concrete institutional reforms in the original treaty as possible and ensure they can come into force in time for the next direct elections to the European Parliament. In this context the enhanced role to be given to the European Parliament in electing future Presidents of the Commission should be underlined. But what will be crucial in strengthening the democratic life of the Union will be the readiness of the different European political parties to fight the 2009 EP election not only with their policy programmes but also with their own preferred candidates for the post of Commission President.

Inevitably the British and some other governments which have been proved signally unwilling to fight for the original treaty and win public opinion for its implementation will now proclaim “victory” because of the abandonment of all overt references to a constitution in the new agreement. On the other hand die-hard euro-phobes will point out that the new treaty contains virtually all the institutional reforms envisaged in the constitutional treaty.

Jacques Delors pointed out some years ago that while European integration is not necessarily predicated on a federalist outcome, it is certainly a federalising process. As the recent developments in EU policy on climate change demonstrate new internal and especially external challenges will require further European integration if they are to be met successfully. The institutional changes now envisaged in the amended Nice Treaty are the very minimum required to equip the EU to function effectively. But the door must not be shut to further constitutionalising developments in the decade ahead.

John Palmer,  
Chair, Federal Trust  
Discussion Group on the  
European Constitutional  
Treaty

### 3. 'Que l'Europe devienne politique'

*Excerpt from interview with Alan Lamassoure, Le Soir, 10 May 2007*

"In France, what Nicolas Sarkozy wanted was to rehabilitate politics. He would now like to do the same at the European level. He wants Europe to become political and when people go to Brussels, he wants them to make real choices, political choices, not simply leaving the Commission to administer the single European market.

That's why we need the institutional changes of the draft Constitution. [...]

I put it very simply. We take as a starting-point, as sole starting-point, the text of the Constitutional Treaty. We compare it with the Nice Treaty and set to work with a pair of scissors, with no editing, no additions. Then we cut from the text everything which does not represent an innovation compared to the Treaty of Nice, be that an addition, a modification or a deletion.

In reality, three quarters of the articles can be abandoned. In the third part, there are two dozen articles which are new, on the extension of qualified majority voting, on the role of the European Foreign Minister, on the European Defence Agency etc.

In the second part, there are the sixty articles of the Charter of Fundamental Rights. I don't think that human rights should figure in an ordinary treaty, and their presence was one of the factors giving the 2004 treaty the appearance of a constitutional text. I'd prefer a simple article along the lines of "The Union recognises and respects the Charter of Fundamental Rights adopted by the European Council of Nice on 7 December, 2000. That way, you get rid of fifty nine articles.

Then we have the 60 articles of the first part. You can make cuts there as well, by getting of articles which the Convention introduced to describe the EU."

[www.alainlamassoure.eu/liens/653.doc](http://www.alainlamassoure.eu/liens/653.doc)

### 4. Italian Perspectives on the Constitutional Treaty

#### Europe at 50: Lessons and visions for European Integration

*Excerpt from intervention of the Italian Minister of Foreign Affairs, Massimo D'Alema, Oxford Univ., 8 May 2007*

"[...] The way out of our predicament is what I would call a new "pact for Europe". As in the past fifty years, the new pact for global Europe can only rest on national leaderships that are truly committed to the European choice. More than in the past, the EU also needs – this has been the French-Dutch lesson - the active support of its citizens: not only the permissive consensus we have had most of the time but a democratic consent. Here, I fear that the issue of national referenda is becoming a pretext to avoid the real point: political leaders must engage directly their voters in the formulation and pursuit of a positive vision for a global Europe, both ideal and practical in nature. National referenda are not necessarily the way to go. I would rather favour parliamentary ratifications of a new Treaty, followed by practical efforts to turn the 2009 elections for the European parliament into a real political contest on the EU.

In the aftermath of the French presidential election, we can now say that France is again on the move, with Nicolas Sarkozy, as key European player. This will have positive effects on the wider European stage: the EU crisis has also been due to France's absence since the rejection of the Constitutional Treaty.

There are now better conditions in Europe for a fresh start on several fronts where problems have accumulated: the "pause for reflection" has really come to an end. If the European political dynamics can now take advantage from the return of France, I take this opportunity to tell you today, very frankly, that the UK is equally crucial to the future of a global Europe. Global Europe needs the UK, at least as much as the UK needs Europe. None of the member countries can sideline itself without the whole EU suffering from a lack of adequate political will."

### An Italian strategy for relaunching the EU Constitutional Treaty

*Gianni Bonvicini and Gian Luigi Tosato, Istituto Affari Internazionali*

#### "A difficult compromise

[...] Given that this is a new Treaty and not simply a revision of previous ones, it may be a good idea to take up once again the basic values which, after fifty years, still justify the progress to be made along the road to integration. These are objectives that the older generations jealously cherish in their memories, but which have to be transmitted to the new generations, destined to decide on the future of the European Union. Objectives that have to be updated to the new times, but above all that have to become part the patrimony of young people today, without the contribution of whom the integration process could die out.

To this end, the Berlin Declaration on the fifty years of the Treaty of Rome could be a useful starting point, in particular the less celebratory part of it that looks to the future. It underlines the need for European states to proceed together in the construction of the EU to safeguard and disseminate the values on which it is based. It is our opinion that a broad debate should be promoted, as the Commission has attempted to do with the triple D (democracy, dialogue, debate) initiative.

Definition of the finalities of the European Union is certainly more complex and less immediately comprehensible today that it was at the end of the Second World War, when pacifying the continent was absolute priority. Yet, the basic elements still exist even if they have to be updated to the new challenges. [...]"

*Full text: [www.iai.it](http://www.iai.it)*

## 5. European scrutiny in Westminster: At the discretion of the Executive?

### *Part of the 'Not In Our Name' project on parliamentary scrutiny*

In October 2006 the House of Commons European Scrutiny Committee considered a number of Commission documents concerned with the implementation of the "Hague Programme", the five-year road map for the development of justice and home affairs at the European level, as agreed by the Council in 2004. Of particular interest to the Scrutiny Committee were proposals to invoke the 'Passerelle' clause of the EU Treaty, which would likely make some of the most sensitive areas of justice and home affairs subject to Qualified Majority Voting (as opposed to each country wielding a veto), while also in these areas giving power to the European Parliament to co-legislate, and the ECJ to call member states to account.

There had been (and continues to be) discussion in the Council of Ministers about the use of this Passerelle clause, particularly as a consequence of the Constitutional Treaty's demise and the retention of decision-making provisions designed for a Union of far fewer than 27 states. The enthusiasm for its use varied widely among member states, and the prospect of (unanimous) agreement was accordingly small. Despite this, and regardless of the merit or otherwise of the proposed reforms, Parliament might well have wished to give a judgement on the matter, considering its potential constitutional significance. It might have wished, if not to *constrain*, then at least to *direct* the negotiating stance of the Home Secretary when meeting with his European counterparts in the Council of Ministers.

In the event, the European Scrutiny Committee did consider the issues to be "politically important", and accordingly recommended a debate on the floor of the House. In reference to the Passerelle, the Committee concluded that "on a matter of such importance it is vital that there should be no doubt or equivocation about the Government's position."

To the credit of the Government, the debate, as recommended by the Committee, did take place before the next Council meeting, on 4<sup>th</sup> and 5<sup>th</sup> December. The Government however have discretion over the wording of the motion they move for debate in response to the Committee's request.

In this case, the motion made reference to the Commission documents considered by the Scrutiny Committee (the House was asked to "take note" of such items), and, on the question of the Government's position in respect of "institutional change" (ie. *inter alia*, the Passerelle clause), the House was asked to "support the Government's position that this is not the right time to focus on institutional change". Arguably, it was not the wording that Parliament might have sought in order to avoid any 'doubt or equivocation' about the Government's position in negotiations over the use of the Passerelle; as deemed "vital", by the Scrutiny Committee.

The debate itself featured expressions of dissatisfaction at the capacity of the House to influence or clarify the Government's position. The motion was described by Members of the Opposition as being tabled in a "rather bland and meaningless fashion", and being "no more than some fairly woolly words". The Liberal Democrat MP Mark Hunter, asked the Minister, apparently to no response, to "confirm any decisions about the Hague Programme will be made on the Floor of the House, and that all members of all parties will have an opportunity to contribute?" Wayne David MP (Labour), in favour of many elements of the Hague Programme, nonetheless felt the need to stress that "we must be clear about where Parliament stands".

In the event, the Government's motion was passed by 275 votes to 130. It seems apparent though that Parliament was frustrated by its ability to scrutinise only tangentially the Government's position on this "politically important" issue. If Parliament is to scrutinise effectively a Minister's use of the prerogative in Council meetings, it must be able to ask Government the questions it wishes to be answered.

National legislatures must effectively scrutinise and direct the actions of government ministers in the Council of Ministers. Yet ministers will also require a certain flexibility when negotiating with their European counterparts, and, according to circumstance, parliament might wish to grant them more or less discretion. The particular course of scrutiny described above seems to highlight the deficiencies of a system in which government is *de facto* able to set the breadth of this leeway, arguably to the extent that it is meaninglessly wide.

Jonathan Church  
The Federal Trust

*More information:*

[www.myforeignpolicytoo.org](http://www.myforeignpolicytoo.org)

## 6. The Commission's Annual Policy Strategy: Its role in 2008

*Evidence submitted by Brendan Donnelly prior to appearing before the House of Commons European Scrutiny Committee, 3 May 2007*

1. The European Commission's Annual Policy Strategy (APS) cannot properly be compared to a draft legislative and political programme put forward by a national government at the beginning of a new parliamentary period. The great majority of the initiatives envisaged by the Commission for 2008 can only be carried out in collaboration with the Council and European Parliament. Where new legislation is in prospect, decision-making is exclusively in the hands of the Council and Parliament, which may delay, amend or reject any proposals coming from the Commission. In consequence, much of the APS can do little more than point towards areas in which the Commission intends to be active.

2. Two aspects of the Commission's APS for 2008 are, however, worthy of particular comment. On the one hand, the Strategy presents in a relatively comprehensive form the policy fields on which the Commission intends to concentrate in the near future. It also gives at least

some indication of the policy measures it intends to bring forward in these policy fields. This overview will be of particular use to national parliaments, who are thereby given notice of the European discussions and decisions to which their national governments will in the near future be contributing. Specialist committees of national parliaments above all will have as a result of this document the opportunity to scrutinise from a very early stage of the process the conduct of their own national governments in regard to evolving European legislation within their sphere of interest. On the other hand, and just as usefully, the Commission's APS also gives in its general tone and structure an up to date reflection of how the current Commission sees its own role within the overall institutional structure of the European Union. This particular Strategy clearly reflects the political analysis and preferred rhetoric of Mr. Barroso's Commission.

3. In the introductory two pages of the Strategy, the word "delivery" and its cognates figure no fewer than six times. In a number of widely-reported speeches in London and elsewhere, Mr. Barroso has repeatedly emphasized over the past year his view that an important way to improve the standing of the European Union in general and the Commission in particular is to demonstrate to groups and individuals within the Union that their personal and material circumstances are directly improved by those actions of the Union which "deliver" beneficial results. This argument is often associated by Mr. Barroso and other members of the European Commission with the further proposition that institutional change within the European Union, along for instance the lines suggested by the European Constitutional Treaty, will become politically more acceptable to public opinion throughout the European Union if the European institutions enjoy the popular prestige and sympathy arising from the "delivery" of successful policies. This analysis is consistently reflected in the Strategy for 2008. Although it is in many ways an attractive analysis, notably to a British audience, it is one not without difficulties, difficulties which are only partly reflected in the document under consideration. For a number of separate but related reasons, the European Union is

frequently not in a position to "deliver" by its own efforts the goals which it claims to have set itself. In most cases, the Union can at best contribute to the realisation of those goals by national or local governments and other economic actors. Moreover, when the goals in question are or may have been realised, governments and other national economic actors are not always eager to stress even the facilitating role that the European Union has played in the progress achieved. [...]

5. None of this is to say that the Commission should eschew efforts to "deliver" demonstrable improvements in the standard and manner of living of ordinary Europeans. It should, however, avoid awakening exaggerated expectations as to its own room for manoeuvre in this respect. In particular, the Commission should not harbour the illusion that its agenda of 'delivery' will of itself be sufficient to resolve the political crisis brought upon the European Union by the referendums of 2005 in France and the Netherlands. It is unimaginable that the "delivery" agenda will bring about sufficient demonstrable advantages for European workers and consumers sufficiently quickly to make the case for the sort of institutional reforms proposed in the European Constitutional Treaty and which have been restored to the European Union's agenda by the current German Presidency. The case for or against these reforms will need to be considered on their current merits, not on the basis of future benefits "delivered" by the European Union to a grateful population. It is in any event one argument deployed by those favourable to the European Constitutional Treaty's provisions that these provisions will make it easier, in an enlarged European Union, to "deliver" the benefits to which the present Commission aspires. The political challenges manifested by the public debate surrounding the French and Dutch referendums cut deeper than the benefits conferred upon travelling Europeans by lower "roaming" charges, desirable thought these benefits are in themselves.

6. Academic commentators sometimes use the concept of "output legitimacy" to describe the acceptance which a political organisation can enjoy among its

membership if it produces results which are demonstrably advantageous to those who participate in it. The current European Commission clearly aspires to achieve such "output legitimacy" by its stress on the "delivery" of tangible benefits to European workers and consumers. Historically, it has certainly been true that the popularity of the European Union has increased in times of European economic prosperity. Economic stagnation traditionally leads, in Europe and elsewhere, to dissatisfaction with political institutions, both national and supranational. Better economic performance over the next five years in France, for instance, might well soften the fear of globalisation which was an important contribution to the rejection of the European Constitutional Treaty by the French voters in 2005.

7. The concept of "output legitimacy" is, however, itself a controversial one, particularly in its application to the European Union. For reasons discussed above, it is not always easy to establish what are the specific "outputs" of the European Union, particularly if these outputs are conceived primarily in material and economic terms. Nor will economically significant "outputs" always confer of themselves "legitimacy" on the institution supposedly achieving these economic advances. The European Commission is certainly not wrong in believing that a part of the answer to the European Union's current malaise lies in the demonstration that specific economic benefits arise from the Union's activities. But this "delivery" of economic benefits needs to be complemented by (and cannot replace) a broader political account of what the European Union is for and what its future direction should be. Previous Commissions have seen it as part of their duty to contribute to that account. It is not necessarily an improvement that this present Commission is so reticent in this regard.

## 7. News from the Federal Trust

### **Working Groups**

Two Federal Trust Working Groups are currently meeting:

#### **- on the European Constitutional Treaty**

The discussion paper "Life After Death of the Constitutional Treaty?" by Brendan Donnelly and Joana Cruz, is available to download from the Federal Trust website: [www.fedtrust.co.uk](http://www.fedtrust.co.uk)

#### **- on Justice and Home Affairs**

The final report for this Group will be released on 21 June. For more information and past discussion papers please visit the Federal Trust website: [www.fedtrust.co.uk](http://www.fedtrust.co.uk)

### **New European Essays**

The Federal Trust is releasing a pair of European essays (nos. 39 & 40) by Alan Lamond, under the heading 'Unifying Europe'. The essays are entitled "The Purpose and the Problem" and "Building a platform for a Pan-European Party".

A newly revised and updated version of Chris Layton's essay on Europe's crucial role in addressing climate change has also recently been released, entitled 'A Community of the Willing: How Europe and the South can lead the World's response to Climate Change'.

All Policy Briefs, Essays and Policy Commentaries are available for download at [www.fedtrust.co.uk/publications](http://www.fedtrust.co.uk/publications).

### **Forthcoming Events**

#### **21 June - Conference to Launch Federal Trust Justice and Home Affairs Report**

Venue: London Metropolitan University  
Details: to be arranged

#### **22 June - Conference on the Bulgarian European Elections, 2007**

Venue: European Parliament Office, London.

Details: 10.30am - 3.00pm

### **Recent and Forthcoming Books**

#### **Bulldog to Lapdog: British Global Strategy from Churchill to Blair (by Stephen Haseler)**

*recently released*  
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