

FIRST MEETING, ACTION COMMITTEE FOR EUROPEAN DEMOCRACY ROME 29/30 SEPTEMBER*

OBJECTIVES, CONCEPTS, AND OPEN QUESTIONS FOR A DOCUMENT

The Action Committee for European Democracy is a private and independent initiative aiming to overcome the present stalemate in the EU after the two no-votes on the Constitutional Treaty. Its members wish to contribute to the emergence of a consensus on more efficient and legitimate institutional arrangements, which are necessary for Europe in the 21st century.

The Action Committee will develop suggestions aimed to assist the EU presidencies in solving the present crisis. The final document shall be a political declaration addressed both to the European public and political decision makers. The document intends to spell out realistic options on how the essential reforms of the Constitutional Treaty could be subsumed in an acceptable Basic Treaty. Recognising the public discontent with the Constitutional Treaty, the document will also formulate more far-reaching suggestions which the group considers beneficial for the democratic functioning and efficient policy making of the European Union.

STRUCTURE AND KEY FEATURES OF A REFORMULATED TREATY

- 1) The essential goal is to preserve the major innovations of the Constitutional Treaty (CT) and re-draft these in a more comprehensive, single document. Since the notion of “constitution” has become a serious obstacle to the project, it may be preferable to concentrate on the substantive contents only. The new Treaty envisaged will in this sense take more of the “traditional” treaty format, at the expense of giving it official constitutional status.
- 2) Instead of “Constitutional Treaty” the term “Basic Treaty” may be more suitable – yet this issue is not finalised since it is not sure whether “Basic Treaty” would work in the French debate as it bares the same notion of constitutional status. The term “Mini-Treaty” (Sarkozy) was not considered adequate.
- 3) “Technically” such new Treaty could extend the first part (without the first Articles on principles of the Union etc.) of the Treaty by incorporating the necessary elements contained in Part III of the present Constitutional Treaty.
- 4) Besides this “Basic Treaty”, the major parts of Part III should form a separate, linked “functional treaty”.
- 5) Ideally, the “Basic Treaty” should be passed first, followed by the technical exercise of re-ordering of the “functional treaty”, that is understood as a merely technical exercise.
- 6) The Charter (in its version of Part II of the Constitutional Treaty) is held important, yet to simplify ratification (in the UK) one may simply refer to it by adding an Article giving the Charter legal force.
- 7) Giving the Charter legal force should entail the EU’s accession to the ECHR (European Convention of Human Rights).
- 8) To render the merged Part I + III Treaty more attractive and understandable, the contents shall be ordered by new broad headings.
- 9) These headings fall structurally into two broad issues: (a) organizational issues of the EU, (b) substantive policies. However, even reduced to a minimal level, values and objectives must be mentioned.

10) Preliminary suggestions for the reorganisation are the following chapters:

- Clarification
- Efficiency (alternative term “delivering” for the EU)
 - abolition of the pillar structure
 - single legal personality
- Democracy
 - Reform of Commission
 - Role of European and national parliaments
 - Accession to the ECHR
- “EU in the 21st century” (= key policies)
 - Energy and economic policies
 - CFSP
 - Trade
 - Lisbon agenda – and in this the increased opportunities for enhanced cooperation.

CENTRAL OPEN QUESTIONS

- Ad (5): is it possible to separate the two processes, i.e. the ratification of a “Basic Treaty” followed by the “technical” act re-organising the “functional treaty”? Would both only enter into force once both Treaties are ratified?
- If decoupled in time, would the “functional treaty” take Nice or Part III as starting point?
- To which extent is it possible to re-draft the CT (i.e. compiling the most important innovations of Part I and III) without having to go back to referenda? In general, since it will be a re-writing, re-ratification will be necessary, yet:
 - o Under what conditions can the repetition of referenda be avoided in states that have held a referendum?
 - o How can referenda in those states that are not constitutionally bound to do so be circumvented?
- What could be the role of the EP in further enhanced cooperation?
- What are suitable headings to re-group the contents of the Treaty?
- Which alternative names to “Basic Treaty” would be feasible?

* The members of the Action Group present were (29 September): G. Amato, M. Barnier, J.-L. Dehaene, I. Mendez de Vigo, O. Schily, (on behalf of M. Wallström) F. Sipala, (academic assistance) S. Collignon, E. Heidebreder; (30 September) the same, D. Hübner (with J. Szychowaska).