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The EU Constitution: Many Risks, Few Rewards

By Robert Cottrell

Partly in the hope of resolving tensions and controversies that have arisen within the European Union in recent years, its member governments are pressing to agree on a charter that lays out the nature and aims of the union. This project presents risks for everyone concerned—advocates, skeptics, even the United States. This essay considers those risks, as well as the motives behind the constitutional effort and the practical effects that the proposed constitution would entail if ratified.

As an addendum, we reproduce The Economist's draft constitution, of which our guest author was one of the principal drafters and to which he alludes in his discussion of the EU's proposed draft.

Four years ago *The Economist* drafted and published a constitution for the European Union, not because it thought that a constitution was something that the EU much needed, but because governments seemed to be fumbling their way toward the idea of having one, and this was a way to help them make the least bad job of it.¹

The *Economist* constitution sought, roughly speaking, to fix the union in place by defining its powers and then adding some safeguards to stop it from becoming more powerful at the expense of member states. *The Economist* proposed barring the union from raising any taxes, downgrading the European Commission to become a “secretariat” answering to national governments, and installing a new chamber of national parliamentarians serving as a constitutional court with power to overrule the European Union's own court of justice.

As a coauthor of the *Economist* constitution, the present writer is not the most objective judge of its merits. But it was certainly shorter and easier on the eye and ear than the version with which the European Union is now wrestling—a

constitutional treaty drafted by a “convention” of grandees under the former French president Valéry Giscard d'Estaing, and which may pass into law.²

The Giscardian draft does none of those main things on which the *Economist* constitution insisted. And it takes about forty times as many pages not to do them. But it does contain lots of other ideas, perhaps even an excessive number, since they are not all consistent with one another. But lack of consistency may be inevitable in a document that seeks to be acceptable to both pro- and anti-federalists in European governments. As such, the Giscard draft is even quite clever. It favors the anti-federalists in its concrete details, by giving very few specific new powers to the union, but it pleases the federalists by making broad generalizations about European integration that might be used to justify expansions of power later.

So detailed is the draft in some areas, so vague in others, that on the whole its likely effect on the workings of the European Union would be hard to predict. That is, however, a second-order question. The first question is whether the draft will make it into law, and at what political cost. The answers are: perhaps, and, probably quite a high one.

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Risks of Pushing for a Constitution

The governments of the European Union may well be living dangerously in their bid to clarify the nature and purpose of their enterprise after almost fifty years of experimentation, and then to confront a largely skeptical public with the results.

The obvious procedural risks are these:

- The governments may fail to agree on a final version of the constitutional treaty among themselves, even after almost a year of wrangling over possible amendments to the Giscard draft. They claimed in May to be hopeful of final agreement at their summit in Dublin on June 17 and 18.
- A treaty, once agreed, could still be rejected by some of the countries required to ratify it, especially where ratification was done by referendum. Britain could be one such country, following Tony Blair's decision in April to favor a referendum over a parliamentary vote.
- A country that rejected the constitution might come under pressure to leave the union. And even in a country that voted yes, a hard-fought referendum campaign would leave its scars.

A failure among governments to agree on a final draft would be disruptive but not immediately catastrophic for their relations. It would lead to an outward show of bad feeling, directed mainly at whichever country was blamed for blocking agreement on the day. In the run-up to the Dublin summit, Britain (predictably) has looked the most likely to serve as a scapegoat, for its insistence on preserving the principle of a national veto in key policy areas.

If a treaty is agreed among governments, and goes for ratification, then the stakes are raised. Referendums have been promised already in Denmark, Ireland, the Netherlands, and Britain. They are highly likely in the Czech Republic, Luxembourg, Portugal, and Spain. And they are becoming more and more likely in Poland and France.

If a small country (Denmark, say) rejects the treaty, then the union will survive without serious damage. If a big country says no (Britain or Poland, perhaps), then the problem will be much greater and the consequences much harder to predict. If more than one country says

no, and especially if more than one big country says no, then the union itself will be in crisis.

Arguments in Favor of a Constitution

Despite the short-term risks that it entails, the constitutional effort goes on. The willingness of governments to stick to it indicates that they feel the writing and agreeing of a constitutional treaty to be worthwhile, even inevitable, on a longer-term view.

They are saying, in effect, that they can no longer put off addressing the doubts and divisions that have accumulated within the union since its foundation. The oldest and fiercest argument has raged between those who favor a federated Europe as the long-term goal and those who want the European Union to remain a vehicle for cooperation among nation states. A more recent divide, dating from the Thatcherite revolution in Britain, pits those who favor liberal economic policies against those who want the EU to impose a French-style nanny state on everyone. And, more recently still, the deterioration in transatlantic relations has split Europe between those who feel tied to America and those who do not.

The argument between federalists and anti-federalists almost forced a crisis as far back as 1991 when the European Union, panicked by the thought of a reunified and restless Germany, agreed in its Maastricht Treaty to bind its members more tightly with a common currency and, eventually, a common foreign and defense policy. Public hostility, unprecedented in the union's short history, brought the treaty close to rejection in at least four out of twelve countries.³

That debacle was a first warning to governments that the European Union had lost its status with much of the public as an idealistic project for making Europe a better place, and was coming to be regarded by many as a malign conspiracy hatched in Brussels to suck power from countries. Governments were slow in reacting directly, partly because some of them half-agreed and partly because they had other things to divert them. There was the single market project to complete, the common currency to launch, and the enlargement of the union into Central Europe to be managed.

Now, with the single market finished, the single currency in place, and enlargement all but completed, governments have run out of distractions and excuses. They have surrendered themselves to the constitutional debate in the hope that the process of debating and adopting a treaty, even one as woolly as they now have before them,

will help to reduce disagreements and misunderstandings about the nature of the union, if not to eliminate them. They hope, too, that ratification of that treaty will supply renewed evidence of the European Union popular legitimacy.

A supporting argument, made by the German foreign minister, Joschka Fischer, among others, has been the need for big institutional reforms to make an enlarged union of twenty-five or more members work efficiently. Trust and consensus had become difficult enough to find even in a union of fifteen fairly homogenous countries. With twenty-five more diverse ones at table it might be open to question whether the policymaking and decision-making instances of the union could function at all. A constitutional debate, or so optimists thought, would open the way to the necessary changes. (In the event, the drafting process was handicapped by sharp public disagreements among governments, and especially between big and small countries, as to exactly what changes they would accept. Only modest ones have been proposed in the end, and some are still being disputed.)

A further technical argument was supplied by the sheer difficulty of navigating the sequence of long-winded treaties that contained the union's primary law. The European Commission sponsored the experimental drafting of a "basic treaty" that consolidated the preceding treaties by collecting their general principles into a first section, and their more detailed provisions into a second section.⁴ This precedent gave constitutionalists a minimalist argument that was difficult to oppose. What could be wrong with restating existing EU law, with a few changes here and there, in a form that made it easier for citizens to understand?

The sharp deterioration of transatlantic relations was not so preoccupying when the drafting of the constitution began, but it will certainly work now in favor of its acceptance. One strong argument against European political integration, especially in Britain and in parts of central Europe, has been that an integrated Europe would inevitably become a rival to the United States. If the European Union and the United States are to be rivals in any event, that objection vanishes.

Principal Innovations

The draft constitutional treaty now before governments puts its basic rules and aims into a first section, its detailed provisions into a final one, and sandwiches between the two a "charter of fundamental rights,"

which was drafted some years earlier (but so loosely that governments refused at first to give it the status of law). About 80 percent of the treaty repeats or rephrases existing EU law; about 20 percent of it is new material.

This is no place for a close reading of the draft text. In the main, it can be said to work as a treaty, but to fail as a constitution. Despite one or two attempts at purple passages, it has none of the emotional content needed to win hearts as well as minds. If it passed into law, its effects would be technical and incremental, not popular and inspirational. They would include the following:

Foreign Relations. The constitution would strengthen the legal and institutional capacity of the union for developing common foreign and defense policies, and for conducting international relations. Several of the treaty's proposed innovations point in this direction. They include the appointment of permanent chairman (probably an ex-prime minister), to run the European Council, the roundtable of heads of government that sets broad policy. This "Mr. Europe" would be seconded by a fully fledged EU foreign minister, a job that might go to Javier Solana, currently the EU's under-resourced diplomatic representative. The foreign minister would head a new diplomatic service, arguably overdue now that the European Union has more than a hundred offices and missions around the world staffed from its civil service. The constitution would also create an EU armaments agency, working with governments in areas of research and procurement.

In practice, the European Union will lack useful military capacity so long as its member states spend so little on defense. But the constitution would reinforce the capacity to execute diplomatic strategies, including ones aimed at containing or frustrating the United States. By committing countries to a "strict observance and development of international law, including respect for the principles of the United Nations Charter," it implies a foreign policy for Europe rather closer to that of France than to that of America.

Economy. The constitution would have a limited direct impact on the European economy, but a negative one.

By declaring the union to be "a social market economy . . . aiming at full employment," and requiring its countries to "coordinate their economic policies," the constitution would give political cover to France and Germany whenever they made further attempts to force their high taxes and rigid labor laws on to other EU countries.

The seeding of the text with other sweeping generalizations requiring, for example, a “prudent and rational utilization of natural resources,” and a “high level of consumer protection,” without qualification, could easily provide justification for unlimited quantities of future product regulations.

The constitution would also fix in place even more securely the common agricultural policy, a wasteful regime of import controls and rigged markets, which undermines the credibility of the EU when it argues for liberalization in other areas of world trade.

Institutions and Procedures. The constitution would make it easier for the European Union to take decisions, mainly by giving sweeping preference to majority voting over unanimity.

Unanimity would remain, at first, for sensitive issues such as foreign and security policy; criminal justice; most tax policy; and for changes to the European Union’s own rules and procedures. But even in some of these areas, the constitution would allow governments to shift to majority voting in future years (a prospect that has been a focus of British objections to the treaty).

Where laws and policies are to be decided by majority voting among governments, the constitution proposes a new system: decisions would be made by a simple majority of member states, representing at least 60 percent of the European Union’s population. This would replace the old system of allocating to each country of a fixed number of votes roughly but not directly in proportion to population. (Thus, under the proposed new system the most powerful member may one day be Turkey.⁵)

And where unanimity remained the rule, the constitution would make it easier for groups of countries to start new projects among themselves, bypassing a veto from another member. This might clear the way for, say, the creation of a European Public Prosecutor’s Office, or a European Border Guard, or an agreement to align direct taxes, among a few countries only.

New Powers. The constitution largely restates the division of powers between the union and national governments. This includes the delegating of full powers to the union in trade and customs policy, and in monetary policy within the euro zone; and a sharing of powers in matters of the internal market; asylum, immigration, and crime; agriculture and fisheries; communications infrastructure; labor law; regional development; the environment; consumer protection; public health and safety.

It proposes giving the union a new power to fix pan-European energy policy through legislation (though this may yet be rejected by governments). It proposes some basic harmonization of national criminal and judicial codes, for example, in defining offences and in setting minimum sentences. And it allows for countries to leave the union voluntarily, though it makes no provision for expulsion.

Damage Control

While the effects of enacting the constitution will be incremental, the effects of a rejection of it in some countries could be traumatic. What might follow?

At the very least, the union’s protectionist bias will become all the more pronounced if a split over ratification of the constitution forces Britain (perhaps followed by other liberal economies) out of the union, or into some more limited category of membership. But a row of that magnitude could well leave the EU damaged beyond repair, its institutions paralyzed, and its moral authority gone. It would acquire the air of an experiment that had failed. It would be vulnerable to collapse.

Even critics of further European integration should recognize this as a bad outcome, because it would threaten the single market. A failure of the single market would shock national economies and the global economy too. The single currency might be rescued in such circumstances, because its organic links with the European Union are slight and could be severed, but it would have a difficult time.

For America, a more disaggregated Europe would bring some advantages, mainly in the potential for much stronger bilateral relations with its friends in the region. But a crisis in the European Union would have an echo, even a mirror-image, within NATO, which would be bad. It might also be that if countries were forced to choose in anything like the current climate of opinion, America might find it had fewer friends in Europe even than it expected.

The constitutional project appears highly unlikely to unite or reinvigorate the European Union, as its supporters had hoped. But with so much political capital already invested in the process, no EU government can simply walk away from it now, even if several would be quietly happy if it failed.

On that basis, the best outcome all round would probably be a last-minute disagreement among governments that blocked adoption of a final text for the

constitution treaty, and stalled the project for a good few years.

The second-best outcome would be an agreement among governments, but on a text that was emasculated enough to be accepted by voters or parliaments in every country of the union. Intellectually satisfying as it might be to see the treaty rejected by skeptical voters in some countries, it would be politically dangerous to risk a fracturing or fragmentation of the union. Better that the union's tensions and contradictions should be contained and addressed in some more controlled way.

For much these same reasons, if Europe's governments were able to agree to a draft treaty, then America's interests would lie in sounding generally supportive of it. A few kind words directed at the principle of the constitution rather than the detail of it would be an easy way of paying Europe a public compliment, at a time when America's friends in Europe are badly in need of any signals that America does want to make the transatlantic relationship work better.

Even more importantly, America should refrain from any direct criticism of the constitutional treaty, however imperfect its language and logic might seem to be. If the constitution fails, that will be trauma for which Europe will apportion the blame freely. Any grounds for suggesting that American opinion might have played even a modest part in the outcome would mean further damage both to EU-U.S. relations and to pro-Americanism in Europe.

Notes

1. See addendum, "A Constitution for the European Union," below.

2. For the draft text presented to governments by the convention, see http://europa.eu.int/futurum/constitution/index_en.htm.

3. Danish voters rejected the treaty in a first referendum in June 1992, accepting it only in a second one, in May 1993, after concessions had been made; in France the treaty scraped through a September 1992 referendum with only 51.05 percent voting in favor; the British prime minister John Major won a ratification vote in the House of Commons in July 1993 only after threatening to dissolve parliament and call an election; in Germany, legal actions against the treaty continued in the constitutional court until October 1993.

4. See http://europa.eu.int/comm/archives/igc2000/offdoc/com434_en.pdf for an explanatory paper from the commission, with a link to the "basic treaty."

5. The "dual-majority" system proposed in the draft treaty would increase the voting power of the smallest countries in the union, give a slight boost to that of the biggest country, Germany, and reduce that of all the countries in between, from Britain to Hungary. For the mathematics of this, see "Winners and Losers under Various Dual-Majority Voting Rules," by Richard Baldwin and Mika Widgren (Centre for European Policy Studies, April 2004; information available at http://shop.ceps.be/BookDetail.php?item_id=1116), especially the chart on page 27.

ADDENDUM

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A CONSTITUTION FOR THE EUROPEAN UNION

We among the states of Europe, seeking to encourage peaceful, open and constructive relations between our peoples, and seeking to advance our common interests in the world, ordain and establish this Constitution for our European Union. This constitution shall prevail over other European and national law, including treaties of the Union, should conflict arise.

Article 1: **Founding Principles**

The Union is established by the Treaty on European Union signed in Maastricht on February 7th 1992, and founded on the European Communities.

The Union shall uphold the principles of liberty, democracy and the rule of law.

The Union and its Member States shall respect the fundamental rights of citizens, including, but not limited to, those rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on November 4th 1950, and rights common among Member States.¹

All powers, other than those clearly delegated to the Union by this constitution and by the treaties of the Union, are reserved to the Member States.

The Union and the Member States shall uphold the principle of subsidiarity.²

Article 2: **Languages**

English, French and German shall have equal standing as the sole official languages of the Union institutions.³

Article 3: **Citizenship**

The Union shall have legal personality. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship.

Any citizen of the Union having the right to move and reside freely within his own Member State shall have the right to move and reside freely within the territory of all Member States.

A citizen of the Union residing in a Member State of which he is not a national shall have the right to vote in his country of residence only.⁴

Article 4: **Institutions**

Heads of government, one from each Member State, shall meet at least once every six months, as the European Council.⁵ This European Council shall be the high policy-making body of the Union. It shall give instructions and guidance to the Council of Ministers and to the European Commission, which shall be published after each meeting along with voting records.⁶

The Union shall be served by the following common institutions: a Parliament, a Council of Nations, a Council of Ministers, a Commission, a Central Bank, a Court of Justice and a Court of Auditors. These institutions shall possess those powers, and only those powers, granted to them through treaties ratified by all Member States.

Article 5: **Parliament**

Parliament shall consist of representatives of the peoples of the Member States. Representatives shall be elected by direct universal suffrage for terms of five years. Their number shall not exceed 100. Seats shall be allocated among Member States in reasonable proportion to population. Parliament shall fix its own rules of procedure.⁷

Parliament shall debate the policies and the legislation of the Union. It may strike down legislation and it may propose amendments to legislation, where this is authorised by the treaties of the Union. It may request the Commission to propose legislation to the Council of Ministers. It may bring actions before the Court of Justice.

Parliament, including committees of the Parliament, has a general right to question in public hearings any member of the Commission, or any proposed member of the Commission.

Parliament may, acting by a two-thirds majority of its members, dismiss any member of the Commission.⁸

No judge shall be appointed to the Court of Justice without approval from the Parliament.

Save as otherwise provided here and in the treaties of the Union, Parliament shall act by a simple majority of the votes cast.

Article 6: **The Council of Nations**

The Council of Nations shall consist of representatives drawn from the parliaments of Member States, according to procedures devised by the respective parliaments. Seats shall be allocated with reference to population, save that every Member State shall have at least two representatives and the number of representatives shall not exceed three times the number of Member States.

The Council of Nations shall act as a constitutional council. It shall have power to overrule the Court of Justice. It may strike down legislation. The Council shall act by a simple majority of the votes cast.⁹

Article 7: **The Council of Ministers**

The Council of Ministers shall be the legislature of the Union. It shall consist of one representative of each Member State. Each representative shall have the rank of government minister, and shall be authorised by his government to make commitments on its behalf.

The Council of Ministers shall consider, and, when it so decides, enact, laws and resolutions furthering the aims of the Union as set down in this Constitution and in such other treaties as Member States may from time to time enact, provided always that any such treaties have been ratified by all Member States.

The Council shall act by unanimity where the treaties of the Union require it to do so. At all other times it shall act by a double-majority system: to carry, a vote shall be supported by a majority of Member States, containing a majority of the Union's population.¹⁰

An agenda shall be published before each Council meeting. A voting record shall be published immediately after it.¹¹

In all other respects, the Council shall fix its own rules of procedure.

Article 8: **The Commission**

The Commission shall be the secretariat of the Union.¹² It shall consist of a president and 12 commissioners,¹³ having authority over a civil service. It may propose and draft legislation for the Union, at the direction of the European Council or at the request of the Parliament. It shall have the right to bring cases before the Court of Justice. It shall have the general task of ensuring that the laws of the Union are respected.

The European Council shall appoint the President of the Commission, acting by a simple majority. The President shall be appointed for a term of five years, which may be renewed. Member States shall propose candidates for commissioners' posts from among their own nationals. The President of the Commission shall choose his commissioners from among those candidates, also for terms of five years, and shall decide their responsibilities.¹⁴

Commissioners shall act in the general interest of the Union. They shall neither seek nor take instruction from any Member State nor from any private interest.

The Commission shall act by a simple majority of its members.

Article 9: **The Court of Justice**

The judicial power of the Union shall be vested in the Court of Justice, and in such inferior courts as Member States may ordain and establish through treaties. The Court shall be the supreme court of the Union in matters of Union law only, save that it may be overruled by the Council of Nations on matters which the Council of Nations considers to be constitutional in nature. The court shall have appellate jurisdiction over inferior courts, including those of Member States, in matters of Union law only.

Each Member State shall appoint one judge to the Court of Justice, save that no appointment shall be made without the approval of the Parliament. A judge in office may be dismissed only by a vote to that effect by both the Parliament and the Council of Ministers. The retirement age for judges shall be 70.

The judges shall elect a President of the Court from among their number, and shall fix their own rules of procedure.

The Commission, the Parliament and the governments of Member States have the right to bring actions before the Court. The Court may choose to hear actions brought by private and legal persons.

No judge shall seek or take instruction from any Member State or from any private interest.

Article 10: **The Court of Auditors**

The Court of Auditors shall examine the revenue and expenditure accounts of the Union and its institutions. At least once each year it shall provide the Parliament and the Council of Ministers with a statement of assurance as to the reliability of the accounts, and the legality

and regularity of the underlying transactions. This statement shall be made public.

Each Member State shall nominate one member to the Court. Each member of the Court shall act in the general interest of the Union. None shall seek or take instruction from any Member State or from any private interest.

Article 11: **The Central Bank**

The Central Bank shall be governed solely by an executive board consisting of a President, a Vice-President, and five other members.¹⁵ Each shall be appointed by the European Council, by simple majority vote, save that heads of governments representing countries outside the Monetary Union shall not participate in voting on these appointments. Each executive board member shall be appointed to an eight-year term, which shall not be renewable.

The Central Bank shall define and implement the monetary policy of the Monetary Union, this Monetary Union consisting of all, and only of, Member States that have adopted the euro as their sole legal tender.

The primary aim of the monetary policy of the Central Bank shall be the maintenance of price stability within the Monetary Union.

The Central Bank shall hold and manage the official foreign reserves of those Member States within the Monetary Union. It shall have the exclusive right to authorise the issuing of banknotes and coins within the Monetary Union.

Members of the executive board shall neither seek nor take instructions from any government nor any private interest.

Article 12: **Taxation**

The Union shall levy no taxes.¹⁶

Article 13: **Commerce**

The Union, and Member States, shall strive to remove all obstacles to the free movement of goods, and services, and capital within the Union. Save that governments may disallow the free movement of specified goods and services where there is a clear and significant risk to public health, or public order, or national security. No national law regulating the taxation of income or profit shall be construed as an obstacle

to the free movement of goods, or services, or capital.¹⁷

The Union shall fix common rules on competition to assist the proper functioning of free markets.

The Union shall fix a common regime for trade between Member States and other countries.

Article 14: **Monetary Union**

Membership of the Monetary Union is open to all Member States, save that Member States within the Monetary Union may impose reasonable, objective and non-discriminatory entry criteria on Member States wishing to join the Monetary Union.

Article 15: **Justice and Home Affairs**

The Union shall fix a common policy for the entry of foreign nationals on to the territory of Member States.

The Union shall fix a common policy for the granting of asylum by Member States.

A person charged with a criminal offence in a Member State carrying a sentence of imprisonment shall be given up for extradition, on the demand of a high court, by any other Member State in which he may be residing or in which he may have taken refuge, promptly, or on completion of any prison sentence he may be serving, or about to serve, when the extradition request is made.¹⁸

Article 16: **Foreign and Defence Policy**

The Council of Ministers shall appoint a High Representative, authorised to speak for the Union in matters of foreign and defence policy on which the Council of Ministers has agreed a common position. The High Representative shall have the right to seek decisions from the Council in matters of foreign and defence policy.¹⁹

Member States shall seek to agree common positions when acting in international organisations, save on questions of national representation.²⁰

Article 17: **Other Policy Areas**

Member States may, through treaties, grant powers to the Union in other policy areas, and take back powers granted previously, so long as such treaties are ratified by all Member States.²¹

Article 18: **Treaties Made among Groups of Member States**

Member States may make treaties among themselves to which some but not all Member States are signatory. Parties to any such treaty may choose to make the treaty justiciable before the Court of Justice, provided that:

- i) Nothing in the policy content of the treaty contradicts anything in the main policy content of this Constitution or any existing treaty of the Union;
- ii) The parties include at least half the Member States of the Union at the time of signature, and no other party at any time;
- iii) Any other Member State may accede to the treaty at any time, subject only to reasonable, objective and non-discriminatory criteria.

Article 19: **Accession**

Member States, acting by a three-quarters majority of states, may agree to admit to membership of the Union other countries that are able and willing to meet the obligations of membership.²²

Article 20: **Suspension and Secession**

The Council of Ministers may suspend the voting rights of a Member State, if that Member State departs from the basic values or violates basic rules of the Union.²³ In such cases the Council of Ministers must act by a three-quarters majority of states, exclusive of the Member State that is the subject of the vote.

A Member State may leave the Union at any time.²⁴

Article 21: **Amendment**

This constitution may be amended only by all Member States acting unanimously, and after a referendum in each and every Member State on the proposed amendment or amendments.

Notes to the Addendum

1. There is thus no need for an additional charter of fundamental rights, currently under discussion.

2. This enshrines in the constitution a principle that governments have often proclaimed, but which has rarely been used in practice as a way to judge or justify new initiatives.

3. This shifts the main burden of other translation to member states that want it.

4. There may be arguments for assigning the voting right to the country of nationality, rather than the country of residence. But taxation is based mainly on place of residence. The formula chosen here preserves the link between taxation and representation. A citizen may, on the other hand, run for office in any country that will allow him to do so.

5. One country, one representative. France will have to decide whether to send its president or its prime minister.

6. This describes, and so institutionalises, current practice. It denies the European Commission the status of "high policy-making body" that federalists would wish to assign it.

7. Including its choice of seat, so ending the monthly commute between Brussels and Strasbourg.

8. A new power. Until now Parliament has been able to dismiss the commission en bloc only. This new power for Parliament checks the greater power given to the commission president in choosing his commissioners.

9. We favour separating constitutional oversight from the other duties of the Court of Justice, and charging a chamber of parliamentarians with this responsibility. The reason is that the court would have a stronger tendency to extend the reach of European law than would such a chamber. This is the tendency which our constitution aims to resist.

10. A new formula. The current system is one of "qualified majority voting", whereby a proposal must command at least 62 out of 87 possible votes in the European Council. Member states agreed in 1996 that the voting system needed reform before the Union could add many more new members. This formula links voting power more directly to population.

11. A new requirement, which obliges governments to reveal to the public how their ministers have voted on Union business.

12. A new description, recognising a shift in political power away from the commission and towards the European Council.

13. A new formula. At present the commission has 20 members, including the president, two from each bigger member state and one from each smaller member state. Governments agree that reform is needed here before another enlargement of the Union. "Capping" the commission at a fixed size, regardless of the number of member states, is one option.

14. A new mechanism, designed to encourage member states to "compete" for commission places and so to offer better candidates.

15. There will be no national bank governors. With enlargement, the inclusion of national bank governors on the governing council of the central bank will become unwieldy and (since big countries will have the same representation as small ones) inequitable.

16. A short article, but an important one. It underlines the standing of the nation state within the Union. Any transfer of power to tax should require not merely unanimity among governments, as for treaty changes, but a constitutional amendment, which demands also the direct endorsement of citizens through referendums.

17. This puts flesh on the bones of subsidiarity in an area of policy where the issue is especially likely to be fudged.

18. The minimum of guaranteed co-operation that would be needed as an alternative to harmonising national systems of criminal justice in a Union of open borders.

19. A minimal mechanism for ensuring that member states can be obliged to consider common positions and common actions in respect of world events. In practice, the Union is evolving mechanisms for institutionalising common foreign and common defence policies which are likely to be the subject of future treaty provisions.

20. Thus national governments with, for example, permanent seats on the UN Security Council, cannot be obliged to support the abolition of those seats.

21. An "ever closer Union" is not, therefore, a constitutional obligation. Powers can also be returned to member states, if all member states agree.

22. Action by majority vote is proposed here so that accessions cannot be blocked by a local squabble, or by one country's threat of a tactical veto; and also on the grounds that the addition of any one new country to the Union is unlikely to be a matter of vital national interest to any one country already within the Union. This clause also removes Parliament's right to block an accession through a simple vote. But Parliament could always challenge an accession before the Court of Justice, on the grounds that the candidate country was not "able and willing to meet the obligations of membership".

23. A simplified version of current rules, and one that leaves the Court of Justice to decide, if asked, what is a "basic value" or a "basic rule" at the time in question.

24. A new provision, perhaps surprisingly.