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## U.S.-FRANCE ANALYSIS SERIES

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### FRENCH VIEWS OF THE EUROPEAN CONVENTION

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The decision to set up a “Convention on the Future of Europe” to transform the EU treaties into a European Constitution was decided at the European Council of Laeken in December 2001. The limits of the “traditional” intergovernmental conferences for reforming European Union institutions to prepare for enlargement had become obvious to more and more people after the Nice Summit in December 2000. Negotiating such complex agreements under the glare of a media spotlight among heads of state and government had proven, at Nice at least, to be a recipe for embarrassing squabbles and institutional gridlock. The possibility of having a deliberative process that would gather representatives of the national governments and members of the European and national parliaments also appears to be progress in terms of making the workings of the EU more democratic and transparent. Fortunately, a precedent existed: the 1999 Convention to elaborate a “European Charter on Fundamental Rights.” This German idea is considered a success both in terms of method and substance and became a viable concept for starting a more ambitious reform of EU institutions.<sup>2</sup>

In Laeken, the French government was not among the most ardent supporters of a new deliberative body to reform the EU treaties. Before Laeken, the French Minister for European Affairs, Pierre Moscovici, expressed uncertainty that the Convention was the right structure to deal with “all the questions on the agenda of institutional reform.”<sup>3</sup> Nevertheless, the French government—much like the British one—did accept the new body in Laeken for three reasons: (1) the Convention is only deliberative and is preparing the work of an intergovernmental conference, thus it was not considered a threatening institution; (2) the French government believed that it could use the deliberative process to defend its own ideas on the EU, particularly because Valéry Giscard d'Estaing, the former President of the French Republic, was to be Chairman of the Convention; (3) the

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<sup>2</sup> Guy Braibant, *La Charte des droits fondamentaux de l'Union européenne*, Paris, Le Seuil, 2001.

<sup>3</sup> Pierre Moscovici, "Entretien" in: *Revue du Marché Commun et de l'Union européenne*, n° 450, juillet-août 2001, p. 435.

Convention was an effective way to wait for the elections in France and in Germany, while appearing to be making progress on the future of the EU.<sup>4</sup> Thus, although the Convention began its work in March 2002, the French government became more firmly involved in its deliberative process only after the French elections of April-June 2002.

For this reason, it is now the appropriate moment to describe the French participation in the Convention, to outline the French positions on the main issues on the agenda, and to ask if the Convention represents an opportunity for France to give a new impulse and a new coherence to its policy on the EU.

## **I. French Participation in the Convention**

In April-June 2002, presidential and legislative elections took place in France. The results were the re-election of Jacques Chirac, the restoration of a right-wing government with a solid majority in the National Assembly, and consequently the end of “cohabitation” in which one party held the Presidency and another held the majority in the Assembly and thus selected the Prime Minister. These domestic changes caused parallel developments for French participation in the Convention.

On the governmental side, Jacques Chirac had appointed in February 2002 then Prime Minister Lionel Jospin's Minister of European Affairs Pierre Moscovici as the representative of the French Government at the Convention. At first maintained by Chirac after the election, Moscovici was eventually replaced in November 2002 by Dominique de Villepin, Chirac's Minister of Foreign Affairs. This appointment came some weeks after the decision of the re-elected German Chancellor Gerhard Schroeder to appoint his Minister of Foreign Affairs Joschka Fischer as representative of the German Federal Government at the Convention. The appointment of the two heads of national diplomacy clearly shows the desire of the French and German governments to act forcefully and to act together in the Convention—especially given the recent long period of “coldness” between Berlin and Paris. It also demonstrates that the two governments are beginning to give some thought to the intergovernmental conferences that will finalize EU institutional reform in 2004.

On the parliamentary side, the French representation in the Convention has also been modified after the legislative elections of June 2002. In his new capacity of President of the Delegation for European Affairs at the National Assembly, Pierre Lequiller, member of the *Union pour la Majorité Présidentielle* (UMP)<sup>5</sup> replaced the Socialist Alain Barrau at the Convention. In the French Senate, the UMP President of the Delegation for European Affairs, Hubert Haenel, has been a member of the Convention since the beginning.

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<sup>4</sup> Paul Magnette, *Délibération vs. négociation. Une première analyse de la Convention sur l'avenir de l'Union*, VIIème Congrès de l'Association Française de Science Politique, Lille, September 2002 (available on <http://www.afsp.msh-paris.fr>)

<sup>5</sup> Now renamed the “Union pour un Mouvement Populaire” with the same acronym.

French participation in the Convention is not limited to government and national parliament representatives, but Chirac's party nonetheless clearly dominates the French contingent at the Convention. Beyond Valéry Giscard d'Estaing, who is chairing the Convention, one of the two representatives of the European Commission, Michel Barnier, is French.<sup>6</sup> Close to Jacques Chirac without representing him formally, Barnier also belongs to the UMP. Alain Lamassoure, a representative of the European Parliament in the Convention, is also a member of the UMP. Olivier Duhamel, another representative of the European Parliament in the Convention, is the only French member who belongs to the Socialist Party. . Relative to the period of cohabitation, this situation effectively gives the French executive a capacity to define French positions at the Convention, even if in France, as in most of the member states, cleavages on European issues are often deeper *inside* the parties than *between* the parties.

## II. French positions on the main issues of the Convention

The Minister of Foreign Affairs Dominique de Villepin outlined the positions of the French government in the Convention in a speech in Marseille on December 2, 2002 and in various remarks at the Convention itself.<sup>7</sup> Villepin's proposals are close to what President Chirac himself suggested for the future of the EU in an electoral speech given in Strasbourg on March 6, 2002.<sup>8</sup>

***Confirming the role of the European Council through strengthening its presidency:*** The French President, with the Spanish and the British Prime Ministers, supports the idea of a President of the European Council appointed by the Council for more than the current six months to ensure better continuity in EU work. This President should be assisted by a European Minister of Foreign Affairs, responsible for the external policy of the EU, and merging into one both the High Representative for Common Foreign and Security Policy (CFSP) and the Commissioner in charge of External Affairs. In his Marseille speech, Villepin did not exclude Pierre Lequiller's proposal that, in the long term, the President of the European Council might also become the President of the Commission.<sup>9</sup> He also suggested that the Commission should remain accountable to the European Parliament as well as to the European Council, and the latter should have the power to dissolve the European Parliament. These French proposals clearly suggest an increase in the role of the heads of state and governments in the EU institutional system.

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<sup>6</sup> The other Commission's representative in the Convention is the Portuguese Commissioner Antonio Vitorino.

<sup>7</sup> Dominique de Villepin's speeches on Europe and positions at the Convention are available on <http://www.diplomatie.gouv.fr>, and <http://europa.eu.int>.

<sup>8</sup> To read Jacques Chirac's speech, see <http://www.elysee.fr>.

<sup>9</sup> Pierre Lequiller's contribution to the Convention (n° 108, 7 October 2002) is available on <http://europa.eu.int>.

***Developing a flexible defense and security policy:*** The French government believes the CFSP should remain intergovernmental. As Villepin said in his Marseille's speech, CFSP belongs to the domain of “shared sovereignty.” Therefore, the French government is not in favor of extending qualified majority voting, giving legislative powers to the European Parliament, or an exclusive right of initiative to the Commission for CFSP. Regarding defense *stricto sensu*, the French government strongly believes that military actions make sense in Europe only if the process is flexible and thus only if a limited number of member states are involved in the decision-making process. In this context, Villepin and Fischer proposed together, on November 22, 2002, to extend the procedure of “enhanced cooperation” in the treaties to defense and security matters. Enhanced cooperation would permit a subset of member states, for example, to create a multi-national force that would not necessarily involve the participation of all of the member states.<sup>10</sup>

***Justice and home affairs: further steps with...some contradictions***

In another joint contribution to the Convention, dated November 28, 2002, Fischer and Villepin stressed the need for the EU to make progress in the field of internal security and home affairs—a policy that concerns European citizens deeply, particularly after the events of September 11.<sup>11</sup> Both ministers called for the creation of a European public prosecutor's office and for the establishment of a European police force for border control. They also asked for the “removal of the pillar system” which creates a wall of institutional separation between various policy issues at the European level. This last proposal seems to come more from Berlin than Paris, judging by another of Villepin's declaration stating that police and penal matters should remain separate from the other Union policies in terms of procedural treatment.<sup>12</sup>

***Avoiding the re-nationalization of the Common Agricultural Policy***

French governments have never been in favor of a catalog of competences that would explicitly specify which policies should be treated at the EU level and which ones should remain at the national level, as is the case in many federal states. It prefers to specify clearly in the constitutional treaty the competences of the institutions responsible for the elaboration of the laws (Council and European Parliament) and the competences of the institutions responsible for their implementation (Commission).

With regard to increasing the powers of the legislative branch of the EU, the French government is in favor of allowing more co-decision making power between the Council and the European Parliament, with the important exception of the Common Agricultural Policy (CAP). The wish to limit the intervention of the European Parliament in the

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<sup>10</sup> Joschka Fischer and Dominique de Villepin's contribution to the Convention (n° 150, 22 November 2002) is available on <http://europa.eu.int>.

<sup>11</sup> Joschka Fischer and Dominique de Villepin's contribution to the Convention (n° 156, 28 November 2002) is available on <http://europa.eu.int>.

<sup>12</sup> See the Marseille's speech.

agricultural domain demonstrates France's deep fear that it might lose, in the process of enlargement, the budgetary advantages of the CAP. This also explains why the French government wants to keep the notion of "obligatory expenditures" in the constitutional treaty, which gives the last say on such expenditures to the Council and not to the European Parliament. This category of expenditures notably includes the CAP.

### ***Increasing the role of national parliaments in the EU***

Since the Treaty of Maastricht, French governments have regularly stressed the importance of increasing the role of national parliaments in EU decision-making. Democratic legitimacy, after all, rests mainly in the hands of national MPs in the EU. In the Convention, the French representatives of the National Assembly and of the Senate have been active in promoting the creation of a permanent body called the Congress that combines representatives of national and European parliaments. This Congress would have the power to nominate the President of the European Council and could also control the implementation of the principle of subsidiarity with a right to refer a matter *ex ante* to the Court of Justice of the European Communities.<sup>13</sup> The Congress is not a very popular idea with the members of the European Parliament and with some member governments, like the Benelux countries. Despite this strong opposition, President Giscard d'Estaing has taken the idea of a congress on board. He suggests that the new body, chaired by the President of the European Parliament, be convened regularly to discuss the broad orientations of the EU.<sup>14</sup> Minister de Villepin has considered Giscard d'Estaing's proposal as "an attractive one."<sup>15</sup>

## **III. Towards a new European policy for France**

There is no doubt that the end of "cohabitation" has given more maneuvering room to the President of the Republic and to the government to define French positions on the institutional future of the EU. At the same time, French positions on institutional reform are not fundamentally different from what they have been in the past. The balance between the "Community method" and the "intergovernmental method" remains a priority, even if the French government refuses to use these terms anymore. Perhaps the most interesting feature of the Convention thus far is that the new French government seems to have used it as a forum to re-establish an easy working relationship with its German counterpart.

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<sup>13</sup> See Alain Barrau's contribution (n° 40, 31 May 2002) and Hubert Haenel's contribution (n° 89, 12 September 2002) available on <http://europa.eu.int>.

<sup>14</sup> See the debates on the future of Europe with Valéry Giscard d'Estaing at the French National Assembly, on December 3, 2002, available on <http://www.assemblee-nationale.fr>.

<sup>15</sup> See the Marseille's speech.

Regarding the ratification of the constitutional treaty in 2004, many French politicians have come to the conclusion that, if the treaty is to have democratic validity, its ratification will require a referendum. Following President Chirac's declaration during the electoral campaign, the President of the UMP, Alain Juppé, declared the UMP in favor of such a referendum.<sup>16</sup> The French Socialist Party has also taken the position that a referendum will be necessary to ratify the future constitutional treaty.<sup>17</sup>

Finally, the French government has decided to start a public information campaign on the enlargement of the EU. Prime Minister Jean-Pierre Raffarin opened the campaign on December 6, 2002. The Minister for European Affairs, Noëlle Lenoir, is responsible for this campaign during 2003. Such a campaign is necessary in France, because much of the French population--including the élite--still have difficulty understanding why EU reform must take place within the context of an enlarged Europe. Opinion polls show that France is the member state of the EU in which the support for enlargement is one of the weakest.<sup>18</sup> A risk therefore exists that a referendum on the constitutional treaty could become a referendum for or against enlargement of the EU.

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<sup>16</sup> *Le Monde*, December 6, 2002.

<sup>17</sup> Parti socialiste, *L'élargissement de l'Union européenne*, position paper of the Bureau national, October 22, 2002.

<sup>18</sup> *Eurobarometer* n° 57, October 2002, available on : <http://europa.eu.int> .