

**The British debate on the EU Constitution:
Can the Referendum be Won?**

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Introduction

Tony Blair on taking power in 1997 set out his goals of making the UK a leading player in Europe and of changing the longstanding British antipathy to the EU. Almost 8 years later the picture is bleak. The UK public, out of all the 25 member states, has the lowest proportion seeing the EU as a 'good thing' in regular EU opinion polls. It is also the member state that currently looks most likely to vote 'no' to the EU constitutional treaty in a referendum expected to be held in 2006. It is quite possible the UK could be the only one of the 25 to vote 'no'. This would lead to a heated debate, and perhaps little choice, about leaving the EU, negotiating some form of 'special partnership' to ease the divorce.

So the referendum looks likely to be a defining point in Britain's relations with the Union. A 'yes' vote could, at the most optimistic, represent the start of a new, more positive and less ambivalent participation in the EU. But a 'no' vote will trigger a major political crisis. A 'no' vote is unlikely to be driven by one or two specific points of the constitution, it will be a general rejection of much of what the EU stands for. No-one on any side of the argument is ready to argue that the British public could or would be asked to vote twice, as was the case with previous treaty rejections by the Danes and Irish.

The only thing that might rescue the UK from a 'no' vote being a defining moment leading to a likely EU withdrawal is if a number of other member states also vote 'no', especially if the 'no' were in a founder member such as France or the Netherlands. But it already speaks volumes about the UK's semi-detached position in the EU that a 'no' from France or the Netherlands is widely expected to lead to the EU having to go back to the drawing board with the treaty, whereas a UK 'no' is expected to provoke a debate on British withdrawal. It also says much about the government's 'strategy' that other such 'no' votes appear to be actively hoped for, as a way off the hook of the UK's referendum, despite the crisis other 'no' votes could throw the Union into.

This article considers some of the key issues and attitudes driving the UK debate. It analyses the government's general European policies and specifically its approach to the constitution, and considers the prospects for the referendum campaign. It argues that the government's approach essentially accepts, instead of challenging, far too much of the sceptics' ground, and that without a much more positive argument about both the EU and the constitution, the referendum is likely to be lost, with dramatic consequences – the most pro-European prime minister in the UK for over quarter of a century could be responsible for the UK leaving the EU.

If this is not to be the outcome, the arguments for Europe need to start now – but while the 'no' side is up and running, activity on the 'yes' side is hamstrung in part by lack of confidence and resources but especially by the government's determination to keep Europe off the political agenda as far as possible until after the general election expected in May 2005.

1. UK Public Opinion

Public opinion polls regularly show the UK to be the least enthusiastic member of the EU. A recent Eurobarometer poll¹ shows only 29% of the British agreeing that EU membership is a 'good thing' (compared for example to 71% of the Irish). Only 30% of British consider the UK has benefited from EU membership while 47% disagree (though the Swedes – not holding a referendum – are even more negative on benefits with 27% seeing benefits to 58% seeing none).

Opinion in the UK on the EU constitution is highly negative. A recent study² found 50% opposed and only 31% in favour, with 19% 'don't knows'. According to this poll, about 35% have made up their minds (8% strongly in favour, 27% strongly against), while the rest could in theory be won in either direction, though given the starting point – and the numbers strongly against – it is clearly the 'yes' side that has the uphill fight. A more recent poll on the 'Vote No' web site from November 2004, finds 69% against and 24% in favour, with the 'nos' up from 60% in June.

A recent Eurobarometer public opinion survey on the constitution³ finds that the UK is the only country out of the 25 member states where a majority is against: 30% against to 20% in favour (the other 50% being a don't know 'no response'). Across the Union as a whole 49% are in favour and 16% against. But there are many 'don't knows' in member states other than the UK too: with a high of 67% 'don't knows' in Ireland and 53% in Portugal. Apart from Cyprus, the UK also has the greatest number saying they have never heard of the constitution – at 50% of respondents. In terms of reasons across the EU for opposing the constitution, loss of national sovereignty is the most common reason given, with this concern particularly strong in UK responses.

It is striking that UK opposition to the constitution is as strong as opposition to the euro even though the constitution contains no equivalent new policy steps. But, crucially, British opinion is still in favour of the UK being a member of the EU – the MORI/Foreign Policy Centre poll quoted above, finds 50% in favour to 41% against continued UK membership of the EU. This is though a much smaller majority than the two-thirds in favour of membership in the UK's only previous EU referendum back in 1975.

1.1 Public Ignorance and the Media

UK public opinion is also among the least informed in the EU, with the UK frequently coming last out of the old EU15 in a set of basic knowledge questions about the EU (for example, whether respondents have heard of the existence of the European Commission, European Parliament and Council of Ministers). This lack of knowledge or understanding of how the EU works, and in particular of the government's role in agreeing or not EU legislation, can help to explain some of the British antipathy to the EU. The Union is frequently seen – and presented as such in large swathes of the eurosceptic British media – as a remote bureaucratic centralised body, passing down

¹ Standard Eurobarometer 61 (2004)

² Gill, M., Atkinson, S., and Mortimore, R. (2004) "The Referendum Battle" The Foreign Policy Centre and MORI

³ Special Eurobarometer (2005) "The Future Constitutional Treaty: First Results" January

unreasonable edicts and laws from Brussels with no British control or input. It is seen as threatening British sovereignty and the British way of life – for some a Franco-German plot, where the UK for some reason does not get its way. There is little understanding or factual discussion of what the EU does, how it does it and what the benefits have been, or could be argued to be, let alone of what it might or could do in the future.

This ignorance does give the 'yes' side the chance to change opinion in part through getting out the facts of how the EU actually operates, the powers it does and does not have, and the powers the UK government has in determining what is agreed or not. But it also presents a major hurdle. The sceptic media and many of the 'no' side frequently present inaccurate or simply false accounts of EU actions and powers, a tendency that is also evident in the discussion of the constitution – false claims, for instance that there will be majority voting on EU defence policy, are common. Widespread ignorance also means that the 'no' side is able to present many things that are in existing EU treaties, such as the existence of a common foreign and security policy, as an invidious new policy in the constitution.

The sceptics can to some extent get away with promulgating myths and falsehoods both due to the widespread lack of knowledge of the British public and because of the considerable sway of the sceptic press, both tabloid and broadsheet. Meanwhile, the objectivity of more neutral or pro-EU media is sometimes constrained by lack of knowledge of the facts. Key media outlets such as the BBC that should counter such misinformation and present a more objective and factual approach have been relatively weak in their EU coverage – in part reflecting concerns to be impartial and give equal coverage to the views of the political parties and in part, it seems, due to a lack of training and adequate knowledge and editorial standards as to the facts about the EU.

1.2 The Role of the BBC

The BBC as the UK's public broadcaster is particularly important in ensuring the Union is covered impartially, objectively and effectively. The BBC's governors set up an independent 'impartiality' review panel in autumn 2004 – under pressure from the eurosceptics – to look at its coverage of EU affairs. Its mandate and starting point was far from impartial, tasking the panel to investigate whether the BBC was too europhile and gave too little space to anti-EU voices but also to look at issues of accessibility and understanding of the EU. The review panel reported at the end of January 2005⁴.

Rather than giving much succour to the sceptic side, the panel instead trounced the BBC for failing to take the EU seriously as a major ongoing policy issue and organisation, and for inadequate training and inadequate use of correspondents at its disposal. The panel in their report state that the BBC's EU coverage shows "a tendency to polarise and over-simplify issues, a measure of ignorance of the EU on the part of some journalists and a failure to report issues which ought to be reported, perhaps out of a belief that they are not sufficiently entertaining". The BBC World Service in contrast was given a generally good bill of health: "There is a disparity of

⁴ " BBC News Coverage of the European Union " (2005) Independent Panel Report

quality and quantity of coverage between the World Service and domestic programmes". The problem in BBC coverage of the EU lies in its domestic output – i.e. in the output vital for shaping British public information and interest. The panel goes on to say that "all external witnesses pointed out that the BBC News agenda understates the importance and relevance of the EU in the political and daily life of the UK". In a key reference to the constitution the panel states "In all the coverage of the Constitution that we watched and listened to there was little, if any, explanation of what the Constitution contained".

In its concluding 12 recommendations, the review panel argues that "the problem of ignorance among BBC journalists on the EU issue must be addressed as a matter of urgency". It remains to be seen how the BBC management will respond to the review and what approach it will adopt to providing fair and balanced coverage in the referendum campaign. But in a first response from the BBC governors, they stated "on the evidence of the MORI research that informed the Panel's report, the BBC is not succeeding in providing basic accessible information on the topic of Europe and urgent action is needed".⁵

The extent of the problems with even the BBC's coverage of EU matters in the UK gives a rather stark demonstration of the problems faced in promoting an objective informed debate about the Union. Add to this the strong eurosceptic bias of much of the UK press and the overall situation is very problematic.

1.3 Facts and Opinion

The ability to ensure there is accurate, factual information available and accessible on the EU constitution appears to be one vital element in ensuring not only a proper democratic debate but also a chance for a 'yes' vote. But it is clear from the debates to date, that the 'no' side will continue to challenge factual information whether from government, the BBC or other organisations, as representing opinion not fact. There appears to be a clear and sustained attempt to define the whole debate as 'opinion' rather than a debate over mainly agreed issues of what is in the constitution. This is the challenge high quality news organisations like the BBC face – to be sufficiently well informed and confident to make a clear judgement on what are facts, what opinion and what myth-making. The more the space for facts shrinks, the more problematic the debate will become.

It is striking that in Ireland – in the wake of the 'no' vote in their first referendum on the Nice treaty – a neutral forum, the Irish National Forum on Europe, was established, where all sides could debate, and where a balanced executive committee agrees on the publication of neutral factual information. The UK would benefit strongly from such a body but given the febrile climate of debate, it is unlikely to see anything similar. Indeed, in the view of one senior Irish commentator (in an off-the-record conversation) the difference between the Irish and the British 'no' sides is that the former are ready to have a rational debate around broadly agreed issues at stake, while the British 'no' side shows no such inclination.

⁵ "BBC News Coverage of the European Union" Statement by the Board of Governors , January 2005

2. The UK government and the EU – a missed opportunity?

Blair came to power in 1997 on a huge landslide, with the British public massively rejecting the outgoing Conservative government, which had been pulling itself apart over the EU, and the euro, throughout the 1990s as its sceptic wing gradually gained ever greater control in the party. With such an election victory, Blair had a wide-ranging mandate for action, not least on Europe. Many urged Blair to ride the wave of his election victory and move to an early referendum on the euro, bringing the UK back to the heart of Europe. But others urged caution – public opinion needed changing more broadly on the EU itself first, before tackling the euro. The latter was a reasonable case for delay, but only if accompanied by action. Instead Europe was allowed to slide quietly off the agenda. The prospects for a euro referendum moved ever further away over the subsequent 7 years – driven by a combination of: government inaction and lack of communication on the EU in general; the relatively poor performance of the eurozone from 2000 on; the growing tensions and debate between Tony Blair and Gordon Brown (who jealously kept extraordinary control over British economic policy including the decision on whether to hold the euro referendum), and eventually too the Iraq war, which gave Blair no space or trust for a big push on the euro.

More generally, despite his initial landslide victory, and subsequently his strong second term position, Blair repeatedly put domestic priorities first, second and last ahead of any action on the EU (although with Iraq showing he was in some circumstances willing – however wrongly in that case – to put international issues ahead of domestic ones, but then of course privileging the US-UK relationship not the UK-EU relationship). So he has chosen to keep Europe off the agenda, as a sensitive issue, and on the whole he has rather successfully done so. He has not acted to push Europe up the agenda and make it a live political issue, informing and motivating the British public debate to begin to make it possible to change the UK's position in the EU, to counter the strong eurosceptic tendencies in the press, to counter strong public ignorance and disaffection, and so make a mature political debate about the EU and the UK's role in the EU possible. Domestic politics and domestic priorities have dominated. And when Europe has periodically, inevitably, bounced back on to the agenda, the British public – and media – have shown themselves ever more sceptical, hardly surprising as the government of the day avoids the issue, while the sceptic press feeds an ongoing diet of misleading or plainly inaccurate stories to its readers, and the main opposition party continues both to be highly eurosceptic and divided on how to formulate its EU policy.

It is this inaction by the government in promoting a more positive view, and greater awareness, of the EU that explains the fact that British opinion on the EU is today at least as sceptic as when Blair took power. And it is this inaction which leaves the 'yes' side with such a mountain to climb to win the referendum. In 1997, the argument was that the public should first be persuaded to support the EU and then to support the euro. Now in 2005, the public still has to be persuaded to support the EU, and then to support the constitution. But the stakes are much higher than in the unheld euro referendum – a 'no' to the constitution has the potential to be much more devastating than a decision, already taken by default anyway, to stay out of the euro for the foreseeable future.

2.1 A Leading Player?

Back in 1997 Blair appeared keen to make the UK demonstrably a central player, a leading large country in the EU. Focus groups held on the EU then were taken by Blair and his advisers as showing that the British public could be persuaded to like the EU more if the UK could be seen to be 'punching its weight' and up there on an equal footing with France and Germany. It is this powerful big country image that appears to have been Blair's goal – but not his achievement. Given the UK's absence from both the eurozone and the so-called Schengen border-free zone, Blair looked especially to foreign and defence policy as an area to push UK credentials and action (later looking inauspiciously to economic issues and the Lisbon strategy). Blair pushed forward a European defence initiative with French President Jacques Chirac in 1998 (at St Malo) and more recently both Blair and foreign minister Jack Straw have been keen to emphasise the 'trilateral' initiative of the three 'big' on a deal with Iran over its nuclear ambitions as showing what the UK, France and Germany can achieve together. But the UK's closeness to the US and its emphasis on the importance of NATO over nascent EU defence ambitions, together with the immaturity of EU foreign policy, limited what Blair could do in the foreign and security policy domain even before the Iraq crisis.

The attempt to put the UK at the heart of the EU, punching its weight with France and Germany, was also faltering before the Iraq crisis, not only due to the UK's second tier position outside the euro, and outside the border-free area, but because the UK was, and remains, at best schizophrenic in its policy on cooperating with France and Germany. In many ways, Blair would like the UK to be seen to be leading the EU with France and Germany, as with the policy on Iran. But the UK has never either been confident it could turn the long-run Franco-German relationship into a threesome or committed enough to making a long-run strategic commitment to partnership with these two key players, rather than periodically aiming to build counter-alliances with other member states – classic but not highly successful British 'divide and rule' tactics.

In much of the period from 1997, the Franco-German relationship was seen to be in abeyance, encouraging British notions that the UK could be the new leader of the EU, and that this could be done through other varying alliances with other member states. When the Franco-German relationship began to revitalise in autumn 2002 – through necessity rather than through any striking new constructive European strategies or approach from the two countries (notably in a crude power politics deal over agricultural funding and then in some lukewarm joint initiatives at the constitutional convention) – the British government was appalled (and, in a political and diplomatic mis-reading, also surprised), even before the Iraq crisis cemented the Chirac-Schroeder marriage of convenience.

The disastrous decision to back the US on Iraq, and give precedence to the primacy of the supposed special relationship with the US, not only led to deep splits within the EU but has continued to damage Blair's credibility and reputation at home, particularly on foreign policy issues – not the best basis on which to campaign to change views on the EU. Blair backed away from holding a referendum on the euro in his first term, and the moment had probably already passed of a good chance of success in his second term, even before the Iraq war guaranteed that the referendum

could not be held while Blair and the government were fighting off large swathes of appalled public opinion over Iraq.

Blair is not seen by many as the best figure to spearhead the constitution referendum campaign when it comes given faltering public trust in him, but most expect he will want to play a dominant role. Certainly, along with Iraq, the outcome of the referendum will be a defining issue in terms of his contribution to British – and international – politics.

2.2 Driving the Economic Debate?

As well as trying to show leadership in EU foreign policy, Blair has been keen, despite the UK's absence from the eurozone, to show that British approaches to economic policy are winning the day in the Union. But this has also borne little fruit. This was always a rather curious strategy since whether the British public, rather than simply British business, would welcome clear signs that the whole of the EU is going towards free market, deregulated flexible Anglo-Saxon capitalism is less than obvious. Moreover, it was clear in 1997 as it remains in 2005, that the UK's policy positions on economic and social issues tend to put it at one end of the spectrum of views across the EU member states – to the right even of most Christian Democratic parties in other EU countries (hence Blair's strongest EU relations being with more fully conservative figures such as Italy's Berlusconi or Aznar when he was Spanish Prime Minister).

The UK was, and is, unlikely to be able to shift the varied economic and social models and policies of all the other EU member states to its end of the policy spectrum when there is in fact a relatively stable balance between countries wanting more social Europe and those wanting a more free market Europe, which creates a tendency to maintaining the status quo, given insufficient consensus to move in either direction away from the status quo.

But on top of this, the EU does not anyway have the economic and social policy powers that the UK strategy would imply. A good example here is labour market policies, central to the Blair-Brown claim to have a better economic policy, and results, than the other large member states (though the fact that many of the smaller member states have at least as good an employment record as the UK but with different and less 'Anglo-Saxon' policies is normally disregarded by Blair-Brown in their ready assertion of UK superiority). Labour market policies are essentially the preserve of member states not the EU. The EU does have something called a European employment strategy but it has no legal force and it is limited to comparing good and bad practice across the member states – not something that tends to compel EU governments to listen to European Commission advice. Nor is Tony Blair about to start arguing Brussels should control UK labour market policies.

So despite the big emphasis of the British government on the so-called Lisbon strategy – designed to promote a competitive and cohesive EU – this strategy cannot and will not provide the proof Blair wants that the EU's economic policies are moving towards and accepting the superiority of the British approach. Much of the Lisbon strategy relies on the same exhortations to member states to imitate best-practice as used in the EU's employment strategy. Moreover, as with all other EU policies, the

Lisbon strategy was a compromise – between those who supported the British emphasis on liberalisation and those who wanted more emphasis on social protection and cohesion, hence the classic EU compromise phrases to be found in the Lisbon text, emphasising for example both competitiveness and cohesion, free and fair labour markets, more and better jobs, all classic compromises between essentially a British and a French view (the French, and some others, disdainful of what they often refer to as the UK's 'working poor'). No UK take-over of EU policies there to sell to the British public.

Overall, since 1997, the Blairite ambitions to change the attitudes of the UK public to Europe through showing the UK as a large country, leading and dominating EU debates and strategies from foreign policy to economic issues have failed. Changing tactics, schizophrenic strategies and shifting alliances, misreading of policy positions and political dynamics across the member states combined with the lack of priority given to promoting a positive debate in the UK, the ongoing Blair-Brown conflict, and the Iraq war, all came together to result in this failure. The government's aims were then further undermined by the ongoing and active scepticism of the media and of the bulk of the Conservative party.

3. The UK Government and the Constitution

3.1 Why a Referendum?

Given the state of British public opinion on the EU and the failure to prioritise changing those views by the Blair government, and the backing off from a referendum on the euro, a reasonable question is why Blair decided he had to, or should, put the constitution to a referendum. Certainly, the opposition were demanding one – but that is simply their role. In announcing the referendum decision in April 2004, Blair caught both the opposition and most of his own cabinet colleagues by surprise. Some saw the decision as a desperate short-run tactic to stave off damaging local and European election results in June 2004 – if so, it was an ineffective tactic as Labour turned in its worst results for 100 years, the UK Independence Party (committed to EU withdrawal) came fourth with a number of MEPs, and the only consolation being the relatively poor Conservative performance.

Others suggest Blair was taking a somewhat longer-run view, believing that with the sensitivity of the issue, public opinion in favour of a referendum, and the likelihood that the House of Lords would oppose it (leaving him to force it through with the Parliament Act) he had little choice. Some suggest he misread the politics, and the decision was unnecessary and foolish. Certainly, in failing to consult colleagues, he did not create strong cabinet backing for the move or a strong sense of collective responsibility for the result.

A 'no' vote in the referendum could lead very probably to Blair's resignation. Some suggest this could tempt Gordon Brown to be less than supportive in the campaign, given his long-standing goal of becoming Prime Minister and his aggrieved sense that Blair supposedly reneged on a deal to stand-down before now. But it would not be the most propitious start for a Prime Minister Brown to be negotiating the UK's exit from the EU. Brown has certainly not been the most pro-European of the Labour front bench, though how much this is genuine scepticism, rather than a combination of arrogance and using the EU – the euro, the constitution – as part of his ongoing,

dysfunctional tussle with Blair – is unclear. Gordon Brown is said to believe that to change British views on the EU, what is in fact needed is a new and stronger sense of national identity – but whether there is anything in this idea or not, with a referendum in 2006, there is little time to impact on such a complex, deep-rooted concept as national identity.

A potentially very serious problem in the referendum campaign may then be a failure of Blair and Brown to sing from the same song sheet, with Brown quite possibly developing his own strategy and line as to how to sell the EU to the British public. Such divisions could not only mar the campaign but inhibit and limit those willing to make strong public commitments to the campaign. Certainly business is looking for a clear guarantee that the referendum will actually happen and that Blair and Brown will jointly back it to the hilt before it commits either funds, time or reputation.

3.2 The Case for the Constitution – Likely Government Approaches

How will the government and the broader ‘yes’ campaign aim to sell the constitution? The referendum is not expected to be held until some time in 2006 as the UK government sees distinct advantages in going last of the 25 member states if possible in agreeing the constitution. Given this extended time-line, no precise or agreed set of arguments has been set out. But the general approach of the British government to explaining the EU and more recently the constitution is apparent. It is an approach that situates the government in a position where it implicitly accepts much of the sceptics line on the EU – summits are regularly presented as zero-sum games where the UK either wins or loses with an ‘us versus them’ mentality, and the constitution is discussed in terms of the UK defending ‘red lines’, battling to give national governments a greater say and to ensure the Union remains a ‘union of nation states’, with clear controls on the EU’s power. There is no discussion or explanation of pooled or shared sovereignty in this approach, or of cooperating successfully with important partners or indeed any general positive presentation of the EU as a whole as a success story.

But for now there is no agreement on exactly how best either to change attitudes to the EU more generally or to sell the constitution. In the government, foreign minister Jack Straw is seen as wanting to emphasise the defensive intergovernmental arguments, while more ‘pro-European’ ministers such as Patricia Hewitt and Charles Clarke are said to want to make more positive arguments. In the wider ‘yes’ camp analyses of the political meaning and achievements of the constitution and how best to argue for it vary markedly. How the diversity of the ‘yes’ side will be managed and how, when and whether the ‘yes’ side will come to a broadly agreed approach is as yet unclear.

But for now, the chances of the government or the main ‘yes’ campaign making a positive, upbeat dynamic case for the achievements of the EU, the benefits of membership, and the benefits of tackling key international issues and challenges together, and of presenting the EU as a modern, progressive organisation creating a new way forward in political and economic relations between states, and in joint pooled actions by those states, looks unlikely. But such a positive overall image and message may be vital for a positive outcome.

The chances of winning the referendum, from a starting point of a large majority of the public against, with only a defensive line on what the constitution does, together with some more or less explicitly made argument that a 'no' vote could leave the UK on the sidelines or out of the EU altogether, look slight. If the government, as seems possible, aims to deny or ignore the political nature of the EU, the shared sovereignty it contains, the desire of many member states for more political integration (and its feasibility within the constitution), or even the fact that the constitution is not the end of the process but may well be changed again in ten years or so, then not only will this be contested by the 'no' side but also by many on the UK 'yes' side and by comments and campaigns elsewhere in the EU. Much of the scepticism of British public opinion lies in ignorance and misunderstanding but playing to those fears, such as loss of sovereignty, by insisting on the EU as a pure union of member states as if it were a European UN is not accurate and will backfire.

3.3 Key Issues in the Constitution

It is quite possible that in the end the British campaign and vote on the constitution will turn on general attitudes to the EU and the UK's continuing membership of the Union rather than on the specifics of the constitution. Nonetheless, both 'yes' and 'no' sides will have to present arguments as to what the constitution does and why it is or is not beneficial – and also decide which issues they most aim to highlight.

The 'no' side is certainly likely to emphasise ongoing general arguments and feelings against the EU – against as they see it a centralising, interfering 'Brussels' federal superstate intent on destroying British sovereignty. But they are also likely to point to a number of issues in the constitution – from the very use of the word 'constitution' as indicating the intent to create a superstate, to raising concerns about new and more EU control over 'the police, crime and our courts' (as the 'Vote No' web site puts it), more EU control over 'our foreign policy' and with 'more transfers of powers in the future'. The supremacy of EU law over national law, increased areas for qualified majority voting, the new president of the European Council, the new foreign minister, the charter of rights, EU common defence plans, all these and more have already been highlighted by the 'no' lobby.

The 'yes' side have to decide how much importance they ascribe to the constitution – is it as cabinet minister Peter Hain and one-time British government representative on the convention once suggested merely 'a tidying up exercise' or is it, as Blair declared while the convention was still in progress, 'a settlement for a generation'? On the one hand, the 'yes' side may be keen to argue – defensively – that there are relatively few important changes in the constitution but this would leave them in difficulty both in explaining why it is so important to agree it and in implying that a 'no' vote could lead to a major change in the UK's relations with the EU.

Labour politicians have already been keen to present the constitution as an agreement where the UK 'won', winning all its so-called 'red lines' and overall moving the EU in the UK's desired direction. This is a problematic argument. Anyone who watched the debates, arguments and eventual compromises as the constitution was drafted will know that no one country 'won' but that a deal was done acceptable to all with compromises by all. And it is not necessary to have followed the details of the constitution's drafting to appreciate that for the constitution to be agreed by 25

governments and then ratified in 25 countries it must represent a consensus acceptable to all. If the UK does vote last after 24 'yes' votes, it will be hard to argue this is a British document that somehow all other countries agreed to.

In fact, on some key issues, it was France who acted as middle-man/broker – persuading Germany to accept the Anglo-French idea of a new president for the European Council and persuading the British to accept the idea of an EU foreign minister. The UK ended up, like other countries, compromising in many areas – on the powers of the new president, on accepting the foreign minister, on including the charter of rights, on calling the document a constitution, on the role of national parliaments and so forth⁶.

On top of defensive arguments already being made by Labour politicians – about how the constitution constrains the powers of the EU and puts member states back in the driving seat – the 'yes' side will need to have a set of explanations as to what the constitution is for. These are likely to include references to the need for more efficient, clearer rules given the enlargement of the EU to 25 (and soon to 27), and to the need for more transparency. There may well be a rather typical 'new Labour' emphasis on how more efficient institutions and rules will help the Union to deliver on the things that 'really count' such as jobs, prosperity etc.

But more positive and inspiring arguments than efficiency alone will be needed if the debate is to generate any positive dynamics. At the same time, more detailed positive arguments on specific key issues in the constitution will be needed too. Some of the likely government approaches to key issues in the constitution are now considered in more detail.

3.3.1 A Permanent President of the European Council

The UK pushed the idea of a full time, semi-permanent president of the European Council from early 2002 even before the constitutional convention had convened. The main idea was to strengthen the European Council, which brings together EU leaders, at the expense of the Commission – and so to strengthen the intergovernmental side of the EU, at the expense of the more supranational pan-European side (reflected in the roles of the Commission and the European Parliament). In its autumn 2004 White Paper on the constitution,⁷ the government declared that the new European Council president is the most important institutional change in the constitution and stated that national governments have now got decisively more control than before – rather clearly supporting a sceptic line that governments were not strongly in control before, despite their direct responsibility for and control of EU legislation.

While the UK was successful in its proposal for a new president it had to accept substantial weakening and delimitation of the president's powers in order for it to be acceptable both to more integrationist member states and especially to the smaller member states, who saw the idea not so much as one aimed at strengthening the

⁶ For a longer discussion of the positions of France, Germany and the UK see “Guerot, U., Hughes, K., Lefebvre, M. and Egenhoff, T. (2003) “France, Germany and the UK in the Convention: common interests or pulling in different directions”. EPIN Working Paper No.7, Centre for European Policy Studies, Brussels

⁷ “White Paper on the Treaty establishing a Constitution for Europe” Cm 6309, September 2004

Council relative to the Commission but as one aimed at strengthening the dominance of the large countries relative to the smaller ones. Indeed, at the constitutional convention, the majority of delegates, including most of the smaller member states, the European Parliament and Commission were opposed (but with former French president Giscard d'Estaing in the chair and the six larger countries in support the idea was driven through).

A major irony and problem for the UK is that having successfully achieved its top strategic goal of a permanent president of the European Council, this now looks like proving a double-edged sword in the British debate. Given the widespread ignorance of the UK public as to how the EU operates, it is not an easy or very accessible argument to attempt to explain that the UK, through the new president, has increased the power of the European Council relative to the Commission, and so intergovernmentalism relative to supranationality – and that this is a good thing. To the public, as the 'no' camp is already arguing, the idea of a semi-permanent president of Europe sounds as if a European state is being created – exactly what most do not want. For the government to counter that this new president does the opposite by weakening the Commission is not an argument that is likely to resonate with a public the majority of whom are unaware of the existence of the Council (as repeated Eurobarometer results have shown) and who do not understand the respective roles of Council and Commission.

3.3.2 More Presidential Confusion

Moreover, a strong fight back at the convention led by the Benelux countries ensured that the Commission still retains the right to prepare and present to the Council the crucial multi-annual strategic agenda, and shares responsibility with the new European Council president for preparing and following up EU summits. The compromise outcome means that the EU under the constitution will have two presidents – of the Commission and of the European Council – with overlapping mandates (which also overlap further with the role of the new foreign minister). Confusion and turf-fighting is a likely result. The UK government also likes to say the new president will be 'elected' whereas in fact the post is an appointment by the European Council, hardly in any democratic sense an election – indeed the new president will only be held accountable behind closed doors to the European Council so no democratic breakthroughs with this potentially powerful new post. Explaining the benefits and rationale of the new system will be hard, and even harder if the aim, as with the UK government, is to show that member states and intergovernmentalism has the upper hand.

Nor looking forward is it clear that the new president will anyway act in the way the UK hopes. As a new permanent and full-time position in Brussels, with the Council secretariat at its service, it is quite possible that such a new president may prove more pan-European and less biddable than the current rotating part-time presidency. Fortunately for the UK government, this will not be tested in advance of a referendum.

Adding further to the confusion of the new arrangements, despite the UK government having derided so strongly the rotating presidency in an EU of 25, in fact, below the new semi-permanent president, a rotating presidency will not only continue to exist

(responsible for chairing all the individual/sectoral Council of Ministers meetings) but this is expected to be a 'team' rotating presidency of 3 countries together sharing out the responsibilities for 18 months (but also rotating those responsibilities between them every 6 months). Easy to explain, streamlined and transparent this is not.

And while the government will certainly attempt to argue that the constitution in some way puts the member states back in the driving seat (thereby accepting and contributing to the sceptic case that the Union has been run until now by some out of control entity 'Brussels'), it will be more constrained in arguing as it would like to, that the big member states will have more say. Publicly saying that the new president of the European Council is meant to be more biddable by the big member states, and to increase the big countries' power in the Union would have a disastrous impact on the UK's relations with the 19 smaller member states of the EU (not least those 9 smaller new members who joined in 2004 and who the government hopes so fervently (but rather inaccurately) are on 'our' side). So it cannot be said – and quite likely will not be true whatever the UK's original intentions.

3.3.3 Sovereignty and Democracy

It might be expected that to explain today's Union, and so to explain the changes the constitution will bring, it would be necessary for the public to have a broad idea of what sort of organisation it is – to understand that while in some aspects it is a UN-like body, discussing foreign policy in an intergovernmental setting, in other aspects it involves pooling sovereignty in order to create such things as free movement of people, the single market or joint action on environmental matters i.e. it is more than a free trade body, and it is more than the UN but it is not a full state. It is a hybrid system that has important political aspects and dynamics.

But not only has the UK government failed to explain the existence and benefits of pooling sovereignty in various policy areas, it is clear that in the upcoming campaign the government now rather clearly does not want to explain this. It aims to present the EU as if it were a purely 'European UN' type of body with governments cooperating voluntarily where they choose, with no acknowledgement or explanation for example of the vital – and quasi-governmental – powers of the Commission and its sole right of initiative in putting draft laws forward to the member states in the Council. This is misleading and so inevitably unhelpful, but it also makes it almost impossible to sell in any convincing way the role and purpose of the new EU president or other important changes in the constitution.

Important democratic steps forward in the constitution will not be easy for the British 'yes' side to explain or sell. The crucial new treaty provision that when it is making laws the Council of Ministers will act in public – like all other democratic legislatures – should be sold as an example of an important democratising step. But given the lack of awareness of the existence of the Council, and so indeed of how EU laws are made, such an argument may prove hard. It may be easier to explain the concept of national parliaments now having a 'yellow card' to query new EU legislative proposals, but since the government would have preferred a 'red card' system (unacceptable to many other EU member states as undermining the pan-European, supranational elements of the Union), the government could still end up on the back foot here too. How will they explain that when the UK parliament does complain that a law oversteps

'subsidiarity' (i.e. should be left to national level), its views will be ignored unless one third of the EU's parliaments agree and that even if a third do object, even then the Commission can still choose to resubmit the same law unchanged?

In another democratic step forward, the role of the European Parliament is strengthened in the constitution and put on a more equal footing with the Council – but the UK government is not exactly a champion of the European Parliament or of the supranational, European representative democracy that it reflects. For similar reasons, the UK government will not emphasise the – rather limited – power for the European Parliament to have more of a role in electing the Commission president. Nor did the UK government want to see the charter of fundamental rights incorporated, and did what it could to ensure so-called 'horizontal' clauses were included to limit its impact – so one more democratic and rights based development the government will not enthusiastically sell but instead will take a defensive position on during the debate, emphasising that the charter does nothing, creates no new powers, has no effect on the UK – to which a natural response may be, so why is it there?

3.3.4 Foreign Policy and an EU Foreign Minister

On foreign policy, the Iraq debacle, and the ongoing and disastrous tie that it creates between US and UK foreign policies, will continue to undermine the ability of the British government to talk about the benefits and advantages of the EU agreeing where possible a common foreign policy and so having growing influence in the world at a time when vital global challenges need addressing. Nor is the Blair government, having invaded Iraq without UN support, in a position to argue convincingly for the EU's new security strategy and its commitment to multilateralism or to praise the way the EU can use its 'soft power' instruments – from trade and aid to EU membership prospects – rather than military 'hard power' to tackle international problems, nor indeed to push forward the concept of the EU as a body of countries protecting and promoting human rights at home and abroad.

Others on the 'yes' side can better make such a case, but Blair and his colleagues will be inhibited from putting forward a potentially powerful set of international arguments. The government – aware that the sceptics' claim that the UK is giving up its sovereignty in foreign policy – will be in defensive mode, keen to explain that EU foreign policy remains unanimous and intergovernmental and so that the UK maintains its own foreign policy wherever it wishes. This is correct but put in this way it will still be one more defensive argument.

The UK government was also nervous at the idea of an EU foreign minister – both at the name, which they knew would be leapt on by the sceptics, but also at the risk as they saw it of the Commission having anything to do with foreign policy proper (rather than just trade and aid). It was the French who persuaded the British that the foreign minister post – with a 'double-hatted' post in both Council and Commission – could be designed so that he or she was essentially a 'creature of the Council' (as one official put it) rather than of the Commission. Exactly how this innovative post which breaks down institutional barriers in ways never tried before will operate remains to be seen. But it may not be a change easily explained to the wider public relative to

the ease of the 'no' side in saying that having an EU foreign minister sounds like part of the creation of a European state with a European foreign policy.

3.3.5 Cooperation on Criminal Justice, Asylum and Immigration

Nor will the UK government find itself in a more comfortable position on issues concerning justice and home affairs. The idea of closer cooperation on criminal matters is potentially sensitive in the UK, and worries not only eurosceptics but some key human rights and civil liberties campaigners concerned at the risk of inadequate protection for the citizen even in already agreed areas such as the European arrest warrant. The UK emphasises that it has achieved its 'red lines' here, retaining a veto on any agreements on harmonising aspects of criminal law dealing with serious cross-border crimes – but in fact what was agreed is a so-called 'emergency brake' so that if a measure is not agreed through majority voting and a member state uses its veto, other member states will be allowed to move ahead in a smaller group more quickly than they would otherwise. So the UK does indeed keep its veto – but if it is used then other member states may go forward, leaving the UK on the outer tier of one more policy area.

The constitution also suggests areas for future cooperation such as an European public prosecutor, even though there is not unanimity to allow such a post to be introduced now. Although the UK government is entirely opposed to the idea of a European public prosecutor, the reference to it shows the different goals of other member states who are keen for more integration here. It is at least conceivable that this could become an area of enhanced cooperation – one more aspect of justice and home affairs where the UK will have an opt-out, and be unable to argue it is taking a leading role in EU counter-terrorism or other cross-border challenges of international crime.

These problems go through too to issues of asylum and immigration. This is an increasingly sensitive, and also mal-informed, issue in the UK in recent years – with polls regularly showing the public to overestimate to a very high degree the extent of asylum and immigration into the UK (encouraged and often misled by various parts of the media). The Blair government, seeing this as one area where it could be challenged from the right, has taken a very hardline stance, acting to limit the rights of asylum claimants (though with some of its efforts struck down and declared illegal by the British courts) and to limit immigration. Tony Blair has been keen to see more European action here, considering that if there were tougher common EU rules on treatment of asylum seekers, this would not leave the UK being seen – accurately or not – as an easy country to enter, and potentially, in his view, helping to limit entry into the EU altogether (while hoping to deal somehow and elsewhere with the actual economic and business need for new immigration, not least given low unemployment levels and tight labour markets in the UK).

However, the UK political culture of ignorance and scepticism on matters European again plays its role here. There are, and have been, many easy tabloid headlines and political sound bites to be had in claiming that the UK is losing control over immigration to the EU, an argument that shot up the agenda in January 2005 as the Conservatives made clear they were playing the asylum and immigration card as a central plank in the forthcoming general election. The Commission, satisfyingly for the Tories, pointed out that their ideas to impose asylum quotas would go against

commonly agreed EU standards in recent directives, and, as the UK government then added, also contravene the European Convention on Human Rights. In the current political atmosphere in the UK such responses do not necessarily count against the Tories as they might be expected to.

Moreover, as with other areas of the debate, an explanation that common EU standards may be beneficial to all member states including the UK – while simple, and in the Blair case intendedly hardline – is more complex than the cheap tabloid headline and the prevailing 'anti-Brussels interference' mentality. To make such arguments successfully would need a more honest, rational public and political space for debating European joint policy-making than currently exists. This then is the cost of the government failing to prioritise its declared intention of bringing the UK to the heart of Europe and so failing to change the terms of the debate.

Unlike in some other member states facing referenda, notably France, the question of future Turkish accession to the EU has had little salience in the UK constitutional debate so far. This has much to do with the fact that enlargement – both to the 10 new member states of 2004 and now to Turkey – is about the only area of EU policy where there is a cross-party consensus between Labour and the Tories. However, this consensus did not stop much of the British press whipping up last minute scare stories in April 2004 about the thousands of east Europeans poised to flood into the UK (the failure of the flood to appear was not of course given the same media coverage). The likely start of accession negotiations with Turkey in October 2005 during the UK presidency of the EU may provide an easy opportunity for the 'no' side to re-emphasise its anti-immigration line, pointing the finger at the EU for laxness or for usurping UK control of its frontiers (notwithstanding Britain's opt-out from the border-free Schengen area).

3.4 An Anglo-Saxon Constitution?

The constitution is not the Anglo-Saxon document that some, including parts of the left in both France and the UK, have misleadingly claimed. So the government would be unwise to attempt to present it as such. There was little agreement at the convention on changes to economic and social policy, reflecting the same difference of views found in the EU Council of Ministers between those who want a more free market EU and those who want a more social EU which results in an ongoing compromise around the status quo. The rather broad potential area for EU social and employment policies that exists in the Nice Treaty remains in the constitution, with no new restrictions – the block on developing new social laws at EU level comes from lack of agreement within the Council of Ministers not lack of the potential base for such new laws in the treaty.

Attacking EU social policies through opposing the constitution is to misunderstand completely the political dynamics of social and economic policy formation in the EU and to put the political debate in the wrong location – arguments need to be made at the level of the Council of Ministers and individual member states, the treaty is not where change is needed in order to progress on EU social policy.

3.4.1 Business not concerned?

The fact that the constitution does not represent a move towards a more Anglo-Saxon EU is also illustrated in the lack of enthusiasm of British business for the treaty and their so far highly disengaged stance as the British debate develops. Much of UK business would still want the UK to stay within the EU and to continue to reap benefits from the single market – business prospects and operating conditions would potentially be sharply and negatively affected if a UK 'no' to the constitution led to UK withdrawal from the EU. For this reason, business might have been expected to be getting both alarmed and active as the probability grows that the UK may vote 'no' and may be alone in doing so.

But for now British business seems to be adopting a disengaged 'wait and see' attitude, not taking any responsibility for impacting on the discussion in a positive way. Instead British business representatives are more likely, when challenged on their lack of action and voice, to complain at the extent of regulation in the EU, to complain at Blair marching them up the hill and down again on the euro referendum, and so to argue that until Blair, Brown and the government put themselves on the frontline of the argument, business will not act.

3.4.2 Trade Unions not concerned?

The silence from the trade unions is as deafening as that of business. It is notable that neither the Trades Union Congress nor the Confederation of British Industry responded to the invitation to submit evidence to the vital inquiry into the BBC's European coverage discussed above. Trade union leaders have been slow or absent in publicly challenging some of their colleagues who have argued that the constitutional treaty is against a social Europe. UK trade unions have mostly welcomed the EU's role in protecting and extending social rights over the last 2 decades when the UK has moved ever more to a deregulated market economy. But the unions do not yet, any more than business, show any signs of taking some responsibility or getting active to deal with the real threat that the end result of the constitutional referendum process could be the UK leaving the EU.

Yet the new treaty not only underlines the role of the formal 'social dialogue' at EU level between unions and business, it also gives new rights to NGOs to be consulted on issues of concern to them, incorporates the charter of fundamental rights, establishes key new international goals such as the primacy of tackling poverty, and allows for a new citizens' right of initiative and other changes that the unions could be expected to welcome. Nor, as discussed above, does the constitution in anyway restrict the wide potential powers for social policy action contained in the current Nice treaty.

4. Prospects for the Campaign

If a snap referendum were held now in the UK on the constitution it is clear that it would be lost. But the referendum is 12 to 18 months away (from January 2005). The 'no' side for now is more active, better funded and has public opinion on its side. So what are the prospects and plans for the 'yes' side to achieve a major swing in opinion between now and the referendum?

The UK looks like being the last country to hold its referendum – although the Danes too, another country nervous about a 'no' though currently with positive opinion polls, are also looking to vote late. From the government point of view, a late vote can be beneficial in one of two ways. Either they may be rescued by a series of 'nos' in other countries or by one particularly significant rejection, such as a French 'no' – this could lead to the UK not holding a referendum or a British 'no' vote being much less damaging. Or the UK referendum might be held in the context of all the other 24 member states have already agreed the constitution. Such a cumulation of 'yes' votes could help to persuade the British public that a 'no' vote is not a vote for staying in the Union as now, but that it would launch a debate about leaving the EU.

The 'yes' side has yet to decide how strongly it wants to make the argument that a 'no' vote is essentially a vote about staying in or leaving the EU. While this argument may be the most powerful and important one the 'yes' side can make, it also arguably risks becoming a self-fulfilling prophecy in the event of a 'no', limiting the arguments for other ways of dealing with the crisis that a 'no' would provoke. It is clear that the 'no' side is also uneasy at the prospect of the issue being presented as an 'in or out' question. They not only know this can strongly help the 'yes' side, since the majority of the public do still want to stay in the Union, it is also an issue that splits the 'no' camp.

Many of the 'no' side do indeed want to leave the EU, but others want to negotiate some sort of second-tier or second class membership, while Tory leader Michael Howard is currently arguing that he can renegotiate the UK's position in the EU (for example taking the UK out of the EU's fisheries policy) without upsetting its position as a full EU member. There is little evidence that Howard's aims would be acceptable to other EU members, but he does not want – at least for now – the 'no' campaign to be an 'out-of-the EU' campaign. So there is lack of clarity on both sides so far on this crucial issue, but it is clear that the 'yes' side can make a powerful argument here, threatening that the UK will end up on the outside like Norway

4.1 When Will the Real Debate Start?

At the start of 2005, the 'no' side looks confident, active and relatively well organised. With its much greater financial resources, a noisy sceptic chunk of the media on its side, and public opinion strongly against the constitution, it is in a strong position. The 'yes' side appears in comparison to be in a certain disarray. Although the government published the European Union bill to ratify the constitution and set the question for the referendum ("Should the United Kingdom approve the treaty establishing a constitution for the European Union?") on 26th January 2005, the full parliamentary debate and ratification of the constitution – which will be strongly contested and closely followed by the media – is not expected to take place until after the general election anticipated for May 2005. A long factual explanatory document going through the constitutional treaty clause by clause is also due to be published shortly.

Overall it is clear that the government as far as possible does not want the European debate to be on the agenda until after the general election. While the strongly negative public attitudes to the EU would suggest that the 'yes' side needs to be very

active now, making the case for the EU in general, getting the facts out both on the EU and on the constitution, and building networks and coalitions, the government prefers to wait until it has secured re-election. Consequently, it appears that any work on building up active supporters, and developing arguments, is mostly to be done behind the scenes and with limited resources.

The main 'yes' side organisation – 'Britain in Europe' – is in its construction cross-party but it is not expected to go against this clear view emanating from Downing street that now is not the time for strong public debate. Nor does its current chairman, Anthony Nelson, sound like much of an EU-enthusiast – quoted on becoming chairman, as saying "It's not Britain for Europe, it's Britain in Europe" (Financial Times (2 /12/04)). Some close to the government suggest that 'Britain in Europe' will be relaunched after the election, with a new chairman (with many pushing for former European Commissioner Chris Patten to take the reins). This may be necessary but it does nothing to strengthen the only coordinating body on the 'yes' side in the interim period.

The government's reluctance to act now also has a powerful knock-on effect on other actors. Neither pro-European Conservatives nor the Liberal-Democrats are willing to make strong moves and commitments in the absence of a lead from the government, and business and unions appear to share a similar reluctance. This cascading inactivity also impacts strongly on funding – funders have little reason to contribute yet to a campaign that at the earliest looks like picking up speed in the second half of 2005.

Some in the government hope that the British presidency of the EU in the second half of 2005 may help to convince the British public of the UK's importance in the EU. Others recognise that a British presidency may not be such a strong selling point. It may not only be a distraction but tricky issues on the agenda such as the agreement on the EU's next financial framework and what to do with the UK's budget rebate will have to be dealt with. Some suggest the budget deal will have to be kicked forward to 2006, with the UK refusing to do a deal before then, and resorting to rolling over the EU's budget.

Overall, it looks unlikely that the 'yes' side will get properly into gear until the second half of 2005 at the earliest. It also seems that for now the government's preferred approach is to hope that a rather short sharp – maybe 2 month – campaign will be sufficient. The campaign will be cross-party and bring in business and unions. The extent to which the campaign will aim to bring in a much broader-based coalition of different organisations from NGOs to student or church groups or artists or musicians or anti-war groups is unclear, but indications so far is that the idea of such a broader coalition tends to be seen as rather peripheral, messy and difficult to control.

It also starts to look as if one of no doubt many ironies in the campaign may be that the 'yes' side will try to play a strong national and patriotic card, to show they are not 'selling' out to 'foreigners' while the 'no' side conscious of its potential image as out-of-touch, older white male 'little Englanders' is already busy honing a modern and even international image (and already launched a modern anti-EU advert in cinemas played before the second 'Bridget Jones' movie). As the Economist magazine puts it we may be faced with what they call "the entertaining prospect of Europhile

internationalists shunning anyone with a foreign-sounding surname or a funny accent, while British euro-sceptics defer to German businessmen”.⁸ However, ongoing splits on the ‘no’ side may undermine at least some of its attempts to present a reasonable and modern image. Having split from the UK Independence Party, MEP Robert Kilroy-Silk has been quoted as saying that some of his former colleagues were “right-wing fascist nutters”.⁹

But whatever splits may hamper the ‘no’ side, the delayed, defensive and until now ill-worked out and underfunded strategy by the ‘yes’ side does not look like a successful way to mount a sustained and far-reaching campaign to counter the scepticism, nationalism and ignorance that has pervaded the British EU debate for so many years.

4.2 What if the UK votes 'no'?

This in many ways looks like being the biggest question in the campaign but one that neither side may give a very clear answer to. By the time the UK votes, it should be clear what the situation is in almost all the other member states, bar perhaps one or two other laggards. How significant a UK ‘no’ is will depend whether any other countries have rejected the constitution, which ones and how many. A ‘no’ from founder members such as France or the Netherlands could throw the Union into such political disarray that the UK could even argue it will suspend its own ratification attempts. A ‘no’ from fellow-sceptic member state Denmark, or from a new member state such as the Czech Republic, might stop the UK from being totally isolated in its rejection but would not create any powerful momentum to abandon or alter the treaty. While Denmark voted twice on the Maastricht treaty in 1992/93 – first rejecting then accepting it – and so conceivably could do so again, the UK is not expected to vote twice.

The most difficult situation for the UK is clearly one where it is the only country to reject the constitution – with 24 countries accepting the constitution and only the UK rejecting it. If the current opinion polls across the EU prove right, this for now is a likely outcome. Since, legally, a new treaty needs unanimous agreement, the other 24 member states could not go ahead without the UK, but nor are they likely simply to accept that agreement by 24 out of 25 countries on a major new treaty should be ignored and the EU struggle on with the Nice treaty. Hence there will be a major political crisis.

While a ‘no’ from France or the Netherlands would be expected to lead to determined efforts to find a new way forward, the same cannot be confidently predicted for a UK ‘no’. This reflects the fact that the UK public and political establishment and elites are seen to be the most sceptic in the Union, and that even after 30 years of membership, the UK is at best ambivalent about its membership of the EU and at worst regularly critical, negative and periodically obstructive. While ten or twenty years ago the prospect of the UK leaving the EU would have been met with considerable concern in most quarters of the Union, today many openly say that if the UK cannot resolve its

⁸ “Yes or Nein” The Economist January 29th 2005

⁹ The Independent on Sunday “Ukip is part of ‘fascist nutters’ says Kilroy-Silk” 30th January 2005

internal debate and broadly accept that it wants to be part of the EU club, it may be time for it to go.

Some member states will be more concerned than others if the UK were to leave – countries such as Estonia or Poland see the UK as closer to their views on various aspects of EU strategy and policy. But equally such countries having only just joined the EU will not want to move with the UK to some outer-tier/special partnership.

It is also clear that a 'no' vote in the UK is unlikely to be linked to any one provision of the constitution – there will be no simple new 'opt-out' to negotiate, both because a 'no' will probably reflect a general sceptical rejection of the constitution and because the constitution sets up a new general institutional and decision-making framework. Either the UK accepts the overall new decision-making framework or it does not. But if it does not, then it is difficult to see how it can negotiate any arrangement that allows the 24 to go ahead with the constitution while still allowing the UK to participate in the European Council and Council of Ministers. The constitution is not equivalent in this regard to the euro – it is possible to opt-out of one policy area but it is not possible to opt-out of the general rules of the game.

So in a situation of 24 member states agreeing the constitution and a sole British 'no', the most likely outcome would be the negotiation of some form of special partnership between the UK and the EU. While such a special partnership may allow the UK more freedom to make its own choices in some areas of policy, it will also mean, if it wants continued access to the single market, that it will have to abide by decisions and laws agreed by the new EU under the rules of the new constitution i.e. decisions made without it having a vote (the same situation as for Norway).

For the UK there will be much bigger, more profound and longer-run implications for its own identity, for its role, or lack of a role, in the world, and for its future domestic political developments (including one interesting question in the longer-run as to whether withdrawal from the EU could revitalise the dormant independence debate in Scotland – with the aim of an independent Scotland rejoining the Union as a full member state). The UK will have voluntarily put itself outside the major political and economic forum in its region. In doing so, it will have both publicly demonstrated, domestically and to the international community, the complete failure of its European policy and it will have dramatically reduced its ability to impact on global developments. It will rank as a small to medium global player but one with no influence in the EU and even less influence, or pretence at influence, than before over US policy, since it will not be able to argue, as Blair and others before him have tried to, that the UK can act as a bridge between the US and Europe. It is interesting to note, that some of the American 'neocons' have been vocal in their opposition to the EU constitution, not wanting to see a more effective Union – and in some cases teaming up with the UK 'no' side, apparently not understanding that a UK 'no' could leave to its departure from the EU, something that would not appear to be in the neocons' interests.

Given the UK's long history of playing, or attempting to play, a significant role in European and international politics, the UK's departure from the EU would represent an extraordinary change not only in Britain's foreign policy but in its role and influence in the world. So far, this issue has barely begun to be addressed in any

discussion of the issue. Yet many of those likely to vote 'no' to the constitution, and especially many of those who definitely do want the UK to leave the EU, do not appear in their rhetoric to want the UK to be sidelined in international affairs and to become a country taking a backseat on global challenges, contenting itself with a focus on domestic issues. But this is the prospect the UK may well face by 2006.

While both sides may choose in the campaign to fudge the issues over what a UK 'no' will mean, it is clear that this is a decision of enormous weight and significance for the UK's future. The fact that the great significance of this choice is not so far leading to an energetic, high-level response from key actors who see the UK's future as in the EU is already a considerable cause for pessimism as to the potential outcome of the referendum.

5. Can it be Won?

The above description of the British debate and prospects for the referendum raises the question of whether there is any way a 'yes' vote can be achieved. At this stage, with possibly up to 18 months to go before the actual vote, the answer has to be that a 'yes' vote can be achieved but it will need a major, sustained, determined and confident plan of action, and one that starts now, rather than a delayed, half-hearted strategy that will wait to see if other countries vote 'no' before taking the challenge of persuading British public opinion seriously.

Despite the strong negative attitudes of the public to the EU and to the constitution, many views on the EU are based on false information or lack of information as to what the EU is, how it operates, the UK's role in it, and what the constitution contains. This gives the 'yes' side its key opportunity. But the 'yes' side cannot only inform – it needs to enthuse, to inspire, to persuade and to engage people. This cannot be done on the basis of defensive arguments about the limits to EU powers.

The 'yes' side has to start to act now. The government may have a general election to win but this cannot be an excuse to avoid talking about Europe at all. It is clear that the actual, strictly defined, referendum campaign leading up to the vote cannot go forward at full speed for 18 months. But there is a need now for a strong determined strategy to get Europe onto the agenda and talked about in different places and organisations, to get accurate information out, and to paint a confident, dynamic picture of the EU's role in its region and in the world, and the UK's potential role in that. That can be done now.

The EU needs to be presented as a modern, progressive force in the world, a broad success story – promoting peace, prosperity and democracy, and a tool for positive, collaborative action on joint international challenges in the future. A strong confident lead from all government ministers and from all pro-European backbench MPs – talking about Europe in positive, confident terms – could start to transform the situation. If Labour started to do this, the Liberal-Democrats and pro-European Tories would have some clear reasons to follow suit.

And while the election campaign may limit the time and emphasis of politicians on Europe, a confident initial lead from the politicians could then help the broader 'yes'

side to start to mobilise and activate groups outside Westminster not involved in the election – whether NGOs, students, business, unions, and other campaigning or interest groups. How such groups network together, organise events, write articles for local media or websites, initiate local activities is up to those groups – the important thing is to get the message and the energetic lead out there in order to stimulate such groups into action. Such a cascading broad coalition does not require large central funds or organisation – the centre needs to stimulate and to act as a key information node in the coalition network. But since success tends to breed success, the more a lively active coalition across the country becomes visible, and the more the 'yes' side grows in confidence and looks like it's determined to win, then the more chance there is of pulling in considerably more funding at an earlier stage than is available now.

The 'yes' side with such a broad colourful coalition can present itself as modern and progressive – not simply tired old political faces from Westminster. The politicians need to be there but, given the levels of distrust of politicians in the UK today, a wider more modern campaign with a range of figureheads looks vital. With a commitment to much greater activity, to networking strongly across different groups, and with gradually increased funding, the 'yes' side can also start to tackle in a much stronger and more coherent way myths, inaccuracies and straightforward lies about the EU and the constitution. And it can promote positive and coherent arguments about the real EU that exists today and the different ways forward for the EU in the future.

For all this to happen would require a sea-change in UK politics. It would require the government to move strongly onto the front foot and away from its defensive 'us versus them' EU arguments. It would require Blair and Brown to come to a deal now on the EU and its positive promotion (something that at this stage is highly unlikely). It would require a determined effort to do what Blair claimed in 1997 he wanted to do, and that is to transform the UK's approach to the EU and so its role in the EU. But without such a sea-change the prospects for a 'yes' are slight and will principally rest on the hope that the public can be persuaded that the constitution vote is about staying in the Union, without changing any of the underlying attitudes to the EU. A 'yes' vote in such circumstances may keep the UK in the EU but a vote based principally on fear of exclusion will not be one that transforms British understanding and attitudes to the Union. In that case, ambivalence and scepticism will continue.

Conclusion

The prospective UK referendum on the EU constitution is bringing to a head many years of British ambivalence and doubts about the Union and the UK's role in it. For too long, British debates on the EU have taken place in a context of ignorance, inaccurate information, scare-mongering, myth-making and defensiveness. In 1997, after 18 years of Conservative rule that saw the Tories go from being a pro-European party to a divided eurosceptic grouping stuck in the electoral wilderness, it looked as if the Blair government would grasp the opportunity to reverse this situation. But this did not happen. It is, and was, a major missed opportunity. Instead of taking Britain to the heart of Europe as a leading player, Blair and his team may go down in history as those responsible for taking the UK out of the EU.

For now, the government is focusing on the May 2005 general election, and appears to be in denial on the European disaster that may lie ahead. The government line on the EU and the constitution is defensive and unenthusiastic – indeed it takes as its starting point much of the sceptic position. Nor has it any plans for action until well after the election is over. This looks like a recipe for failure. And yet, the referendum can be won. Despite strongly negative opinion polls, much opinion on the EU and the constitution is uninformed or mis-informed. Information alone though cannot win the day. A dynamic confident message about the EU and the UK's role in it, promulgated through a broad, lively coalition can do what should have been done in 1997 – it can transform the UK's attitudes towards, and role in, the EU.

Without this, a 'no' vote looks likely. If all other member states say 'yes' then the most likely outcome of such a 'no' vote is for the UK to leave the EU. Instead of a modern outward-looking country, confident in its international role in the EU and through that in the world, the UK will retreat to the sidelines, confused, nationalistic, and rather powerless. This is the challenge for the 'yes' side and one that needs to be taken up rapidly.