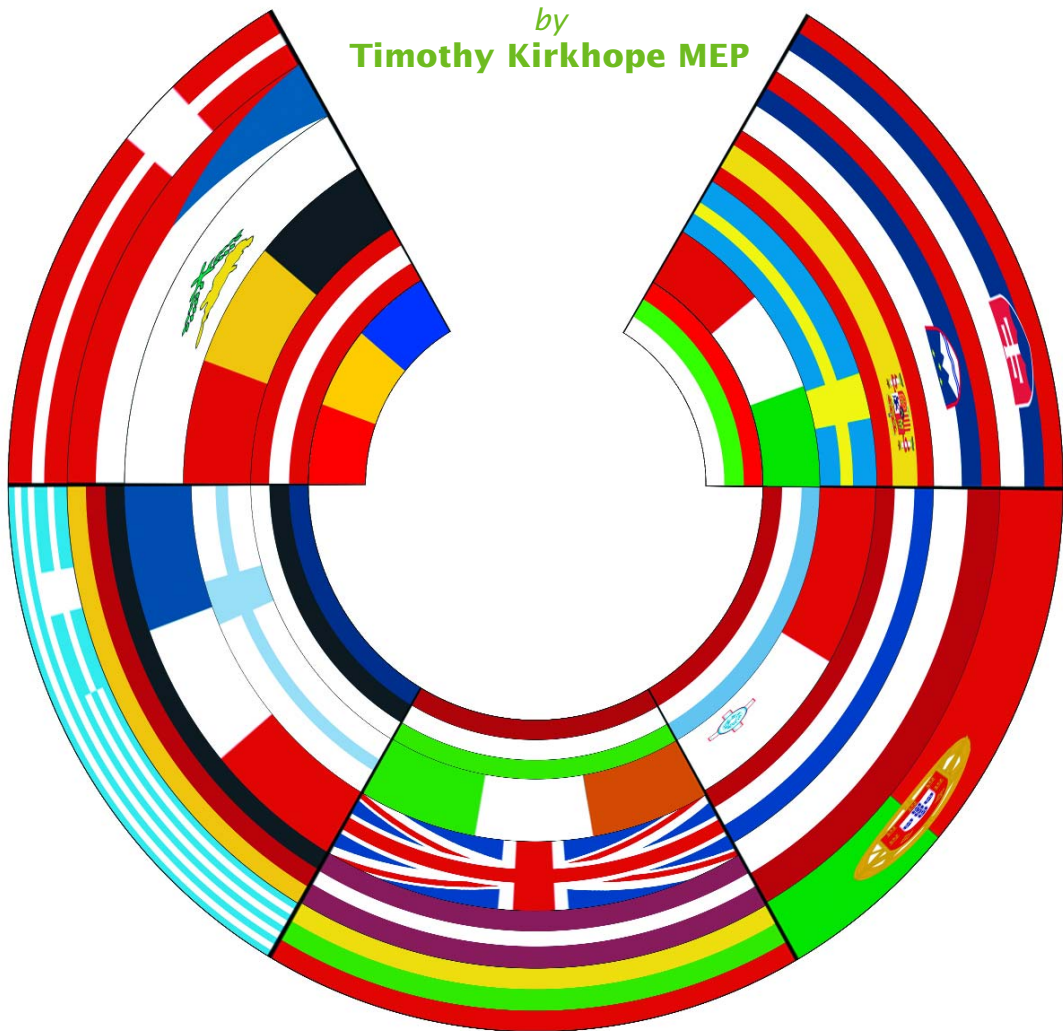


Simplifying Treaty

*for the
European Community*

by
Timothy Kirkhope MEP



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Foreword

by **Rt Hon William Hague MP**
Shadow Foreign Secretary

When Timothy Kirkhope first asked me to write a Foreword for his Simplifying Treaty in 2003, I wrote that the voice of the people had been ignored as the European Union marched ever further along its seemingly unstoppable course towards a centralised European super-state.

Four years later, we are confronted with the very same problem. Even though the EU Constitution and the centralising approach it embodied were decisively rejected by the voters of France and the Netherlands in 2005, the European Council in June 2007 agreed on a revival of that document that will transfer further power to the EU.



There is no doubt that, had the Government kept its promise of a referendum on the Constitution in 2005, the British people would also have rejected the EU Constitution, probably by an even larger margin than the French or Dutch. It is a pretty good principle that elected representatives should not give up the powers they were elected to wield without asking the people who elected them first. So because the new Treaty transfers more competences from Britain

to the EU, we should have the promised referendum. As Tony Blair said when he promised a referendum, "what you can't do is have a situation where you get a rejection of the treaty and then you just bring it back with a few amendments and say we will have another go".

There should have been no question of smuggling parts of the Constitution through the back door by dropping the promised referendum. Although they may not thank us for it, we will keep the Labour Government to their word.

EU leaders must ask themselves the hard questions about the future and seek an alternative vision to the outdated goal of ever closer union. The European Union needs to reform if it is to address its crisis of legitimacy while making itself relevant to twenty-first century priorities like global competitiveness, global warming and global poverty.

A new Treaty that allowed, where appropriate, competences to be handed back to Member States, cut back EU bureaucracy and introduced genuine democratic reforms, placing national parliaments at the heart of EU decision-making, would have offered a tremendous opportunity to tackle some of the real problems the EU currently faces.

For this reason, I am delighted that Timothy has decided to publish a new edition of his Simplifying Treaty. The Simplifying Treaty points Europe's policy-makers in the right direction and it is a welcome and thoughtful contribution to the debate.

Preface

by Jan Zahradil MEP
Head of ODS Delegation in the
European Parliament, Czech negotiator
on EU Institutional Reform

It is of utmost importance that Timothy Kirkhope's new edition of his "Simplifying Treaty" is being released and published at this time. It deserves to be thoroughly read and studied by as many people in as many EU countries as possible in order to offer them a new source of inspiration for how to think about an EU framework suitable for the 21st Century. Why is it so timely?



The existing paradigm of European integration is discredited. EU integration continues only through its own momentum and the in-built inertia of its institutional mechanisms and political rhetoric. The EU Constitution was intended to crown the life-long efforts of integrationists and federalists, but its rejection left these people perplexed: the EU Constitution was rejected in popular votes in France and the Netherlands. What is more, even in Germany, the ratification of the document was suspended by the rulings of the German Constitutional Court.

Nonetheless, it seems certain that those federalists and integrationists will not retreat or surrender. Indeed, the outcome of the German EU Presidency

was a revival of some parts of their plans. Those of us who have different ideas on the future of European co-operation, based on states and nations, should take advantage of this debate. We should speak out for a new paradigm.

To define this paradigm, we have to take as a starting point the situation before us today:

- today's EU has to deal with an unprecedented increase in the number of Member States, which has inevitably led to an increase of heterogeneity and more pronounced differences within the EU – in a wide range of social, economic, and geopolitical respects;
- new power constellations have resulted from the reunification of Germany and from the enlargements of the EU in 2004 and 2007 which have destabilised traditional coalition patterns;
- the nature of the wider world has changed as well – in order to be a successful actor on the international stage, any organization must be capable of rapid response, flexibility, adaptability and promoting competitiveness and networking. Such qualities and principles have nothing to do with geographical size, population, the volume of legislation or even with any institutional mechanisms.

The EU has until now failed to find a suitable response to these new challenges. It has become increasingly apparent that the effort for political consonance that found its expression in the pursuit of an “ever closer union” should be replaced by the pursuit of greater economic dynamism, decentralisation and acknowledgement of the diversity of nations. This defines what could be called a new paradigm of European co-operation:

- instead of linear and irreversible development;
- instead of a continuous shift of power to European level;
- instead of the creation of a closed regional power bloc.

The key objective for reforming the EU should instead be a flexible network of closely cooperating nation states:

- which can integrate to various levels, according to their own will, commitment and ability;
- which can create variable alliances, groups and clusters without any attempt to define the final stage of such cooperation;
- which would always enjoy the option of withdrawing from any particular sphere of co-operation if they wish to do so.

All this must of course be supported by an adequate treaty basis.

Yet at the same time we should bear in mind an important fact. Any shift from the old integrationist and federalist paradigm to the new one will not be possible in a revolutionary way. There will not be an abrupt rupture in the methods and processes of the past, but instead a series of gradual steps that will be taken over the course of several years. It would be unrealistic to believe that we are able to anticipate a post-constitutional development that would lead to a complete overhaul of the current treaty base and its replacement by some entirely new format. There are many with a vested interest in the status quo and integrationist inertia remains. In order to achieve our new paradigm, we have to operate, initially at least, through the existing system of power relationships and EU treaty mechanisms, and gradually alter them into a more acceptable state.

In this context, Timothy Kirkhope’s Simplifying Treaty provides the right response at the right time. In fact, it is in many ways the quintessence of such a new EU paradigm. It clearly shows that opponents of EU federalism, integrationism and supra-nationalism are able to articulate a constructive, challenging and inspiring formulation of an alternative vision for European co-operation. The Simplifying Treaty cannot be simply neglected or rejected, it has to be taken seriously. Thanks, Timothy and your team, for this outstanding piece of work.

Introduction

On 25 March 2007, EU Leaders signed the Berlin Declaration. First and foremost, this document was intended as a celebration of the EU's achievements to mark its fiftieth anniversary. Such a celebration is justified. The EU has been tremendously successful in many ways: cementing reconciliation between France and Germany and rendering war in Europe unthinkable; entrenching democracy in former dictatorships from Spain and Portugal to the former Communist states in Central and Eastern Europe; and establishing a common market stretching across 27 countries and encompassing 480 million people.

Yet while the value of these successes is unquestioned, there is equally no doubt that the EU is currently bogged down in what one newspaper has described as a 'mid-life crisis'. For all the fanfare that accompanied the signing of the Berlin Declaration, some European leaders do at least seem to realise that the EU cannot rest on its 'former glories'. It must change and reform if it is to achieve success on anything like a similar scale over the next fifty years.

Ironically, some of the policies that were the greatest successes of the early years of the European Communities now symbolise its worst shortcomings. The Common Agricultural Policy, the so-called 'European Social Model' and commitment to 'ever closer union' may



have been appropriate responses to the challenges Europe faced fifty years ago. But faced with the pressing challenges of today – climate change, global poverty, declining international competitiveness and international crime and terrorism – the reluctance of too many EU leaders to move away from the "locked in" policies and methods of the past serves only to emphasise how badly reform is needed.

Nowhere is that clearer than in the debate over the revived EU Constitution. It is fundamentally wrong-headed to insist that the proposed new 'Reform Treaty' (which amounts to a revival of the Constitution in all but name) is the only way forward for the European Union. It is perfectly clear to any observer that there has never been any enthusiasm for an EU Constitution

amongst ordinary Europeans. The fact that the peoples of two founding Member States decisively rejected the text two years ago leaves no doubt. It also cannot now seriously be contended that the 'period of reflection' that followed those referenda has changed this one iota. Indeed, even the Constitution's most ardent supporters have not tried to make this case. And the EU is certainly far from grinding to a halt without the Constitution. Major decisions have been, and are still being, taken. Legislation has continued to be passed in recent years and would be in future years too without any institutional reform. Indeed, if some decisions do take a little longer to reach, then that is not necessarily a bad thing. And it has certainly never been true to argue, as some have, that there can be no further enlargement of the EU without a Constitution. Any institutional adjustments necessary for, say, Croatia to join, could be made in that country's own Accession Treaty, while any further enlargements, even in a most optimistic scenario, will probably not occur in the immediately foreseeable future anyway.

All this does not mean that the EU's institutions do not need some reform at some point. It would be hard to argue that the Treaty of Nice, the basis on which the EU currently operates, represents an ideal institutional settlement. No-one, perhaps not even Jacques Chirac who chaired the marathon negotiations at which it was agreed, would seriously contend that this is the case. But it is vital that institutional reform of the EU is placed in its proper context and perspective: it

should be a consequence of the EU's response to the challenges that face it, not the actual response itself.

I believe that the EU currently faces five main challenges:

1. To re-engage with Europe's disillusioned citizens

The truth is that the European Union today is unfortunately held in low esteem by a majority of Europeans and especially by a large majority in the UK. They see the EU as an expensive, bureaucratic, rigid, unaccountable and meddlesome body that is obsessed with an agenda completely out of step with their own political concerns. To address this by seeking to persuade these people that their agenda is the wrong one and that they should be more interested in a constitutional debate at EU level is anti-democratic and arrogant. It is the EU's own agenda that must change! Institutional changes that simply transfer new powers to the EU will rightly be seen as just offering more of the same, more of a system that is already far too big and complicated. To address the sense of alienation and disillusionment that people feel towards the EU, they must be given a greater sense of ownership and control, of greater accountability and democracy, and a simpler and more comprehensible organisation.

2. To develop policies to tackle today's real global issues

Nothing will do more to raise the esteem of the EU in the eyes of the people of its

27 Member States than if it manages to deliver results on the global issues that actually **do** matter. The nation state is not some kind of anachronism as some over-enthusiastic Europhiles suggest, and it most certainly remains today the source of most people's loyalty and affection. But some of the biggest issues clearly transcend national boundaries and in these areas the EU could generate wide support if it can deliver tangible results. As I have stated earlier, climate change, global poverty, economic globalisation, international crime and terrorism are all areas where European co-operation can clearly provide a major part of the solution.

The EU does not need any new powers to address these concerns but it does need the political will and determination not just to suggest solutions and set targets, but to see these solutions through and ensure targets are met. Encouragingly, there is a large measure of consensus on some of these issues, as the 2007 Spring European Summit demonstrated. There is certainly more agreement on, for example, the need to cut CO² emissions than there ever was on the need for an EU Constitution. But Europe's institutions must be disciplined in maintaining focus on these issues and ensuring not just the formulation of policies but also proper implementation and real delivery. Needless and fruitless debates and squabbles about institutional arrangements are simply a distraction and a waste of institutional energy. The EU must concentrate on substance, not process.

3. To shed outdated policies

In the same way that the EU needs to develop new policies for the challenges of a new century, it must also move sharply away from policies that were established to confront challenges that no longer exist. The EU is still tied to a number of policy areas that are unpopular, wasteful, damaging to competitiveness, or serve only narrow special interest groups. To take the two most glaring examples, it is simply no longer justifiable in any way for the EU to spend half of its £70 billion budget on agriculture. Neither is it viable for the EU to continue to promote a social and employment model where unemployment levels above 10% are the long-term norm. If the EU is to demonstrate that it is responsive to citizens' concerns, these policies must be fundamentally reformed.

4. To resolve the debate over future enlargement

There is no doubt that the possibility of Turkish membership of the EU raises a number of serious issues and that these are felt more keenly in some parts of the EU than others. In due course, a similar debate will take place over the European ambitions of Ukraine and other countries along the EU's Eastern border. Well before then, the question of EU membership for the Balkan countries should be resolved.

In all this, it will be important not to lose sight of the fact that enlargement is probably the EU's most successful policy,

and indeed one that continues to enjoy support from all the main UK political parties. As William Hague noted recently:

"Peace and democracy is now almost universal across the continent [because] the EU has established democracy as the European norm. Its attractions have convinced whole societies to make the painful effort to transform themselves, and they have found the effort rewarded. A useful comparison can be made with the United States and its near abroad in Latin America. Democracy there remains fragile and economic stability uncertain. But in Europe, from Slovakia to Spain, democracy is strong and wealth-generating liberal economies firmly established."

The EU must find a way to continue to take in new members and change its approach to accommodate a larger and more diverse "family".

5. To put in place the institutional reforms necessary to tackle these challenges

Finally, and only as a response to the first four challenges, the EU will need **some** institutional reform. In terms of internal organisation, it is clear that the EU must become simpler, cheaper, more flexible, more democratic and more accountable. In terms of decision-making, it is equally clear that the EU does not need to accrue any more powers at the centre. It is hard to see how the best response to the challenges facing the EU is the creation of a European President, Foreign Minister, a legally-binding Charter of Fundamental

Rights, an Extension of Qualified Majority Voting or a single legal personality. Instead, the EU needs to find the mechanisms to allow certain powers to be returned as appropriate to Member States and for national parliaments to have a greater and more meaningful influence on EU decision-making. It is true of course that the draft IGC Mandate does contain some provisions along these lines, but in contrast to the bold strides it takes towards greater integration, the provisions for decentralising mechanisms are little more than a timid nod.

Most of this analysis is of course not new. Indeed, the European Council itself identified some of the key elements in its own Laeken Declaration as long ago as 2001. It said:

"The European institutions must be brought closer to its citizens. Citizens undoubtedly support the Union's broad aims, but they do not always see a connection between those goals and the Union's everyday action. They want the European institutions to be less unwieldy and rigid and, above all, more efficient and open. Many also feel that the Union should involve itself more with their particular concerns, instead of intervening, in every detail, in matters which by their nature are better left to Member States' and regions' elected representatives. This is even perceived by some as a threat to their identity. More importantly, however, they feel that deals are all too often cut out of their sight and they want better democratic scrutiny."

"At the same time, citizens also feel that the Union is behaving too bureaucratically in numerous other areas...National and regional differences frequently stem from history or tradition. They can be enriching. In other words, what citizens understand by 'good governance' is opening up fresh opportunities, not imposing further red tape. What they expect is more results, better responses to practical issues and not a European Superstate or European institutions inveigling their way into every nook and cranny of life.

"In short, citizens are calling for a clear, open, effective, democratically controlled Community approach, developing a Europe which points the way ahead for the world. An approach that provides concrete results in terms of more jobs, better quality of life, less crime, decent education and better health care. There can be no doubt that this will require Europe to undergo renewal and reform."

The Laeken Declaration went on to discuss how this 'renewal and reform' should include clarification and simplification of competences between the EU and its Member States, which it said can lead to restoring powers from the EU to the Member States, as well as simplification of how the EU works and increased democracy, transparency and accountability in the EU.

As I argued in an earlier edition of my 'Simplifying Treaty', if the Laeken Declaration had been upheld, we would never, in logic, have ended up with the EU Constitution as it subsequently

emerged. Laeken was all about making the institutions more efficient and more accountable and about creating a greater understanding between European institutions and the people whose lives are affected by them. In short, Laeken asked all the right questions, but Europe's elite somehow managed to find all the wrong answers. This cannot be allowed to happen again.

Between 2002 and 2004, I served on the Convention that produced the European Constitution. It was an extremely interesting and challenging experience. I was glad to be able to contribute a responsible but questioning Conservative voice. Throughout the Convention's deliberations, I argued vigorously the case for a more democratic, accountable, flexible Europe that put nation states and national parliaments at the centre of European decision-making. I therefore regretted very much the text which the Convention ultimately produced and indeed I was forced to reject it. I did, however, feel that through serving on that Convention, I developed a very clear understanding of the issues at stake in the debate on the future of the EU.

It was these conclusions that first persuaded me to publish my proposal for an alternative, Simplifying Treaty for a European 'Community'. I felt at that time that the Constitution had set out to move Europe in the wrong direction, towards ever more centralisation, while failing to address the real challenges facing Europe. I was also convinced at that stage that the proposals failed to reform the EU in such a way as would

help us to face the challenges of the 21st century and I very much doubted that it would or could command popular support.

Following the French and Dutch votes, European Heads of Government adopted a Declaration proposing a 'period of reflection' to allow for 'a broad debate to take place in each of our countries, involving citizens, civil society, social partners, national parliaments and political parties.' In all honesty, however, the 'period of reflection', from between June 2005 and March 2007 did not see very much reflection.

One of the more thoughtful contributors to the debate during its early stages was Nicolas Sarkozy, some time before he became President of France. He first proposed the idea of a 'mini-treaty', stripping out substantial parts of what was proposed in the Constitution. Sarkozy deserves credit for having made this contribution and the impact his idea initially had. In early 2007, he himself commented:

"I believe that there is a big understanding, a big comprehension, and that the idea of a simplified treaty is an idea which at least raises a lot of interest."

Unfortunately, on closer inspection, Sarkozy's proposed 'mini-treaty' was simply not radical enough and retained a large part of the original Constitution. Had he been prepared to go further and propose a genuinely simplifying treaty, as I have tried to do, I believe that would have offered a more positive way

forward for Europe and one which might have justifiably met with wide approval.

Instead, of course, the European Council in June 2007 agreed an IGC Mandate that will amount to a revival of the Constitution in all but name, as senior European politicians have made clear.

German Chancellor Angela Merkel has insisted that: *"The fundamentals of the Constitution have been maintained in large part."*

Irish Prime Minister Bertie Ahern has said: *"Thankfully they haven't changed the substance – 90% of it is still there."*

Former French President and Chairman of the European Convention Valéry Giscard d'Estaing has written that: *"The text consists, in effect, of a revival of a large part of the substance of the Constitutional Treaty."*

The EU's Communications Commissioner, Margot Wallström has said: *"It's essentially the same proposal as the old Constitution."*

I believe that my Simplifying Treaty provides an illuminating counterpoint when set alongside this revived Constitution. Moreover, it highlights how the challenges facing Europe could be addressed in a different way:

1. Rejecting the Constitution and further integration

The Simplifying Treaty bears no relation to the EU Constitution: it is an entirely alternative document and proposes no new integrationist measures. In particular, it rejects the proposals such as a 'legal personality' for the EU, a Charter of Fundamental rights and new EU powers over foreign policy and home affairs. It also envisages repatriating powers to Member States on a fairly significant scale and contains robust mechanisms to guarantee subsidiarity – the principle that the EU should only act where it can do so more effectively than Member States could acting alone.

2. Improving democracy and accountability in the EU

As the title suggests, the Simplifying Treaty would make the EU simpler, less bureaucratic and more comprehensible and these changes alone would improve accountability¹. Additionally, it re-emphasizes the role of nation states by introducing a number of mechanisms to

¹ The case for a referendum in the UK on the revived EU Constitution is clear. All the main political parties in the UK supported a referendum on the original Constitution and, as I have demonstrated, the new "Reform Treaty" retains the vast majority of the Constitution's provisions. Indeed, in my view, there should be no question of any significant changes to European Treaties being ratified in Britain without the explicit consent of the people. Any future Treaty must be subject to a referendum in the UK and that includes my Simplifying Treaty, which also offers other Member States the same possibility.

strengthen the role of national parliaments in scrutinising and, if necessary, blocking European proposals. Democracy would also be enhanced by transferring the right to initiate EU laws to the (elected) European Parliament from the (unelected) European Commission.

3. Tackling today's challenges

The Simplifying Treaty acknowledges that trade has always been at the heart of the EU and that the single market is one of the EU's great achievements (although we are still some way from a true, lightly-regulated single market and the benefits that would bring). The Treaty contains provision for concerted EU action in pursuit of economic reform, climate change alleviation, global trade, and development, while adding mechanisms to improving the quality of regulation and functioning of EU policies in these areas – for example creating joint committees of MPs and MEPs to oversee the transposition of EU legislation into national law and combat over-regulation.

4. Reforming out-of-date policies

The Simplifying Treaty removes from EU competence policies that have manifestly failed and recasts others as shared competences. This would pave the way for a fundamental overhaul of EU policies on Fisheries, Agriculture, Employment and Social Affairs, among others. The Treaty also allows greater flexibility by giving groups of Member States the option of pursuing further

integration in specific areas if they wish to do so, while guaranteeing that those who do not participate retain the absolute right to continue to pursue national decision-making in these areas.

5. Enabling further enlargement

The Simplifying Treaty's structure is one that could be signed up to by any number of Member States in future so there would be no legal or institutional barriers to enlargement. It puts the institutional basis of the EU on a more sustainable footing.

In conclusion, as I have stressed in previous editions, this Simplifying Treaty is not intended to be an actual blueprint for a new EU Constitution. Rather, it is intended as a constructive contribution to the debate to demonstrate that there can be, indeed there must be, a real alternative to the Constitution. My Simplifying Treaty points towards such an alternative and I have therefore decided to publish this updated version. I believe it highlights how the revived Constitution continues to take the EU in the wrong direction. But it also shows that the EU does not have to indulge in endless institutional

navel-gazing but can reform itself in a way that will make it more streamlined and more effective. The EU does not have to be weighed down by layers of stifling bureaucracy and legal texts, but can be made simpler and more democratic. And Britain does not have to despair at EU developments but can lead a debate towards a better European future. Who knows, it might also fire the imaginations of our citizens and result in a more objective and balanced recognition of those 'positives' which **do** exist in our membership of the EU.

Timothy Kirkhope MEP
Yorkshire, August 2007



Timothy Kirkhope with Tomo Yamane, Kellie Calnan, Catherine Gilliard and Matthew Elliott, who assisted in the preparation of the Simplifying Treaty.

Simplifying Treaty for the European Community

TITLE I: Definition and objectives of the Community

Article I-1: Establishment of the Community

1. This Simplifying Treaty establishes a European Community which shall exercise the competences outlined in Title III².
2. The Community shall be open to all European States who wish to work together for their mutual benefit.

Article I-2: The Community's values

The Community is founded on the values of respect for human dignity, liberty, democracy, the rule of law and respect for human rights, values which are common to the Member States. Its aim is a society at peace, through the practice of tolerance, justice and solidarity.

² In the UK, this Simplifying Treaty would be ratified by Parliament only after a referendum. The British people were promised a referendum on the proposed EU Constitution and it is clear they would have rejected it had the Government kept this promise. It would clearly be impossible to proceed with any new European treaty text without the express consent of the people whose will is in any case the ultimate embodiment of national sovereignty. Other Member States should be free to choose how to ratify any new Treaty.

Article I-3: The Community's objectives

1. The Community's aim is to promote peace, its values and the well-being of its peoples.
2. The Community shall work for a Europe of sustainable development based on economic growth and a highly competitive single market where competition is free and undistorted. It shall promote environmental protection, free trade and scientific advance. The Community shall respect Europe's historical, cultural and linguistic diversity and heritage.
3. In the wider world, the Community shall contribute to sustainable development, mutual respect among peoples, open markets and free trade, the eradication of poverty, the observance of internationally accepted legal commitments, and peace between States.
4. These objectives shall be pursued by appropriate means, depending on the extent to which the relevant competences are attributed to the Community in this Simplifying Treaty.

Article I-4: Fundamental freedoms and non-discrimination

1. Free movement of persons, goods, services and capital, and freedom of establishment shall be guaranteed within and by the Community, in accordance with the provisions of this Simplifying Treaty.
2. In the field of application of this Simplifying Treaty, and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be avoided wherever reasonable and possible.

Article I-5: Relations between the Community and the Member States

1. The Community shall respect the national identities of its Member States and their national sovereignties³.
2. Following the principle of cooperation, the Community and the Member States should, in full mutual respect, assist each other in carrying out tasks which flow from the Simplifying Treaty.

³ It is not necessary for the Community to have its own legal personality.

TITLE II: Citizenship

Article I-6: Citizenship

1. Citizenship of a Member State shall also confer citizenship of the European Community. Citizenship of the European Community shall not replace national citizenship.
2. Citizens of the Community shall enjoy the rights⁴ and be subject to the duties provided for in this Simplifying Treaty. They shall have:
 - the right to move and reside freely within the territory of the Member States;
 - the right to vote and to stand as a candidate in elections to the European Parliament and in municipal elections in their Member State of residence under the same conditions as nationals of that State;
 - the right to enjoy, in the territory of a third country in which the Member State of which they are a national is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
 - the right to petition the European Parliament, to apply to the Ombudsman, and to write to the Institutions of the Community in any of the Community's languages and to obtain a reply in the same language.

⁴ The Simplifying Treaty does not incorporate, or refer to, the EU Charter of Fundamental Rights.

3. These rights shall be exercised in accordance with the conditions and limits defined by this Simplifying Treaty and by the measures adopted to give it effect.

TITLE III: Community competences

Article I-7: Fundamental principles

1. The limits and use of Community competences are governed by the principles of conferral, subsidiarity and proportionality.
2. Under the principle of conferral, the Community shall act within the limits of the competences conferred upon it by the Member States in the Simplifying Treaty to attain the objectives set out in the Simplifying Treaty. Competences not conferred upon the Community in the Simplifying Treaty remain with the Member States.
3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Community shall act only if and insofar as the objectives of the intended action cannot be sufficiently achieved by the Member States acting alone or with each other, but can, rather, by reason of the scale or effects of the proposed action, be better achieved at Community level by unanimous agreement in each case. The Community Institutions shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality, annexed to the Simplifying Treaty. National Parliaments shall ensure compliance with that principle in accordance with the procedure set out in the Protocol.

4. Under the principle of proportionality, the content and form of Community action shall not exceed what is necessary to achieve the objectives of the Simplifying Treaty as specified for each competence. The Institutions shall apply the principle of proportionality as laid down in the Protocol referred to in paragraph 3.
2. When the Simplifying Treaty confers on the Community a competence shared with the Member States in a specific area, the Community and the Member States shall have the power to legislate and adopt legally binding acts in this area. The Community should exercise its competence only if and to the extent that the Member States have not exercised theirs.

Article I-8: Community law

1. The Simplifying Treaty, and law adopted by the Community's Institutions in exercising competences conferred on it, should be considered law in a Member State once the national parliament concerned has approved that law⁵.
2. Member States should take all appropriate measures to ensure fulfilment of the obligations flowing from the Simplifying Treaty or resulting from actions taken by the Community Institutions.
3. The Community shall have the competence to promote and coordinate the economic policies of those Member States that have decided to participate in monetary union⁶.
4. In certain areas and in the conditions laid down in the Simplifying Treaty, the Community shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas, providing such actions have been unanimously agreed.

Article I-9: Categories of competence

1. When the Simplifying Treaty confers on the Community, by unanimous agreement, exclusive competence in a specific area, only the Community may legislate and adopt legally binding acts; the Member States being able to do so themselves only if so empowered by the Community or for the implementation of acts adopted by the Community.
5. The scope of and arrangements for exercising the Community's competences shall be determined by the provisions specific to each area in Part III.

Article I-10: Exclusive competences

1. The Community shall have exclusive competence to establish the competition rules necessary for the

⁵ One of the aims of the Simplifying Treaty is to increase the involvement of national parliaments in European decision-making. This would improve both the quality of these decisions and enhance democratic accountability. National Parliaments would be involved at all stages of the Community legislative process (see Protocol on National Parliaments). In the UK, MPs should work more closely with MEPs to improve the scrutiny and implementation of European legislation, drawing on best practice examples from other Member States.

⁶ Membership of the Eurozone would not be an automatic obligation for Member States of the European Community and Member States would be free to retain their national currencies in perpetuity if they wish to do so, as in the case of the UK for example. Countries that do participate in the Euro would, of course, have to formulate and comply with the rules to ensure the successful management of monetary union.

functioning of the internal market, and in the following areas:

- monetary union, for the Member States which have adopted the Euro;
- customs union;
- commercial policy framed in the pursuit of international free trade⁷.

2. The Community shall have exclusive competence for the conclusion of an international agreement where its conclusion is provided for in a legislative act of the Community, is necessary to enable the Community to exercise its competence internally, or affects an internal Community act.

Article I-11: Areas of shared competence

1. The Community shall share competence with the Member States where the Simplifying Treaty confers on it a competence which does not relate to the areas referred to in Articles I-10 and I-13.

2. Shared competence applies in the following principal areas:

- internal market;
- agriculture⁸;
- trans-European networks;
- environment;

⁷ The Simplifying Treaty would remove from European competence exclusive competence for the conservation of marine biological resources under the Common Fisheries Policy.

⁸ Inclusion of agriculture in the list in no way precludes major reform or the abolition of the Common Agricultural Policy.

- international development;
- consumer protection.

3. In the areas of research and technological development, the Community shall have competence to carry out actions, in particular to implement programmes, provided such actions have been agreed by unanimity; however, the exercise of that competence shall not result in Member States being prevented from exercising their competence.

4. In the areas of development cooperation and humanitarian aid, the Community shall have competence to take action and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising their competence⁹.

5. Areas of shared competence shall be reviewed on a regular basis to ensure competences are exercised at the appropriate level according to the principle of subsidiarity¹⁰.

⁹ Where Member States unanimously agree, it is not excluded that the Community may arrive at a common foreign policy position in some instances, but the Community would not have the competence to define a Common Foreign and Security Policy, nor to progressively frame a Common Defence Policy. Accordingly, the European Community would not have a Minister for Foreign Affairs.

¹⁰ The Simplifying Treaty envisages returning certain powers and competences to Member States and otherwise reducing areas of Community competence. As noted in the introduction, this possibility was put forward by the European Council in the Laeken Declaration and is widely viewed as desirable and necessary.

Article I-12: The coordination of economic policies

Specific provisions for the coordination of economic policy shall apply to those Member States which have adopted the Euro.

Article I-13: Areas for supporting, coordinating or complementary action

1. The Community may take supporting, coordinating or complementary action.
2. The areas for supporting, coordinating or complementary action shall be:
 - industry;
 - education, vocational training and youth;
 - civil protection, combating international crime and promoting security;
 - transport;
 - energy;
 - common safety concerns in public health matters.
3. Legally binding acts adopted by the Community on the basis of the provisions specific to these areas in Part III cannot entail harmonisation of Member States' laws or regulations.

Article I-14: Flexibility clause

1. If action by the Community should prove necessary within the framework of the policies defined in Part III to attain one of the objectives set by the

Simplifying Treaty, and the Simplifying Treaty has not provided the necessary powers, the Council, acting unanimously on a proposal from the European Parliament shall take the appropriate measures, providing such actions do not curtail any Member State from acting unilaterally to promote its interests.

2. Using the procedure for monitoring the subsidiarity principle referred to in Article I-7(3), the Commission shall draw to the attention of national parliaments of Member States the proposals based on this Article.
3. Provisions adopted on the basis of this Article cannot entail harmonisation of Member States' laws or regulations.

TITLE IV: The Community's Institutions

Chapter I: Institutional Framework

Article I-15: The Community's Institutions

1. The Community shall be served by a single institutional framework which shall aim to:
 - advance the objectives of the Community;
 - promote the values of the Community;
 - serve the interests of the citizens of the Community and its Member States; and
 - ensure the consistency, effectiveness and continuity of the policies and actions which it undertakes in pursuit of its objectives.
2. This institutional framework comprises:
 - The European Parliament;
 - The European Council;
 - The Council of Ministers;
 - The European Commission;
 - The European Court of Justice;
 - The European Court of Auditors.
3. Each Institution shall act within the limits of the powers conferred on it in the Simplifying Treaty, and in conformity with the procedures and conditions set out in it. The

Institutions shall cooperate fully both with each other and with the Member States.

Article I-16: The European Parliament

1. The European Parliament shall, jointly with the Council of Ministers, enact legislation, exercise the budgetary function, as well as functions of political control and consultation as laid down in the Simplifying Treaty. It shall elect the Commission Chairman on the basis of a proposal from the European Council.
2. The European Parliament shall have the right to initiate legislation¹¹.
3. The European Parliament shall be elected by direct universal suffrage of European citizens in a free and secret ballot for a term of five years. The choice of electoral system to be used in these elections shall be a matter for individual Member States. Its members shall not exceed seven hundred in number. Representation of European citizens shall be degressively proportional, with a minimum threshold of four members per Member State.
4. The European Parliament shall elect its Speaker and its officers from among its members.

¹¹ The right of initiative would reside with the European Parliament and the Council of Ministers, both of which are made up of elected members. The European Commission would become a non-political civil service. This change would go a long way to redressing the perceived democratic deficit in the Community. National parliaments and national governments would be able formally to request that the European Parliament initiate legislation. All EU citizens would also have the right to suggest new European proposals to their MEP, dramatically expanding the existing right of petition.

Article I-17: The European Council

1. The European Council shall provide the Community with the necessary impetus for its development, and shall define its general political directions and priorities. It does not exercise legislative functions.
2. The European Council shall consist of the Heads of State or Government of the Member States, together with its Chairman and the Commission President.
3. Except where the Simplifying Treaty provides otherwise, decisions of the European Council shall be taken by consensus.
4. The Presidents of the European Parliament and the European Commission may attend meetings of the European Council and participate in its debates but may not vote.

Article I-18: The Community Presidency

1. The Governments of the Member States shall participate in the Community Presidency on a rotational basis. At any given time, the Presidency shall comprise six Member States. A Member State shall participate in the Presidency for a period of eighteen months, with two Member States changing every six months. The Presidency of the European Council will comprise the Heads of Government of the six Member States participating in the Presidency at any given time¹².

2. The Community Presidency:

- shall drive forward the work of the European Council and provide a Chairman for its meetings;
- shall ensure proper preparation and continuity in cooperation with the Commission Chairman, and on the basis of the work of the General Affairs Council;
- shall endeavour to facilitate cohesion and consensus within the European Council;
- shall present a report to the European Parliament after each of its meetings.

Article I-19: The Council of Ministers

1. The Council of Ministers shall, jointly with the European Parliament, enact legislation and carry out policy-making and coordinating functions, as laid down in the Simplifying Treaty.
2. The Council of Ministers shall consist of a representative of each Member State at ministerial level for each of its formations. Only this representative may commit the Member State in question, and cast its vote.
3. Except where the Simplifying Treaty provides otherwise, decisions of the Council of Ministers shall be taken by qualified majority.

¹² The idea of "team presidencies" has been around for some time and is a good one that should be taken up. It avoids the difficulties associated with the existing six monthly rotation of the EU Presidency among individual Member States (short-termism, lack of continuity, the risk that smaller Member States become overwhelmed by the burden) while also avoiding the pitfalls of a permanent Chairman or President of the Council (Member States remain closely involved, the Community does not acquire further trappings of statehood).

Article I-20: Formulations of the Council of Ministers

1. The Legislative and General Affairs Council shall ensure consistency in the work of the Council of Ministers. When it acts in its legislative function, the Council of Ministers shall consider and, jointly with the European Parliament, enact European Community laws in accordance with the provisions of the Simplifying Treaty. In this function, each Member State's representation shall include one or two representatives at ministerial level with relevant expertise, reflecting the business on the agenda of the Council of Ministers.
2. The European Council shall adopt a European decision establishing further formations in which the Council of Ministers may meet.
3. Meetings of the Council of Ministers shall be chaired by the Community Presidency.

Article I-21: Qualified majority

1. When the Council of Ministers takes decisions by qualified majority, such a majority shall consist of two thirds of the Member States, representing at least three quarters of the population of the Community.¹³

¹³ This is a simple and easily comprehensible formula for determining a qualified majority.

Article I-22: The European Commission

1. The European Commission shall serve the democratically-elected Community Institutions. It shall ensure the application of the Simplifying Treaty, and steps taken by the Institutions under the Simplifying Treaty, as well as legislation enacted by the European Parliament and Council. It shall also exercise coordinating and management functions.¹⁴
2. The Commission shall consist of a Commission Chairman and one Commissioner from each Member State.
3. In carrying out its responsibilities, the Commission shall be supervised by the European Parliament and Council.

Article I-23: The Commission Chairman

1. The European Council, deciding by qualified majority, shall submit to the European Parliament its proposed candidate for the Commission Chairman. This candidate shall be elected by the European Parliament by a majority of its members. If this candidate does not receive the required majority support, the European Council shall propose a new candidate.
2. The Commission Chairman shall:
 - lay down guidelines within which the Commission is to work;
 - decide its internal organisation, ensuring that it acts consistently;

¹⁴ The effect of the Simplifying Treaty is to remove the European Commission's political role and recast it as the civil service of the European Community.

efficiently and on a collegiate basis;

- appoint Vice-Presidents from among the members of the College.

3. Each Member State shall nominate one person to be a European Commissioner. The Chairman of the Commission, taking account of European political and geographical balance, shall allocate a portfolio to each Commissioner. The appointment of each proposed Commissioner must be approved by a majority of Members of the European Parliament.
4. The European Parliament may pass a censure motion on the Commission as a whole or on individual Commissioners. If such a motion is passed, the member(s) of the Commission to which the motion applies must resign.

Article I-24: The European Court of Justice

1. The European Court of Justice, including the High Court, shall ensure respect for the Simplifying Treaty and Community law. The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Community law.
2. The European Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of

Justice. The judges and the Advocates-General of the European Court of Justice and the judges of the High Court, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles III-260 and III-261, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable.

3. The European Court of Justice shall:
 - rule on actions brought by a Member State, an Institution or a natural or legal person in accordance with the provisions of Part III;
 - give preliminary rulings, at the request of Member State courts, on the interpretation of Community law or the validity of acts adopted by the Institutions;
 - rule on the other cases provided for in the Simplifying Treaty.

Chapter II – Other Institutions and bodies¹⁵

Article I-25: The European Central Bank

1. The Members of the Eurozone shall elaborate the statute and tasks of the European Central Bank (ECB). Together with the national central banks, the ECB shall constitute the European System of Central Banks. The European system of Central Banks shall establish and maintain the legislative and policy framework necessary for the functioning of the Euro.

¹⁵ The Economic and Social Committee and the Committee of the Regions are deleted from this list and, accordingly, would be abolished.

Article I-26: The European Court of Auditors

1. The European Court of Auditors is the Institution which shall carry out the audit. It shall examine the accounts of all Community revenue and expenditure, and shall ensure good financial management.
2. By the unanimous agreement of the Council and with the consent of a majority of Members of the European Parliament, the Court of Auditors may acquire other tasks.¹⁶
3. It shall consist of one national of each Member State who has performed a similar function in that Member State. In the performance of their duties, its members shall be completely independent.

¹⁶ Such as responsibility for assessing the economic impact of proposed legislation.

TITLE V: Exercise of Community Competence

Chapter I: Common Provisions¹⁷

Article I-27: The legal acts of the Community

1. In exercising the competences conferred on it in the Simplifying Treaty, the Community shall use as legal instruments, in accordance with the provisions of Part III, European Community laws and European Community opinions.

A European Community law shall be a legislative act of general application. It shall be binding in its entirety and directly applicable in all Member States.

European Community opinions adopted by the Institutions shall have no binding force.

2. When considering proposals for European Community laws or European Community opinions, the European Parliament and the Council of Ministers shall refrain from adopting acts not provided for by the Simplifying Treaty.

Article I-28: Legislative acts

1. European Community laws shall be adopted, on the basis of proposals from the European Parliament, jointly by the

¹⁷ The Simplifying Treaty greatly simplifies the Community legislative process and reduces the number of Community legislative and non-legislative instruments.

Parliament and the Council of Ministers under the ordinary legislative procedure. If the two Institutions cannot reach agreement on legislation, it shall not be adopted.

2. When debating or adopting a European Community law or opinion, the European Parliament and the Council of Ministers shall meet in public.

Article I-29: Implementing acts

1. Member States shall adopt all measures of national law necessary to implement European Community law subject to the approval of their national parliament.
2. The implementation of European Community law in each Member State shall be subject to the scrutiny of a joint committee of national MPs and MEPs before being voted on by the national parliament.

Article I-30: Principles common to the Community's legal acts

1. Unless the Simplifying Treaty contains a specific stipulation, the Institutions shall decide, in compliance with the procedures applicable, on whether a European Community law or a European Community opinion is more appropriate, in accordance with the principle of proportionality set out in Article I-7.
2. European Community laws and European Community opinions shall state the reasons why they are

necessary legislation and shall refer to any proposals or opinions required by this Simplifying Treaty.

Article I-31: Publication and entry into force

European Community laws and opinions adopted under the ordinary legislative procedure shall be signed by the Speaker of the European Parliament and by the Chairman of the Council of Ministers. European Community laws shall be published in the Official Journal of the European Community and shall enter into force on the date specified in them or, in the absence of such a stated date, on the twentieth day following their publication.

Article I-32: Cooperation in home affairs at a Community level¹⁸

1. The Community shall retain a pillar covering cooperation in home affairs. This shall be done:
 - through European Community laws and opinions where necessary but through bilateral and multilateral agreements when possible;
 - by promoting mutual confidence between the competent authorities of the Member States and other relevant international organisations;
 - by operational cooperation between the competent authorities of the Member States when required.

¹⁸ The pillar structure guarantees that Justice and Home Affairs remain matters for intergovernmental negotiation rather than supranational governance. Countries must work together to combat international crime such as the drugs trade, terrorism, people trafficking and so on. There is clearly scope for further cooperation in these areas without the need to press for divisive harmonisation, so these issues should remain in a separate pillar.

2. In this field, national parliaments may participate in the decision-making and evaluation mechanisms.

Article I-33: Solidarity clause

1. In applying the principle of solidarity, individual Member States may cooperate to mobilise all the instruments at their disposal, including military resources, to:

- prevent the terrorist threat;
- protect democratic institutions and the civilian population from any terrorist attack;
- assist a Member State in its territory at the request of its political authorities in the event of a terrorist attack;
- assist a Member State in its territory at the request of its political authorities in the event of a disaster.

Chapter III: Flexible cooperation

Article I-34: Flexible cooperation

1. Member States which wish to establish flexible cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its Institutions and exercise those competences. Flexible cooperation shall aim to further the objectives of the Community and protect its interests. Such cooperation shall be open to all Member States when it is being established and at any time.

2. The Council of Ministers shall lay down the procedures to be followed for the use of flexible cooperation acting by unanimity, subject to the approval of a majority of the Members of the European Parliament.

3. Authorisation to proceed with enhanced cooperation shall be granted by a qualified majority of the Council of Ministers and a majority of the Members of the European Parliament, provided that it brings together at least one-third of the Member States.

4. Only members of the Council of Ministers representing the States participating in flexible cooperation shall take part in the adoption of acts. All Member States may, however, take part in the deliberations of the Council of Ministers. The European Parliament and the national parliaments of participating states shall scrutinise and debate acts adopted under flexible cooperation.

5. Acts adopted in the framework of flexible cooperation shall bind only participating States. They shall not be regarded as an *acquis* which has to be accepted by candidates for accession to the Community¹⁹.

¹⁹ Of course, Member States which wish to cooperate in areas which are not competences of the Community may do so on a bilateral or multilateral basis, beyond the structures of the European Community.

TITLE VI: The Democratic Life of the Community

Article I-35: The principle of democratic equality

In all its activities, the Community shall observe the principle of the equality of citizens. All shall receive equal attention from the Community's Institutions.

Article I-36: The principle of representative democracy

1. The working of the Community shall be founded on the principle of representative democracy.
2. Citizens are directly represented at Community level in the European Parliament. Member States are represented in the European Council and in the Council of Ministers by their Governments, themselves accountable to national parliaments, elected by their citizens.
3. Every citizen shall have the right to participate in the democratic life of the Community, provided this is consistent with the rights they hold in their respective Member States. Decisions shall be taken as openly as possible and as closely as possible to the citizen.

Article I-37: The principle of participatory democracy

1. The Community Institutions shall, by appropriate means, give citizens and

representative associations the opportunity to make known and publicly exchange their views on all areas of Community action.

2. The Community Institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society. They shall carry out broad consultations with parties concerned in order to ensure that the Community's actions are coherent and transparent²⁰.

Article I-38: The European Ombudsman

A European Ombudsman, appointed by the European Parliament, shall receive, investigate and report on complaints about maladministration within the Community Institutions, bodies or agencies. The European Ombudsman shall be completely independent in the performance of his duties.

Article I-39: Transparency of the proceedings of Community Institutions

1. In order to promote good governance and ensure the participation of civil society, the Community Institutions, bodies and agencies shall conduct their work openly, unless there are compelling reasons for a matter to be debated '*in camera*'.
2. The European Parliament shall meet in public, as shall the Council of Ministers when examining and adopting a legislative proposal.

²⁰ A consultative approach is an essential ingredient of better and more responsive law-making. Under the Simplifying Treaty, the privileged status of the 'social partners' in the 'social dialogue' (based on an out-dated corporatist structure) would be ended.

3. Any citizen of the Community, and any natural or legal person residing or having its registered office in a Member State shall have a right of access to documents of the Community Institutions, bodies and agencies in whatever form they are produced.
4. A European Community law shall lay down the general principles and limits which, on grounds of public or private interest, govern the right of access to such documents. Members of the European Parliament, acting in their professional capacity, shall have the right to view any documents of the Community Institutions, bodies and agencies in whatever form they are produced.
5. Each Institution, body or agency referred to in paragraph 3 shall determine in its own rules of procedure specific provisions regarding access to its documents, in accordance with the European Community law referred to in paragraph 4.

come under the scope of Community law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of an independent authority.

Article I-40: Protection of personal data

1. Everyone has the right to the protection of personal data concerning him or her.
2. A European Community law shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by the Community Institutions, bodies and agencies, and by the Member States when carrying out activities which

TITLE VII: The Community's finances

Article I-41: Budgetary and financial principles

1. All items of Community revenue and expenditure shall be included in estimates drawn up for each financial year and shall be shown in the budget.
2. The revenue and expenditure shown in the budget shall be in balance.
3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with European Community law²¹.
4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act providing a legal basis for Community action and for the implementation of the expenditure in accordance with European Community law²². This act must also take the form of a European Community law.
5. With a view to maintaining budgetary discipline, the Community shall not adopt any act which is likely to have appreciable implications for the budget without providing the assurance that the proposal or measure in question is capable of being financed within the limit of the Community's own resources and the

²¹ These laws shall lay down the financial rules which determine, in particular, the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts; and lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers.

multi-annual financial framework referred to in Article I-43.

6. The Community's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Community to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.

If the Court of Auditors is unable to provide a statement of assurance regarding a specific category of expenditure in one or more Member States for a period of three consecutive years, this category of expenditure in the Member State(s) concerned shall be suspended for three years.

If the Court of Auditors is unable to provide a statement of assurance regarding a specific category of expenditure administered directly by the Community Institutions for a period of two consecutive years, this category of expenditure shall be suspended for three years.

Any unspent appropriations occurring as a result of these provisions shall be returned to the Member States.

7. The Community and the Member States shall vigorously counter fraud and any other illegal activities affecting the financial interests of the Community. A fully independent European Anti-Fraud Office shall be established to pursue this objective.

²² ibid

Article I-42: The Community's resources

1. Without prejudice to other revenue, the Community's budget shall be financed wholly from its own resources on a basis agreed by the Council of Ministers, acting unanimously, after consulting the European Parliament.
2. Community resources shall not exceed 1% of the Gross National Product of the Community in any given year²³.

Article I-43: The multi-annual financial framework

1. The multi-annual financial framework shall ensure that Community expenditure develops in an orderly manner and within the own resources limits. It shall determine the amounts of the annual ceilings for commitment appropriations by category of expenditure.
2. A European Community law of the Council of Ministers shall lay down the multi-annual financial framework. The Council of Ministers shall act after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.
3. The annual budget of the Community shall comply with the multi-annual financial framework.
4. The Council of Ministers shall act unanimously when adopting the first

²³ These laws shall lay down the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts; and lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers.

multi-annual financial framework following the entry into force of the Simplifying Treaty.

Article I-44: The Community's budget

The European Parliament and the Council of Ministers shall, on a proposal from the European Parliament, jointly adopt the European Community law determining the Community's annual budget.

TITLE VIII: The Community and its immediate environment

Article I-45: The Community and its immediate environment

1. The Community shall build upon such special relationships as already exist between Member States and non-Member States, in order to promote prosperity and close and peaceful relations based on cooperation.
2. For this purpose, the Community may conclude and implement specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

TITLE IX: Community membership

Article I-46: Conditions of eligibility and procedure for accession to the Community

1. The Community shall be open to all European States which respect the values referred to in Article I-2, and are committed to promoting them together.
2. Any European State which wishes to become a member of the Community may address its application to the Council of Ministers. The European Parliament and the national parliaments of the Member States shall be notified of this application. The Council of Ministers shall act unanimously after consulting the Commission and obtaining the consent of the European Parliament. The conditions and arrangements for admission shall be the subject of an agreement between the Member States and the Candidate State. This agreement may be subject to ratification by each contracting State in national referenda (where permitted by national constitutions). The decision to hold a referendum or not shall be the sole prerogative of the applicant state.

Article I-47: Suspension of Community membership rights

1. On a reasoned proposal by one-third of the Member States or by the European Parliament, the Council of Ministers,

- acting by a majority of four-fifths of its members after obtaining the consent of the European Parliament, may determine that a Member State has committed a serious breach of the values mentioned in Article 1-2. Before making such a determination, the Council of Ministers shall hear the Member State in question and may address recommendations to that State. The Council of Ministers shall regularly verify that the grounds on which such a determination was made continue to apply.
2. The European Council, acting by unanimity on a proposal by one-third of the Member States and after obtaining the consent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of the values mentioned in Article 1-2, after inviting the Member State in question to submit its observations.
 3. Where a determination under paragraph 2 has been made, the Council of Ministers, acting by a qualified majority, may decide to suspend certain rights deriving from the application of this Simplifying Treaty to the Member State in question, including the voting rights of that Member State in the Council of Ministers. In doing so, the Council of Ministers shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.
 4. The Council of Ministers, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to them being imposed.
 5. For the purposes of this Article, the Council of Ministers shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2. This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.
 6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.

Article 1-48: Voluntary withdrawal from the Community

1. Any Member State may decide to withdraw from the European Community in accordance with its own constitutional requirements.
2. A Member State which decides to withdraw shall notify the European Council of its intention. Once that notification has been given, the Community shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship

with the Community. That agreement shall be concluded on behalf of the Community by the Council of Ministers, acting by a qualified majority, after obtaining the consent of the European Parliament. The representative of the withdrawing Member State shall not participate in Council of Ministers or European Council discussions or decisions concerning the withdrawal agreement.

3. This Simplifying Treaty shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2.
4. If a State which has withdrawn from the Community asks to re-join, that request shall be subject to the procedure referred to in Article I-46.

Protocol on the role of national parliaments in the European Community

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which individual national parliaments scrutinise their own governments in relation to the activities of the Community is a matter for the particular constitutional organisation and practice of each Member State,

DESIRING, however, to encourage greater involvement of national parliaments in the activities of the European Community and to enhance their ability to express their views on legislative proposals as well as on other matters which may be of particular interest to them,

HAVE AGREED UPON the following provisions, which shall be annexed to the Simplifying Treaty:

1. Involvement of national parliaments in the legislative process.

National parliaments shall be integrally involved in every stage of the European legislative process. This process shall function as follows:

1. A proposal for a European law will require the support of at least 100 MEPs representing a minimum of 5 Member States to be considered in Committee²⁴.

²⁴ This would ensure that committees are not overloaded by unpopular proposals that do not have the necessary support to proceed with a real prospect of success.

2. If a majority of the Members of a Committee support the proposal, which it may amend, it will then be considered in a plenary session of the European Parliament.
4. If a majority of the total number of MEPs in a plenary vote support the amended proposal, it will then be forwarded to the Council of Ministers.
5. The Council of Ministers may amend the proposal by qualified majority. A qualified majority is then required for the proposal to be passed to national parliaments.
6. National Parliaments may not themselves amend the proposal received from the Council of Ministers. They may approve the proposal or propose amendments for the European Parliament to consider at Second Reading. Alternatively, a national parliament may notify the European Parliament of its opposition to the proposal. An objection or proposed amendments by a national parliament must be notified within six months.
7. Where fewer than five national parliaments object to a proposal it shall pass to the European Parliament for Second Reading. Further amendments and the final text must be approved by a majority of MEPs participating in a plenary vote within a further three months.
8. The proposal will then be passed to the Council of Ministers for Second Reading. Further amendments and the final text must be approved by a qualified majority within a further three months.
9. Both the European Parliament and the Council of Ministers must approve the final text of the proposed legislation, by a majority of members voting in plenary and qualified majority respectively, within six weeks of the Council concluding its Second Reading.
10. In cases where five or more national parliaments object to a proposal, it will be referred to a Mediation Committee. In such cases, the national parliaments concerned must submit to the Mediation Committee a reasoned opinion setting out its objections. The Mediation Committee shall include representatives of national parliaments, national governments, the European Parliament and the Community Presidency. The Mediation Committee will consider the matter. However, if five or more national parliaments maintain their objections, the proposal falls.
11. Any Member State government, national parliament or Community Institution may appeal to the European Court of Justice where it believes a proposed law or established law breaches the principles of subsidiarity or proportionality. The Court shall be bound by this Simplifying Treaty to uphold these principles.

2. Information for Member States' national parliaments

1. All European Community consultation documents (Green and White papers and communications) shall be forwarded directly by the European Parliament to Member States' national parliaments upon publication. The Parliament shall also send Member States' national parliaments the annual legislative programme as well as any other instrument of legislative planning or policy strategy that it submits to the European Council and to the Council of Ministers, at the same time as to those Institutions.
2. All legislative proposals sent to the Council of Ministers shall simultaneously be sent to Member States' national parliaments.
3. The agendas for and the outcome of meetings of the European Parliament's official bodies and of the Council of Ministers, including minutes, shall be transmitted directly to the national parliaments of Member States, at the same time as to the governments of Member States.
4. All European Community Institutions and bodies shall send, for information, their annual report to the national parliaments of Member States, at the same time as to the European Parliament and to the Council of Ministers.
5. In the case of bicameral national parliaments, these provisions shall apply to both chambers.

3. Inter-parliamentary cooperation

8. The European Parliament and the national parliaments shall together determine how inter-parliamentary cooperation may be effectively and regularly organised and promoted within the European Community.
9. The Conference of European Affairs Committees may submit any contribution it deems appropriate for the attention of the European Parliament and the Council of Ministers. This Conference shall, in addition, promote the exchange of information and best practice between the national parliaments of Member States and the European Parliament, including their special committees. The Conference may also organise inter-parliamentary conferences on specific topics. Contributions from the Conference shall in no way bind national parliaments or prejudice their positions.

Protocol on the application of the principles of subsidiarity and proportionality

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the European Community,

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as enshrined in Article I-9 of the Simplifying Treaty, and to establish a system for monitoring the application of those principles by the Institutions,

HAVE AGREED UPON the following provisions, which shall be annexed to the Simplifying Treaty:

1. Each Institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article I-7 of the Simplifying Treaty.
2. Before proposing legislative acts, the European Parliament shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Parliament shall not conduct such consultations. It shall give reasons for the decision in its proposal.
3. The European Parliament shall not make any legislative proposal without

conducting and publishing a detailed assessment of compliance with the principles of subsidiarity and proportionality. All proposed legislative acts also shall be accompanied by a thorough independent, evidence-based assessment of their likely economic impact, including an assessment of the risks associated with not legislating. These assessments shall, in particular, take account of the burden, whether financial or administrative, falling upon the Community, national governments, regional or local authorities, economic operators and citizens. In all cases such burdens shall be minimised and commensurate with the objective to be achieved.²⁶

²⁶ Robust mechanisms to ensure compliance with the principles of subsidiarity and proportionality are built into the legislative process proposed by the Simplifying Treaty.

About the author

Timothy Kirkhope MEP

Born in Newcastle upon Tyne, Timothy was educated at Newcastle Royal Grammar School and at the College of Law in Guildford, Surrey.



He qualified as a solicitor in 1973 and initially practised law in the North East of England. In 1987 he was elected as Member of Parliament for Leeds North East in succession to Sir Keith Joseph.

In 1990 Timothy was appointed to the Government Whips' Office by Margaret Thatcher, taking responsibility there for Scotland, Defence, Heritage and Agriculture Departments in turn. In 1995 he was appointed Vice-Chamberlain to the Queen in the Royal Household, providing Her Majesty with an important link with the House of Commons, and in the Autumn of that year he moved to the Home Office as Minister responsible for asylum, immigration, licensing and gambling. He left Parliament in 1997 to resume legal practice and consultancy work.

In 1998 Timothy was selected as a Conservative European Parliamentary candidate for Yorkshire and the Humber. After his victory in the election of June 1999, he was appointed both Chief Whip and Spokesman on Justice and Home Affairs for the British Conservative

delegation in Europe. In December 2001 he was asked to represent the Conservative Party as a full member of the European Convention on the EU Constitution, which completed its work in the autumn of 2003. In December 2004, he was elected Leader of the Conservatives in the European Parliament. Apart from leading the Conservative Delegation, Timothy is also a Vice President of the Constitutional Affairs Committee and spokesman on Transport and Tourism. He is a member of the Parliament's delegation to the People's Republic of China.

Timothy serves as a member of both the National and Northern Boards of the Conservative Party.

Timothy is married with four adult sons. He holds a private pilot's licence and also enjoys golf, tennis and swimming.

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