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signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Javier SOLANA, Secretary-General/High Representative

Subject: Reforming Europe for the 21st Century
Opinion of the European Commission, pursuant to Article 48 of the
Treaty on European Union, on the Conference of representatives of the
governments of the Member States convened to revise the Treaties

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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

Reforming Europe for the 21st Century

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I REFORMING EUROPE TOGETHER

Europe has changed, the world has changed. The 21st century brings new challenges and new opportunities. The interaction of economies and peoples worldwide – whether by communication, trade, migration, shared security concerns or cultural exchange – is in constant evolution. In such a globalised world, Europe needs to be competitive to secure economic growth and more and better jobs, in order to achieve an overall sustainable development. Climate change calls for a response that must be both global and local. Demographic change has shifted some of the old certainties about the patterns of how society works. New security threats call for new strategies and policies. In all these areas, Europe needs to be equipped for change. Tomorrow's prosperity requires new skills, new ways of working, and political, economic and social reforms. European society has the creativity and the ability to respond to these challenges. It has a bedrock of core values – freedom, human dignity, solidarity, tolerance, social justice, the rule of law – which have proved their worth. But to preserve and consolidate these values, Europe needs to adapt. It also needs the levers to turn intentions into reality. Member States cannot cope with the challenges of today or of the future on their own: only a collective effort – applied in full respect for subsidiarity – can provide the right response. This is the task of the European Union, and this is why it needs to have the right treaties, the right institutions and the right working methods.

The test for Europe is the delivery of policies which meet the expectations and aspirations of citizens: a vision of a Europe ready to work together to realise a common future.

The European Union is uniquely well placed to find the answers to today's most pressing questions. A Europe of 27 or more Member States gives the opportunity to act on a continental scale and to face up to issues which transcend national boundaries. After fifty years of integration and enlargement, the vision set out by Europe's founding fathers holds as good as ever. Common solutions are often the only viable approach to achieve the right responses for Europe in the globalised world: to modernise the European economy to face new competition, to keep Europe as the forefront of efforts to address climate change worldwide, to secure sustainable energy supplies, to manage migration effectively, to combat terrorism, to help developing countries to fight poverty, and to see European values promoted effectively in the global community. The European Union has the potential to reinforce its policies in all these areas: but that potential must not be held back by outdated ways of working.

To realise its potential, the European Union needs modernisation and reform. Policy provisions need to be updated to reflect the demands of today. The delicate balance of the Union's institutional mix still provides the best combination to bring together Europe's strengths. The "Community method" – and more particularly the European Commission's special role and its right of initiative – is key to the success of the European system. But the instruments used must keep pace with the needs of the enlarged Union. They need to be effective and cohesive, overcoming the inevitable complications of dealing with a diverse Europe of 27 Member States to make a reality of the EU's common vision: institutions and working methods must enjoy streamlined decision-making equal to the fast-moving challenges of today. They also need to be democratic – modern European society rightly demands high standards of accountability, transparency and participation. The legitimacy of the European project must be grounded both in what it does, and how it acts.

Over the past decade, the European Union has been looking for the right way forward to modernise and to respond better to the concerns and aspirations of its citizens. The Commission has always been an active participant in this process. The Laeken Declaration set out where the EU needed reform. The enlargement of 2004 and 2007 intensified the need for the way the Union works to be updated. The Convention and the Inter-Governmental Conference of 2004 sought to provide an answer in the form of the treaty establishing a Constitution for Europe. The Commission has always strongly supported the Constitutional Treaty as providing the right response to the challenges Europe faces. The Constitutional Treaty, despite being ratified in a majority of Member States, failed to secure unanimous support. The period of reflection helped the Union to find a springboard for a resolution, with the Commission leading the way through the Plan D initiative¹ to spark ideas about how to make the EU more democratic, transparent and effective.

With ratification of the Constitutional Treaty at a standstill, the need to reform Europe's way of working remained as compelling as ever. The European Commission set out to implement a new agenda, which won support at the Hampton Court informal European Council of October 2005 and was pursued in the twin track approach set out in the "Citizens Agenda"². This showed that to address the policy imperatives facing Europe, we need the right tools and the right working methods. The steps laid out towards an institutional settlement – a framework at the European Council in June 2006, the Berlin Declaration in March 2007, and a comprehensive agreement on the elements for reform in June 2007 – have been realised. At the same time, the European Union has confirmed to European citizens its commitment to policy reform from economic growth to job creation, from energy to migration, from climate change to innovation. In all these areas, Europe has delivered results.

As well as celebrating the 50th anniversary of the Treaty of Rome, the Berlin Declaration made a commitment to putting the Union on a new common basis before the European Parliament elections of 2009. After a period of political consultations, the European Council

¹ The Commission's contribution to the period of reflection and beyond: Plan D for Democracy, Dialogue and Debate - COM(2005) 494 , 13.10.2005.

² A Citizens Agenda: Delivering results for Europe - COM(2006) 211 , 10.5.2006.

of June 2007 agreed to convene an Inter-Governmental Conference (IGC) in July 2007. A precise mandate was set out detailing the elements of reform. The task of the IGC is to agree the text of a Reform Treaty to "amend the existing Treaties with a view to enhancing the efficiency and democratic legitimacy of the enlarged Union, as well as the coherence of its external action".

The agreement on the mandate confirms the twin track strategy as the right approach for the Union. Europe can best tackle institutional change when the institutions show their commitment to deliver on the political, economic and social imperatives. The Union seeks to serve its citizens, to deliver results to make their lives more prosperous and more secure, and to cement a Europe based on the values on which 50 years of European integration have been built.

II THE REFORM TREATY

The European Council of June 2007 agreed a precise mandate for the Inter-Governmental Conference. The mandate was the fruit of a carefully crafted compromise. Together with many positive elements, which are to be welcomed, this compromise meant that some of the changes agreed in the 2004 IGC were not retained, and a number of derogations were granted to individual Member States. The disappearance of some elements, including some symbolic ones, as well as changes that reduced the readability of the Treaty text, were necessary parts of a package agreement which could be subscribed to by all Member States. The Commission actively contributed to this compromise by finding solutions which balanced political realism with ambition. Compared with the existing Treaties, the changes proposed will leave the European Union with a sound institutional and political basis to meet the expectations of its citizens.

The proposed Reform Treaty will amend the EU's two core treaties. The result will be a legal framework designed to give the Union the tools it needs to meet the challenges of the future, promoting reform while respecting the strong foundations of the established institutional balance which has served Europe so well over the past fifty years.

The mandate set out in considerable detail how the Inter-Governmental Conference (IGC) will put together the Reform Treaty. It defines the scope of the IGC, and is the exclusive basis for the IGC, detailing where the innovations agreed at the 2004 IGC will be taken on board and where specific new elements are brought in. As such it gives a clear picture of the two treaties of equal status which will emerge from the process to be presented for ratification.

The mandate provides the right basis for a swift and efficient IGC able to agree a treaty for early ratification. The goal set by the European Council of ensuring ratification before the European Parliament elections in June 2009 is both desirable and realistic. This goal should be met.

The European Council emphasised that during the IGC and during the process of ratification, the EU should reinforce communication with its citizens, providing them with full and

comprehensive information and involving them in permanent dialogue. The approach chosen – amending the existing treaties – makes it particularly important to communicate the proposed reforms and their underlying rationale, and to make available as soon as possible an easily accessible and readable text of the Treaties.

A More Democratic and Transparent Europe

With the Reform Treaty, Europe's democratic infrastructure will be refreshed and reinforced. It will offer more open institutions and more opportunities for Europeans to see their voice heard in the work of the Union. A new section of the treaty lays out the principles underlying the Union's democratic accountability.

- The increase of co-decision in around 50 areas will see the European Parliament placed on an equal footing with the Council for the vast bulk of EU legislation. This will include key areas of policy including freedom, security and justice. The Parliament will also see important new powers over the budget and international agreements.
- National parliaments will have greater opportunities to be involved in the work of the EU while respecting the established roles of the EU institutions. This includes a two-stage procedure to monitor subsidiarity which will allow national parliaments to draw concerns to the attention of the Commission: if a majority share the same concerns about a particular proposal, the Commission, as well as the option to withdraw or amend, may choose to maintain its draft and explain its reasoning for final decision by the European Parliament and the Council of Ministers.
- Citizens and national parliaments will see the decisions taken by their governments at first hand through opening the legislative discussions in the Council of Ministers to the public.
- The Citizens' Initiative will create a possibility for a million citizens from different Member States – out of the Union's population of almost 500 million – to trigger an invitation to the Commission to bring forward a new proposal.
- The relationship between the Member States and the European Union will become clearer with the clear categorisation of competences.
- The Reform Treaty will make clear that Member States remain inside the Union by their own choosing, with a provision recognising that withdrawal from the EU is an option.

A more effective Europe

To turn policy aspirations into effective change for citizens, the EU needs the capacity to act. That requires institutions and working methods which are effective and streamlined. The Community method, the Union's unique mix of institutions, provides the basic structure to enable the interests of different states and peoples in Europe to be married with the interests of the Union as a whole. The Commission attaches particular importance to the primacy of EU law, clearly established in existing case law and recognised in the mandate. It will continue to use its powers in areas such as competition policy to deliver the benefits of the Internal Market to its citizens.

The Reform Treaty would update the Union's institutional system to reflect the need for the enlarged Union to adapt policies to a fast-moving world.

- The Reform Treaty will bring swifter and more consistent decisions to the policy areas of freedom, security and justice. This will mean a step change in Europe's ability to combat terrorism, to tackle crime and human trafficking, and to manage migratory flows. Member States which have decided not to participate in all aspects of freedom, security and justice policies might choose to play a full part in those areas of activity in the future.
- The Union will have an improved ability to act in areas of major priority for today's Union, through new and reinforced legal bases in areas including energy policy, public health and civil protection, and new provisions on climate change, services of general interest, research and technological development, territorial cohesion, commercial policy, space, humanitarian aid, sport, tourism, and administrative cooperation.
- Streamlined procedures for economic governance will enhance coordination and facilitate decision-taking in the euro area.
- Qualified majority voting in the Council of Ministers will ensure that common issues can be tackled through common decision-making, fairly reflecting the varying sizes of the EU's Member States. The extension of qualified majority voting to more than 40 new cases will make a reality of EU action in these areas.
- A simplified way of calculating qualified majority voting will strengthen the Council's efficiency and provide a clear balance between the number of Member States and the size of their population, once applied in November 2014.
- Where at least nine Member States would like to take collective action inside the Union framework, they will be able to use enhanced cooperation procedures. In particular, the path to enhanced cooperation is smoothed in the areas of judicial cooperation in criminal matters and police cooperation. Whilst enhanced cooperation can be a way to take the diversity of the enlarged Union into account, it works within the common framework necessary for all Member States.
- The permanent President of the European Council will, in cooperation with the President of the Commission, ensure a better preparation and continuity in the work of the European Council.
- A streamlined Commission, with reinforced authority for its President, will continue to play its central role in EU decision-making and to reflect different parts of the Union through a system of equal rotation.
- A ceiling on the number of MEPs, with a lower and upper limit for any one Member State, will stabilise citizens' representation in the European Parliament.
- Introducing qualified majority voting and co-decision for future reforms to the Union's judicial system will help this system to adapt to the challenges of the future.
- Arrangements for conducting external policy will reflect the existing balance between the Member States and the institutions, while enabling the EU as a whole to better promote and protect European interests and values at the global level.

- Future changes to policies within existing competences, extensions to qualified majority voting and use of co-decision can be agreed without needing to call a new IGC, while preserving the need for unanimous agreement.
- The confusing distinction between the "European Community" and the "European Union" will be brought to an end.

A Europe of rights and values, solidarity and security

The Reform Treaty will reinforce the imperatives of solidarity and security in the Union. These bind together the Union, the Member States and Europe's citizens and encapsulate a Union of mutual support and mutual protection. At the same time, practical steps will be taken in the new Treaty to develop EU action in areas like climate change and health, and give the Union new possibilities to promote greater solidarity and cohesion throughout Europe. The extension of the Union's capacity to act in freedom, security and justice will bring direct benefits in terms of the Union's ability to fight crime and terrorism. The Reform Treaty will also introduce a new emphasis on the rights of individuals as citizens in the Union.

- The Union's values and objectives will be set down more clearly than ever before. They will serve as a point of reference for European citizens, and will encapsulate what Europe has to offer to partners worldwide. They show how the European Union balances different goals for Europe, pursuing sustainable development while promoting political, economic and social objectives.
- The Charter of Fundamental Rights will offer Europeans guarantees with the same legal status as the treaties themselves, bringing together civil, political, economic and social rights which the Union's action must respect. Its provisions will also apply in full to acts of implementation of Union law, even if not in all Member States. The Union will be able to join the unique system of human rights protection established by the European Convention of Human Rights.
- Gaps in judicial protection ensured by the European Court of Justice will be filled to ensure jurisdiction in freedom, security and justice and to improve the individuals' rights of recourse to the Court.
- The new solidarity clause will give force to the obligation of Member States to support each other in the event of terrorist attack, natural or man-made disaster.
- The need for solidarity in the area of energy is given special prominence in the Union's powers to help in case of shortage of supply, as well as emphasising that solidarity is an important aspect of new provisions on energy.
- New provisions on civil protection, humanitarian aid and public health all aim at boosting the Union's ability to respond to threats to the security of European citizens.
- The new horizontal social clause will give prominence to the Union's commitment to employment and social protection, and the role of the regions and the social partners will be confirmed as part of the political, economic and social fabric of the Union.

Europe as an actor on the global stage

One of the particular challenges for the European Union is its ability to harness its economic, political and diplomatic strengths to promote European interests and values worldwide. Globalisation has sharpened the need to address the most pressing issues – sustainable development, competitiveness, climate change, energy, terrorism, migration, the fight against poverty – which link both internal and external policy. Prosperity, freedom and security all depend on Europe's ability to project itself worldwide. This has put the spotlight on the potential for combining the particular assets of all Member States with the collective weight of the Union as a whole, in full respect of the Union's institutional balance. To make a success of external policy, the Union's external policy instruments need to be geared to work together to best effect. The mandate maximises this coherence by ensuring that all external action policies – such as CFSP, trade, enlargement, development, and humanitarian assistance – are on an equal political and legal footing.

The Reform Treaty will develop the Union's capacity to act by bringing together Europe's external policy tools, both in policy development and policy delivery. It will give Europe a clear voice in relations with our partners worldwide, and sharpen the impact and visibility of our message. It will also bring more coherence between the different strands of EU external policy – such as diplomacy, security, trade, development, humanitarian aid, and international negotiations on a range of global issues. This will mean an EU able to play a more responsive and effective part in global affairs.

- Establishing a single legal personality of the Union will strengthen the Union's negotiating power, making it even more effective on the world stage and a more visible partner for third countries and international organisations.
- The new High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission will increase the impact, the coherence and the visibility of the EU's external action.
- The European External Action Service will provide a structure to support the full range of European external policies – as well as the external dimension of internal policies – in a more effective and coherent way.
- This new architecture for external relations will be married with a respect for the particular interests of Member States by retaining specific decision-making procedures in the area of Common Foreign and Security Policy.
- The European Security and Defence Policy will be brought more clearly into the Union, preserving special decision-making arrangements but also paving the way towards reinforced cooperation amongst a smaller group of Member States.

III OPINION IN ACCORDANCE WITH ARTICLE 48 OF THE TREATY ON EUROPEAN UNION

The Reform Treaty will underpin some of the most deep-seated aspirations of European citizens. It will reinforce core values; it will clarify key issues; it will reassure persistent concerns. Above all, it will give the Union the capacity to deliver change, to make Europeans more secure and prosperous, to open up their opportunities to shape globalisation.

The European Commission considers that the decisions of the European Council will provide a Reform Treaty to adapt the European Union to the needs of the 21st century. The Commission welcomes the convocation of the Inter-Governmental Conference, gives its full support to the mandate as agreed by the European Council, and is committed to contribute to its success.

Europe needs a Reform Treaty to be agreed and ratified ahead of the June 2009 European elections. It is the responsibility of all participants in the Inter-Governmental Conference to create the conditions for this goal to be met.