

**SPEECH BY MR TAJANI TO THE EUROPEAN CONVENTION  
'THE COMPETENCES OF THE EUROPEAN UNION AND OF THE  
MEMBER STATES'**

*Brussels, 23 – 24 May 2002*

The complex issue of the competences of the European Union must be addressed in the light of the principles that inform the European model we wish to construct. In reality, it is not so much a matter of solving complex legal problems as of fulfilling the many expectations that gave rise to the Convention. The great alternative before us is, to quote the great Catholic intellectual Wilhelm Roepke, between 'centralisers' and 'de-centralisers'. As we 'de-centralisers' see it, the political and economic strengthening of Europe must be secured by keeping the basics: unity in variety, freedom in solidarity, respect for the individuality of the person. We believe that this Europe of identities and diversities needs the intermediate bodies – the associations, firms, and churches that make up our societies – to make a higher-profile contribution towards the European venture. It is our belief that in this Citizens' Europe, the EU must not intervene in matters that could better be dealt with by the Member States or by regional and local players, but rather it should improve the efficiency of the Community in areas where action by individual states is clearly insufficient.

The principles of subsidiarity and proportionality must play a key role in the division of powers. These instruments are essential if the need for united action is to dovetail with local action. In particular, subsidiarity will serve to justify action at a higher level wherever it yields benefits that cannot otherwise be obtained. It will also serve as a reminder that the EU's competences are derived, and not original like those of the Member States.

From another standpoint, the federation of nation-states model we are proposing is qualified by vertical and horizontal subsidiarity. This is precisely what enables us to highlight the competitive and cooperative aspects of the

integration process, with an eye to a European Union that can usefully improve on the practical operation of the various national systems.

Turning to the division of powers, we can see that the current system is a complex mix of substantive and operational competences, owing to the existence of four separate Treaties and two different bodies – the European Union and the Community – but also to the proliferation of normative instruments of unequal scope.

Consequently we need to simplify EU instruments and establish a pecking order of legal acts and other intervention instruments, making a distinction between legislative and implementation measures in the hope that there will be increasing use of framework legislation that gives the Member States more leeway in delivering policy objectives, and tailoring the type of legal instrument to the level of EU relevance in the area.

A thorough overhaul is needed of the thinking that has thus far informed our legal system, with ‘transparency’ as the new guiding principle, making ‘who does what’ clear to the public.

From another standpoint, we must not create a power-sharing model that copies that of the individual Member States. We must not contemplate the sovereignty of a bureaucratic super-state for the EU, yet we will need to check that the competences are being exercised in such a way that they can best serve the public.

A new, simpler and more transparent model for the division of powers must ensure that:

a) The European Union is based on a clear distribution of powers, and consequently, on the principle of non-interference in matters for which it has no explicit mandate.

However, in order to avoid reproducing the excessive rigidity of the previous model (which has had a boomerang effect with the heavy use of the Community intervention extension clause - Article 308 EC Treaty), the establishment of EU competences must be backed up by genuinely democratic and transparent procedures that can guarantee regular updates to the power-sharing model based on the principles of subsidiarity and proportionality.

b) All areas not explicitly mandated to European Union competence remain the prerogative of the Member States, which have the final say on the transfer of powers to the EU.

However, in order to ensure that all the institutions comply with the division of powers, an arbiter will be needed: the Court of Justice.

As we are aware, the division of powers only partly resolves the complex constitutional issue we are addressing. There is another big stumbling block, highlighted in the Lamassoure report, the European Parliament's valuable contribution to the work of the Convention: the division of the roles of the EU bodies.

We need to sort out the roles of the various bodies of the EU in order to establish the corresponding action area and instrument for each competence. In other words, we need to know who will have a given competence in order to gauge how vigorous and far-reaching action will be in that area. Consequently, we will need a higher-profile role for the European Parliament and the national parliaments that represent EU citizens. This is the great challenge of the Convention.