

EUROPEAN PARLIAMENT



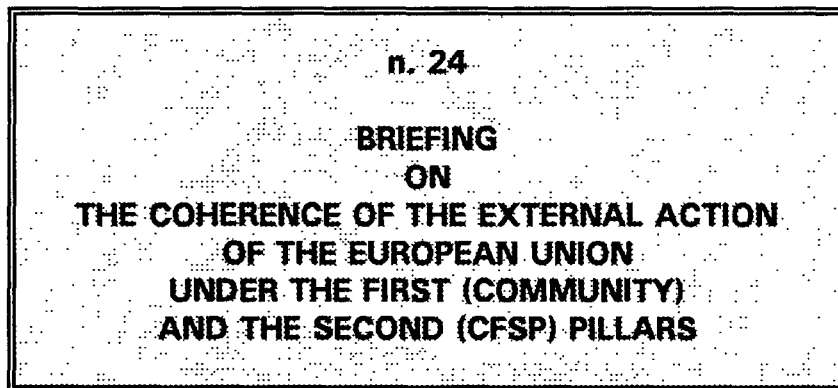
SECRETARIAT WORKING PARTY

TASK-FORCE
ON THE
" INTERGOVERNMENTAL CONFERENCE "

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These briefings have been drafted by the Parliament Secretariat Task Force on the Intergovernmental Conference. Their purpose is to gather together, in an organized, summary form, the proposals and suggestions which the authorities in the Member States, the Union's institutions and specialist commentators have put forward on the issues likely to be on the IGC 96 agenda.

Briefings will be updated as negotiations proceed.

Already out:

- 1 The Court of Justice**
- 2 The Commission**
- 3 The Court of Auditors, ESC and COR**
- 4 Differentiated integration**
- 5 The common foreign and security policy**
- 6 The role of the national parliaments**
- 7 The hierarchy of Community acts**
- 8 Codecision procedure**
- 9 CJHA**
- 10 European citizenship**
- 11 WEU, security and defence**
- 12 Public services**
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- 14 The European Parliament**
- 15 The European Council**
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- 17 The budget and the IGC**
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BRIEFING ON THE COHERENCE OF THE EXTERNAL ACTION OF THE EUROPEAN UNION UNDER THE FIRST (COMMUNITY) AND SECOND (CFSP) PILLARS

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BRIEFING ON THE COHERENCE OF THE EXTERNAL ACTION OF THE EUROPEAN UNION UNDER THE FIRST (COMMUNITY) AND SECOND (CFSP) PILLARS

I. AGENDA FOR THE CONFERENCE

The revision of the provisions of the Treaty on European Union relating to the common foreign and security policy (CFSP) is on the agenda for the IGC, in accordance with Article J.10 of the TEU itself.

II. SUMMARY

The state of discussion on the coherence of the external action of the EU under the first and second pillars shows that the question is still being approached with considerable caution and indecision. In their reports submitted in preparation for the 1996 IGC, the Member States in most cases devote only a few lines to the subject, often treating it in implicit fashion. So far, only Parliament and the Commission have produced clear and detailed statements on the negative effects of the lack of cohesion between the two pillars and means of resolving the problem.

The Member States are primarily concerned with how to alleviate the lack of cohesion between the two pillars. Most of them favour greater cohesion.

III. POSITIONS OF THE EU INSTITUTIONS:

III.1. THE EUROPEAN PARLIAMENT

Resolution of 17 May 1995 on the functioning of the Treaty on European Union with a view to the 1996 Intergovernmental Conference - implementation and development of the Union

Parliament considers that the aspects of the TEU which need reviewing include the lack of coherence and effectiveness characterizing the implementation of the CFSP.

Parliament proposes improving the organization of the CFSP by:

- instituting a genuine and more effective EU foreign policy under the Community pillar, to encompass a common trade policy, development cooperation policy, humanitarian aid and CFSP-related matters and operating more clearly defined security and defence policies at Union level, with a permanent joint strategy within the international bodies having responsibilities in this field;

- the possibility of a number of Member States undertaking, on the basis of a qualified majority vote, a humanitarian, diplomatic or military action as a 'joint action';
- a right of initiative for the Commission on CFSP matters;
- a joint Commission and Council analysis and planning unit;
- democratic control by Parliament (the Council would have to consult Parliament when adopting a joint action or position);
- deletion of Article 223.

III.2. THE COMMISSION

Report on the operation of the TEU (10 May 1995)

The Commission considers that coexistence within one and the same treaty of two different modes of operation (Community and intergovernmental) raises from the outset the question of coherence.

The Union must develop a genuine common foreign policy corresponding to its economic weight, with effective decision-making mechanisms. This objective will not be reached by the systematic practice of majority voting.

The pillars of the Treaty are not structures to be viewed in isolation; they must be linked up if the Union is to function as a whole. The existing forms of connection have given rise to legal and financial difficulties which are an obstacle to the sound application of decisions.

The hybrid structure of the Treaty, with decisions falling under one pillar requiring financing from a different pillar, has created a further source of conflict.

An initiative may call for coordinated action under more than one pillar, thus creating the risk that the rules and procedures of one pillar may encroach on another.

The Commission notes that various opinions exist concerning the need for a common discipline in the field of external action and the instruments which should be used for its implementation. It is concerned at the long-term risk to the solidity of the internal market posed by the increasing lack of discipline regarding respect for Community competences (there is no legal control over actions taken under the second pillar).

III.3. THE COUNCIL

Report on the operation of the TEU (10 April 1995)

The Council considers that it and the Commission are responsible for ensuring the coherence of the Union's external action as a whole, in the context of its policies on

external relations, security, the economy and development, for whose implementation the two institutions have responsibility, each in its respective areas of competence (see Article C of the TEU).

Title V of the TEU is aimed at introducing, with respect to the CFSP, more coherence in the definition of policies, greater capacities of action rather than merely reaction to events and an enhanced visibility of the Union vis-à-vis the outside world.

III.4. PROGRESS REPORT OF THE REFLECTION GROUP (1 September 1995)

The Group notes that the new situation in Europe poses fresh challenges for the external dimension of the Union, and acknowledges the operational failings of Title V and the problems raised by the lack of overall coherence in the face of the new challenges.

There are, however, divergent opinions within the Group concerning the causes of those failings (lack of political will; structural imbalance between the aims and the means of external action).

Certain members have argued that the basic problem of the CFSP lies in the separation of the political and economic dimensions of the Union's external action, and have strongly criticized the lack of coherence and coordination between the first and second pillars, as well as the risk that the second pillar could contaminate the first, thus possibly leading to the undermining of the acquis communautaire.

On the one side, the following solutions are proposed:

- abolition of the division into two pillars, while retaining the specific character of the procedures for proposal, decision and implementation within the Community pillar;

On the other side, it is proposed:

- to retain the structure of pillars, but with closer cross-pillar cooperation (cf: Council activities/relations with COREPER, the Political Committee, etc.);
- to improve the definition of the fundamental interests of the Union;
- to endow the Union with international legal personality;
- to create a CFSP analysis and planning unit;
- to associate the Commission with forecast and analysis activity in the areas where there is a need for coherence between all the aspects of the Union's external action.

IV. POSITIONS OF THE MEMBER STATES

BELGIUM

Ref.: Belgian Council of Ministers; policy memorandum from the government to the national parliament concerning the 1996 IGC; press communiqué of 28 July 1995

Section: 'A Union with a decisive voice and weight in the world'

'The government considers it of great importance that the Union's external economic policy should be pursued inside the Community tradition, serving as an example for other areas of external policy.'

'The government will endeavour at the IGC to strengthen the role of the Commission in implementing the CFSP.'

'This choice is even more important since only the Commission can fulfil the indispensable requirements of continuity of intervention and consistency with other Union actions.'

GERMANY

Ref.: Manifesto of the CDU/CSU group in the Bundestag, 1 September 1995

'The new institutions must be more democratic and more effective, bringing a suitable element of coherence and stability to the flexibility and elasticity which will necessarily be part of so large a Union.'

On the subject of strengthening the Union and its capacity for action in the field of the CFSP, the document calls for a strategic plan for the CFSP, clearly setting out the objectives and common interests and laying down the conditions and procedures and the necessary political, economic and financial instruments.

GREECE

Ref.: 'Towards a citizens' Europe - democracy and development': memorandum for the 1996 IGC

On the subject of the CFSP, it appears from this document that Greece considers that if the policy is to be effective the second pillar must be brought closer to the first in the context of greater democratization of the Union. Greece proposes that the main common interests and points should be defined so as to permit joint action by the Member States.

SPAIN

Ref.: Document drawn up by the Spanish presidency of the Reflection Group and the Ministry of Foreign Affairs: 'The 1996 Intergovernmental Conference: towards a definition of the Spanish position'

With respect to the second pillar (the CFSP), on the area of foreign policy the document refers to the following aspects: unanimity versus qualified majority voting (taking the view that unanimity is synonymous with the lowest common denominator); the desirability or otherwise of setting up some kind of dynamizing motor for Union policy in the field of the CFSP (it is argued that as things stand the proposals existing in this area seem not to take account of the potential value of the directorate for the CFSP which has been created at the Council Secretariat); the role of the Commission and the possible strengthening of its powers of initiative (no particular initiative is advocated by the document).

As regards the sphere of common security and defence, the document proposes revising the provisions on security by means of two distinct but complementary procedures, namely: increased use of the conciliation mechanisms (common positions) provided for under Article J.2 within international organizations and conferences; and greater recourse to the system of joint actions provided for under the CFSP.

FRANCE

Ref.: Interview with Mr Michel Barnier, 'Le Figaro', 10 July 1995

Mr Barnier reiterated his support for retaining both unanimity in CFSP matters and the intergovernmental character of the policy, and proposed strengthening the Council Secretariat.

ITALY

Ref.: Statement of 23 May 1995 by the Italian Government on the Intergovernmental Conference for the revision of the Treaty of Maastricht

The Italian government considers that the Union must meet the challenge posed by security by giving itself, as a matter of priority, an identity on the world stage and creating a coherent foreign policy corresponding to the requirements of the frontierless world of which it is a part.

It further considers that a genuine Union external policy will require a consensus among the Member States on certain principles and components of that policy, amounting to a 'foreign policy agenda' for the Union agreed by the Council and Parliament.

The Italian Government also states that it will take all necessary steps to achieve a permanent joint strategy within all the international organizations, especially the UN and its Security Council.

Concerning the institutional structure of the second pillar, the Italian position is that there must absolutely be a permanent body empowered to represent the Union on foreign policy matters, and that the Council's structures and functions of analysis,

preparation, proposal and implementation should be placed at the service of this body.

LUXEMBOURG

Ref.: 'Memorandum/Handbook' of the Luxembourg Government of 30 June 1995 on the 1996 Intergovernmental Conference

The Luxembourg document proposes that, in order to give the CFSP greater efficiency and strengthen the coherence of the external action of the Union as a whole, a number of possible improvements should be considered, namely:

- setting up a joint analysis and forecasting unit at the Council Secretariat, in close cooperation with the Commission;
- extending the scope of majority voting for the determination of common positions; with regard to implementation of the CFSP, the Luxembourg government considers that efficiency would be enhanced by greater participation of the Commission in certain fields, especially that of joint actions under the aegis of the Council;
- identifying suitable means of giving the Union legal personality and strengthening its capacity to make legal commitments vis-à-vis the outside;
- financing the CFSP, in principle, from the Community budget while guaranteeing the principle of the full financial solidarity of the Member States.

AUSTRIA

Ref.: Guidelines proposed by the Austrian government on the probable subjects of the 1996 IGC

In keeping with the dynamic of the integration process, Austria starts out from the principle of a phased 'communitarization' of the Union's foreign policy. The Austrian government proposes setting up a planning unit consisting of representatives of the Council Secretariat, the Commission and the Member States.

Austria advocates a review of the coherence of the common positions and joint actions.

As far as the financial aspects are concerned, Austria argues that if CFSP decisions are to be implemented with all due rapidity they must be funded from the Community budget; the specific role of the Council should be taken into account here.

NETHERLANDS

Ref.: Memorandum of the Netherlands government on foreign and security policy and European defence: 'Towards stronger external action by the European Union' (9 March 1995)

The Netherlands government stresses the need for the Union to take firm and determined action in the external field. It considers that economic and political integration should go hand in hand with integration within a common security structure.

Concerning the coherence and continuity of external action, the Dutch position is that the acquis communautaire should be respected, and it is therefore necessary to move beyond the existing uncertainties and gaps of the system of pillars. At present, Community elements are included within the field of the CFSP, while, conversely, some Member States are tending to use the CFSP framework to obtain the adoption of decisions on subjects which fall under the Treaty within the sphere of Community competence; they are thus attempting to use the intergovernmental approach for decisions on matters which fall within the Community's powers and are traditionally subject to majority voting on a proposal from the Commission.

PORTUGAL

Ref.: Interview with the (then) Prime Minister, Mr Anibal Cavaco Silva, published in the daily newspaper 'Público' on 4 June 1995

As far as institutional matters are concerned, Mr Cavaco Silva said that Portugal will advocate a single institutional framework for all areas of the Community's activities and, specifically, for the three EU pillars.

He felt that the CFSP should be endowed with greater consistency and firmness, and that there should be a move towards majority voting for the adoption of joint actions now requiring unanimity.

FINLAND

Ref.: Memorandum concerning Finnish points of view with regard to the 1996 Intergovernmental Conference of the European Union (18 September 1995)

'More attention should be given to internal coordination of activities related to all the Union's external relations. This need is particularly acute with regard to the use of economic instruments under pillar I and political under pillar II. There must, however, be no interference with the pillar structure in the name of intensified cooperation.'

The debate on the balance between the institutions also includes pillar II to some degree, raising the question of strengthening the role of the Commission and the European Parliament. However, there does not seem to be any need to modify Article J.7 (on consulting and informing the European Parliament and taking its views into

consideration) or Article J.9 (on Commission association); the issue merely means clarifying current practices.

Other action to enhance the CFSP:

The efficiency of Union action largely depends on finding common ground for decisions. It is important to identify the common interests of Member States in every situation. One way of facilitating the identification of common interests in the Council is to develop a common evaluation and analysis capacity. In doing this, it is important that:

- action meets the needs of all Member States and existing services are utilized;
- evaluation and analysis could be integrated into the present functions of Council Secretariat;
- the implementation and monitoring of decisions should be intensified;
- the CFSP should be financed primarily out of the Community budget.

SWEDEN

Ref.: Government publication: 'The fundamental interests of Sweden with a view to the EU Intergovernmental Conference of 1996' (Stockholm, July 1995)

'Widening and deepening of cooperation should go hand in hand. As a member of the EU, we wish to see coordinated cooperation implying that the Union is capable of taking decisions and implementing policy, both internally and when acting as an international protagonist on matters of foreign policy, security policy or trade policy.'

UNITED KINGDOM

Ref.: The UK government's memorandum of 2 March 1995 on the treatment of European defence issues at the 1996 Intergovernmental Conference

The British position is based on *the firm conviction that action in the field of security and defence must be primarily intergovernmental, based on cooperation between states.*

Mr Douglas Hurd, in a speech of 12 January 1995 to the French Institute of International Relations, said that *the second and third pillars should remain within the sphere of intergovernmental cooperation as stipulated in the Treaty, and should not be run by the supranational institutions of the Community pillar.*

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Proposals for strengthening the coherence of the external action of the EU under the 1st and 2nd pillars

	EP	COM	CONS	B	DK	GER	GR	SP	F	IRL	I	LUX	NL	AUS	P	FI	S	UK
Strengthen cohesion of 1st and 2nd pillars (without abolishing them)	+	+	0	+0	0	+0	+	+0	0	0	+	+	+	0	+	+	+	+0
Integrate CFSP into Community framework	+	0	0	+0	0	+*	+0	0	-	0	-	0	+0	+	+	-	-	-
Establish common principles and objectives for foreign policy	+	0	0	0	0	+0	+	0	0	0	+	0	0	0	0	+	0	0
Improve definition of EU participation in UN	+	0	0	0	0	0	0	+	0	0	+	0	+	0	0	0	0	0
Strengthen Commission's role in CFSP	+	0	0	+	0	0	+	-0	0	0	+	+	+	+	0	+0	0	0
Finance CFSP from Community budget	0	+0	0	+	0	0	0	0	0	0	0	+	0	+	0	+	0	0
Qualified majority voting on CFSP matters		0	0	0	0	+	-	0	-	0	0	+	0	+	+	0	+	0
Give EU international legal personality	+0	+0	0	0	0	0	0	0	0	0	+	+	+	+0	0	0	0	0

+ = explicitly in favour; +0 = implicitly in favour; 0 = no position stated; -0 = implicitly against;

- = explicitly against

* position expressed by Mr K.-H. Klär, representative of the German Länder for the 1996 IGC