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BRRIEFING No. 2
ON
THE COMMISSION

* Second update *

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 The co-decision procedure
- 9 Cooperation in the fields of justice and home affairs
- 10 European citizenship
- 11 WEU, security and defence
- 12 The public services
- 13 Social policy

SUMMARY

The number of Members of the Commission is likely to be fiercely debated. The result may be a decision endorsing the principle of one Commissioner per Member State.

The Commission's monopoly of initiative and the extent of its executive powers may also be challenged.

A Council right of censure on the Commission is a reform that is unlikely to come off, as it would cause a significant change in the institutional balance of forces.

CONFERENCE AGENDA

A review of the Treaty provisions on the Commission is not on the Conference agenda laid down by the Treaty itself.

However, the Brussels European Council in December 1993 announced that the Conference would consider 'the questions relating to the number of Members of the Commission' and, more generally, 'any measures deemed necessary to facilitate the work of the institutions and guarantee their effective operation'.

SOURCES

A number of the Member States' governments, e.g. Greece, Spain, Ireland, Italy, Luxembourg and Austria, have taken an official position or precise decision on these questions. The reports by the Commission itself and the Council on the operation of the TEU are silent on the matter; only Parliament's resolution of 17 May 1995 (based on the Bourlanges/Martin report) clearly states its position.

Reference is made to some informal or unofficial government positions, and the views of some commentators.

Finally, attention is drawn to Parliament's proposals in the draft Treaty on the European Union (Spinelli report, February 1984) and the draft Constitution of the European Union (Herman report, February 1994).

POSITIONS

1. NUMBER OF MEMBERS

Virtually all the views stated are in favour of amending the present rule (two Commissioners per large country and one per medium-sized or small country) so as to avoid having too many Commissioners in a larger Union.

However, most of the medium-sized or small countries want to keep one Commissioner per Member State (Greece, Ireland, Portugal, Luxembourg, Denmark and Austria) on the grounds that account might not otherwise be taken of the interests of all the states and that this would cause Member States to lose confidence in the process of integration. The European Parliament has adopted the same position (Resolution of 17 May 1995). The present Commission President has publicly and repeatedly supported this view.

The large countries generally say they are keen on reducing the size of the Commission (Germany) but several of them have stressed that it would be

impossible to consider having fewer Commissioners than the number of Member States (Italy). The idea of having one instead of two Members per state is envisaged by Belgium, France and Italy.

The possibility of having fewer Commissioners than Member States (which would mean appointing one permanent Commissioner for each large state and allocating the others to the small and medium-sized states on a rota basis) is mentioned by a number of states, all of which acknowledge that this reduction will, in practice, require the Commission to adopt new operating methods: appointment of Deputy Commissioners (Belgium and Spain), reorganization of its internal structure (Ireland and the European Parliament) and/or presidentialization of the Commission (European Parliament).

The Reflection Group also felt that it might be advisable to set a maximum number of Members so as to guarantee that the Commission remains consistent, efficient and transparent, and wonder whether the future Union should retain the 'at least one Commissioner per Member State' rule and introduce various categories of Commissioners.

Some unofficial sources advocate a smaller number of Commissioners, to reflect the number of Commission tasks or departments, i.e. about 15 Members (Bertelsman, European Movement, Juste Lipse etc).

2. METHOD OF APPOINTING THE PRESIDENT AND MEMBERS

At the moment no Member State seems to have proposed changing the present system (nomination of the President by the governments after consulting Parliament; nomination of the Members after consulting the President; approval of the college by Parliament; appointment by the governments).

Parliament (in its resolution of 17 May 1995) wants:

1. the President to be elected by Parliament from a list proposed by the European Council;
2. the Members to be appointed by agreement between the President and the governments of the Member States;
3. the college to be invested by Parliament.

In its previous proposals Parliament advocated

- * election of the President by the European Council (Spinelli report) or Parliament on a proposal by the European Council (Herman report);
- * choice of Members by the President in consultation (Spinelli report) or by agreement (Herman report) with the Council;
- * vote of investiture by Parliament.

Opinion also generally favours strengthening Parliament's role in appointing the President and the President's role in appointing Members. For instance, there are proposals:

- * for the President to be appointed by Parliament with the assent of the Council and for the Members to be nominated by the President and confirmed by Parliament and the Council (Bertelsman);
- * for the President to be appointed by Parliament on a proposal from the European Council, for the Members to be appointed by the President in consultation with Parliament and the governments and for the college as a whole to be confirmed by the Council (by a majority) and Parliament (European Movement).

In the same way, some sources are said to favour strengthening the President's role (Italian Government), or a more presidential style (European Parliament), in running the Commission.

The Reflection Group wonders whether it might be advisable to review the criteria for appointing Commissioners and give the President a more important role.

3. THE COMMISSION'S RESPONSIBILITIES

Most sources seem to want control over the Commission to be tightened up, without saying precisely how.

The issue of a possible Council right of censure on the Commission (i.e. by either the Council of the European Union or the European Council) is being aired by the Spanish Government and some commentators (e.g. the European Movement); the French Government seems fairly keen on the idea, as does the previous Commission President. The European Parliament is claiming the right to call for automatic resignation of a Commissioner under Articles 157 and 160 of the Treaty on European Union.

4. THE COMMISSION'S POWERS OF INITIATIVE AND EXECUTION

The Commission's right of initiative must be preserved (European Parliament, Ireland and Italy), if not reinforced (Sweden and Juste Lipse).

However, the Spanish Government thinks it would be worth raising the issue of power-sharing at the IGC; some governmental sources (e.g. France and Denmark) accept or favour the idea. Certain commentators are proposing that the right of initiative should be exercised by the Commission, Council and Parliament on an equal basis (e.g. K. Lammers and the Philip Morris Institute).

The Commission's executive or management powers were to be exclusive in Parliament's original design (Spinelli and Herman reports); a right of veto by the Council and Parliament is now proposed (European Parliament); better control by Parliament of the Commission's day-to-day management is also suggested (Spanish Government). The Luxembourg Government is calling for the Commission to be given new executive powers.

The Austrian Government advocates that the Commission be given power to act against fraud and in the field of justice and home affairs ('third pillar'). Germany also considers that the Commission should, jointly with the Member States, have a right of initiative in this field and in respect of the Common Foreign and Security Policy ('second pillar').

[Other aspects of the Commission's powers and responsibilities will be dealt with in 'vertical' briefings on the decision-making process, the second and third pillars, the hierarchy of Community acts, etc.]

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[For further information on this note please contact Mr Giraud, Lux. 2556.]

