

# EUROPEAN PARLIAMENT



*Intergovernmental Conference Task Force*

## WHITE PAPER ON THE 1996 INTERGOVERNMENTAL CONFERENCE

VOLUME II  
SUMMARY OF POSITIONS OF THE MEMBER STATES  
OF THE EUROPEAN UNION WITH A VIEW TO THE 1996  
INTERGOVERNMENTAL CONFERENCE

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## PREFACE

In February 1995 the European Parliament Secretariat set up a working party to monitor all the preparatory stages of the Intergovernmental Conference (1996 IGC Task Force).

The Task Force reports directly to the Secretary-General and, ultimately, to the President of Parliament, Mr Klaus Hänsch; it is administrative in nature and its role is basically to coordinate the work of the various departments within Parliament most directly concerned with the Intergovernmental Conference; its other tasks are to locate, gather, analyse and summarize all IGC-related proposals and studies, not just from the various Community institutions and the official bodies of the Member States but also, and most importantly; from civil society.

So far the Task Force has concentrated its efforts on drawing up a whole series of **documents** on the Intergovernmental Conference. These include a comprehensive memo on the positions of the various Member States and another on the state of considerations in the national parliaments; the production of over 30 briefing papers on the major topics to be dealt with at the Conference; the drawing up of an IGC-related bibliography by source and by topic; the preparation of a selection of bibliographical references to periodicals and a compilation of summaries on the same topic, and the coordination of a single periodical containing press reports relating to the IGC (Info CIG/96). All these documents are regularly updated, and the Task Force has also commissioned and supervised a series of studies produced outside Parliament (simplification of the Treaties, European citizenship, position of the national political parties, division of powers and responsibilities between the Union and the Member States, etc). It has ensured that this constant flow of valuable information is **widely distributed**, both within the Union institutions and within the Member States and public organizations and associations. In particular a constant supply of information on computer has been provided since mid-1995 by means of the **OVIDE** system and will soon be available on the **Internet**.

To provide more systematic information on the IGC, the Task Force has decided to compile a **White Paper** on the Intergovernmental Conference in three volumes. The **first volume** contains the most important official positions so far adopted by the **institutions and bodies of the European Union**; the **second volume** brings together and summarizes the **Member States'** positions and viewpoints; and the **third volume** is a collection of the **briefings** prepared by the Secretariat's Task Force on the main topics that will be on the agenda for the Intergovernmental Conference.

There is no doubt that the 1996 IGC will be a defining moment for the future of European integration. This review cannot and must not take place without the active involvement of European citizens, who will be the main players in shaping the destiny of the Community.

The European Parliament is fully aware of this, and its position as the directly elected representative of the people of Europe gives it the confidence to assume a central role in encouraging ever wider participation and greater understanding of the negotiating process and of the very real challenges facing the Intergovernmental Conference.

In Parliament's opinion, the Community must emerge from the review of the Treaty as a more democratic, fairer, more interdependent, more prosperous and more equal Europe. If the White Paper helps to bring about a better understanding of the Community, and even contributes only minimally to the achievement of these objectives, the work which has gone into preparing it will not have been in vain.

Enrico VINCI  
The Secretary-General

Luxembourg, January 1996

## I. INTRODUCTION<sup>1</sup>

The Intergovernmental Conference (IGC) which is to be convened in 1996 pursuant to the Treaty on European Union (Article N(2)) will have as its raison d'être the first revision of that Treaty, and will, to that end, examine those of its provisions for which revision is provided for. Such revision must not, however, entail any questioning of the existing acquis communautaire (Article M).

### Conference agenda

The agenda for this conference, whose purpose is to revise the Treaty of Maastricht, has, in general terms, already been set in a number of documents and other sources of varying legal and political nature; there is, of course, still room for including further aspects should all the Member States so agree.

#### 1. **The Treaty on European Union**

- \* Articles A and B - general principles for revision (especially the final paragraph of Article B), including the 'pillar'-based structure of the Union;
- \* Article N(2), which covers a wide range of subjects;
- \* Article 189b(8) (revision of the codecision procedure concerning Parliament and the Council);
- \* Articles J.4 and J.10 (revision of the provisions governing the common foreign and security policy (CFSP));
- \* Declaration 1 (on civil protection, energy and tourism);
- \* Declaration 16 (on the hierarchy of Community acts).

#### 2. **Institutional consequences of the fourth enlargement**

##### 2.1. **The Brussels European Council of 10 and 11 December 1993**

The conclusions of the Belgian Council presidency state that the 1996 Intergovernmental Conference will, apart from examining the legislative role of Parliament and the other matters provided for in the Treaty on European Union, review the size of the Commission and the weighting of the Member States' votes in Council. The conference will also consider what measures may be required to facilitate the work of the institutions and ensure their smooth running.

##### 2.2. **The European Council of 29 March 1994 and the Ioannina Compromise**

With the accession of Austria and Sweden (with four votes each in Council) and Finland (with three), the total number of votes in Council is now 87, and the number of votes required for a qualified majority is 62 (there is a further requirement that at least 10 Member States should have voted in favour where the

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<sup>1</sup> This note is an updated version of the notes of 20 December 1994 (cf. IV/WIP/11/006), 12 April 1995 (cf. JF/bo/55/95), 31 July 1995 (cf. JF/bo/152/95) and 8 December 1995 (cf. JF/bo/178/95). This note will also be updated regularly.

Council is not in agreement with the Commission proposal). The Ioannina Compromise, in its present form following the fourth enlargement, lays down that where members of the Council who together represent 23 to 25 votes state their intention of opposing adoption of a Council decision by a qualified majority, the Council will do all in its power to obtain a satisfactory solution; this is to be adopted with at least 65 votes in favour, within a reasonable period of time and without prejudice to the mandatory time limits specified by the Treaties and derived law. It should be added, however, as a point of interest in the present context, that the Ioannina Compromise also entails an agreement by the Member States that the 1996 Intergovernmental Conference will consider the reform of the institutions and re-examine the minimum number of votes required for a qualified majority.

### **2.3. The Corfu European Council of 24 and 25 June 1994**

The European Council confirmed the Ioannina Compromise and agreed to the setting up of a 'reflection group' to prepare the 1996 Intergovernmental Conference, to consist of representatives of the foreign ministers of the Member States and the President of the Commission. It will be chaired by the representative of the Spanish Government, and will begin work in June 1995. Two Members of the European Parliament will take part in its activities. The group will also exchange views with the other institutions and bodies of the Union. It will have the tasks of: examining the provisions of the Treaty on European Union which needed to be revised and proposing possible changes; and preparing options on the institutional questions referred to in the conclusions of the Brussels European Council and the Ioannina Compromise (number of votes, qualified majority ceiling, size of the Commission, and other measures to ensure the smooth running of the institutions in the context of enlargement).

### **2.4. The Cannes European Council of 26 and 27 June 1995**

As part of preparations for the 1996 Intergovernmental Conference, the Council has issued even more detailed instructions on the work of the Reflection Group. After confirming the conclusions reached in Corfu and the need for the Reflection Group to elaborate options on the institutional questions set out in the Brussels conclusions and the Ioannina agreement, the European Council, in view of the lessons which may be learnt more than a year and a half after the entry into force of the Treaty on European Union and of the challenges and risks linked in particular to the prospect of a further enlargement, considers that thoughts should now focus on a number of priorities to enable the Union to respond to its citizens' expectations. These priorities are: to analyse the principles, objectives and instruments of the Union, with the new challenges facing Europe; to strengthen the common foreign and security policy so that it can cope with new international challenges; to provide a better response to modern demands as regards internal security, and the fields of justice and home affairs more generally; to make the institutions more efficient, democratic and open so that they are able to adjust to the demands of an enlarged Union; to strengthen public support for the process of European integration by meeting the need for a form of democracy which is closer to the citizens of Europe, who are concerned at employment and environmental questions; and to put the principle of subsidiarity into practice more effectively.



Finally, the Group should bear in mind the advantages of seeking 'improvements' in the working of the institutions that do not require any amendment to the Treaties and can thus enter into force without delay'.

#### **2.5. The Madrid European Council (15 and 16 December 1995)**

The Madrid European Council of 15 and 16 December 1995 adopted the decision to begin the IGC on 29 March 1996, with the aim of creating the necessary political and institutional conditions for adapting the Union to present and future needs, especially with a view to the forthcoming enlargement.

After welcoming, with great interest, the report of the Reflection Group chaired by Mr Westendorp, the European Council decided that the IGC should examine those provisions of the TEU whose revision is explicitly provided for by the treaty text itself, together with the subjects which it was agreed should be dealt with at the IGC in the conclusions of the Brussels and Corfu European Councils and in the declarations adopted in the context of interinstitutional agreements. The European Council also reaffirmed the guidelines decided on at the Cannes summit. In general terms, the role of the IGC should be to examine means of improving the Treaties so as to adapt the Union to present realities and future requirements, bearing in mind the outcome of the work of the Reflection Group.

The European Council also agreed that the formal revision procedure referred to in Article N of the TEU should be carried out as rapidly as possible, to enable the IGC to be formally opened on 29 March 1996 in Turin.

The European Council decided that the IGC would take the form of regular meetings of the foreign ministers, in principle once a month; the foreign ministers would be responsible for the work prepared by a group consisting of representatives of the foreign ministers (one per Member State) and the President of the Commission. The secretarial side of the conference would be the responsibility of the Council Secretariat. The Council also decided that the European Parliament will be closely associated with the work of the conference, in such a way that it can both be informed regularly and in detail of the development of the discussions and express its viewpoint, where it considers it useful, on all the subjects discussed. The Foreign Ministers will decide the exact way in which Parliament is to be associated, on the basis of respect for the provisions concerning the revision of the Treaties.

Finally, the Madrid European Council decided that the representatives of the countries of eastern and central Europe with which 'Europe agreements' have been signed, as well as those of Malta and Cyprus, will be informed regularly of the development of the discussions and will be able to express their views at their meetings (generally every two months) with the Union Presidency. The EEA countries and Switzerland will also be kept informed.

#### **2.6. The Turin European Council (29 March 1996)**

The Turin European Council of 29 March 1996 established the mandate for the IGC and laid down its programme.

In their final conclusions, the Heads of State and Government considered that the Conference should, in the light of the Reflection Group's report and without prejudice to any other matters which might be raised at it, concentrate primarily on the subjects which are outlined below.

### 1. A Union closer to the citizens

The European Council calls on the IGC to base its work on the fact that the citizens are at the core of the construction of Europe: the Union has an absolute duty to provide concrete responses to their needs and concerns. Since the Member States have undertaken to respect human rights, democratic values, equality and non-discrimination, and as the Union is a community based on shared values, the IGC must study whether and to what extent it is possible to strengthen those fundamental rights and improve their protection.

The citizens of Europe are increasingly concerned with the sphere of justice and home affairs. In an area like the EU with free movement of persons, goods, capital and services, the exercise of those rights in accordance with the Treaty must go hand in hand with suitable protection. To this end, the Union's external frontiers must be strengthened. In this connection, the Conference is asked to propose suitable measures on, in particular, the above aspects:

- improved methods and instruments in the context of clearly-defined objectives;
- improved protection for the Union's citizens, especially with respect to international crime, terrorism and drug trafficking;
- development of coherent and effective policies on asylum, immigration and visas;
- resolution of the divergences concerning judicial and parliamentary control of EU decisions in the field of justice and home affairs.

For the Union and its Member States, the fight against unemployment must be the priority task. The need to create employment means that national economic and structural policies are a matter of common concern. If there are to be better job opportunities there must be an economic policy oriented towards stability, improved competitiveness and steady growth, above all via the completion of the single market and the application of the EMU convergence criteria. However, extra coordinated action is also required.

Accordingly, with a view to attaining the objective of high employment while guaranteeing social protection, the IGC must examine how the Union could provide the bases for improved cooperation and coordination aimed at reinforcing national policies. It must also study the possibility and means of enhancing, by means of the Treaty, the effectiveness and coordination of the efforts of both governments and the social partners.

The IGC could also examine the question of the compatibility of competition with the principles of universal access to essential services in the public interest. The IGC should also consider the status of the most remote regions, the overseas territories and the island regions of the Union. A major public concern is that the environment must be preserved in an acceptable state. The improvement of environmental standards is a major challenge for the Union. The IGC will have to examine means of increasing the effectiveness and coherence of environmental protection at Union level from the viewpoint of sustainable development. It must

also ensure the most suitable application and realization of the principle of subsidiarity, introduce greater transparency and openness into the work of the Union and consider the possibility of simplifying and consolidating the Treaties.

## 2. The Institutions in a more democratic and effective Union

With a view to improving the EU institutions and preparing for the forthcoming enlargement, the heads of state and government stress the need to seek the most suitable means of ensuring that those institutions operate on the basis of greater effectiveness, coherence and legitimacy. The Conference will have to study:

- the most effective means of simplifying the legislative procedures and making them clearer and more transparent;
- the possibility of extending the scope of codecision on genuinely legislative matters;
- the role of Parliament, together with its legislative powers and membership and the question of the uniform electoral procedure.

The IGC must also examine how and to what extent the national parliaments could contribute, collectively or otherwise, to the work of the Union. The workings of the Council should be improved, and the IGC should consider the scope of majority voting, the weighting arrangements and the thresholds for decisions by qualified majority voting. The Conference will also have to study means of enabling the Commission to carry out its work more effectively, examining its membership and representativeness. It must also consider whether, and in what way, it is desirable to enhance the role and functioning of the Court of Justice and the Court of Auditors. It should also look at means of improving the clarity and quality of legislation and of stepping up the campaign against fraud. The heads of state and government call on the Conference to study the possibility and means of introducing rules, either general or concerning specific areas, which would enable a number of Member States to develop closer forms of cooperation, open to all and compatible with the Union's objectives, while at the same time preserving the acquis communautaire, avoiding discrimination and distortions of competition and respecting the single institutional framework.

## 3. Reinforcement of the Union's capacity for external action

The international situation is increasing the Union's responsibilities and the need to strengthen its identity on the world stage with a view to working for peace and stability. The Union's political weight should be commensurate with its economic power. The coherence and unity of all aspects of its external action must be developed, on the basis of full respect for the role of the Commission. The EU has set itself the objective of creating a common foreign and security policy, possibly including a framework for the common defence policy which could, when the time is right, result in a common defence.

To achieve this objective, greater capacities will be required for:

- determining the principles and the scope of the common external policy;
- defining the actions required to pursue the Union's interests in those fields and in accordance with those principles;

- creating procedures and structures contributing to more effective and timely decision-making in a spirit of mutual loyalty and solidarity;
- agreeing on appropriate budget arrangements.

In the light of these objectives, the Commission should also consider whether and how the creation of a new specific function could enable the Union to express itself in a more visible and coherent fashion and with a more palpable face and voice. The IGC will, in addition, have to examine how to strengthen the affirmation of a European security and defence identity. To this end, it should undertake a clear redefinition of the relationship with the WEU, as an integral element in the development of the EU, especially in view of the 1998 deadline set by the Treaty of Brussels. This objective should also include the boosting of the Union's available operational capacity, with special reference to the areas covered by the WEU's 'Petersberg missions' and in accordance with the UN Charter. The Conference could also consider whether and to what extent the Treaty should encourage closer cooperation on weapons.

Finally, the European Council calls on the Conference, whose work it hopes will be concluded within approximately one year, to adopt a coherent global vision throughout: its goal is to satisfy the needs and expectations of the citizens of Europe, while at the same time advancing with the construction of Europe and preparing the Union for enlargement.

\* \* \*

The heads of state and government also confirmed the agreement reached on 26 March 1996 by the Foreign Ministers concerning the association of the European Parliament with the work of the IGC.

#### Association of the European Parliament with the work of the Intergovernmental Conference

In view of the experience of the Reflection Group and in line with the conclusions of the Madrid European Council (15 and 16 December 1995), the European Parliament will be closely associated with the work of the Conference, in such a way as to enable it to be informed in a regular and detailed fashion with regard to the state of the debates and to defend its viewpoint on all the subjects debated whenever it considers it desirable.

To ensure that this association operates in the context of respect for the provisions governing the revision of the Treaties, the Foreign Ministers have agreed on the following arrangements:

1. The meetings of the European Council at which the IGC is discussed will begin, as is customary, with an exchange of views with the President of the European Parliament on the subjects on the agenda.
2. At the beginning of the ministerial sessions for the IGC there will also be an exchange of views with the President of the European Parliament on the subjects on the agenda, in the presence of representatives of Parliament.
3. Once a month and where the representatives of the Ministers consider it desirable by joint agreement, the Presidency will hold a working meeting on

the occasion of the meetings of the representatives of the Ministries, with a view to encouraging a detailed exchange of views with the representatives of Parliament.

4. The Presidency will inform Parliament regularly, orally or in writing. He will also, as agreed, inform the national parliaments through the Conference of European Community Affairs Committees (COSAC).
5. The association of the European Parliament will commence with the invitation of its President and two representatives to the opening of the IGC in Turin on 29 March 1996.
6. The Presidency will ensure the smooth functioning of the IGC and Parliament's association with it, respecting the intergovernmental character of the Conference, the respective competences of the parties and the need for close cooperation based on mutual trust between the institutions.

### **3. Interinstitutional agreements**

#### **3.1. The interinstitutional declaration on democracy, transparency and subsidiarity of 25 October 1993**

The agreements on these subjects reached at the interinstitutional conference held in Luxembourg on 25 October 1993 are aimed at giving concrete expression to the Treaty on European Union and reinforcing the Union's democratic and transparent character. The declaration states that these agreements may be extended or adapted by joint agreement on the initiative of any one of the three institutions; this confers a specific dynamic on it in the context of the IGC and the revision of the Union Treaty.

#### **3.2. The interinstitutional agreement of 29 October 1993 on budgetary discipline and reform of the budget procedure**

The object of this agreement is to implement budgetary discipline and introduce improvements to the annual budget procedure and to interinstitutional cooperation in the area of the budget. It sets out the framework for the financial perspectives for 1993-1999; in addition, Article 24 of the agreement states that the Union institutions are to confirm or modify its proposals at the Intergovernmental Conference. Parliament obviously favours the upward revision of the perspectives, and also wishes to reopen the debate on the legal basis and the maximum amounts.

#### **3.3. The 'modus vivendi' concerning comitology reached by the European Parliament, the Council and the Commission on 20 December 1994**

The third section of this agreement contains a statement by the three institutions to the effect that the review of the Treaties scheduled for 1996 should include, on the request of Parliament, the Commission and several Member States, consideration of the implementing measures concerning acts adopted under the procedure described in Article 189b of the EC Treaty where such measures are the responsibility of the Commission. It is also agreed that the 'Reflection Group' will be invited to consider this problem, which has obvious institutional implications.

In this legal and political context, the great debate and the anticipatory explorations of the Member States in the run-up to the 1996 IGC began more than one year ago. Each Member State began, more or less explicitly, to define its positions, although, as was to be expected, their official positions were first presented only at the start of the conference. At all events, one may already deduce, from the statements and opinions supplied by some of their highest authorities and from the first documents produced, the initial elements of the strategy which the Member States are likely to maintain over the IGC. The present report will now set out, in an exhaustive and detailed fashion, the initial approach of each of the Member States.

## II. POSITIONS OF THE VARIOUS MEMBER STATES



### Government policy paper addressed to the Belgian Parliament on the 1996 IGC

On 28 July 1995 the Belgian Government adopted a note on its policy for the 1996 Intergovernmental Conference as a subject for consultation with the Belgian Communities and Regions at the Interministerial Conference on Foreign Policy in September. The note was finally approved by the Council of Ministers on 13 October 1995 and submitted for discussion to the Belgian Chamber and Senate, with a view to enabling the government to decide on the position it would adopt at the Intergovernmental Conference. The points of view expressed in the note are only an initial expression of the Belgian view for the whole IGC, which will be adjusted and corrected piece by piece as negotiations progress, in close contact with the Belgian Parliament, Communities and Regions.

As a fundamental aspect of Belgium's European policy the Belgian Government thinks it should be a priority of foreign policy to seek to develop the European Union on a federal basis, as part of a socio-economic model in which economic growth goes hand in hand with social progress. Specifically, the Belgian Government believes that Economic and Monetary Union should be backed up by stronger social protection, laws to safeguard a high degree of environmental protection and practical harmonization on taxes. The Belgian Government also favours maintaining European integration on a Community, not intergovernmental, basis, arguing that the Community method is a better way of reconciling efficiency through majority decision-making with effective protection against the abuse of power. The government thinks that European integration is a way of enabling all the Member States to exert a real influence in a world in which globalization continues apace. The government has announced that during the IGC it will be guided primarily by its wish to consolidate the Union. To this end it has announced the following guidelines:

- to stimulate a strengthening of the institutions, Belgium favours confirming the central role of the Commission, bolstering the Council's decision-making capacity by making majority decisions the norm, and promoting democratic control by Parliament;

- the Belgian Government thinks that the internal market should be extended and expanded by introducing a common minimum standard in the social, fiscal and environmental fields, areas in which harmonization should be secured by a qualified majority;
- the government is in favour of applying the Community method as far as possible to the field of cooperation on justice and home affairs;
- as regards the common foreign and security policy (CFSP) the government supports strengthening the Commission's role as initiator and executive, making majority decisions the norm and using Community financial mechanisms. In particular it thinks that the Western European Union should be brought into line with the European Union as far as possible.

The Belgian Government thinks consolidation should enable the European Union to continue to expand without risking dissolution or compromising European and Monetary Union. With this in mind, and with regard to the institutional adjustments required for expansion, Belgium assumes that each country will have to be able to identify itself in the decision-making process which will thus need to improve its efficiency. The new Member States will have to accept the Community patrimony in its entirety and share all of the Union's objectives, if necessary by setting up a multi-speed arrangement managed by the Commission.

A challenging issue for the IGC will, in the Belgian Government's view, be the need to consolidate the European Union before expanding it. It takes the view that political union, the political structure essential for Economic and Monetary Union, remains incomplete in the aftermath of the Maastricht Treaty and its development needs to be encouraged by the IGC to ensure that the completion of Economic and Monetary Union proceeds in parallel with the search for ways to develop political union and social Europe. The development of the European Union should therefore be based on the Community's existing achievements and on the Union Treaty, whose imperfections must be put right. The aim must be to safeguard the prosperity and welfare of European citizens, promote internal security within the European Union and strengthen the Union's position towards the outside world.

On further enlargement the Belgian Government thinks that the Union should first adapt its working methods and that the Union's policies cannot be extrapolated unconditionally as regards their substance. Belgium thinks that the Community patrimony, structural policies and the CAP are the result of an essential solidarity and fundamental equilibria within the European Union, and that the new Member States will have to adapt to this patrimony. Belgium also thinks that the IGC is not the forum for discussing renegotiation of the Union's system of finance and that enlargement must be incorporated not by dismantling any existing policies but by introducing special transitional measures in the final accession Treaties.

On future challenges facing the Union, the Belgian Government supports a separate approach to each issue as the best way of ensuring success. It mentions the following: transition to the third stage of Economic and Monetary Union; review of the Structural Funds; the CAP; the system of financing; the accession of new Member States; development cooperation policy and Mediterranean policy. The Belgian Government's policy paper also addresses the issue of ratifying the results of the IGC. It believes it would be unacceptable for one or more Member

States to be allowed to hold up progress on European integration towards an ever closer union among the peoples of Europe, for which it believes thought must be given to the political and institutional choices that are bound to arise if the results of the IGC negotiations are not unanimously endorsed. It also thinks that the 1996 IGC should culminate in a readable Treaty, and as its contribution to the transparency of European integration, without wishing to affect the Community patrimony, it puts forward the idea of recasting the present Treaties in a single text.

The policy paper also devotes a chapter to the issue of adequate decision-making at the appropriate level. On subsidiarity, the Belgian Government thinks the principle should never result in the systematic ossification or erosion of Community law. In its view the present subsidiarity mechanisms are working properly. It regards subsidiarity as essentially a principle of good administration and thinks a more positive wording of the present definition would be desirable, based on the criteria of need, efficiency and proximity. It also states its conviction that, on the basis of the constitutional provisions of the various Member States, the same principle applies within their own internal legal systems, and announces that at the IGC it will endeavour to convince the other participants of this view. Any renegotiation of the subsidiarity definition will only be possible if it does not affect the operation and further development of European integration and if the distribution of the Member States' internal powers is not subjected to control by the Court of Justice.

On relations between the European Union, Belgium as a federal Member State and the Belgian Communities and Regions, the Belgian Government considers subsidiarity to be an essential principle for such relations, which takes physical form in the Committee of the Regions of the Union, enabling the Communities and Regions to speak directly on certain issues relating to the European Union. The government also points out that Belgium was the first Member State to make practical use of the opportunity under Article 146 of the Maastricht Treaty to be represented on the Council by ministers who were not members of the national government, and that this has taken practical shape in Belgium in a cooperation agreement on representation within the European Union, concluded between the Federal State and the Communities and Regions. On matters in which the Communities and Regions have exclusive responsibility under the Belgian Constitution, their governments will be participating, under the coordination of the Belgian Foreign Ministry, in the negotiations at the IGC, and all the parliaments in Belgium will be involved on an equal basis in the progress of the negotiations.

On the division of powers, the Belgian Government considers that such powers should be delimited to make the Union more efficient, transparent and democratic, but that to draw up a fixed and rigid 'catalogue of powers' would be hard to reconcile with the dynamic and evolving nature of European integration. It also thinks that a 'specific list of powers' would not add anything substantially new to the Union's aims and responsibilities as they emerge from the Treaty and the case law of the Court of Justice. It will try to ensure that the Union does not exceed the aims and powers allocated to it by subsequent recourse to the Court. The Belgian Government also thinks that Article 235 of the Treaty should be maintained to safeguard the dynamic and evolving nature of European integration. It is in favour of moderate use of the article and of involving Parliament in its application. It opposes any tendency



to misuse Article 235 as a way of taking decisions by a unanimous vote on subjects for which the Treaty specifies a qualified majority. It thinks that revision of the Treaty should not involve the abolition of any field of activity of the Union or of specific sectors like civil defence, energy and tourism. At the request of the Belgian Communities and Regions, it will in due course be putting to the IGC specific proposals to amend the Treaty articles on education, professional training, young people, culture and the media, public health, environmental policy, transport policy and, possibly tourism and sport.

To secure a sustainable level of prosperity in Europe, the government wants a common minimum threshold for social security, taxation and the environment, for the social protocol to be incorporated in the Union Treaty, institutional confirmation of the results of the social dialogue, upward harmonization of social security provisions, the insertion of social convergence criteria, the insertion of social and environmental clauses in the common commercial policy, the definition and specification of the universal service, the fight against poverty and social exclusion. Belgium also considers that the Union's decision-making capacity should be boosted so as to contribute more efficiently to economic revival, greater competitiveness and the promotion of employment. So it proposes adopting measures to develop the trans-European transport, energy and telecommunications networks, encourage the distribution of work and underpin social policy. It also wants special attention to be given to small businesses and for the European Union to recognize in the Treaty itself the concept of, and opportunities for action provided by, public service. On Economic and Monetary Union, Belgium considers that the agreements should be fully implemented in a process that would make European integration irreversible. Once the final phase of Economic and Monetary Union takes effect, it says, there will also be a need to maintain macroeconomic convergence between the Members of the Economic and Monetary Union. Finally, it believes that the 'temporary monetary cohabitation' of the single currency with the other national currencies must not damage the single market and that action must always be taken to ensure that all the Member States of the European Union eventually fulfil the conditions for accession to Economic and Monetary Union. On other policies, the paper highlights two institutional consequences of establishing a common minimum threshold in the social, environmental and fiscal field. On the first, the Belgian Government comes out in favour of extending qualified majority voting in the Council to social, ecological and fiscal matters. On the second, on the structure of the Union, it thinks that the balance between the rights and duties of the Member States should be maintained and that all the Member States which benefit from the advantages of the single market should accordingly also apply the European social, ecological and fiscal rules in full, in order to avoid the risk of downward competition in the social, ecological and fiscal area, which would threaten the single market itself. For these reasons the Belgian Government rejects the idea of 'Europe a la carte'.

The Belgian paper also refers to questions of the third pillar, the 'Union of Law and Security'. In this respect it thinks that the intergovernmental method has shown its limits and that every avenue must be explored for applying the Community method in the third pillar. Specifically, it favours transferring to the first or Community pillar those matters linked with Community powers, such as the asylum and visa policy, which is connected with the free movement of persons; and customs cooperation on the fight against drugs, which is linked with the free movement of goods. It proposes that the other subjects should continue to come under the third pillar and that intergovernmental cooperation

on justice and home affairs should apply more efficient methods, based as far as possible on the Community methods of the first pillar. In the Belgian view, this would mean extending the Commission's right of initiative on judicial cooperation to the civil sphere, customs cooperation and police cooperation; extending majority voting; stepping up the European Parliament's role wherever the Council adopts decisions of a legislative nature and/or takes decisions by a majority vote; and the obligatory powers of the Court of Justice. Here the Belgian Government is prepared to accept transitional periods and to distinguish between the legislative and operational spheres; it favours transfrontier access to justice for the European citizen and integration of the Schengen Agreement into the European Union.

The Belgian Government paper deals with the European Union's foreign policy in a chapter entitled 'A Union with a decisive voice and impact in the world at large'. As regards the Community's external economic policy, it welcomes the results obtained by using the Community method and is in favour of the Union's external economic policy continuing in the same Community tradition as at present while also setting an example for other fields of foreign policy. It would like to strengthen and extend the Commission's foreign policy powers to the service industries and will oppose any attempt to disrupt the unity of the Union's foreign representation as provided at present by the Commission. As regards cohesion between the pillars of the Union, from the point of view of the cohesion of the Union's foreign representation the Belgian Government says one of its aims will be to bring the pillars closer together and eventually to merge them.

As regards the common foreign and security policy, the Belgian paper deals mainly with the way policy is prepared and promoted. It expresses the hope that the Commission will continue to make full use of its right of initiative, which should be cultivated into a full-scale agency for progress. To this end the Commission should not just use its own resources and powers but should also draw upon the cooperation and assistance of the Member States. In particular, the Belgian Government will endeavour at the IGC to strengthen the Commission's right of initiative by adding a Treaty provision under which Commission foreign policy proposals must be adopted by a qualified majority in the Council. On the process of adopting decisions the Belgian Government supports the view that CFSP decisions should be adopted by a qualified majority vote. It points out that the introduction of the majority system for decision-making does not mean that a Member State will be compelled against its will to take active part in any action that would involve the use of military resources. It starts from the principle that all the Member States are politically and financially involved in a common decision. As regards putting the CFSP into practice the Belgian Government thinks that the IGC should endeavour to strengthen the CFSP instruments, especially the joint action instrument introduced by the Maastricht Treaty. It regards the Commission as the Union agency par excellence capable of providing for joint application of resources in a joint action framework. Only the Commission is capable of providing the essential continuity of action and coordination with other Union activities in the Community sphere. However, it does not give the Commission exclusive implementing powers for the CFSP or propose setting up a large-scale administrative apparatus, but points out that the diplomatic network, experience, personnel and resources available in each of the Member States should be fully utilized in a joint approach, with the Commission acting as a catalyst and coordinator. The Belgian Government also favours wider application of Community funding of the CFSP. On the issue of the

legal personality of the Union, Belgium thinks that such personality is essential to carry out any joint activity with efficiency. In place of separate responsibility between the European Community and the European Union, the Belgian Government proposes a formula giving the Union specific powers to conclude Treaties, for instance by means of a Treaty provision empowering the European Union to conclude agreements with third parties within the context of joint actions.

On the common European defence policy the Belgian Government favours bringing the WEU as far as possible into line with the Union, with a view to eventual integration. Indeed, phased integration is regarded as the best option, carried out in a series of stages starting with the operational and institutional role of the WEU (developing its operational capacities; administrative rapprochement between the WEU and the European Union; rapprochement between Member States and the WEU observer countries; coordination of WEU action under the CFSP, particularly with regard to the provisions on joint action and Community financing). In addition, following enlargement the Belgian Government refers to the option to introduce a principle of explicit solidarity in a new Union Treaty, though without giving automatic security safeguards, a requirement to consult in the event of threat and arbitration in the event of a conflict between Member States.

The paper examines the institutional questions when discussing the Union's transparency and efficiency. Broadly speaking, the Belgian Government thinks it essential to strengthen and expand the Union's role and powers throughout the scope of application of the Union Treaty, not only with regard to the roles of the Commission, Parliament and Court of Justice but also in calling for the Council to take its decisions by a qualified majority as a general rule. The Belgian Government believes the decision-making process itself should be more efficient, transparent and democratic and proposes, as major improvements, extending majority voting to policies relating to the single market (social policy, the environment and taxation), extending Parliament's right of codecision and simplifying a number of existing procedures.

As regards Parliament itself, the Belgian Government thinks that the call for greater democratic legitimacy will mean giving the European Parliament a bigger role. It does not share the view that legitimacy resides in the national parliaments, Council of Ministers or the European Council. To improve the European Parliament's present operation, the Belgian Government proposes the following measures: simplifying the present parliamentary procedures, reducing them to the codecision, assent and consultation procedures; making Parliament's right of codecision a general rule by extending its field of application to every case in which a decision is taken by a qualified majority; and scrapping the unanimity requirement in cases where codecision already applies. The Belgian Government also wants to consider in detail the possibility of applying the principle of general codecision to the budget procedure, in order to remove the distinction between compulsory and non-compulsory expenditure.

On the role of the Member States' parliaments, the Belgian Government notes that these already exert a de facto influence on the decision-making process and the activities of the Union, in practice through their control over what are effectively national members of the Council (i.e. the Ministers), and through the information and consultation process (in Belgium through regular joint meetings between European and national MPs in the European Affairs Committee of

the Chamber of Representatives, a formula which it recommends to the other Member States). The Belgian Government considers that the relinquishment of sovereignty concerns the parliaments as much as the governments of the Member States and need not involve a democratic deficit or a loss of control and that, finally, closer involvement of the Member States' parliaments in the day-to-day running of Europe is primarily a matter of internal organization in each of the Member States, rather than a question of setting up additional structures at European level. It also favours strengthening the European Parliament's democratic control as the best way of remedying the democratic deficit.

On the Commission, Belgium is a convinced supporter of its central role and considers that general application of the Community method (which Belgium recommends) will improve efficiency and transparency in the European Union and give the Union institutions a clearer role, strengthening and extending the central and crucial role of the Commission throughout the European Union. In particular, the Belgian Government gives its unstinting support to full exercise and extension of the right of co-initiative in the field of the second and third pillars.

On the Council, the Belgian Government expects to oppose any proposals for expanding the Council's powers to the detriment of the Commission. It believes that general introduction of decision-making by a qualified majority is the best way of improving the decision-making process and achieving greater operational efficiency throughout the Union. It supports the view that, under the first pillar and in fields relating to social policy, the environment and taxation, the Council should, in principle, take its decisions by a qualified majority. Unanimity should only be required to amend the Treaty, the language system and accession. On the second and third pillars the Belgian Government proposes that wherever possible decisions should be adopted by a qualified majority. It opposes upholding the Ioannina Agreement designed to lower the threshold for vetoing a decision adopted by a qualified majority.

On the Court of Justice, the Belgian Government favours strengthening the role of the Court by scrapping all the limits imposed on its jurisdiction in the new fields of cooperation under the Treaty, particularly as regards cooperation in the fields of justice and home affairs. On the Court of Auditors, with a view to stepping up the fight against fraud, it favours strengthening the Court's role by giving it powers to inform the national parliaments directly in the event of national fraud concerning European resources. It intends to take a positive attitude to any initiatives to improve the legal instruments for combating fraud in the Community and is in favour of stepping up cooperation between the European and national courts of auditors. It claims consultative powers for the Committee of the Regions in relation to the European Parliament and favours compulsory consultation of the Committee of the Regions in the case of Community policies which, in certain Member States, are administered by the communities, regions or local authorities, particularly with regard to vocational training, the environment and regional planning. It also believes there is a need to require the Council and Commission to give reasons for disregarding opinions handed down by the Committee of the Regions. On the Economic and Social Committee, the Belgian Government thinks the Committee's role should be maintained and increased.

On particular aspects of cooperation between the institutions, the Belgian Government refers first to the question of commitology. It appears to believe

that where the Council is involved in implementation, and especially where it reserves the right of a final decision in the comitology procedure, Parliament should also be involved. As regards the hierarchy of legislative acts, the Belgian Government considers that this primarily provides an opportunity to introduce Community framework legislation to be backed up by national law. In its view this method has the advantage that the European Parliament can concentrate on essentials and leave the details of implementation to the Member States.

The Belgian paper also raises the issue of European citizenship. In addition to making full use of the Treaty's present provisions, the Belgian Government would like to increase the number of citizens' rights, mentioning in particular accession by the European Union to the European Convention for the Protection of Human Rights and other conventions which define fundamental rights and freedoms including the Social Charter, and incorporation in the Treaty of a list of fundamental rights and freedoms.

It also mentions the option of limited extension of the present list of rights and obligations in the Treaty as regards the fight against racism and xenophobia, and favours introducing a mechanism to impose penalties, including the suspension of membership, on any Member States which do not fulfil their obligations with regard to democratic freedoms and human rights.

With the aim of avoiding future vetoes, the Belgian Government favours flexibility in the approach to European integration. It is against any solutions involving the organization of a 'Europe à la carte', on which it considers that any blockages must be surmounted in accordance with the system laid down by the Treaty. This means that the Member States can only make progress by consent. The government accordingly considers that at the IGC the Member States must try to reach agreements and arrangements that will facilitate a decision in this direction. Opposing a single-core or multi-core Europe, the Belgian Government thinks the option to proceed with differentiated integration deserves taking seriously, on the basis of the following principles: differentiation is not an end in itself but a last resort to protect the progress of integration from any veto; it should create a 'traction effect', meaning that the arrangements must allow all the Member States to catch up with the leading bunch; the target scope of differentiation must be carefully selected and suited to the task; institutional derogations must be confined to the minimum; the efficient operation of the market must not be compromised; and the key to differentiation must be placed in the Commission's hands as the independent institution and guardian of the common interest, with the Council deciding the issue by a majority vote.

The Belgian Government also raises the issue of enlargement as a factor for prosperity and security in Europe. It points out that accession negotiations should start on completion of the IGC and the results of the Conference should be taken into account during negotiations. It assumes that enlargement is not in question and that the Union's achievements cannot be diluted. At the same time, enlargement cannot proceed at the expense of consolidation of the Union. In the Belgian Government's opinion the IGC must prepare the decision-making process to face the two-fold challenge of a larger number of Member States and a greater diversity between them. On preparations for enlargement, the Belgian Government considers that the applicant countries should make similar efforts to comply with the conditions for accession laid down by the Copenhagen European

Council in June 1993 with regard to arrangements for democracy and the market economy. The European Union should also be preparing for enlargement, and here the paper proposes transitional mechanisms for a limited period and subject to certain criteria. On the institutional side, the paper raises the question of the number of MEPs at the European Parliament, though without taking a view. On the Commission, the Belgian Government favours the principle of one commissioner per Member State in the current phase of European integration and rejects the idea of 'regional commissioners', i.e. a smaller total number of commissioners, with the large countries having one each and other commissioners each representing a regional grouping of smaller Member States. On the Council, the Belgian Government considers that an enlarged Union's capacity for decision-making can only be safeguarded by expanding qualified majority voting, not only on Community matters but also on the CFSP and cooperation on justice and home affairs. With regard to establishing super-qualified majorities, it thinks that such majorities can only be accepted for decision-making in cases where the Commission has a non-exclusive right of initiative, i.e. the CFSP and cooperation on justice and home affairs. On the other hand, in cases where it does have an exclusive right of initiative, there is no reason to raise the qualified majority above the present level (71% of the total vote in the Council, or 62 out of 87 votes). On the weighting of votes in the Council, the Belgian Government considers that in the course of enlargement, and provided this is accompanied by consolidation of the Union, as part of a global institutional package, the possibility of weighting of votes should be considered, for example by a slight increase in favour of the large Member States. On the presidency system, the Belgian Government is not in favour of changing the present system although it does believe it worth spelling out the role of the presidency in the Treaty in order to highlight its Community function. On the Court of Justice, Belgian is prepared to consider certain formulas with a view to enlargement, and supports the idea that the IGC should consult with the Court on its reform. Finally, on the language system, the Belgian Government does not want to change the arrangements in the Union's institutions and bodies even in the event of enlargement, to ensure that Union citizens will always be able to use their own language and receive a reply in their own language, in their relations with other citizens. The Belgian authorities are generally in favour of maintaining the Union's multilingual approach.

**Memorandum on the IGC from the Governments of Belgium, Luxembourg and the Netherlands, 7 March 1996**

This memorandum was adopted on 7 March 1996 by the Prime Ministers of Belgium, Luxembourg and the Netherlands, accompanied by the three Foreign Ministers, at the summit held in The Hague on that day.

The three governments affirm their unswerving commitment to defending the irreversible nature of the progress already achieved in European integration, and propose that this process should continue on the basis of close cooperation between states which voluntarily share their sovereignty and have, to this end, transferred certain powers to the common institutions. On enlargement of the Union, they consider that widening and deepening should be accompanied by differentiation. The three governments accordingly submit the proposals that follow.

The first aspect considered is the general approach and objectives of the IGC. With regard to the deepening of the Union, the three countries feel that the IGC should give close attention to this subject, including the question of employment, with a view to creating a climate of confidence facilitating the transition to the third stage of economic and monetary union (which subject is, however, not on the IGC agenda). They consider that enlargement must go hand in hand with the deepening of the European integration process, on the grounds that a stronger Union will provide a more solid basis for taking in new member states. With respect to differentiation, the three countries would accept a differentiated approach provided it does not lead to the disintegration of the Union; they consider an 'à la carte Europe' to be unacceptable. They believe that any differentiation should fulfil the following criteria: it must be compatible with the objectives of the Treaty on European Union, as shared by all the Member States; it must be only a last-resort solution, with suitable provision for non-participating countries to be able to join at a later stage; it must not imply any questioning of the acquis communautaire or the correct functioning of the internal market; the single institutional framework must be retained; and the Commission must play a central role in the application of the criteria and arrangements for differentiation.

The second point dealt with in the Benelux countries' memorandum is the deepening of Union policies. Firstly, on the matter of fundamental rights, it argues that the Treaty should contain provision for sanctions, which could extend to the suspension of certain rights linked to membership, and should also include explicit reference to the protection of the human rights and fundamental freedoms of the European citizen, equality between men and women and action against racism and xenophobia. Secondly, on the question of equality of languages and diversity of cultures, stress is laid on the need to retain the existing principle of the equality of all the Community languages and to respect and promote cultural diversity in the Union in the development of the common policies. Thirdly, with respect to Community policy, it is argued that the priority objectives should be the completion and consolidation of the internal market and more decisive action in favour of employment. To strengthen the internal market, the text proposes developing certain flanking policies, including, in the first place, the creation of a common social core for all the Union's citizens, starting with the integration of the contents of the social protocol in the Treaty with a view to applying them in all the Member States. Further proposals include greater integration of environmental policy with the other Community policies and action in the direction of harmonization on tax matters. On employment, the memorandum, while not denying the primary responsibility of Member States, proposes that the Treaty should contain explicit reference to the complementary role of the Union in promoting employment, with new provisions to this effect. In particular, it is proposed that employment policy coordination between Member States should take the form of annual Commission recommendations to be adopted by the Council, with especial stress being laid on measures to improve the operation of the labour market and promote mobility, training actions, action to remove the obstacles blocking the impact of growth on employment, measures to alleviate labour costs and measures to improve access to the labour market for the less-favoured. It is also considered that the Community should make a greater contribution to job-creating investment in the Member States, and that a committee for employment should be set up to examine the subject and make suitable proposals. The document insists that the social protocol should be incorporated in the TEU, in the interests of

greater responsibility and active contribution on the part of the social partners.

Concerning the Union's foreign policy, the memorandum considers that it must be coherent; the Union's external action should be united, with a single institutional framework. It therefore proposes an enhanced role for the Commission in representing the Union to the world, and a review of the rules governing the Commission and Council's activities and relations in the field of foreign policy. The text also, concretely, favours strengthening the CFSP: concerning its formulation, it proposes, firstly, that the Commission should make full use of its existing powers of initiative, and, secondly, that an analysis and planning unit should be set up to create close links between the Member States, the Commission, and, possibly, the WEU secretariat; such a unit could be directed by a senior official, appointed by the Council with the Commission's agreement, and would deliver opinions to the Council and Commission. The memorandum also proposes bolstering Member States' ability to reach agreement at the meetings of the Political Committee by setting up a standing group. On the CFSP decision-making process, it wishes to see alternatives to the unanimity rule, proposing as formulas 'partial consensus' or a reinforced qualified majority, decision-making by qualified majority for certain CFSP areas (to be determined), and decision-making by qualified majority for Commission proposals. Concerning implementation of the CFSP, it is proposed that the Commission should implement joint actions which are to be realized at ground level or are closely bound up with first-pillar activities, while the Council and Commission could appoint special representatives who would be responsible for carrying out 'special' CFSP decisions and would report to the Council on the relevant missions. It is further proposed that the Presidency, in cooperation with a reinforced CFSP secretariat (involving either the Commission or the above-mentioned special representatives) should be responsible for implementing decisions requiring contacts, statements of position, diplomatic negotiations and political dialogue. Finally, the Benelux governments consider that as a rule the CFSP should be funded from the Community budget, with due regard for its specific nature.

On the subject of defence and WEU-EU relations, the Benelux memorandum supports the development of a Union defence policy and the integration of the WEU into the EU's second pillar. This integration of the WEU into the EU should be phased in, and the 1996 IGC could adopt a decision of principle and set a timetable for full integration. While the merger is being carried out, there should be a swift institutional dovetailing of the two organizations, to enable the WEU to implement Council decisions under the CFSP having military implications. The three countries consider that the second pillar of the Treaty of Maastricht should in future include the Petersberg missions and collective defence, while admitting that the practical implementation of the latter will remain a matter for the Atlantic Alliance, with which the Union is called on to establish specific links in the defence field. They also wish to see the rapid development of the CJTF project under the aegis of NATO, as a vital element for the realization of joint European actions with military implications. At all events, the three countries consider that the decision-making process should be such that no country is obliged to take part in a military operation against its will; at the same time, they argue that countries not wishing to participate should not be able to stop the others from going ahead or impede the financial solidarity required by a joint action. Finally, the three countries wish to see closer European cooperation in the arms industry.



The memorandum also considers cooperation in the field of justice and home affairs. After noting the advantages of the Community approach for effective decision-making in this field, given the binding nature of such decisions and the built-in democratic and legal controls, it proposes, in the first place, the transfer to the first (Community) pillar of all matters related to freedom of movement and immigration policy, especially asylum and visa policy, with a set of clear objectives and a precise timetable. However, for a certain number of subjects related to the criminal law and police matters, such as action against crime and drug trafficking, the text argues that the third pillar offers a provisional framework for cooperation, and proposes a number of measures to make this cooperation more effective. Firstly, as far as the preparation of decisions is concerned, the Council and Commission should agree on the multiannual programmes of work and on when and by whom proposals should be submitted, the Commission should have the joint right of initiative on all third-pillar matters, the European Parliament should have the right to be consulted on all proposals of a legislative nature, and the national parliaments should be consulted sufficiently early before the Council reaches a decision. Secondly, with respect to the decision-making process, it would be desirable to return to the notion of the directive as it exists under the first pillar, thus conferring binding character on the decisions adopted, where necessary, and to consider in what fields decisions could be adopted by qualified majority vote or by some kind of 'consensus minus' formula. Thirdly, as regards implementation, which, given the nature of the cooperation concerned, falls to the Member States, uniform interpretation of the rules should be ensured by giving the Court of Justice the necessary powers in this field, on lines similar to the preliminary procedure provided for in the TEU. Finally, on the subject of the Schengen agreement, the Benelux countries consider that the cooperation provided for under it should be incorporated in the TEU.

The third part of the memorandum concerns the institutional aspects. The Benelux countries favour strengthening the effectiveness of the Union's decision-making and administrative processes, and evoke the questions of subsidiarity and transparency. On the first count, they call for greater application of the principle of subsidiarity, seen not as a pretext for dismantling the acquis communautaire but as a means of determining clearly when and why it is necessary for the Union to act. They also favour greater participation of the national parliaments in Union affairs, while considering that each Member State may apply the principle in accordance with its own constitutional practices. On transparency, the three countries favour strengthening the public's right to information, greater publicity for the Council's decisions where it acts as legislator, the simplification of the Treaties with a view to legibility, and an improvement in the quality of Community legislation. With respect to the Commission, they believe that its role should be consolidated and its powers strengthened, given its status as the motor organ of the Community. It should retain its sole right of initiative under the first pillar, and should have enhanced prerogatives as regards implementation. It should also play a greater role in the third and second pillars. This means increasing the political responsibility of the Commission and its members to Parliament; its budgetary responsibility should also be increased, in particular via an enhanced role for the Court of Auditors. There should be only one Commissioner per Member State. On the subject of the European Parliament, the three countries believe that the codecision procedure should be extended to most of the legislative fields where qualified majority voting applies. They favour simplifying the codecision procedure as far as possible, and reducing the number of procedures to three:

opinion, assent and codecision. In the field of the second and third pillars, Parliament should be more closely associated with the decision-making process, on the basis of sufficient information provided in due time by the Commission and Council. The Commissioners should also be more responsible to Parliament. Concerning the Council, the three countries feel that its effectiveness should be increased and its working methods improved, and call for greater use of qualified majority voting. They consider that in an enlarged Union the threshold for a qualified majority should remain at around 70% of the votes, and suggest the use of a democratic criterion to ensure that the qualified majority corresponds to a majority of total population. They also favour improving the workings of the existing system of rotating presidencies in the interests of greater continuity. On the Court of Justice, they oppose any reduction in its powers, favouring, rather, widening its field of cooperation in the areas of justice and home affairs. Finally, with regard to the Court of Auditors, they feel that its powers should be enhanced, in cooperation with the equivalent national bodies, in the context of the campaign against fraud and the protection of the Community's financial interests.



**Agenda for Europe: the 1996 Intergovernmental Conference. Report of the Danish Foreign Ministry, June 1995**

In publishing this report, the Danish Foreign Ministry seeks to provide a first official position to contribute to the open and public debate that will culminate in a review of the European Union's Treaties at the 1996 Intergovernmental Conference. The report deals primarily with the negotiations on the future of the European Union. The Danish Government thinks that, in the prospect of enlargement of the Union, a number of institutional changes will be needed, relating principally to the composition of the European Union's institutions, and specifically the Council of Ministers, Commission and Parliament. Having established the need to ensure that the 1996 IGC is carefully prepared, the Danish Government paper picks out what it sees as the three main issues: democracy, enlargement and security. These three major challenges for the IGC 1996 will require amendments to the Maastricht Treaty to bring about greater institutional interaction and more efficiency in decision-making. It will mean combining the Council of Ministers' decision-making capacity with Commission and Parliament participation in that process. The paper devotes its second chapter to the challenge of enlargement and the problems this will pose to the present system for cooperation within the European Union, proposing a series of 'constitutional amendments'; the third chapter deals mainly with existing problems of security in Europe; the fourth contains a series of proposals for increasing democracy in the European Union; and finally the fifth chapter raises a series of basic issues such as employment and the environment.

On future enlargement, the Danish Government discusses the institutional changes that will be needed to safeguard efficiency in the Union's institutions. It turns first to the weighting of votes in the Council of Ministers, acknowledging that the present system clearly favours the smaller Member States if population size is taken into account. Without taking a view, it raises the question of allocating more votes according to population size, while considering the option

of applying a 'dual majority' principle, whereby decisions would require a majority of Member States and countries which, taken together, represented more than half the total population of the European Union. In practical terms, in a European Union of 15 Member States and 370 million inhabitants, at least eight Member States would have to vote in favour of a proposal for it to be adopted, combined with a population of more than 185 million inhabitants.

However, to Denmark the crucial issue is not how decisions are taken but what decisions are adopted. It suggests a new distribution of votes to take account of the primary interests and fundamental points of view of the various Member States. For instance, the Danish Government suggests that the separate countries should determine whether a change in the law will have positive or negative implications for the Member States which are most sensitive to the environmental issue, Member States which are more committed to freedom of movement or Member States which give highest priority to social cohesion in the European Union. The Danish paper also calls for the system of majority voting to be extended and applied to a greater number of sectors in order to make the decision process more efficient. On the Commission and the number of commissioners, it reviews a series of options and without expressing a final view points out that a country that did not have its own commissioner would be likely to lose confidence in the decisions adopted by the Commission. Commenting that the Commission can only take decisions by a simple majority in certain cases, the Danish Government sees no great difference in whether the commissioners sitting round the negotiating table are 20 or 33 in number. Nor does it take a clear view on the number of MEPs at the European Parliament, but indirectly appears to agree with the Member States who consider that 750 Members would be the maximum. It discusses a new model for the presidency of the European Union but does not put forward any specific proposals. The paper underlines the undesirability of continuing with the present rotational system of six-monthly changes, and goes on to review some of the ways in which the Union presidency could be strengthened. It raises the possibility of extending the duration of the presidency and possibly of electing the President from among the Heads of State and Government of the European Union. Another model to which it gives special attention is the 'presidential group' which would involve dividing countries into a set of four or five groups, each of which would be responsible for the presidency for a period of 12 or 18 months. Each group would be designed to include both large and small countries in the north and south, east and west, to ensure that each Member State participated in the Union's presidency within a period of no more than five or six years. The paper also discusses the issue of differentiated integration and the possible risks this may produce. On the one hand, it says, the general idea of a multi-speed Europe is attractive as it is more flexible and enables the different countries to participate on different levels in the various areas to which European Union action extends. It will obviously allow some countries to move ahead of the rest and other individual countries to decide not to participate in areas which cause them special problems.

On the other hand, the Danish paper identifies the problems posed by a multi-speed Europe in so far as the various areas of cooperation are frequently inter-related, as happens where a decision on an environmental or social issue can affect the single market and vice versa. Moreover a multi-speed Europe could give rise to the emergence of first, second and third class Member States. Finally, on the changes to the European Union's policies and budget dictated by enlargement, the Danish paper says that the implications for the CAP, the

transfer of funds from richer to less-favoured European Union countries and the whole system of financing the Community should be discussed at the IGC or in a parallel forum. However, it recognizes that the discussion of such questions is likely to be postponed to a later date.

The Danish Government's third chapter discusses peaceful cooperation throughout Europe. Pointing out that the European Union could step up cooperation on political, economic, commercial, environmental and technological cooperation that would help to prevent minor security problems in the developing countries from turning into real military threats, the Danish document turns to the question of the common foreign and security policy. Arguing that security is in fact the main issue at the IGC, the Danish paper goes on to discuss the possible decanting of intergovernmental cooperation from the second and third pillars to the sphere of current supranational cooperation in the first or Community pillar. In this respect the Danish Government points to a difference between the field of cooperation on foreign policy and security policy on the one hand, and cooperation on justice on the other, arguing that the proposals to transfer certain aspects of intergovernmental cooperation from the third pillar to the Community pillar are conceivable. With regard to the use of majority voting in the process for adopting decisions in the second and third pillars, the Danish Government thinks it more probable that there will be a move away from the present system of unanimity voting to majority voting in the case of the third pillar. Indirectly, however, the Danish Government appears to agree with the Member States who want to maintain the system of unanimous decision-making for the CFSP as a general principle. It also supports the view that arrangements should be made to ensure that no one Member State can veto an initiative adopted by the others, provided that that Member State is not required to participate in the initiative.

On the role of the Commission and the European Parliament in relation to the second and third pillars, and without giving an explicit view, the paper implies that Denmark would probably support the Member States who favour extending these institutions' powers to cover the subjects coming under the third pillar, since decisions in this area of cooperation on justice and home affairs often turn out to be connected with Community legislation. Finally the Danish paper discusses cooperation with the WEU, appearing to favour strengthening links between the WEU and the European Union, though without leading to a merger of the two organizations.

The Danish paper also discusses more democratic cooperation within the European Union. First, to increase the influence of directly elected MEPs on EU policy the Danish Government calls for greater democratic control, arguing that the issue of the European Parliament's powers in the legislative process will be one of the main priorities at the forthcoming IGC. However, it does not express a view on the specific areas to which a new codecision procedure could be extended as a way of increasing Parliament's legislative powers. On the national parliaments the Danish paper takes the example of the Folketing's European Affairs Committee and suggests that the position of the national parliaments in the European Union's 'constitution' should be consolidated following the IGC. The Danish paper also calls for more subsidiarity and lists three possible approaches to the subject: first, preparation of a 'catalogue of powers' that would set out in the Treaty an exhaustive list of the powers of the European Union and the Member States; second, the possibility of improving the current method laid down by the Treaty, specifically including the issues which are not

covered by the European Union's responsibilities; third, further improving the wording of the subsidiarity principle itself so as to define more clearly and precisely where and when the Union should take action. The Danish paper also calls for more transparency, pointing out that it will probably be difficult for some countries to have European institutions which are more transparent than their own national authorities and legislative bodies, while conversely it will be difficult for other countries to accept a level of transparency in the European institutions lower than in those at home. On the subject of simplifying the Treaty the Danish Government would like the Treaty to be written in more readable and comprehensible language and to abolish or simplify a number of complicated rules governing the European Union's decision-making process.

The paper also discusses the issue of growth and employment. With a view to possible changes to the Treaty in these areas, the paper puts forward the idea that the European Union should set itself the aim of keeping unemployment below a certain level. To achieve this end it raises the option of coordinating national economic policies to reduce unemployment, consolidate the single market and comply strictly with the rules of economic and monetary union. On social policy the paper notes that in practice cooperation on the social rights conferred by the Treaty has not been very effective so far and suggests that a solution to the problem could be to transfer the provisions in the protocol on social policy to the Treaty on European Union.

**Bases for negotiations: an open Europe. The 1996 IGC. Memorandum of the Danish Government, 11 December 1995.**

In its first part, on the importance of an 'open Europe', the memorandum of the Danish Government stresses that the IGC must, above all, lay the bases for the enlargement of the Union to embrace the countries of central and eastern Europe, including the Baltic states, which have applied for membership. After the IGC, the accession negotiations with all the candidate countries should begin simultaneously; the main task of the IGC is therefore to adapt the Union Treaty to ensure that enlargement can bring about effective and permanent cooperation within the Union. The Danish Government also considers that the IGC will have to be followed by reforms in the areas of agriculture, the Structural Funds, politics, etc. It also insists on the notion of a Europe that is closer to its citizens, and, in this connection, feels that the IGC should include discussion of subjects of concern to the peoples of Europe such as reducing unemployment, the environment, international crime and the ordinary person's desire for greater external and internal security. The Danish Government also intends to emphasize the question of subsidiarity, transparency and simplification of cooperation in the Union, with the aim of eliminating the sense of alienation from the Union felt by individual citizens in the Member States. On the Edinburgh agreement, which includes a separate Danish position on four specific subjects, the Danish Government recalls that this agreement is not mentioned in the IGC agenda and cannot be changed without Denmark's consent. In this connection, it stresses that Denmark's position on citizenship, EMU, the common defence policy and justice and home affairs was decided by the referendum of 18 May 1993, and can only be altered by another referendum.

Secondly, the Danish document considers the basis for enlargement. In this connection, it feels that the main purpose of the IGC is to establish the foundations for enlargement to take place, via the necessary institutional

adaptations and suitable procedures. Consideration should be given to using qualified majority voting for economic cooperation and the first (Community) pillar. The Danish Government is willing to consider forms of quality majority voting which do not alter the balance between larger and smaller Member States; as a possible solution, it proposes that decisions should require a qualified majority of votes in Council plus a majority representing at least half the Union's total population. With regard to the responsibilities of the Council Presidency, the Danish Government suggests that the presidency could be held by more than one Member State at once. It favours reducing the number of cooperation procedures between the Council, Parliament and the Commission, and considers that Parliament should have a greater and more uniform influence in the various spheres of activity, but without altering the existing balance between the EU institutions. The Danish Government believes that the Commission should contain members from all the Member States. It considers that the European Parliament must continue to play a major role in the decision-making process and as a political control organ; with a view to facilitating Parliament's workings in practice, it would accept a ceiling on the number of MEPs in an enlarged Union. On the subject of the national parliaments, the Danish Government feels that they should play a more important part; it suggests stepping up the flow of information between the Union institutions and the national parliaments, which should be forwarded the Commission's legislative proposals and white and green papers sufficiently early to enable them to adopt their own positions.

Thirdly, the Danish Government's text refers to the fundamental rights of Union citizens, taking the view that these rights should be included in the preamble to the Treaty, especially in the case of human rights, democratic rights and the strengthening of the democratic basis of cooperation in the Union.

Fourthly, on the subject of economic cooperation under the first (Community) pillar, the Danish Government stresses the need to improve cooperation within the Union, by means of greater cooperation in practice following the guidelines established by the European Council and by amending the Treaty to improve the framework for cooperation. In this connection, the text refers, in the first place, to employment: it argues that an additional, coordinated effort is required to achieve sustainable economic growth, thus contributing to a higher employment rate and lower consumption of energy and natural resources. While considering that the main efforts will still have to be made at national level, the Danish Government believes that the new Treaty should include a specific section on employment, intended to strengthen the objective of achieving a higher employment level and emphasizing that employment is a common responsibility requiring a coordinated approach: to this end, it will be necessary to spell out the fundamental principles for the establishment of this coordination of the Member States' efforts. On the environment, the Danish Government says that it will do all in its power to ensure that the idea of 'sustainable development' is included as a separate goal among the Treaty objectives, thus incorporating at Union level the results of the UN conference on the environment and development held in Rio in 1992. Denmark also feels that the environmental dimension should be included to a greater extent in other areas of cooperation, such as agriculture, transport and structural policy. In particular, the Danish Government wants the new text of the Treaty to make it clear beyond all doubt that the implementation of the internal market must take due account of environmental questions and interests. The adoption of common Union rules by the Council should have the goal of raising protection levels,

and must in no circumstances lead to reducing standards in Member States where they are already higher. On the subject of greater use of ecological taxes, Denmark says that at the IGC it will endeavour to ensure that the environmental provisions of Article 130s of the Treaty are accompanied by a declaration or protocol enabling such taxes to be introduced to deal with cross-border environmental problems, with qualified majority voting applying. It will also work towards wider application of the 'environmental guarantee', to be used where a Member State considers that the Union is not providing a sufficiently high level of protection. This 'environmental guarantee' should be defined more clearly; the Danish Government proposes that any dispute related thereto should be settled by the European Court of Justice, on the request of the Member States themselves.

On social policy, Denmark considers that the 1992 protocol should be incorporated in the Treaty proper. The Danish Government believes that the Community rules deriving from the social protocol and from the principle of subsidiarity should be considered as representing the minimum, and that Member States should be able to give the social partners the responsibility of implementing EU directives, rather than choosing the legislative route. It also favours including certain fundamental rights of workers in the Treaty. On consumer policy, Denmark wishes to see further progress in this field, with provision of more appropriate information to consumers to ensure that their interests are adequately protected in any new regulations adopted at Union level. It is suggested that consumer organizations should be more closely involved in the drawing up of the relevant proposals.

The fifth part of the Danish Government's memorandum concerns the CFSP (second pillar). Denmark wishes to keep the intergovernmental approach in this area; with a view to effective cooperation, it would accept the adoption of joint actions even where one or more Member States did not wish to take part, provided a specific decision was adopted on the conditions applying to the Member States not participating in the joint action. The Danish Government favours setting up an analysis and planning unit under Council auspices, with a view to creating a firmer basis for decisions affecting the second pillar. In cases where certain Member States might wish to take part in humanitarian actions, crisis management or peace-keeping operations in accordance with the UN Charter, the Danish view is that individual Member States should be able to take part in such actions should they so wish.

On cooperation in the areas of justice and home affairs (third pillar), the Danish Government believes that intergovernmental cooperation should remain the norm. However, with a view to making the existing intergovernmental cooperation more effective in such areas as asylum law, action against cross-border (especially organized) crime, drug trafficking and illegal immigration, it raises the possibility of simplifying the existing decision-making process and making greater use of the cooperation possibilities already available under the Treaty.

The seventh part of the Danish memorandum deals with means of improving cooperation. It is felt necessary to incorporate the principle of transparency of cooperation at Union level into the Treaty and/or to revise the Council's internal rules; in the latter case, it would not be necessary to amend the Treaty. Denmark feels that greater transparency is needed in the Council's legislative activity, especially as regards proposals for legislative acts, and

will insist that the Treaty should spell out the right to access to files of the general public, undertakings and organizations. The EU ombudsman should also have greater access to information and files. Commission proposals should be made publicly available for consultation by the organizations concerned, and the results of the consultations should be made public. Denmark also supports greater recourse to the principle of subsidiarity, which it wishes to see more clearly defined, and calls for the simplification of cooperation at Union level, with a substantial reduction in the number of decision-making procedures. It also demands the repeal of all the decisions and legal acts which have become obsolete, and calls for a more clearly-written Treaty. On the subject of financial fraud against the Union, Denmark favours an energetic anti-fraud campaign and more effective checks. It also considers it vital that the Member States should implement the relevant Community acts and ensure that they are applied. On the institutional plane, the Danish Government believes that the efforts to be made in all the above fields will require close cooperation between the Member States, the Commission and Parliament.

In conclusion, the Danish Government states that Denmark will do all in its power to ensure that the IGC lays the bases for the enlargement of the Union, as this is both the most important objective and the largest task.



#### I. Basic positions of the Federal Government with regard to the 1996 Intergovernmental Conference

On 11 November 1994 the Government parties - CDU, CSU and FDP - adopted the coalition agreement for the current legislative period. Point VIII on 'Europe and Foreign Policy - Security and Defence' defines the guidelines of the Federal Government's European policy. The government statement by Federal Chancellor Helmut Kohl referred to these guidelines.<sup>1</sup> The tasks of Germany's policy on Europe are accordingly as follows:

- implementation of the decisions of the European Councils of Copenhagen and Corfu: stabilization of the 'reform countries' in Central and Eastern Europe by bringing them closer to the EU with a view to accession. The Federal Government is also looking closely at cementing partnership with the CIS states on a treaty basis and at developing a concept for stabilizing the Mediterranean region on Europe's doorstep;
- safeguarding Europe as an industrial centre by improving the climate for growth and employment;
- preventing and combating organized international crime.

The most important objective of the Federal Government's European policy is consolidating the European Union through consistent application of the EU Treaty

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<sup>1</sup> Bulletin of the Federal Government Press and Information Office, No 108, 24 November 1994, pp. 990-991



and further developing it both at home and abroad. Franco-German cooperation is of particular importance as the central element in the process of European integration. The Federal Government also calls for implementation of EMU with strict compliance with the convergence criteria set out in the Treaty on EU and with the timetable. The other priorities for the Federal Government are the CFSP, cooperation in the fields of justice and home affairs, the institutional development of the EU, implementation of the subsidiarity principle, prompt informing of Parliament of draft EU legislation, financial matters, the social dimension, the question of EU subsidies and European commercial policy.

#### Institutional development and the 1996 Intergovernmental Conference

The Federal Government has defined the objectives of institutional development as follows:

- strengthening the EU's ability to act;
- securing its democratic legitimacy;
- increasing the transparency of European action;
- preparing for the accession of new Member States.

The following are seen as the priority areas for the 1996 Intergovernmental Conference:

- developing and including the CFSP and cooperation in justice and home affairs in the Community framework;
- continuing participation by all the Member States of the EU in the continuing process of European integration;
- opposition by individual Member States must not hold up progress towards integration.

On 21 February 1995 Foreign Minister Klaus Kinkel set out the underlying philosophy behind the Federal Government's priorities for the 1996 Intergovernmental Conference<sup>1</sup>.

1. The Conference must be guided by the principle of bringing European decisions closer to the people, the transparency of procedures and democratic accountability. It must not be a 'debate for technocrats only'.
2. Securing Europe as an economic centre and developing EUROPOL are seen as priorities.
3. The European Union must give itself more teeth in terms of the CFSP and must speedily establish clear positions on foreign, security and defence policy. Majority decisions on foreign policy matters should no longer be taboo.
4. The working methods designed for a European Community of 6 Member States must be adapted - in institutional and procedural terms - for a Union of 15 Member States. The weighting of votes of Member States, the composition of the European Commission and the powers of codecision of the European Parliament must be part of the agenda item on 'increasing efficiency'. On 20 February

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<sup>1</sup> English summary in Agence Europe of 22 February 1995

1995, Mr Kinkel called for the European Union to move speedily towards majority voting in all respects.<sup>1</sup>

5. Mr Kinkel also stressed, in the light of the coalition agreement, that as far as the further development of the European institutions was concerned the pace of the slowest Member State should not determine the pace of the Community.

With regard to relations between the CFSP and the WEU, on 9 March 1995, Mr Kinkel called for the EU to be merged with the defence alliance.<sup>2</sup>

#### CFSP

The EU must be able to take effective action and make a rapid response in terms of the common foreign and security policy. The Federal Government therefore supports:

- greater use of Community procedures, for example by moving to majority decisions;
- defining regional priority areas, in particular Central and Eastern Europe, the Mediterranean and the further development of the transatlantic relationship with the USA and Canada;
- enhancing the operational capability of the WEU;
- developing the WEU as the European pillar of NATO and as the defence component of the EU.

Appearing before the Bundestag on 22 June 1995, Mr Kinkel stated that the European Union should extend majority voting to CFSP matters. In his view, no Member State should be forced to take part in a military mission, but all members of the Union should be obliged to provide logistical and financial support to decisions taken by a majority.

Speaking in Brussels on 8 June 1995, the German Defence Minister Volker R  he affirmed that European foreign and security policy could no longer remain separate from the defence policy dimension and its military instruments. He also stressed that the long-term goal was the fusion of the WEU with the European Union and that the whole process formed part of the transatlantic framework. In Mr R  he's view, the IGC should consider the following provisions:

- A defence policy should be established which, in the long term, would be integrated into the Union's responsibilities on an intergovernmental basis. There might still be a veto in this field, but it would be possible to adopt decisions by a majority, while 'positive abstention' would enable compromises to be reached with those states finding themselves in a minority, which would nevertheless be unable to block the process. The Commission's role would be strengthened.

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<sup>1</sup> VWD-Europa: Monday, 20 February 1995, p. 5

<sup>2</sup> VWD-Europa: Thursday, 9 March 1995, p. 2

- The WEU would become the Union's instrument for implementing decisions adopted exclusively by the Council of the European Union in the field of the CFSP and defence policy.
- Pending the merger of the WEU and EU, the WEU would be strengthened and a common arms market established.
- The current Euro-Atlantic relationship should be reformed through a new charter covering the three dimensions of cooperation: political, economic and security.

#### Justice and home affairs

In addition to implementing the Schengen Agreement, and the agreement on external frontiers which is based on Schengen, the Federal Government regards the following as its priority areas in this respect:

- completion of the EUROPOL Convention and making EUROPOL a European police authority;
- common right of asylum, refugees policy and a just distribution of refugees amongst the EU Member States.

#### Financial matters and economic and monetary union

The Federal Government calls for the financial decisions taken by the European Council in Edinburgh to become the own resources system. In particular, it calls for an assessment of gross contributions on the basis of the calculation of VAT and the gross domestic product of the Member States. The Federal Government also wants a greater flow of budget appropriations back to Germany and more efficient control of fraud and auditing. The Federal Government rejects any watering down of the convergence criteria for EMU.

#### The social dimension

The Federal Government supports participation by all Member States in the agreement on social policy. With regard to implementation of framework legislation on social policy, the Federal Government will not tolerate any watering down of German social standards. For this reason, and with a view to further development of the common social policy, the Federal Government calls for harmonization of minimum social standards.

#### Subsidiarity

In the opinion of the Federal Government, implementation of the principle of subsidiarity should be one of the main features of the 1996 Conference. In this connection the Federal Government will extend the 'subsidiarity list', whereby existing legal provisions of the EU are tested for their compatibility with Article 3b TEU, and, where appropriate, will propose that they be rescinded. At the 1996 Conference the Federal Government will work towards a precise definition of the respective areas of competence of the EU and the Member States. The coalition agreement refers to tourism and disaster protection as examples of areas where existing Community powers need to be examined for their compatibility with the principle of subsidiarity. In the opinion of the Federal Government, Article 3b of the TEU should be tightened up to reverse the burden

of proof by deleting the words '... and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community'.

**Joint declaration of 15 July 1995 by the German and Italian Foreign Ministers regarding the 1996 IGC**  
(cf. Italy, p. 100)

**Letter of 6 December 1995 from the President of the French Republic, Jacques Chirac, and the Chancellor of the Federal Republic of Germany, Helmut Kohl**  
(cf. France, p. 87)

CFSP

**Common foreign and security policy: guidelines adopted by the Foreign Ministers of France and Germany at the Freiburg seminar of 27 February 1996**  
(cf. France, p. 90)

**Document: 'Germany's objectives for the Intergovernmental Conference', 26 March 1996**

This document was submitted by the German Foreign Minister, Mr Klaus Kinkel, on 26 March 1996 on the eve of the Turin European Council. The first part of the text refers to the IGC as the starting point for a 'European political agenda for the year 2000'. The German document begins from the position that the European Union has been a success, as it has brought Europe four decades of peace, stability, prosperity and good neighbourly relations, and has also been a factor of major importance for the German economy, as well as having made German unification possible. The text points to the enormous challenges now facing Europe in the context of the globalization of the world economy, and stresses the need for internal and external changes in Europe with a view to adapting to the demands of this dramatic structural change in the world economy. ASEAN, NAFTA and Mercosur are cited as instances where the European model has followed. Also considered are the demands of the Union's citizens, especially as regards prosperity, job security, the preservation of external peace, the maintenance of internal security and the protection of natural resources. As the key elements for the 'European political agenda for the year 2000' which the EU will have to prepare for the transition into the twenty-first century, the document lists: the 1996 IGC as a starting-point; the decisions to be adopted in early 1998 with a view to completing EMU; the opening of the accession negotiations with the countries of central and eastern Europe and Malta and Cyprus (to begin six months after the close of the IGC); and the decisions to be made concerning the Union's financial situation and the own-resources system after the year 2000. Other key elements cited are the reform of the structural policies and the CAP and investment in areas vital to Europe's future, such as research, technology, etc.

The German government's text argues that this accumulation of objectives is comparable, in terms of strategic importance and complexity, only to the founding phase of the Community. Germany therefore considers, as far as the IGC is concerned, that it is vital to avoid any risk of overloading the Conference:

it must concentrate on what is essential, especially as regards the workings of the Union, while at the same time safeguarding its internal and external security, preparing it for expansion and bringing the Union closer to the public. The IGC must be conceived from the correct angle: it is not the final point of European integration, but simply one more of its stages. The objectives for the IGC must be approached realistically, with the goal of obtaining a more operational Union and not jeopardizing the European policy objectives already mentioned as forming the 'agenda 2000'.

Concerning Germany's objectives for the IGC, the second part of the text bases the, on the coalition agreement and on the joint letter of Chancellor Kohl and President Chirac of 6 December 1996. These objectives may be summarized as follows, as far as the CFSP is concerned: the reinforcement of the policy's effectiveness, coherence, continuity, solidarity and visibility (Germany thus favours the creation of a planning and analysis unit, under the aegis of a CFSP secretariat answerable to the Council); extension of qualified majority voting, but with unanimity being retained for certain areas, such as the projection of operational capacities; integration of the WEU into the EU in the medium term; inclusion of a 'political solidarity' clause in the Treaty; incorporation of the Petersberg Declaration in the TEU; and the development of a common policy on weapons.

For the third pillar (CJHA), Germany stresses that the public expects progress on the front of action against transnational crime and drug trafficking. The German government supports: closer police cooperation, with the long-term objective of creating a European police office with operational powers; harmonization of civil and criminal legislation; bringing visa and asylum policy, customs cooperation and immigration under the Community pillar; extending the Union's responsibilities in the areas of action against xenophobia and racism and fraud against the Community budget; and a greater consultative role for the Commission, the Court of Justice and the European Parliament.

With respect to subsidiarity, European citizenship, democracy and transparency, the German government proposes that the principle of subsidiarity should be incorporated in a protocol to be annexed to the Treaty.

Finally, on the subject of differentiated integration, Germany advocates a model of flexible integration which would not exclude any Member State from joining a hypothetical 'vanguard' group. It also favours introducing the double majority principle for voting in Council, reducing the number of commissioners and, generally, any formula that ensures that the EU troika always includes at least one of the larger Member States.

## II. Basic positions of the German Länder

The German Länder have to be involved in the preparatory work to establish the German position for the 1996 Intergovernmental Conference. The views of the Länder are being developed in Länder working parties, at the Conference of Ministers of European Affairs and the Conference of Prime Ministers of Länder and, of course, in the Bundesrat.

Rhineland-Palatinate and Bavaria are the rapporteurs for the Länder for the 1996 Conference (A Rhineland-Palatinate representative will be the senior negotiating party since the SPD-controlled Länder have a majority in the Bundesrat). Mr Karl-Heinz Klär, Rhineland-Palatinate delegate to the Federal Government and for Europe, will represent the interests of the Länder at the 1996 Conference. On 3 March 1995 he submitted to EU Commissioner Oreja the conclusions of the Conference of Ministers of European Affairs of 16 February 1995, the substance of which is as follows:

- Clear separation of powers between the EU and the Member States.
- Compilation of a list of responsibilities per subject area for the EU.
- Transfer of major areas of the CFSP and home affairs and justice policy from the domain of intergovernmental cooperation to the EC Treaty.
- The Committee of Regions needs its own right of appeal, obligatory right to be heard (in particular with regard to the environment, vocational training and creation of the information society) and its own organizational structure.
- The European Parliament must have an equal right of codecision with the Council in all EU decisions where the Council of Ministers decides by majority vote.
- Phased implementation of the principle of electoral equality with the allocation of a minimum number of seats for small Member States.
- Creation of a uniform European election procedure on a regional basis for the European Parliament in 1999.
- Consideration of the question of including a list of fundamental rights in European law.
- Simplification of EU decision-making procedures by having fewer standard procedures but standard rules for decision-making.
- Majority voting in the Council should become the rule. The existing form of qualified majorities should be replaced by a dual majority, whereby decisions are adopted if supported by a majority of the Member States represented in the Council and a majority of the people represented by those Member States.
- Fixing an upper limit for the number of members of the European Commission.
- In anticipation of any future arrangements, the results of the Intergovernmental Conference should be implemented in cooperation with the European Parliament.

Mr Klär reiterated the negotiating position of the Länder in an interview with the 'Europäische Zeitung' (No 4, April 1995):

1. Hitherto there has been a lack of clarity as to the position of the Federal Government and the Länder.
2. In accordance with the conclusions of the Conference of Ministers of European Affairs of 16 February 1995, future action by the EU should only be on the basis of clearly defined powers and responsibilities. The broadly defined list of objectives of the EU should be replaced by a list of powers relating to specific fields. Another possibility, as a compromise between these two lists, would be a list of duties relating to the specific powers defined in the Treaty.

Furthermore, on 24 June 1995, the Ministers of European Affairs of the sixteen Länder, meeting in Würzburg, adopted a document on the IGC in which they declared themselves in favour of greater use of majority voting in the Council (with the population criterion being introduced), limiting the number of Commissioners and drawing up a list of powers at Union, national and local level.

On the basis of the conclusions of the Conference of Ministers of European Affairs of 16 February 1995, on 31 March 1995 the Bundesrat adopted a decision on the preparations for the 1996 Intergovernmental Conference. No substantial changes were made to the conclusions of the Conference of Ministers of European Affairs.<sup>1</sup>

### III. Basic positions of the parties and of the groups in the Bundestag<sup>2</sup>

The most recent position expressed by the Bundestag on the IGC is its resolution of 7 December 1995. This resolution, approved at the end of a major debate on Germany's European policy, reflects a wide-ranging consensus based on the linking of the subjects of widening and deepening<sup>3</sup>.

Of the various positions taken by the German parties in relation to the IGC, particular mention should be made of the proposals recently presented by the CDU/CSU group in the Bundestag, which constitutes the political and parliamentary base of the present government led by Mr Helmut Kohl<sup>4</sup>.

#### Manifesto of the CDU/CSU Group in the Bundestag of 1 September 1994

On 1 September 1994 the CDU/CSU Group in the Bundestag proposed a wide-ranging reform of the European Union aimed at making its institutions more democratic and making it possible for new members from the countries of eastern Europe to join in the near future. The plan advocates a multi-speed Europe and states that a key aim would be to move Germany away from the dangers of nationalism and transform it into a focus of stability at the heart of Europe, since such stability would benefit both Germany and Europe.

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<sup>1</sup> Bundesrat, Reference 169/95 (decision) of 31.3.1995

<sup>2</sup> For more detailed information on the content of the Bundestag resolution of 7 December 1995 and the Bundesrat resolution of 31 March 1995 and current parliamentary work in the Bundestag, cf. note on the state of discussions in the national parliaments on the 1996 IGC (rev. 9 of 14 February 1996, published by the Division for Relations with the Member State Parliaments).

<sup>3</sup> For an analysis of the elements of consensus among the German political parties deriving from the Bundestag resolution of 7 December 1995, cf. op. cit., pp. 5-6.

<sup>4</sup> For an analysis of the elements of consensus existing among the German parties arising from the Bundestag resolution of 7 December 1995, cf. ibid., pp. 5-6.

The document, largely the work of Karl Lamers, CDU Group spokesman on international policy, was presented by Wolfgang Schäuble, chairman of the CDU/CSU Group in the Bundestag, who is seen in political circles as a close ally of Chancellor Kohl. The document is thus regarded as politically significant, particularly since it was presented at a time when Germany held the Council presidency.

The programme presented by Mr Schäuble contains a package of five proposals:

1. Further institutional development of the Union and implementation of the subsidiarity principle, including transferring powers back.
2. Strengthening the 'hard core' of the European Union.
3. Intensification of Franco-German relations.
4. Strengthening of the Union's ability to act on foreign and security policy.
5. EU enlargement towards Eastern Europe.

The document also proposes combating organized crime; establishing a common policy on migration; combating unemployment; establishing a common social policy; guaranteeing Europe's continued competitiveness and protecting the environment.

1. More specifically, on the question of institutional development, the CDU/CSU document proposes the following objectives:
  - Strengthening the Union's ability to act and to make its structures and procedures more democratic and federal in nature.
  - Drawing up of a quasi-constitutional document based on the model of a 'federal state' and the subsidiarity principle, which should describe clearly the division of powers between the European Union, the Member States and the regions and define the Union's fundamental values.
  - Reform of all the existing institutions with a view to a new institutional balance with the European Parliament becoming the genuine legislative body of the European Union enjoying the same rights as the Council; the Council, in addition to its tasks at intergovernmental level, would take on the functions of a second chamber, probably a chamber of the Member States; and the Commission would take the shape of a European government.
  - The new institutions should be more democratic and efficient, combining coherence and consistency with the flexibility and suppleness automatically required by the size of the Union.

To this end, and in order to prevent the dynamics of intergovernmental cooperation from leading to a 'Europe à la carte', the CDU/CSU document suggests that the concept of 'variable geometry' or a 'multi-speed Europe' be institutionalized and enshrined in the quasi-constitutional document mentioned above. It also considers it vital that no country should be able to exercise its right of veto to block the efforts of other countries which are able and wish to go further in the process of European integration.



2. On the question of strengthening the 'hard core' of the European Union, the CDU/CSU document recommends that the process of integration should be led by a 'hard core' of five Member States (Germany, France, the Netherlands, Belgium and Luxembourg), cooperation between which should focus on the new policies established in the EU Treaty. The document stresses that this 'hard core' would be open to the possibility of including other countries such as Spain, Italy and the UK once they had resolved 'current problems' and if they wished to take part in the project.

The basic idea is to provide the Union with a compact centre which would counteract the centrifugal tendencies arising from successive enlargements and prevent a North-South alignment.

3. On the question of intensifying Franco-German relations, the CDU/CSU document states that any significant action in the fields of EU foreign or internal policy should be preceded by prior consultation between the two countries. In particular, it calls for France to respond to the clear and unequivocal proposals put forward by Germany on the Union's institutional and political development before enlargement with equally clear and unequivocal decisions so that the political quality of cooperation between the two countries would issue from a serious and open dialogue.

4. On the question of strengthening the Union's ability to act under the CFSP, the CDU/CSU document calls for a strategic concept of the CFSP which clearly defines common objectives and interests, conditions and procedures and the necessary political, economic and financial means. The document lists the following priority areas of action for the CFSP:

- A common policy designed to bring stability to central and eastern Europe;
- Establishment of wide-ranging cooperation with Russia;
- A common Mediterranean policy including Germany as well as the countries bordering the Mediterranean;
- Development of strategic cooperation with Turkey;
- Reorganization of transatlantic relations with a joint policy being drawn up between the European Union and the United States.

The document further stresses the urgent need to create a common European defence, which should be brought about immediately without awaiting the circumstances envisaged in the EU Treaty. NATO should be converted into an alliance in which Europe, the United States and Canada would have equal weight and form a combined whole able to carry out effective action; to this end, the 1996 IGC should reorganize relations between the European Union and the WEU in accordance with Article J.4(6) of the TEU.

5. On the question of enlargement to the East, Poland, the Czech Republic, Slovakia, Hungary and Slovenia might join the European Union around the year 2000. The document makes a number of proposals in this connection. At all events, such enlargement should be accompanied by intensified cooperation with Russia.

The CDU/CSU document aroused strong reactions for a variety of reasons, particularly in connection with the idea of the 'hard core', but it was initially without doubt the most constructive and interesting political standpoint adopted in Germany on the subject of the forthcoming 1996 IGC.

Discussion paper on strengthening the European Union's ability to act in the field of the CFSP of 13 June 1995.

On 13 June 1995, the Steering Committee of the CDU/CSU Group in the Bundestag submitted the new document analysed below as its contribution to the debate on the 1996 Intergovernmental Conference in the field of the second pillar of the Union.

Again, the main author is Karl Lamers, whose manifesto presented on 1 September 1994 gave rise to the debate on the issue of differentiated integration.

The discussion paper on the second pillar of the European Union states that a central aim of the 1996 Intergovernmental Conference should be to strengthen substantially the Union's ability to act in the field of foreign and security policy. In addition, a common defence policy and a common defence should be an integral part of the CFSP. With a view to guaranteeing the territorial integrity of the EU Member States and ensuring that such a guarantee should be the same for all the countries, the document proposes that all EU member countries should join NATO. NATO remained the indispensable basis of European security but Europeans should take on a greater share of responsibility in the tasks of the alliance. Starting from the premise that national states can now guarantee the external security of their own citizens only to a limited extent, the document affirms that the EU's ability to make its own military contribution to maintaining peace in Europe and protecting its citizens against external pressures represents a vital element of the EU's identity, in which the identity of each Member States should nevertheless be ensured.

The second part of the document affirms that the priority tasks of the CFSP are determined by the new challenges facing Europe today. Specifically, the document lists three principle and most urgent tasks and challenges: establishment of a European peace order, establishment of a genuine Euro-Mediterranean partnership and development of a broader transatlantic link. In this context, the document proposes that the first countries of central and eastern Europe to fulfil the economic and political conditions should be admitted to the European Union shortly after the entry into force of the revised Treaty around the year 2000. Such countries might enjoy transitional periods as in the past, while the remaining countries of central and eastern Europe should be offered concrete prospects of membership at a later date. The document takes the view that such an approach would enable a close link to be established between this timetable and the opening up of NATO, highlighting the correlation between the two stages of integration, although it would be possible to join NATO before becoming a member of the EU. Further east, in relation to Russia, the document proposes establishing a wide-ranging and balanced partnership between the EU and Russia which would go even further than the cooperation agreement signed between the EU and Russia and the partnership for peace agreement between NATO and Russia. The document also highlights the importance of EU relations with Turkey, taking the view that the customs union is important and necessary, and declares itself in favour of developing good neighbourly relations with the countries of the Mediterranean basin from the Middle East to North Africa with a view to guaranteeing economic, political and social stability in the area. The document also recognizes the stabilizing role played by the United States in Europe and proposes strengthening the transatlantic alliance by consolidating the European pillar and establishing a broader transatlantic link in the political, economic and security fields.

The third part of the document affirms that the 1996 IGC should create four conditions necessary for the success of the CFSP: improved decision-making process; measures on institutional organization; guarantee on funding; and an agreement on a common defence policy and common defence. Strengthening the Union's ability to act should also be accompanied by a parallel development of the corresponding instruments of parliamentary control.

On the question of improving the decision-making process, the document stresses that the political will to take joint action is the key condition for a European foreign policy and takes the view that the current decision-making process required for joint action is the main cause of the CFSP's weakness. Consequently, the document reaffirms two objectives. Firstly, foreign and security policy issues which have no military aspects should be resolved under the qualified majority system with the introduction of a double majority system, i.e. a majority of states and a majority of the population represented by those states. Secondly, all decisions on foreign and security policy issues with military implications, specifically use of military means, must be taken in such a way as to ensure that a minority of Member States cannot prevent the majority from committing themselves to joint action and that no country is obliged to take part in joint action against its will. This includes the possibility that only some of the EU Member States might undertake joint actions under the auspices of the Council, and non-participating states would be obliged to demonstrate solidarity by, inter alia, contributing to the joint funding of such action.

On the question of measures relating to institutional organization, the document proposes, firstly, the urgent creation of an appropriate permanent body, which it does not define but which would be responsible for analysing, planning, proposing and monitoring the execution of Council decisions in the field of the CFSP. Secondly, while guaranteeing the Union's institutional balance, the document proposes that the resources already existing in the Commission, the Council, the WEU and, above all, the Member States be combined so that appropriate proposals might be submitted to the Council in good time, in agreement with the Commission, with a view to implementing the CFSP and monitoring the application of provisions by the Council. Furthermore, such resources should also be combined so that, in cases of crisis and conflict, proposals for action can be submitted to the Council as soon as possible, together with a precise assessment of their political implications and consequences. Finally, these combined resources should make it possible to ensure that the EU adopts a concerted position vis-à-vis third parties. Nevertheless, the document does not declare itself in favour of any of the specific options or models currently being discussed in the EU, merely noting that any solution adopted by the IGC should encompass the three criteria listed above and prepare the way for increased application of Community provisions.

On the question of guaranteed funding for the CFSP, the document affirms that the EU budget should set aside appropriations for the CFSP, particularly as regards operating expenditure arising from joint action, which should be decided on a case-by-case basis.

The document goes on to discuss defence policy and a common European defence, declaring itself in favour of bringing defence within the scope of the EU in future. The aim of such a common European defence policy and common European defence would be to enable the EU to make its own contribution to safeguarding peace and security in Europe and protecting its members against external pressures. In particular, the document proposes integrating the WEU into the EU in the medium term. To this end, it proposes that the IGC should draw up a fixed timetable for such integration.

The document declares that a European identity in the field of security and defence policy would strengthen the transatlantic alliance. NATO would remain the indispensable basis of security in Europe, but the document also proposes a series of basic principles for putting a European defence into action. Firstly, the EU's basic decisions on security policy would have to take account of transatlantic interests. Secondly, responsibility for collective defence rests with the Atlantic Alliance. Thirdly, the EU and the WEU would make their own contribution by means of the military measures envisaged in the Petersberg Declaration, where NATO did not wish to act but where the interest of the European Union required concerted action; in such cases, the European armed forces committed to such actions under the CFSP should remain under European command. As a fourth principle, the document affirms that the policy of enlarging the European Union, the WEU and NATO should be based on the principle of equal security, and proposes that the accession of new Member States to the EU, the WEU and NATO should take place simultaneously.

The document also stresses that priority should be given to the following tasks with a view to integrating the WEU into the EU: ensuring that the WEU had full operative capabilities for the tasks set out in the Petersberg Declaration; establishing a close organizational link between the WEU and the EU, in particular a clearly defined European decision-making structure for the military measures required for crisis management; guaranteeing the interoperability of armed forces and joint provision of equipment, which would include harmonizing the export policies of EU Member States. On the specific question of the WEU's operational capacity, the WEU should be developed into a common defence structure capable of putting the actions set out in the Petersberg Declaration into practice and open to the participation of associated members, associated partners and observers on a case-by-case basis. Establishing an operational capacity for the EU via the WEU would involve implementing the concept of combined joint forces enabling members of the WEU or a coalition of members of the EU to make their own contribution to peace-keeping and humanitarian missions using joint installations and NATO capacity after consulting the North Atlantic Council, but always under European command. Regarding the close organizational link between the EU and the WEU, in particular decision-making structures in a crisis, the document proposes that the European Council be granted the necessary competence to draw up general guidelines for European defence; that a uniform decision-making structure be set up at senior political level in the EU in cases of crisis, while the WEU's role would be restricted to that of an executive body acting in accordance with political instructions issued by the EU; that a close organizational link be established between the WEU secretariat and the permanent body for the CFSP referred to above; and finally that the WEU planning cell should provide back-up for the EU Planning and Analysis Unit in the field of foreign policy.

Lastly, the document declares itself in favour of parallel development of parliamentary control mechanisms and increasing the Union's ability to act. Given that the introduction of majority decision-making would reduce the monitoring opportunities of national parliaments, the document proposes that the monitoring functions carried out by the European Parliament in connection with the CFSP be extended beyond their current limits along the following lines: firstly, the European Parliament should be consulted before the European Council adopts any general guidelines on foreign and security policy; secondly, the European Parliament should be informed where the Council takes a decision on foreign and security policy by a qualified majority.

Discussion document on 'more rule of law at European level' of 13 June 1995.

This discussion document of the Steering Committee of the CDU/CSU parliamentary group in the Bundestag on developing the bases of Community policy in the field of the third pillar is also largely the work of Karl Lamers. The document affirms that the basic aim is to bring Member States' policies on justice and home affairs closer together, for the structures pertaining to the rule of law in the Community to be harmonized and for an impetus to be given to the Union's constitutional policy.

The second section of the document concerns extending the provisions of the rule of law at European level. The main proposals set out in the document are: firstly, progressively extending Community procedures to certain areas of justice and home affairs, so as to overcome the inefficiency and sluggishness of the current procedure based on intergovernmental cooperation. Secondly, all the fields included in Article K.1 should be placed on a firmer institutional basis; in this context, the principle of mutual administrative and judicial assistance of national authorities and courts in all the Member States represents the best way of guaranteeing a greater degree of integration. Thirdly, the document proposes progressively attributing rights of initiative to the Commission on matters covered by Article K.1 of the Treaty in order to strengthen the identification of supranational interests; subsequently, in specific fields such as asylum policy, there should be a progressive transition from intergovernmental cooperation to Community competence in the Council, which would adopt its decisions by a majority as defined in Article 148 of the Treaty; where the Community procedure could not yet be applied, the European Parliament should be granted a general right of compulsory prior consultation in all the areas covered by Article K.1 of the EU Treaty. Fourthly, the document declares itself in favour of implementing an integrated system which would make it possible to combat crime at European level; given the absence of a Union penal code or criminal justice procedure at Union level, the document proposes approximating and harmonizing the definition of the constituent elements of a punishable offence and the procedure applicable as far as possible, which would apply to serious cases of international crime such as terrorism, stockpiling arms, trafficking in human beings and money laundering; as regards the police, the document advocates more effective powers for EUROPOL and, for the crimes listed above, transforming it into a European police investigation office, calling for the EUROPOL Convention to be concluded promptly.

The document also discusses uniform legislation on border crossing, asylum policy, refugees and immigration. In all these areas the document proposes making the current legislation of the Member States as uniform as possible while

taking account of the geographical and geopolitical differences between each of them. The document affirms that key issues arising from asylum, visa and immigration policy can be resolved only at Community level, taking the view that the Schengen method, i.e. conventions which must be ratified by national policies, is not sufficient to meet the challenges posed in such areas. The document therefore proposes that all these areas be integrated as far as possible into the Community sphere of competence by amending or supplementing the Treaty or, at the very least, harmonizing the various national legal systems and their fields of competence to a greater extent. The cooperation already embarked on in accordance with the provisions of Article K of the EU Treaty and Article 100c of the EC Treaty should provide a basis for common regulations and measures, in particular in the field of asylum policy, controls on the crossing of borders by persons and the fight against illegal immigration, and in areas such as drugs trafficking and other serious forms of international crime.

The document also sets out further measures aimed at constitutional integration. It affirms that, over the coming decade, the EU should gradually move from a Community based on law to a constitutional Community. This evolution should be based on the specific Community law emanating from the Treaties so that, in the long term, the Community and EU Treaties should be progressively transformed into a kind of constitutional Treaty. At all events, current Community legislation should be developed further under the aspect of constitutional policy and should be supplemented in an appropriate manner. In particular, in addition to strengthening the powers of the European Parliament as described above, the document underlines the importance of guaranteeing full democratic equality between all the citizens of the Union as regards the electoral law governing elections to the European Parliament. The document also calls for fundamental rights to be made as uniform as possible so as to make progress on a people's Europe. In this context it declares itself in favour of the European Union formally acceding to the European Convention on the Protection of Human Rights and Fundamental Freedoms.

Finally, the document discusses the subsidiarity principle. It affirms that this principle should be observed and applied as regards both planned legislation and questions of procedure. Some of the powers conferred on the European Union by the Treaties should be examined in the light of the subsidiarity principle and, if appropriate, transferred back to national level. On the question of procedural matters, the European Union should make use of regulations only where a directive would be insufficient, since directives enable Member States to take greater account of specific national features and differences and, in the majority of cases, are more compatible with the subsidiarity principle than regulations.

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The two documents on the second and third pillars outlined above were approved by the executive bodies of the CDU/CSU at their meeting of 13 June 1995 in Berlin. Meeting in Bonn on 4 July 1995, the CDU Federal Bureau subsequently debated and approved its guidelines on European affairs with a view to preparing the 1996 IGC. These guidelines will be submitted to the Federal Conference of the CDU for approval in October. The guidelines in the latter CDU document, drawn up by the leader of the CDU/CSU members within the PPE Group of the European Parliament, Mr Rinsche, and the Secretary of State in the Chancellery, Mr Pfeiffer, do not differ from the two documents on the second and third

pillars analysed in the previous section. Nevertheless, the document setting out guidelines on European affairs also includes further chapters. On the decision-making procedure for areas coming under the first pillar, the general rule proposed is that the Council would decide by a majority except on questions affecting taxes, finances, enlargement and amendments to the Treaty, where voting by unanimity should be maintained. With regard to economic and monetary union, the document does not propose any date for the start of the third phase, but it underlines the importance for Germany of the establishment of an integrated European economic area. The document also comments on the application of the subsidiarity principle, taking the same view as the document analysed above. The powers of the European Parliament should be extended so as to make it a co-legislative body enjoying the same powers as the Council. The number of legislative proposals should be reduced, simplified and made more open; the codecision procedure between Parliament and the Council should be improved and simplified. Parliament should also be given a greater part in the decision-making process and consulted to a greater extent on matters concerning intergovernmental cooperation. Finally, the document comments on the enlargement of the European Union to include the countries of central and eastern Europe, but does not differ from the views already expressed by the second CDU/CSU document on the second pillar.



Document of January 1995: 'Towards a citizens' Europe - democracy and development': memorandum for the 1996 IGC

In January 1995 the Greek Government submitted an initial document setting out its initial position concerning the 1996 IGC.

The document takes the view that the Treaty of Maastricht needs revision on three counts: democratic reform of the European institutions, enhancement of democratic legitimacy in Community decision-making, and future enlargement to take in new Member States.

According to this document, Athens believes in a citizens' Europe, and accordingly opposes any notion of a two- or three-speed Europe. Greece, it is stressed, will not accept any proposals contrary to the principle of the equal rights and duties of all the peoples of Europe, and especially not in the economic field. Total opposition is expressed to any idea of allowing new Member States to join and then relegating them to second-class status.

The document affirms that the development of the Union must be based on the principles of legality, respect for human rights, solidarity, subsidiarity, respect for Member States' national identity, and cohesion. These are all, in the Greek Government's view, both objectives and conditions for the Union's proper functioning; furthermore, greater transparency is called for in decision-making and the implementation of decisions.

With respect to institutional reforms, the Greek position tends towards federalism: Greece believes that the Commission's role should be strengthened vis-à-vis the Council. In the interests of improved democratic control, the Greek Government proposes increased powers for the Committee of the Regions, the ESC and the Ombudsman, adding that if necessary the creation of new Community institutions could be an option. Concerning the existing institutions, it proposes the following:

Commission:

To increase the number of Commissioners is not compatible with ease of working; there should be only one commissioner per Member State. The large Member States are excessively favoured by having two commissioners each; the Commission should not be linked to the national governments.

Parliament:

The powers of Parliament should be increased. In particular, it should have more political powers, acting as a counterweight to the Commission and the other institutions.

COREPER:

This body should cooperate more closely with the Commission.

Council:

The Council's responsibilities should only be extended in the case of creation of new policies. Greece will not accept a UN-type model for the Council with a small number of permanent members and rotating membership for the smaller countries. It follows that any reform of the Council must not make it possible for a group of Member States (be they large or small) to decide for the rest. The text states that the Greek Government does not endorse the present system of qualified majority voting; it proposes that the 'federal state model' (as existing in the US) be adopted instead. It supports the notion of the veto as safety-valve, as opposed to an opt-out facility for important decisions.

Court of Justice:

The official role of the Court of Justice should be enhanced.

On the subject of the common foreign and security policy (CFSP), the document states that Greece believes that an effective CFSP calls for the second pillar to be brought closer to the first, in the context of a substantial democratic advance for the Union. The fundamental common interests and benefits relating to joint action by the Member States should be defined; criteria and objectives should be established for cooperation with other international organizations, including NATO, in the sectors and geographical areas of common concern. With regard to the objectives and institutional structure of the CFSP, its goals should include protecting the territory of the Union: this can be done by precisely defining its borders. According to Athens, security is no longer a purely military problem: it is also economic and political. The Union must take steps to guarantee this 'multidimensional' security. For all these reasons, any



future new Member States must respect human rights in a context of constitutional democracy and free competition.

In the institutional sphere, the document proposes that the Commission should exercise a greater planning role; the promotion of Community action should be the responsibility of the European Council and the Commission, subject to the financial and political control of Parliament and subsequent control by the Council. With such a reform of the CFSP, unanimity would be required for decisions on policies and joint actions, with due regard for the vital interests of the Member States. With respect to the common defence policy, the document considers such a policy to be more essential than ever, given that the Treaty of Brussels (the WEU Treaty) is due to expire in 1998. In addition, since the principles governing this sector must at all times be based on the notion that the Union's security is the security of its members, Greece takes the view that the negotiations on the CFSP and the common defence policy must involve the members of the EU rather than those of the WEU.

With regard to the third pillar, as far as Articles K.1 and K.3 of the Treaty of Maastricht are concerned the document calls on the Council to explain its positions more clearly; it is also felt that there should be more specific immigration and asylum policies. Greater powers of control for Parliament are advocated in this field. Concerning Article K.7, it is considered that divergences between policy and legal rulings should be avoided.

The document also sets out the Greek position on EMU. With respect to the transition to the third stage, it is stressed that so far each Member State has endeavoured to fulfil the Maastricht conditions; Greece rejects outright the notion of reserving the third stage initially for certain Member States only, believing that it should apply either to all or to none. If EMU is to evolve in a positive sense, the Member States must implement parallel economic policies with a view to achieving an ideal level of socio-economic development, while keeping a federalist perspective constantly in mind. With regard to any later extension of EMU, the document argues that it will inevitably take years for the prospective Member States to reach the same level: accordingly, while not advocating stricter criteria, Greece feels that a clear distinction must be made between present and prospective Member States. Greece stresses its desire to take part in the third stage in 1999, and considers that, to ensure that no present Member State is excluded, the criteria should be revised as regards inflation, interest rates and the public sector deficit.

With regard to the Community budget and to development, the Greek Government emphasizes the need for transfers of funds to the less-developed areas, especially once the third stage of EMU is under way. At that point it will be necessary to examine the overall budget level and the criteria for distributing funds, taking account of the altered situation produced by the entry of new Member States; regional disparities will also have to be reduced. In this connection, the document calls for the Structural Funds, the EIB and the Cohesion Fund to give priority to promoting development and aid for the less-favoured regions. Greece points out that the accession of Central European countries will lead to changes in the logic of structural policy, involving a greater budgetary effort.

With respect to employment, the document stresses that, in the context of Community social policy, Maastricht has laid the bases for new policies in the areas of technological innovation and employment: it will be necessary to examine employment as a macroeconomic phenomenon, with a more integrated, Europe-wide dimension.

As far as the common policies are concerned, the Greek Government considers that the outstanding needs in this field are: to strengthen and reform the existing economic policies; to establish new policies; and to revise the decision-making methods.

In the political sphere, the Greek proposal advocates greater protection for workers' rights: equality between men and women should be promoted, and specific regulations should be introduced for part-time work and pregnant women; the aim should be to devise a model respecting the differences in national education policies and incorporating vocational training and the social dimension. With respect to health, the Greek Government wishes greater attention to be paid to both prevention and treatment (concerning AIDS, drug use, tumours, etc.). On consumer protection, greater cooperation is advocated between the various levels. Greece feels that efforts must be made to operate a specific industrial policy for the Union, capable of facing the new challenges on the world market. In particular, according to the document, the Union and its Member States must play a central role in the development of the 'information society', with the aim of stimulating competition in the sector and enhancing the quality of life. In addition, Greece calls for institutionalization of the new energy policy, so as to improve dialogue with the world's other regions (especially with Asia); for an intervention policy at Community level to ensure an adequate response to natural disasters; and for a policy for the decentralization of power. Finally, Athens takes the view that to require unanimity in the field of the common policies amounts to immobilizing the policies themselves; Greece therefore proposes that qualified majority voting should apply in the areas of workers' rights, culture and the environment.

#### Conclusions of the interministerial committee of the Greek Government (Athens, 7 June 1995)

Recently, on 7 June 1995, the interministerial committee set up by decision of the Prime Minister to work out the Greek stance and positions in preparation for the 1996 Intergovernmental Conference reached its conclusions, which were then submitted to the Prime Minister.

The Greek representative to the Reflection Group will follow the framework of the instructions agreed upon by the interministerial committee.

Following those conclusions, the Greek positions are oriented towards the following directions:

- a) The basic priority is the social, economic and political cohesion of the European edifice. The ties that ensure cohesion within the European Union must be further strengthened, not loosened. The principle of Community solidarity must prevail at all levels:
- for institutional equality of all Member States;
  - in the permanent pursuit of economic and social cohesion at the level of the EMU;
  - as a safeguard of the Union's external borders and as a principle of mutual assistance between Member States at the level of the CFSP.
- b) At the institutional level, the fundamental Greek position is that of equal participation of all Member States in EU institutions. Greece rejects the notion of a multiple-speed Europe. Within the present framework, equal participation does not rule out a more efficient functioning of the Union's institutions. At this level, it is also self-evident that the Intergovernmental Conference will function, by definition, on the basis of the principle of unanimity (consensus).
- c) In the long term the strengthening of the CFSP is an indispensable condition for European existence and survival. In this context, when the issues at stake concern vital national interests of the Member States, the rule of unanimity (consensus) cannot be abandoned.

The promotion of a European defence identity and the gradual shaping of a common defence policy through CFSP procedures is an option that, if accepted, could possibly solve the problem of organizational diversity, as regards, in particular, EU-WEU relations, provided that critical issues, such as the safeguarding of external borders and mutual assistance between Member States, can thus be managed more effectively.

- d) Enlargement - decided upon by the European Council - should not be a pretext for the reversal of the economic and social conditions that support the present equilibrium within the European Union.

Enlargement must be associated with the issue of own resources, in the cases of countries the accession of which is bound to cause excessive pressure on the Community budget and Funds. In this context, enlargement including the accession of Cyprus and Malta is a primary goal of Greek foreign policy, in line with the decision already taken by the European Council and the Council of Ministers.

- e) There is no doubt about the need to strengthen the democratic character and the rule of law in the European Union. This process will be based on the one hand on the increased role of the European Parliament and of the national parliaments - in terms of each Member State's internal EU-related procedures - and on the other hand on the institutional prospects of cooperation in the field of home affairs and justice. Within this framework, the 'communitarization' of procedures could very well be the answer to the questions concerning the safeguarding of the rule of law and the protection of human rights; on the other hand the selection of rules similar to those applied to the CFSP could give answers to certain issues that might concern vital national interests.

- f) A basic goal for a country like Greece is the safeguarding and strengthening of the cultural identity of Europe, by means of the safeguarding and strengthening of the cultural and linguistic identity of each Member State.
- g) Economic and monetary union seems to support so far only a specific form of convergence - the nominal one - something that does not guarantee the prospects and the pace of European integration. Consequently, irrespective of any changes in the criteria of nominal convergence, Europe must face the problem of real convergence and of economic and social cohesion among Member States.

European integration is in need of stability and credibility. In other words it needs social and political legitimacy. In this context - and always in view of the problem of resource allocation - Greece believes that common policies should be developed in new sectors such as tourism and energy.

Memorandum of the Greek Government of 24 January 1996 on the IGC: Greece's positions and comments

Greece submitted a new memorandum on the IGC on 24 January 1996, following the coming to power of the new Prime Minister, Mr Costas Simitis.

The document begins by discussing the first (Community) pillar. In the first place, on the subject of the European Parliament, two types of measures are proposed: strengthening Parliament's legislative role by extending its powers into certain areas of the second and third pillars and reinforcing its powers of control over the executive bodies; and extending the codecision procedure to all legislative acts (certain exceptions apart) whose adoption requires an absolute majority. The Greek Government also calls for the codecision procedure to be simplified, and says it would accept a ceiling of 700 MEPs provided this did not endanger the representation of the smaller Member States.

On the subject of the Commission, the Greek Government considers it unacceptable under any circumstances to question its existing powers, autonomy and exclusive right of initiative. With respect to the number of commissioners, Greece fully supports the notion of one per Member State, and clearly rejects any other formula. The Greek Government feels that the Commission should retain decision-making by unanimity, to avoid any discrimination between the votes of Commissioners from larger and smaller Member States, and favours extending the Commission's powers into the areas of the second and third pillars, if Parliament's powers of control are strengthened at the same time.

Concerning the Council, Greece considers that the extension of qualified majority voting to certain first-pillar areas is not to be rejected out of hand, provided it is accompanied by codecision of Parliament. At all events, for certain sensitive areas, including constitutional matters, accession of new Member States and new association agreements, Greece believes unanimity should be retained. On the weighting arrangements, Greece in principle opposes any redistribution of the existing weighting by Member State, while accepting the possibility of certain practical adaptations to safeguard the balance between larger and smaller Member States. It opposes weighting based on population, on the grounds that the Council represents Member States, not populations; the Greek view here is that populations as such are already represented in the

European Parliament, and the formation of a majority should not be reduced to a mere arithmetical exercise that fails to take account of the national and cultural identities of the peoples of Europe. Concerning the Council Presidency, Greece favours the existing system of six-month presidencies; rejecting the notion of a collective presidency lasting one or more years for reasons of efficiency and cohesion, the Greek Government nonetheless says it would accept any reforms that did not alter the institutional balance or undermine the principle of equality between Member States.

Regarding the European Council, Greece feels that it should retain its existing political role and its present powers concerning the definition of the Union's general policy lines, while not interfering in matters whose practical handling falls within the competence of the Community bodies concerned. On the subject of the national parliaments, Greece favours their closer involvement in the European integration process, in particular via enhanced contacts with the European Parliament, some of whose meetings could include national parliamentarians. It also proposes that Commissioners could, where necessary, address the national parliaments and that the 'assizes' should be reinforced.

On EMU, Greece stresses the need to rebalance its monetary and socio-economic aspects (Articles 104 and 2 of the Treaty), so as to ensure social cohesion between the Member States. It therefore supports incorporating a special title on employment in the revised Treaty. The Greek memorandum also refers to the budgetary consequences of enlargement, and argues that there must be parallel discussion of the subjects on the IGC agenda, on the one hand, and the budgetary aspects of enlargement and the principle of sufficient resources, on the other: such vital subjects as the structural policies, the own-resources system and the CAP must not be overlooked when making the reforms that will be needed to accommodate the new members. The Greek document also examines the Community policies, among which particular stress is laid on the environment, health and culture. As far as new policies are concerned, Greece unreservedly favours their institutionalization in the fields of tourism, energy and civil protection, in line with the declaration attached to the Treaty of Maastricht. On the subject of civil protection, Greece proposes creating an urgent intervention mechanism to handle natural disasters. It also calls for specific Community measures for the economic and social development of the Union's island regions. On Union citizenship, the document supports the strengthening of the concept of citizenship, the elimination of all forms of discrimination, greater and more effective protection of human rights and fundamental freedoms and the development of the Union as a space of liberty and internal security. Greece endorses incorporation of the 1989 Social Charter into the Treaty and accession of the Union to the Council of Europe's Human Rights Convention, and, should the latter not be possible, suggests including a list of fundamental rights and freedoms in the Treaty. On the matter of flexibility, Greece opposes any form of differentiated integration which might destabilize the existing situation of unity and equality as between Member States. It accepts the possibility of transitional arrangements for Member States unable to apply Community policies at a given moment, but rules out differentiated integration altogether.

The Greek memorandum also considers the common foreign and security policy (CFSP). Greece believes that strengthening the CFSP and creating a common defence policy must be priority tasks for the Union, in a context of democracy, solidarity and respect for human rights. It feels that the lack of effectiveness of the CFSP as it stands derives from a lack of political will and from the

existing system of pillars, and therefore favours bringing the CFSP under the first pillar, in other words communitarizing it. On the decision-making procedure, Greece considers that any extension of qualified majority voting will depend on the form given to the second pillar. In any case, it believes that unanimity must be retained for decisions affecting vital national interests, defence included. Greece feels that the objectives of the CFSP should be extended, to include a clear guarantee concerning protection of the external frontiers of the Union and the Member States and a mutual assistance clause. On the representation of the CFSP, the Greek position is that this could be entrusted to the Council Secretariat. Greece does, however, fully support the creation of a planning and analysis unit which would comprise representatives of the Member States, the Council and the Commission, under the aegis of the Council Secretariat. Concerning funding, Greece favours the unification within the Community budget of all expenditure in the area of the Union's external relations, as the best means of ensuring budgetary control over CFSP expenditure in a transparent and democratic fashion. On defence, Greece feels that the main objective should be to develop a Union defence identity and gradually create a common defence policy. It therefore supports the phased absorption of the WEU into the EU, pending which it considers that a legally or politically binding protocol should be drawn up in which the WEU would commit itself to implementing the defence decisions entrusted it by the Union. Greece also believes the WEU as such should have special responsibility for security, while defence matters proper should continue, for the immediate future, to be the responsibility of NATO. At all events, Greece favours including the 'Petersberg tasks' in the Treaty.

Finally, the Greek Government's text examines cooperation in the areas of home affairs and justice (the third pillar), favouring the 'communitarization' of certain aspects of the third pillar, which should be brought as close to the Community pillar as is possible. Greece believes that the Commission's right of initiative should also cover the third pillar, and that the roles of the European Parliament and the Court of Justice concerning it should also be enhanced. Should total 'communitarization' of the third pillar not be possible, Greece insists that it should be done at least in part. On the decision-making procedure in this sphere, Greece, after affirming that the lack of efficiency in third-pillar matters has been due to the unanimity rule, calls for the introduction of qualified majority voting in certain fields, such as anti-drugs action, while recognizing that unanimity will have to be retained in other areas more closely bound up with national sovereignty.



Document of 2 March 1995: 'The 1996 Intergovernmental Conference: starting points for a discussion'

As regards the Spanish position during the actual Intergovernmental Conference, the Spanish chair of the Reflection Group and the foreign ministry have already drawn up a substantial initial 100-page document entitled 'The 1996 Intergovernmental Conference: starting points for a discussion'. This is a strategic document, but above all, more than reproducing specific points of view, it lists the problems and alternatives that will be discussed at the IGC,

explaining and probing into the subject-matter in detail. The document was submitted to the Spanish Parliament's Joint Congress-Senate Committee on the European Union on 2 March 1995. Although, in the above-mentioned statements in mid-February, Carlos Westendorp already said that the document would in no way embody the opinions which Spain intended to support in the Reflection Group, it is obvious that the text, to a large extent, gives an indication of the ideas which the Spanish delegation will seek to champion throughout the IGC and in the course of the preparations leading up to it.

A very wide range of matters are covered in the document, relating not only to the Conference agenda, but also to the following broad areas or topics: possible *modi operandi* for the Conference, depending on the prevailing context, key issues for the IGC, enlargement of the Union, and the need for consensus and openness.

The document begins by considering various possible models for the conference, in the context of the reigning climate, marked by the fall-out from the economic and political crisis since the signing of the Treaty of Maastricht. Concerning the duration of the IGC, the Spanish text anticipates a possible slowing-down of its work until after the UK elections (which may take place in the spring of 1997). Three possible models are offered for the development and final range of reference of the IGC:

\* Limited model: negotiation of a minimum of aspects which must be dealt with if enlargement is to happen (essentially, institutional questions and the CFSP). With this minimalist and realist approach to the IGC, a final agreement could be swiftly reached and the enlargement negotiations could begin promptly.

\* Open model: negotiation of all the aspects whose revision is already provided for, as well as whatever other aspects are proposed by individual Member States or institutions (as at Maastricht). The document suggests three possibilities:

- examination of the matters raised but not resolved at earlier conferences (e.g. the charter of the fundamental rights and duties of citizens; the uniform electoral procedure for elections to the European Parliament; reform of the own-resources system; communitarization of Article K.1, paragraphs 1 to 6; inclusion of the EDF in the Community budget; amendment of Article N(1); possible inclusion of a 'list of powers'; reform of the cohesion instruments; development of industrial policy; reform of the budget procedure, etc.);

- a root-and-branch reform of the Treaties. Acceptance of such an approach by all concerned is highly unlikely in present circumstances. It would, in particular, require acceptance of the notion of 'variable geometry', either right from the beginning of the conference or at the final stage; in addition, it would be necessary to amend Article N, which would only be possible with the unanimous agreement of the Member States;

- regression or involution of the system (a possible but unlikely scenario, according to the document) through something like a 'Europe à la carte' approach. This would endanger the survival of two key components of the existing system, namely the single institutional framework (Article C of the Treaty on European Union) and the preservation of the acquis communautaire (Article N(2), taken in relation with Articles A and B).

- \* An intermediate formula: this would entail coordinating a two-pronged negotiation. Two components would be negotiated and implemented either simultaneously or separately. The first would involve dealing with the aspects provided for at Maastricht, Ioannina and Corfu and clearing the way for the accession negotiations; the second would consist of negotiations to bring about a major qualitative leap, especially once a certain number of Member States had embarked on the third stage of EMU around 1999, thus making it possible to conclude the great eastward and southward expansion.

The choice of model is considered to be a separate issue from the question of the legal form to be taken by the results of the conference. The document argues that the outcome could be either a new treaty or a European constitution (the latter would confer greater transparency on the process of European integration, but would also unleash a significant nationalist backlash). Whatever the political option chosen, the Spanish document considers that the final text must be clear and concise, and as accessible as possible, in the interests of transparency; it should simplify the existing legal and formal structures, supersede such texts as have become obsolete or redundant, and be drafted with maximum comprehensibility and precision. The last pages of the document are concerned with the importance of consensus and transparency and the need for the debate on the IGC to include political bodies, social forces and the media, and, indeed, society as a whole.

Another of the key issues taken up by the Spanish document is that of the 'great questions' of the 1996 IGC. The text makes preliminary reference to the various existing concepts of Europe, and argues that the choice is now between two approaches. One option is to continue with integration on the basis of exclusively free-market and largely intergovernmental criteria, with minimal cost to the budget, a wide margin of national autonomy and subsidiarity as the golden rule (the document attributes this approach to the UK, France and even Germany); the other is to strengthen the central authority, thus ensuring the operation of generously financed common policies and greater political neutrality in approaches to policy and decision-making (the proponents of this supranational option are named as Spain, Belgium, Luxembourg and - until recently - Italy). The text also makes preliminary reference to the various compromises between the two approaches which have been advanced in the context of 'variable geometry' or 'reinforced solidarity', considering this to be the most practicable means of superseding the antithesis between widening and deepening of the Union. Any such compromise would, however, be subject to six conditions: 'last-resort' status; openness to all; the existence of accompanying measures to strengthen global coherence and ensure the convergence of those lagging behind; preservation of the entire acquis communautaire; retention of the single institutional framework; and compatibility with political stability in Europe.

The specific issues discussed in the document include economic and monetary union. In this connection, it seems clear that Spain would prefer not to raise



the subject, so as to avoid the introduction of new convergence criteria such as unemployment or the trade deficit. It is, however, recognized that the modification of the qualified majority threshold laid down in Article 148 of the Treaty will inevitably affect the transition to the final stage of EMU (since Article 109j(2) requires that the relevant Council decision be made by qualified majority vote); note is also taken of Article 104c, with its provisions for sanctions in the case of excessive deficits. The document also considers the solidarity mechanisms and the question of economic and social cohesion. Although these aspects are not, in principle, included on the IGC agenda, the document notes that they may nonetheless be raised in the context of global reform or examination of the financial implications of enlargement, and, should this be the case, proposes consideration of the following subjects: total elimination of the regressive effects of the third own resource (VAT); strengthening of the Structural Funds and the Cohesion Fund; introduction of a fifth, progressive own resource; and, possibly, new alternatives such as introduction of a fiscal 'equalization mechanism'. It is considered that in real terms the provisions on economic and social cohesion are unlikely to be modified before the year 2000, unless change is made necessary by new accessions.

The Spanish text also raises the question of incorporating new powers in the fields of energy, tourism and civil protection. No positions are anticipated in this respect, but it seems likely that Spain will continue to advocate a joint energy authority, while remaining unconvinced of the need for a Community tourist policy; as far as civil protection is concerned, Spain will probably call for an explicit reference to the principle of 'the necessary means', to ensure that the Union does not take decisions committing the Member States to expenditure outside the Community budget.

With regard to policy areas falling outside the purely economic sphere, such as education, health and culture, Spain is clearly in favour of strengthened Community action, and is, accordingly, opposed to any attempt to reduce the Union's powers in these fields. In the case of policies entailing a substantial cost to the Member State economies, in such areas as the environment, consumer protection, R & D, social policy, taxation and the major networks, the Spanish text argues that the main problem lies in replacing unanimity by qualified majority voting, given the considerable political, economic and social implications. It may be concluded that Spain will lay particular stress on identifying certain 'excepted' areas to which unanimity will still apply and/or designing weighted voting arrangements which will ensure maximum protection of national interests.

Concerning the 'second pillar' (the CFSP), the Spanish text confines itself to suggesting fairly limited reforms and proposing various practical measures. It makes a distinction between the areas of foreign policy and common defence and security. With regard to foreign policy, the document lists a number of subjects which could be raised, including: unanimity versus qualified majority voting (the former is seen as tending to favour the lowest common denominator); the desirability or otherwise of creating some kind of nerve-centre for the CFSP at Union level (the document takes the view that the proposals in this area seem to ignore the potential of the CFSP directorate which has been set up at the Council secretariat); the role of the Commission and the possible strengthening of its power of initiative (no specific proposals are made); the role of Parliament (on which the document simply summarizes the wide range of existing views); participation of the members in the UN Security Council (this is felt

to be more a legal than a political possibility); indirect reform of the EU's system of representation (presidency/troika) laid down in Article J.5 (a higher profile for the presidency is advocated); and cooperation between EU Member States in third countries. The document also considers other aspects not necessarily involving a formal revision of the Treaty. These include: the establishment of priorities for the Union extending beyond the six-month presidencies; the need for a less cumbersome system for political dialogue between the EU and third countries or groups of countries; the need to clear up the legal ambiguities surrounding the common positions adopted under the CFSP; and clarification of the question of the CFSP's financing.

With regard to common defence and security matters, the document proposes that the provisions on security should be revised on the basis of two procedures, conceived as distinct but complementary: more use should be made of, on the one hand, the conciliation mechanisms (common positions) in the context of international organizations and conferences which are provided for in Article J.2, and, on the other, the provisions for joint action in the area of the CFSP. Concerning the redefinition of EU-WEU relations, the document sets out three basic options: full inclusion of defence as an integral component of the Union; maintenance of the status quo, preserving the autonomous but interrelated character of both organizations; and various in-between measures which would pave the way for a gradual convergence. The option chosen would imply an attempt to respond in one way or another to a whole series of questions, including: financing; parliamentary control; how many countries, and which, should take part; and such operational matters as the relation to the EU or the WEU of multinational European military units and the creation of a common market in arms following revision of Article 223.

On the subject of the third pillar (justice and home affairs), one may infer from the document that there is a clear prior unwillingness on Spain's part to contemplate replacing the present unanimity requirement with qualified majority voting (this clearly affects the prospects for 'communitarization'), above all with respect to the free movement of persons and the external frontiers (given the Gibraltar problem). The same applies to asylum (as long as the law of some Member States allows asylum to be granted to nationals of other Member States) and immigration (until a genuine overall immigration policy is devised). Spain would, however, appear to be favourable to replacing unanimity by qualified majority voting in the areas of drugs legislation and harmonization of civil and criminal law. The document further proposes replacing the existing bilateral extradition agreements by a multilateral agreement or other provision; this would simplify extradition and make it automatic between Member States. No specific positions are expressed on police cooperation or on the notion of common customs facilities at the external frontiers. Finally, the document implies that Spain is in favour of strengthening the institutional apparatus by enhancing the role of all the other Community institutions, including the Court of Auditors.

Another of the key aspects of the IGC discussed in the document is institutional reform. The main positions expressed on the subject are as follows:

- \* With respect to the Council, the document anticipates a possible strengthening of its powers. On the matter of the voting rules, the first aspect discussed is the replacement of unanimity by qualified majority voting. It is already clear that Spain believes that in the case of decisions

in such areas as the second and third pillars, fiscal harmonization, industrial policy, social security and social welfare in general, the major networks, the Structural Funds and the Cohesion Fund, the quality of public services and the environment, the unanimity rule should either be retained or replaced by a requirement involving an 'extended qualified majority' (or, on a rather less likely hypothesis, by excluding the area concerned from the Union's competence, or else by a combination of the above options). As regards the blocking majority/minority, the document sets out a number of alternatives: maintenance of the Ioannina compromise or something similar after enlargement; revision of the existing weighting arrangements in such a way that two large countries (or six including Spain and Poland) plus one small or medium-sized country could obtain a blocking minority, by awarding such a grouping two extra votes for the purpose; fixing the blocking minority at a higher level as a general rule, but exceptionally providing for an alternative arrangement entailing a smaller number of votes representing at least three Member States with a total population of over 100 m; introducing a double voting system (number of votes plus a certain percentage of total population, or number of votes plus a minimum number of Member States); or, finally, introducing 'sectoral' blocking minorities, i.e. establishing different weighting arrangements in accordance with the subjects or policies voted on, following the precedents set by Article 28 of the ECSC Treaty or Article 129d of the Treaty on European Union.

The document also considers possible changes in the weighting of votes, the aim being to bring individual Member States' weight in Council more into line with population. It is argued that the most satisfactory arrangement would be to give two extra votes to Germany, France, the UK, Italy, Spain and, when the time comes, Poland, in the context of a future enlarged Union of thirty or so members. In addition, reference is made to the double weighting system (votes plus population or votes plus number of Member States) as mentioned above, as well as the problems raised by 'micro-states'. With respect to the leadership and coordination of the Council and the presidency, the document appears to favour a stronger presidency. It summarizes a number of formulas which could help give the presidency greater continuity: a longer time period; the creation of 'presidential teams', consisting of four or five large groupings of Member States representing different 'national peculiarities', each corresponding to some 100 m inhabitants, which would serve for one year or 18 months; a 'troika'-type presidency (consisting of one large country and two small or medium-sized countries), with a term of office of at least 18 months; an 'elective' presidency, with a term of office of at least one year; and a presidency responsible for external representation over a two-and-a-half-year period (the presidential role would be filled by a 'personality', with the presidents of the Council and Commission as vice-presidents). With regard to simplicity and transparency, the document suggests that endeavours should be made to devise a formula for opening up debates to the public where the Council is acting in its legislative capacity, while maintaining confidentiality where it meets in its executive role.

- \* Concerning the Commission, the document firstly considers the issue of its membership and size, raising the following possibilities: there could be substantially less commissioners than Member States, with genuinely viable portfolios and a permanent commissioner's post for each large country plus rotation of the remaining portfolios among the smaller Member States; there

could be as many commissioners as Member States (this is felt not to be efficient); the status quo (two commissioners for each large country and one for each of the rest) could be kept, but with the creation of a distinction between 'full' and 'assistant' commissioners; or, finally, a Council-type system of weighted voting could be introduced for the Commission. With regard to the appointment of commissioners, the document sets out a number of options without advocating any of them; the same applies to the question of control and political responsibility of the Commission. The text raises the possibility of Parliament being entrusted with the day-to-day monitoring of the Commission's actions, while on the question of initiative it confines itself to presenting the various possibilities without opting for any particular one.

- \* Regarding the European Parliament, the document expects that the IGC will see a crucial and heated debate on the various aspects of the strengthening of Parliament's powers. With regard to the extension of Parliament's legislative powers, the text predicts that there will be considerable scope for progress through an extension of the field of application of the codecision procedure; this concept should, it is argued, logically be viewed in close relation to majority decision-making. A debate is also proposed on the unification of all the existing legislative procedures into two or three models, or even one single model, in the interests of simplification. In the second place, the document argues that the discussions will focus on the questions of legislative hierarchy and legislative initiative; no specific proposals are made here. Thirdly, concerning the number and distribution of seats and the voting procedures, the text proposes that the number of MEPs should be between 650 and 700, and advocates reducing the present disproportionate aspects of the ratio of seats to population: there should be an across-the-board cut in the number of seats allocated to each Member State. Reform of the voting procedures is advocated with respect to the decision-making processes and to certain majorities, such as that required for a vote of censure against the Commission.

The document suggests that the debate should include the controversial issue of the uniform electoral procedure; it would not be necessary to amend the Treaty in this connection, as the Council could adopt any decision unanimously, but such a reform should mean the direct incorporation of the procedure into national law, which would in some cases require constitutional reforms. It is considered to be impossible in practice to obtain acceptance of the notion of monitoring of the Council by Parliament; it is, however, felt that Parliament can be given more powers in the areas of the second and third pillars, and the possibility is also raised of the debate including a review of Parliament's budgetary powers, to encompass Parliament's long-standing demand concerning abolition of the distinction between compulsory and non-compulsory expenditure, a decision regarding the creation of Community taxes and the possible elimination of the assent procedure for legislation.

On the subject of relations between the European Parliament and the national parliaments, the document summarizes the main options already put forward: generalization of the so-called 'Danish system' (i.e. each national parliament would have a select committee concerned with EU matters); joint meetings of the European Parliament and the national parliaments, whether in the form of large-scale sessions ('Assizes') or via the institutionalization

of a large joint assembly of the European Parliament and the national parliaments; and the creation of a 'second chamber' which could function as a senate or chamber of the regions, a chamber wholly or partially representing the national parliaments, or a joint chamber with representatives of both the European Parliament and the national parliaments. In fact, the document appears to favour the formula of setting up 'joint committees' of the European Parliament and the national parliaments on subjects related to the second and third pillars only, via institutionalization of the existing informal arrangement known as COSAC (the Conference of bodies concerned with Community affairs in the Parliaments of the European Community).

- \* With respect to the Court of Justice, the Spanish text proposes that its powers of 'creating' law should be reduced, but that it should be compensatorily given the status of 'constitutional court'. Such a move would be supported from German - and English - legal doctrine, on the basis of an extensive interpretation of the principle of subsidiarity, and would entail the revision of Article 177 of the Treaty, which has been the main source of the Court's law-creating power in recent years. The document stresses, however, that the Court's main and fundamental role is to provide exclusive interpretations of Community law, and suggests that its jurisdiction should be extended, with the necessary safeguards, to the second and third pillars. It also proposes that the appointment of judges should be subject to consultation of the European Parliament and/or the European Council.
- \* Concerning the other institutions, the document refers firstly to the Court of Auditors, raising the following possibilities: review of its number of members; review of Article E (equality for the other institutions in respect of the second and third pillars) and of Article 173(3) (appeals to the Court of Justice); and strengthening of its anti-fraud powers. With regard to the Committee of the Regions, the document expects that the Spanish delegation will be among those interested in promoting its institutional development, and suggests that, while the committee is unlikely to become a second chamber, it should be upgraded from a purely consultative body into an institution proper, with the role of ensuring the correct application of the principle of subsidiarity at local and regional level. On the subject of the Ombudsman, the document raises the possibility of extending his powers to cases of non-application or incorrect application of Community law by the Member States. Finally, the Spanish text does not propose any major changes for the other institutions or organs (such as the European Central Bank, the European Investment Bank or the Economic and Social Committee).

The Spanish document also gives detailed attention to the question of the institutional equilibrium, stressing that any position assumed by Spain on this subject must be guided by two principles (as seen above): the acquis communautaire and the single institutional framework must be preserved; and the existing institutional balance must not be altered, but, rather, must be taken as the basis and subjected only to 'upward' modification to avoid any leaps in the dark. In this context, the document invokes the principle of subsidiarity, recalling that in the past Spain felt that its inclusion in the Treaty would be unnecessary and counter-productive. With respect to the possibility of the IGC witnessing a fresh attempt to revise Article 3b(2), it is clear that Spain will firmly oppose any notion of establishing a list of the Community's powers; this points to a possible impasse in the

negotiations. Furthermore, it may be presumed that any attempt to repeal Article 235 of the Treaty will be opposed by Spain with equal firmness. Overall, the document takes the view that subsidiarity must under no circumstances be used as a weapon, either to limit or to increase the powers which have been transferred to the Union; rather, it should be conceived purely as an instrument for determining in individual cases, in areas where competence is shared without unambiguous delimitation, 'who should do what'. The Spanish view is that subsidiarity is no more than an aid for establishing whether a particular action, in terms of its scope or its effects, can be more effectively carried out at Union or at Member State level.

The document also discusses the principle of 'the necessary means' enshrined in Article F(3) of the Treaty on European Union. It proposes that this principle (which is at present not automatically operative, as it is included under Title I ['Common Provisions'], rather than Title II) should be brought under the Community pillar; this would mean that all decisions would have to be accompanied by a specific budget allocation, and that the principle itself could be invoked in the Court of Justice. Alternatively, the Spanish text advocates mechanisms for the specification and clarification of this principle, offering two suggestions, namely a): all proposals for decisions should be accompanied by an assessment of their economic impact on the Member States, following which the decision should incorporate provision for the necessary resources; and b): the financial impact of a decision should be limited by a ceiling on national cofinancing (which should never exceed 50%), thus ensuring correct management and control of expenditure on programmes and actions by the individual Member States.

With respect to the common policies, the Spanish document suggests that the debate on the possible reform of some of these policies could be relaunched at the IGC (this would apply to the cohesion policy, the CAP, the common fisheries policy, the common transport policy and policy for the single market). A similar proposal is made regarding other policies (competition policy, fiscal harmonization, industrial policy, energy policy and social policy). On the subject of Union citizenship and fundamental rights, the text puts forward two practical alternatives: either the catalogue of rights contained in the existing chapter on 'Citizenship of the Union' should be substantially extended, to include, inter alia, a specific article condemning racism and xenophobia; or there should be a charter of fundamental rights of the citizens of the Union, including, with a view to future enlargements, all the rights considered as basic in the context of the acquis communautaire, which would thus receive protection from both the Union institutions and the Member States. Reference is also made to the need to further specify the concept of 'democratic principles', referred to in Article F(1) as the foundation of the Union, for eventualities such as a change of regime or violation of those principles.

On the matter of the language regime, the text confines itself to stressing Spain's concern to see Spanish entrenched as one of the Union's working languages, since it is quite obviously a major international language. Concerning the ratification and implementation of the text emerging from the IGC, the document suggests two possibilities: either those Member States with reservations could be satisfied by 'opt-out' formulas; or Article N could be revised on the basis of a similar formula to that proposed by Parliament in 1984 in the 'Spinelli project', by means of which resort to unanimity could be avoided. It is also suggested that where a Member State failed to ratify

following a 'no' vote in a referendum, that country should hold a second referendum, and that if that referendum too failed, the country should leave the Union.

A further major theme considered in the Spanish document is the enlargement of the Union. The text argues that the major issue here is neither when enlargement should happen (after the end of the IGC) nor which countries should be admitted (the republics of the former USSR are not considered eligible, at least under present circumstances, with the exception of the Baltic republics), but how enlargement should take place. According to the text, enlargement will require both a genuine deepening of the Union via the IGC and the resolution of the problems which will arise in its wake. These problems will be of various types, namely:

- institutional problems: the existing equilibrium will be disturbed in the political and economic spheres, and sectors such as Mediterranean agriculture could find themselves in a minority;

- social problems: these are essentially linked to migration, which may well principally affect only a small number of Member States;

- political and security problems: the frontiers of the Union will be extended up to the former Soviet republics, thus enlarging the Union's external policy concerns and transferring the new members' security problems to the Union;

- economic problems: the candidate countries must be considered as relatively less-favoured, with an income level which in the best of cases is no higher than 30% of the Community average;

- above all, financial problems: these will mainly concern CAP funding and the economic and social cohesion instruments. With regard to the CAP, the Spanish text advocates an approach based on lengthy transition periods (with frontier controls being retained), alongside other measures to be decided later, to ensure that enlargement does not harm the interests of the existing Member States. On economic and social cohesion, the document suggests two scenarios: on the one hand, additional funds could be allocated to the new Member States, which would mean a considerable increase in the Community budget; or, should the existing level of expenditure be maintained, the existing cohesion funds applying to a fifteen-member Community would be diverted to the new eastern members, in which case the enlargement bill would fall squarely on the shoulders of the existing Community's least-favoured Member States and regions. The Spanish text concludes in favour of allocating substantial new funds, arguing that this would be more than compensated by the political and economic benefits of enlargement. In preference to a revision of the cohesion criteria, the document advocates modifying the existing system of own resources or introducing a fiscal equalization mechanism as a 'fifth resource'. Concerning the right moment for examination of these problems (at the IGC, during the accession negotiations or on renewal of the financial perspectives in 1999), it is argued that the whole issue of funding should be considered in the multiannual negotiations on the financial perspectives: it should not be discussed at the IGC, since this could jeopardize the conference's success. Spain considers that the interinstitutional agreement of 29 October 1993 should not be modified, and that, since both agriculture and cohesion are endowed with their own specific

review mechanisms in the Treaty, these subjects should be debated not at the IGC but in the accession negotiations which will begin after the conference.

Discussion paper of 4 July 1995 on the WEU: contribution to the 1996 Intergovernmental Conference

In addition to the presidency of the European Union, Spain currently holds the presidency of the WEU. In the Declaration of the WEU Council of Ministers held in Lisbon on 15 May 1995, the Ministers instructed the Permanent Council of the WEU to submit a report for their next meeting in November 1995 in Madrid. To this end, the Spanish presidency undertook to submit a discussion paper on the WEU's contribution to the IGC, which would provide a basis for the report of the Permanent Council. The document analysed below is designed to lay the foundations for initial discussions on the matter within the WEU. At the same time, it includes an assessment of progress made so far and proposals for the future from three angles: WEU relations with the European Union; WEU relations with the Atlantic Alliance; and the WEU's operational role. WEU/EU relations and WEU/NATO relations are complementary and each strengthens the other, even where the nature of the various organizations differs. The document is therefore based on the assumption that the existing interaction and links between them will be fundamental when the decisions emerging from the IGC are adopted.

The first section of the document includes an assessment of the progress made in the field of European security and defence since the EU Treaty. It analyses the development of relations between the EU and the WEU, assessing the results and identifying shortcomings. Secondly, the document analyses relations between the WEU and NATO, also assessing progress and difficulties. Finally, the document considers the progress made and problems encountered in developing the WEU's operational role.

On the question of relations between the WEU and the European Union, the document notes a number of significant steps forward and some shortcomings. Progress is generally being made in implementing the plans for establishing cooperation between the Councils and Secretariats of the WEU and EU begun in Autumn 1994. Significant progress has also been made in setting up systems for information and consultation between the Commission and the WEU and in synchronizing their respective presidencies as from 1 July 1994. The invitation to participate in the WEU has been accepted by all the countries of the Union which were not members of the WEU, but disparities as regards status have led to asymmetry between the two organizations which is hindering the WEU's full development as the Union's defence component. It has not yet been possible to synchronize the meeting dates and harmonize the working methods of the two organizations, and the issue of harmonizing the rotation of their respective presidencies has also yet to be resolved. Furthermore, closer cooperation between the parliamentary assembly of the WEU and the European Parliament has not in fact been set in motion. Finally, neither of the two organizations has adopted the practical agreements necessary to enable the WEU to carry out its task of drawing up and implementing those decisions and actions of the Union which have repercussions in the field of defence, an issue which is a key element of relations between the WEU and EU.

On the question of relations between the WEU and the Atlantic Alliance, the Spanish presidency document considers the way in which paragraph 4 of the WEU



Declaration of 10 December 1991 has been implemented. That paragraph affirms that the objective of relations between the WEU and NATO is to develop the WEU as a means of strengthening the European pillar of the Atlantic Alliance. To this end, the Spanish document assesses the way in which the role, responsibilities and contribution of the EU Member States to the Atlantic Alliance have been strengthened and analyses the measures taken to develop further the relations and links between the work of the WEU and the Atlantic Alliance. In relation with this second line of action and on the question of coordination between the WEU Member States vis-à-vis the affairs of the Atlantic Alliance, the document notes the major political and practical difficulties encountered in making more frequent use of the possibility of putting forward joint positions in the consultation process of the Atlantic Alliance. The document also reflects that there has as yet been no opportunity to assess the implementation of the process of consultation between the WEU and NATO on how to respond to future threats. However, the document notes that clear progress has been made in holding joint councils, which have increased from one in 1992 to four annual meetings in 1995. Other procedures have been used to coordinate matters of common interest such as the exchange of documents between the two organizations, correspondence between their respective secretaries-general, joint meetings of experts, liaison meetings between the two secretariats, etc. The Spanish document also refers to the progress made in a number of low-key areas such as synchronizing the dates and places of meetings (in line with a tacit agreement that ordinary meetings of the Permanent Councils of the WEU are held on different days of the week and WEU ministerial councils are held before those of the Atlantic Alliance), and in harmonizing the working methods of the two organizations. On the question of closer cooperation between the WEU and NATO secretariats, the Spanish document notes that significant progress has been made following the security agreement reached between the two organizations (mutual attendance at meetings, exchange of information, joint use of communication systems, cooperation in developing the CJTF concept (combined joint task forces), contacts between the respective secretariats and military bodies, etc). Finally, the document affirms that a positive assessment can be made of the progress achieved as regards relations between the WEU and NATO, even though that progress corresponded more to what was possible than to that which might have been considered necessary and a large number of questions concerning WEU-NATO relations remain to be resolved. The third main topic of the first section of this document analyses the WEU's operational role. It begins by evaluating the implementation of the agreements made in Maastricht and the declaration of 10 December 1991 on studying and defining the tasks, structures and instruments of the WEU. The document notes significant progress as regards implementing the measures adopted to strengthen the WEU's operational role, but points out that the process cannot be considered concluded nor sufficiently put to the test as regards its actual operation. It stresses that the Spanish presidency's programme for the second half of 1995 highlights the aim of putting the new political-military structures agreed at the Lisbon Ministerial Council of May 1995 into operation, involving the setting-up of a new political-military group to support the Council, a situation centre and an intelligence section in the WEU planning cell. The Spanish presidency also proposes an exercise in crisis management to test whether such instruments will actually help evaluate the effectiveness of procedures and redefine once more the concept of military forces answerable to the WEU (FAWEUs). The document notes that agreements on funding with regard to the WEU's activities and the operations to be carried out are of particular relevance.

The second section of the Spanish document concerns the future of the European security and defence identity. In the light of the critical assessment outlined above, the Spanish document lists a series of suggestions aimed at achieving the objectives set out in the Treaty on European Union. These proposals mainly refer to the question of institutional relations between the EU and the WEU, without forgetting operational aspects and the Atlantic dimension. Given the wide range of perceptions in the Member States in relation to this issue, the Spanish presidency has chosen to submit a document setting out various options which might eventually lead to the drawing-up of a joint position by those Member States which belong to the WEU regarding the future institutional links between that organization and the European Union.

The document begins by listing a series of premises on which, in the opinion of the Spanish presidency, there is consensus in all the EU Member States and on which the WEU's contribution to revising the institutional system of the Union Treaty should be based. These premises are: the key objective is to make progress in constructing the European security and defence identity; the current points of view of each Member State whose national security and defence is affected must be respected; whatever form the future institutional development of the two organizations might take, the system which currently makes it possible for associated members of the WEU, observers and associated partners to participate in the construction of the European security and defence identity must be maintained; the principle of national sovereignty should continue to govern relations between European countries as regards security and defence and, consequently, the decision-making process in such areas must continue to be based on the consensus rule as opposed to any other decision-making procedure based on majority voting in any form; and the possible participation of supranational bodies in the decision-making process must be restricted. The document also affirms that the European security and defence identity must not abdicate the task of collective defence in the form already enshrined in the WEU Treaty, even though implementation would preferably take place in the context of the Atlantic Alliance. At all events, a common defence policy should include a guarantee of mutual defence as an expression of solidarity between Europeans. The document also establishes the premise that the Atlantic Alliance must remain a central element of European security and that relations with NATO should not be substantially changed, regardless of the institutional form which the European security and defence identity might take in future. Decisions taken at the forthcoming IGC in this area should therefore also aim to strengthen common defence in the context of the Atlantic Alliance. Finally, the Spanish document affirms that the development of the European security and defence identity should go hand in hand with a close relationship between Europe and its North American allies. A further priority aim should be to strengthen European operational capacities and implement the agreements needed to ensure that European cooperation on defence reaches the necessary level of effectiveness and credibility.

On the basis of these premises, the Spanish document sets out a series of possible theoretical options for the future of the European security and defence identity, taking account of the various approaches taken in European countries towards the institutional development of the WEU and the European Union. The document studies three basic options: enhanced cooperation between an autonomous WEU and the EU; a range of intermediate options designed to bring about a convergence between the EU and the WEU; and the possibility that the EU would itself assume the European defence role.

With regard to the first of these options, i.e. enhanced cooperation between an autonomous WEU and the EU ('option A'), the document concludes that this would involve concentrating the WEU's work on developing European operational capacities in crisis management while maintaining the institutional status quo established in Maastricht in the short and medium term, and that there would therefore be no change following the Intergovernmental Conference. The Spanish document states that there is a general consensus on the need for such operational improvements, which would apply to all the options considered. Nevertheless, this solution would postpone, at least in the short term, the question of the institutional framework for the European security and defence identity, whose subsequent development might help make the actions of the EU and the WEU more consistent and take account of any enlargement of the two organizations.

Under option A, therefore, the current legal form of the European institutions responsible for defence would remain unchanged. The WEU would remain an autonomous organization based on its own independent treaty, and the institutional relationship between the EU and the WEU would basically remain the same as under the EU Treaty. Endeavours would be made to ensure that the WEU acted in closer cooperation with the EU at all levels, with the initial priority being to foster the WEU's ability to carry out the tasks entrusted to it by the Petersberg Declaration. The current differentiated institutional structure vis-à-vis third states belonging to either organization would remain, but with cooperation being strengthened, and associated WEU States, observers and associate members might be offered the possibility of taking part in WEU actions where necessary, on a case-by-case basis. With regard to the decision-making procedure on matters with defence implications, the basic rule of consensus should be strictly maintained as at present, both in the field of the CFSP and within the framework of the WEU. Furthermore, the implementation of a Union decision by the WEU would still require the full consent of all the EU Member States and all full members of the WEU. Maintaining the current institutional structure would also involve preserving the existing bodies of the WEU, which would remain completely independent of the bodies of the EU. In particular, the Council of Ministers, the Permanent Council and the Parliamentary Assembly would retain their present roles and functions, although enhanced cooperation between the two institutions would be given political form by setting up a WEU Summit which might hold joint meetings with the European Council where necessary. In order to increase its effectiveness, this enhanced cooperation between the EU and the WEU should include coordinating objectives in individual operations, agreement on the powers and responsibilities of their respective bodies, the drawing-up of joint assessments and cooperation between the CFSP secretariat and WEU bodies in monitoring major operations. This would involve closer working links between the WEU and the EU at lower levels in addition to the summit, while WEU and EU institutional relations with NATO would remain unchanged.

As 'option B', the Spanish document sets out a series of intermediate options aimed at ensuring convergence between the European Union and the WEU. Option B would involve a number of changes to the current institutional situation aimed at implementing the military operational aspects of EU decisions more quickly and more effectively, underlining the WEU's role as an executive body of the EU and setting a clear goal for the development of current links between the EU and the WEU. The various intermediate options would retain the distinction between membership of the EU and of the WEU, the current differences in status, and respect for individual national positions concerning security and defence

matters. More specifically, participation in any military operation where troops are committed would be subject to a national decision in each particular case. On the question of the decision-making procedure, the possibility for the WEU to decide automatically on its own actions, without prejudicing any actions which it might be required to undertake to fulfil the tasks entrusted to it by the EU, would be retained as at present, while EU procedures for adopting decisions directed at the WEU under the CFSP should be improved. The intermediate options would also involve retaining the current structure of WEU bodies with the same improvements already proposed in option A, with the aim of facilitating relations with the Union, which would be made all the more necessary given the greater influence EU decisions would have over the functioning of the WEU. The document outlines a number of possible solutions. The intermediate options would involve concluding financial agreements between the WEU and the EU so as to ensure that the EU provided the funds necessary for the WEU to carry out the operations decided on by the Union. Relations with NATO should be maintained and strengthened. The key difference between the various intermediate options described below and the initial option of retaining full institutional autonomy for the WEU clearly lies in the establishment of firm legal and/or political agreements between the two organizations. Depending on the form which such agreements might take, the Spanish document outlines three intermediate options and arrangements:

As option B.1, the Spanish presidency document proposes provisions enabling the EU to establish general guidelines for WEU actions. In this case, the revision of the Treaty on European Union would grant the Union a greater political role in defence matters which would enable it to establish a framework for military action by the WEU, particularly in a crisis. To this end, the European Council would also be responsible for drawing up general guidelines for action on matters with defence implications. Such blueprints would be addressed both to the other EU bodies and to the WEU as the organization empowered to implement the appropriate military measures required by decisions adopted by the Council of the European Union. This would take the form of a political agreement reflecting the new requirements of the revised Treaty on European Union, which the WEU would subscribe to by amending the Declaration of 10 December 1991.

As intermediate option B.2, the Spanish document proposes provisions enabling the EU to give instructions to the WEU. In such cases, Article J.4(2) of the Treaty on European Union might be reworded so as to clarify that the WEU is politically and operationally subordinate to the EU and that its main function is to implement the decisions adopted by the EU. As part of the same approach, the revision of the EU Treaty might also make it possible for the EU to adopt decisions on joint actions with defence implications.

Finally, as intermediate option B.3, the Spanish document suggests the establishment of a legally binding relationship between the EU and the WEU. This option would retain the separation of the EU and the WEU and, therefore, the validity of the amended Brussels Treaty. It would however alter the legal form of the EU-WEU institutional framework by establishing the legally binding nature of agreements between the EU and the WEU with a view to strengthening the WEU's role as a body responsible for implementing the decisions adopted by the EU. The document goes on to outline the features to be addressed in such a legally binding agreement.

Option C would entail the EU assuming the European defence function. Under option C, which would mean fusing the WEU and the EU, the problems arising from institutional diversity - which would remain under options A and B above - would be resolved once and for all. Moreover, the fusion of the two organizations would be consistent with a process of European integration which has always been considered incomplete because of the lack of a security and defence dimension within the framework of the EU. The Spanish document is realistic in acknowledging the difficulties which might be posed by simply fusing the WEU with the EU, bearing in mind the specific nature of defence issues, and the document itself suggests that a fusion agreement at the IGC appears unlikely, but that the IGC might indeed reaffirm the long-term goal of EU-WEU integration and might even set a timetable for achieving this aim. To this end, the document proposes three different procedures which might be seen as a series of steps. In general terms, the third option would involve the Union's assuming all the functions currently fulfilled by the WEU as regards security and defence. The first legal consequence of WEU-EU fusion would be the disappearance of the amended Brussels Treaty, making use of the provision for revoking the Treaty after 1998 contained in Article 12. At the same time, a legal framework for defence matters would be established within the EU, and its provisions would be integrated into the Community system when the EU Treaty is revised. At operational level, EU-WEU fusion would involve the full integration of the various crisis management instruments, while reducing the extent of duplication in the decision-making process, which tends to delay action. Joint actions with defence implications would be more workable and would have the advantage of joint funding under the Community budget or through specific agreements. Contributing troops would remain subject to a national decision, while participation through other forms of support and joint action and in joint funding would make European crisis-management operations more effective. The operational means necessary for such actions might be obtained through specific agreements with NATO or by developing complementary WEU and EU possibilities. Under this option, current relations between the WEU and NATO would be replaced by a direct relation between the EU and the Atlantic Alliance. According to the Spanish document, the legal framework of the new European security and defence identity envisaged under option C might take one of the three forms outlined below, depending on the EU area in which the collective defence commitment was placed and on the decision-making process itself.

Firstly, European defence should be made part of the second pillar (option C.1). This would involve incorporating all defence aspects in the CFSP and the main body of the EU Treaty, while offering those states not able to participate in the collective defence agreement the possibility of an opt-out clause on defence issues. Direct links should be established between the EU and NATO, and the remaining European allies should be involved in the defence aspects of the CFSP. This approach would thus involve incorporating the main provisions of the amended Brussels Treaty in the main body of the new Union Treaty, especially as regards Article V (collective defence commitment) and perhaps also Articles IV (relations with NATO), VI (relations with the UN) and VII (ban on direct alliances against another contracting party). Under this option, the basic rule of consensus would be preserved and the bodies already set up for the CFSP would basically remain unchanged. The Parliamentary Assembly would disappear and its defence functions would be taken on by the European Parliament in accordance with its own rules under the CFSP, while the Commission would be involved in such tasks in the same way as it is currently involved in the CFSP. Delegates from the armed forces, the planning cell, the Institute for Security Studies,

the satellite centres and the WEU's operational capacities and cooperation structures relating to arms would be assigned to the EU bodies.

Option C.2 would involve a procedural exception being made for defence within the framework of the CFSP. If the current CFSP decision-making system were not maintained as in option C.1 above, and if, for example, a majority-voting system were adopted in the near future, an exception should be made for defence matters, to which the provisions of the previous CFSP would continue to apply. In order to preserve sovereignty and the rule of consensus with regard to matters of European security, if the revision of the Union Treaty were to involve adopting a majority-voting system as a general rule for CFSP decisions and strengthen the current role of the Commission and Parliament in this context, appropriate provisions should be introduced to ensure that security matters continued to be dealt with under a different system. An exception for defence matters would make it possible to continue applying the procedure laid down for the current CFSP. More specifically, there would be no majority voting on defence matters, there would be no co-decision for the European Parliament, the Commission would have no exclusive right of initiative and its participation in this field would not go beyond the limits set down in the present EU Treaty.

Finally, as option C.3, the Spanish document addresses the possible adoption of a protocol on defence matters annexed to the EU Treaty. In this case, only security and defence matters linked to crisis management would be incorporated in the second pillar, with a direct link being made between the CFSP and its military application, while at the same time a defence protocol would be adopted, to be annexed to the Union Treaty, including the collective defence clause currently contained in the Brussels Treaty; those states which are currently unable to sign this protocol might do so in the future. Defence would thus be integrated into the European Union in such a way as to ensure that no country was obliged to accept the collective defence clause, nor to take the explicit step of opting out from this area. The bulk of the provisions on the European security identity, in which all the Member States might participate, would thus be included in the main body of the new Treaty, while a collective defence protocol open to all Member States of the EU wishing to join it would be incorporated as an annex to the Treaty.

In its conclusions, the Spanish document focuses on strengthening the European security and defence identity in operational and institutional terms. In connection with the former, the document stresses that there is a broad consensus on the need to acquire the necessary operational capacities for European military action, particularly in the field of crisis management in accordance with the tasks conferred in Petersberg, while pointing out that the bulk of the organizational measures agreed in Maastricht in this connection have yet to be fully developed and that additional efforts are necessary to provide appropriate, effective and credible military means. At the same time, agreements need to be reached allowing NATO resources to be used by the European allies within the framework of the WEU so as to avoid duplication of resources and the adverse effects of certain measures on the Atlantic Alliance itself, and relations with NATO and the transatlantic link need to be strengthened. Such operational measures are required to develop the WEU as the defence component of the EU and as a means of strengthening the European pillar of the Atlantic Alliance. On the question of strengthening the European security and defence identity in institutional terms, the Spanish document sets out the series of options and possibilities analyzed above, taking the view that these are

theoretically possible and that they already enjoy the support of some Member States, while at the same time recommending that a detailed discussion take place to reduce the range of options to only one or two. According to the Spanish document, existing national differences concern the timetable rather than the ultimate goal, which is in each case the gradual development of an authentic European security and defence identity without excluding a common European defence as a long-term objective. The sequence of options and procedures proposed in the Spanish presidency document might follow the order outlined above, starting with the options requiring the smallest degree of institutional change: option A - option B (B.1, B.2, B.3) - option C (C.3, C.1, C.2).

Finally, the Spanish document affirms that the WEU's contribution to the IGC might recommend this sequence of institutional steps, which might even be reflected in a proposed timetable for implementation, taking account of the various aspects of European security and defence and the requirements of European integration.

**Document: 'Elements for a Spanish position at the 1996 Intergovernmental Conference', 28 March 1996.**

This document was sent to the parliamentary groups by the Spanish Foreign Ministry on 28 March 1996. Its structure and, indeed, its wording and content are to a large extent based on the 5 December 1995 report of the Reflection Group, chaired by Carlos Westendorp, later Spain's Foreign Minister. The document of 28 March 1996, together with the opinion of 29 December 1995 of the Joint Committee on the European Union of the Spanish Cortes on the consequences for Spain of enlargement of the EU and of its institutional reform (IGC 1996), sets out the guiding lines of the Spanish position on the IGC. The first-named document adopts, in general terms, the more integrationist approach of the Reflection Group's report, thus appropriating it and augmenting its effectiveness and impact in the context of the negotiations.

Like the Reflection Group's report, the Spanish text of 28 March 1996 is divided into three main parts. The first is entitled: 'The reform of the European Union: a challenge for the future'. It begins by setting out the reasons for reform, the mandate of the IGC and the new challenges facing Europe. On these aspects, the Spanish text effectively repeats the positions and proposals of the Reflection Group's report. The same applies to its discussion of the principles and objectives of the IGC. On the subject of differentiated integration, Spain rules out any formula which might lead to a 'Europe à la carte'; as far as guidelines for flexibility are concerned, the text follows the criteria of the Reflection Group. This is also the case for the context and calendar of the Conference and the subject of enlargement. In this connection, Spain considers it essential that the acquis communautaire should be preserved and developed (Articles B and N), seeing this as a basic principle for the existing Member States and as a crucial sign that the applicant countries do not wish to see the Union's common policies dismantled. At the same time, this should not prevent the applicant states from being able to phase the acquis in gradually. Spain believes that the IGC should be approached separately from the question of the impact of enlargement on the future of the Community policies. Spain is in favour of enlargement, but opposes any reform of the common policies, especially of the CAP. In this connection, Spain insists that, in order to facilitate

enlargement, there must be respect for the acquis communautaire and for the principle of additionality of resources: the accession of new Member States should not require the modification of the Union's policies, but, rather, will call for flexible adaptation on the basis of longer or shorter transition periods enabling the prospective Member States gradually to replace their existing national policies by Union policies. Similarly, Spain insists on the need to preserve the existing economic and social cohesion between the fifteen present Member States, and argues that the costs of bringing in new members should be financed by additional resources, with all the partners bearing a part. On the scope of the IGC and the need for transparency, the Spanish text, once again, faithfully reproduces the positions of the Reflection Group. Spain considers that the Conference should provide suitable responses to the internal and external challenges facing the Union, advocating a global, inclusive approach to the Conference's subject-matter. It is particularly concerned that the work of the IGC should be as transparent as possible, to enable the institutions, the representatives of civil society and the prospective member states to be duly heard when expressing their concerns, and to ensure that public opinion is kept suitably informed. Spain believes it vital that the substance and work of the IGC should correspond to the expectations that led to its convening, feeling that there is an obligation on all parties to the Conference to achieve an adequate result. Repeating the positions of the Reflection Group, the Spanish government stresses that the priorities for Spain's position at the IGC should concern three main areas of negotiation: ensuring that Europe serves its citizens better; improving the workings of the Union and preparing it for enlargement; and bolstering the Union's capacity for external action.

The second part of the Spanish document, following the same order as the Reflection Group's report, deals with citizenship and the Union. In general, the main points of the two texts are here almost identical. Spain, like the Reflection Group, considers that there are certain common values which the Union should protect and develop, and, on the subject of human rights and fundamental freedoms, supports the inclusion in Article F.2 of the Treaty of an explicit reference to the obligation of Member States to respect for such rights and freedoms, adding that where such respect is not shown the Union should be empowered to act in consequence. With a view to ensuring full respect for fundamental freedoms in relations between the EU and Member States and between Member States and individuals, Spain supports inclusion in the Treaty of an article under which a Member State which seriously and repeatedly violated fundamental human rights or basic democratic principles would have its rights suspended. Spain supports strengthening the protection of fundamental rights, either by incorporating a catalogue of such rights in the Treaty or by including provisions in the Treaty enabling the Union, once endowed with legal personality, to accede to the European Convention on Human Rights. It also favours inclusion in the legislative part of the Treaty of the agreement attached to the social protocol, as an expression of common European values aimed at ensuring that economic integration is accompanied by a suitable social climate. Spain supports the inclusion of socio-economic rights, and, in particular, the incorporation of the Community Charter of Fundamental Social Rights, as a declaration annexed to the Treaty. On the question of non-discrimination, it is in favour of including a general non-discrimination clause in the Treaty: this would build on the outlawing of discrimination on grounds of nationality in Article 6, also covering gender, race, religion, disability, age and sexual orientation. Spain also supports the strengthening



and extension to all fields - beyond the principle of equal pay for equal work enshrined in Article 119 - of the principle of the full equality of men and women: this should be expressed in the Treaty in positive terms, rather than solely as the result of an anti-discrimination provision. The Treaty should include a reference to integration in all Union programmes and policies from the perspective of gender equality. Finally, Spain considers that the Treaty should contain an explicit condemnation of racism, xenophobia and intolerance, by means of a provision similar to that proposed by Parliament in 1993. With respect to Union citizenship, Spain advocates its development through further progress concerning the concrete citizens' rights already included in the Treaty (achievement of unrestricted freedom of movement and residence; full institution of diplomatic and consular protection in third countries), the inclusion of new rights and the simplification of the Treaty articles relating to citizenship. The citizen should have a specific right to information on Union matters and the workings of the Union. Open-minded consideration should also be given to establishing a form of voluntary service for humanitarian actions. On the subject of public services of general interest, Spain believes that the IGC should take account of this concept as a principle complementing market criteria. What should be protected is general access for the consumer to certain services, not the nature of the provider; the Treaty should accordingly contain more provisions, of a more wide-ranging character, on the role of public services and services of general interest, to ensure that competition does not affect the availability, quality and universal character of the services provided to the public.

On the subject of freedom and internal security, Spain sets out its priorities for the IGC. Firstly, action against terrorism must be considered a key priority, and effective and urgent results must be insisted on. Spain believes that in democratic states where the rule of law prevails it is totally unacceptable to classify terrorism as a political offence. The Spanish position at the IGC will be that anti-terrorist action must be the primary objective of European police cooperation and that the Treaty must explicitly state that terrorism is not a political offence and that political grounds must not be invoked to justify a refusal to extradite from one Member State to another. Spain also argues that the Treaty should explicitly outlaw the possibility of a citizen of one Member State being given political refugee status by another. Spain considers that in the area of police and judicial cooperation (in both the civil and the criminal fields) there should be closer intergovernmental cooperation, at least for a certain period, and that meanwhile the 'passerelle' procedure under Article K.9 should be made more flexible. Closer cooperation would require improvements in the legal instruments (agreements should be replaced in some cases, or should enter into force following majority ratification) and in the role of the institutions (general joint powers of initiative for the Commission, consultation of Parliament and judicial control by the Court of Justice). Spain favours considering the possible communitarization, in this area, of all aspects relating to the crossing of the external frontiers, i.e. of the rules governing foreigners, immigration policy, asylum policy (with asylum between Member States being ruled out) and joint rules for external frontier controls. At all events, given the nature of all these third-pillar subjects, Spain considers that the Conference should support greater involvement of the national parliaments, and that the subjects concerned should be regulated by means of suitably effective instruments - e.g. directives - which provide legal security. The simplification and reduction of the levels of decision-making would also increase efficiency in third-pillar matters. Spain

supports consideration of incorporation by the Union of the Schengen agreement and its acquis, by means of flexible adaptations related to the advances achieved in the field of justice and home affairs.

On employment, Spain considers it vital that the IGC should discuss this subject and come up with practical proposals, and takes the view that the Commission, the Economic and Finance Council and the Social Affairs Council should continue to devote the special attention which they have been deputed to pay to the subject: their work of supervision, coordination and information should give rise to a framework of joint strategies and reinforcement of the Union's economic and social dimensions. Spain proposes that the legal bases of these policies should strengthen the objective of job creation, and considers that this should be included in the activities listed in Article 3 of the Treaty. It also advocates inclusion in the TEU of specific provisions on employment policy which would permit more coordinated action and reinforce the status of job creation as an objective inherent to all Union policies. Spain therefore proposes that the Treaty should institutionalize the conclusions of the Madrid European Council.

On the environment, Spain believes that the initial goal should be to achieve suitable implementation of the existing rules, and that it is not necessary to reinforce the Treaty provisions. The IGC should examine means of improving the effectiveness of Union action and determining where action should remain the internal responsibility of Member States. Spain favours retaining the existing exceptions in this sphere whereby decisions are made by unanimous vote on quasi-constitutional matters affecting areas of major sensitivity to Member State sovereignty or having a substantial financial impact at national level. Should qualified majority voting become the norm for some of these areas in a manner satisfactory to Spain, provision should be made to ensure application of the twin principles of sufficient resources and subsidiarity.

Concerning improving transparency in the Union, Spain favours action to ensure that the Union's business is more easily accessible and comprehensible to the general public. There should be greater use of publicity, information and consultation techniques by the Union bodies and institutions, which should pay particular attention to facilitating the work of the national parliaments. Commission proposals should be announced earlier; there should be more 'green papers'; and increasing use of interinstitutional agreements should go hand in hand with the necessary general publicization and awareness of their content. Transparency can also be increased via application of the principle of subsidiarity. Any changes in the Council's organization and working methods should be in the interests of greater transparency: individuals should have greater access to information, and legislative texts should be better and more clearly drafted. Spain believes that the existing text of the Treaty should, wherever possible, be simplified so as to be clearer and simpler, thus becoming more accessible to members of the public wishing to read and study it. In this connection, Spain would support far-reaching changes aimed at producing a more straightforward Treaty with a different structure.

On subsidiarity, Spain does not favour amending Article 3b of the Treaty although it could endorse inclusion of the Birmingham and Edinburgh declarations in a protocol. Spain believes that the principle of sufficient means should be reinforced in the Treaty text as a way of moderating the exercise of Community powers. The aim would be not to establish a guarantee that all Community

decisions implying Member State expenditure would have Community funding, but to encourage the ex ante control of proposals, thus preventing the Union from placing unacceptable financial burdens on Member State budgets. The principle of sufficient means calls for consistency between the aspirations of those making proposals and the resources of those paying for them. The Spanish government considers that the correct application of the principle of subsidiarity and suitable recognition of the principle of sufficient means should facilitate the transition from unanimity to qualified majority voting.

The third and last part of the Spanish text of 28 March 1996, again following the structure and content of the Reflection Group's report, examines the notion of an effective and democratic Union. After stressing that the aim of the 1996 reform is to improve the quality of the Union's workings and that the operation of its instruments should be guided by the criteria of efficiency, democracy, solidarity, transparency and subsidiarity, the text endorses the principle of scrupulous respect for the equal treatment by the institutions of all the Union's working languages, stressing that this is an obligation which should be strengthened without any need to alter the Treaties.

Concerning the institutions, Spain believes that, as a matter of priority, any reform must entrench the single institutional framework within the TEU as a whole, independently of its structure. Institutional reform must also respect the institutional balance and the character of the Union. On the European Parliament, Spain would accept a ceiling of 700 members, as proposed by Parliament itself; concerning the uniform electoral procedure, it considers that Article 138(3) of the Treaty should be read as requiring such a procedure to be introduced in all the Member States, and favours speedy action to this end. On Parliament's legislative role, the text considers, in the first place, the question of legislative initiative, arguing that Parliament's powers under Article 138b are sufficient. Spain favours reducing the number of legislative procedures to three: codecision, assent and consultation. Concerning the codecision procedure in particular, Spain believes that it should be improved and simplified without altering its nature, and would extend its scope to the areas currently subject to the cooperation procedure. The text makes no specific proposals as regards Parliament's budgetary powers. However, on the matter of political control it refers to Parliament's role in the appointment of the Commission, considering that the existing approval procedure under Article 158, applied for the first time for the present Commission, represents a satisfactory balance and does not need changing. On the other hand, as far as control over the Commission is concerned, the document takes the view that, irrespective of the Commission's membership, its democratic legitimacy should be increased via suitable control by Parliament. With respect to the monitoring of implementation, the Spanish text distinguishes between implementation by the Commission and implementation by the Member States in application of Community law, arguing that the powers of Parliament and the Ombudsman should be strengthened with respect to anti-fraud action and, in general, scrutiny of the executive powers of the institutions. Concerning Parliament's role in the CFSP, Spain feels that this cannot be the same as in Community legislation: the national Parliaments themselves do not use the same participation mechanisms in the definition and monitoring of external policy as they do in internal matters. However, Spain considers that the existing Treaty mechanisms should be more effectively used in practice, on the basis of Parliament's right to be informed and consulted in this area. The question of Parliament's role in the field of

the third pillar (CJHA) has already been dealt with in the discussion of that area above.

On the subject of the national parliaments, Spain believes that their main role in relation to EU decisions should concern the monitoring and control exercised by each Member State parliament on the actions of its government in the Council, and that it is up to each Member State, not the Union, to determine how this activity should be exercised. Spain considers it essential that the national parliaments should be supplied with all the requisite information from the Union and its institutions, so as not to be taken by surprise. Concerning the Commission and Council, Spain proposes that they work in such a way as to facilitate the task of the national parliaments; the Treaty could be amended to enable each national parliament to receive clear and full documentation in its official language and in sufficient time on all substantive legislative proposals by the Commission, so that they could study and debate the proposals before their discussion and adoption by the Council. On relations between the European Parliament and the national parliaments, Spain supports inclusion in the Treaty of certain points of Declaration 13 (currently annexed to it). While favouring the COSAC formula, Spain does not consider further institutionalization of that committee to be required, on the grounds that it is precisely its lack of formality which has made it successful. At all events, closer links with the national parliaments should not lead to the creation of a new institution or permanent body with its own staff and premises, or of a second chamber of national MPs. Spain would not, therefore, support the institutionalization of a 'higher consultative committee' of the Union consisting of national parliamentarians. Equally, it does not favour, as a general procedure, holding conferences of the national parliaments as provided for in Declaration 14 (annexed to the Treaty), in view of the lack of success of these when they have actually been held. Finally, as one of the most effective means of developing the role of the national parliaments, Spain suggests that Commissioners should be able to address those parliaments where circumstances make it desirable.

On the European Council, Spain believes that this body should retain its existing functions and that its capacity for action should be strengthened through changes to the Treaty and improved working practices. Concerning the decision-making mechanisms, the document firstly considers unanimity and qualified majority voting. Spain would retain unanimity in decisions concerning primary law (Articles N and O) and the Union's own-resources system, the quantitative aspect included. In all cases, these decisions would have to be ratified by the national parliaments. Concerning derived law, Spain would be willing, for reasons of efficiency, to see qualified majority voting become the general rule: this would facilitate decision-making and permit greater coherence between the development of the internal market (already governed by QMV) and the accompanying policies. Spain believes that under the Community pillar unanimity will have to remain for a limited number of decision-making areas, including: Article 235 of the TEU; certain decisions with obvious budgetary implications for the Member States, such as those of fiscal or social character; the Structural Funds; environmental measures; and certain other quasi-constitutional decisions such as reform of the Treaties, decisions on new accessions to the Union, agreements with third countries, etc. Spain would also tie the QMV threshold to the arrangements for the weighting of votes, on the grounds that it is high time for population to be properly taken into account in decision-making: this would require a new system for the weighting of votes in Council

and the adoption of a double majority system taking into account both votes and population. Spain considers it a matter of priority that the IGC should introduce a QMV system enabling the EU to reinforce its effectiveness and legitimacy. Spain believes that there should be a new weighting system taking greater account of population, and a double majority system based on both votes and population. Without going into detail, the Spanish document argues that decisions should be taken by a double majority based on both votes and the population of the Union.

Concerning the Council's organization and working methods, Spain believes that the General Affairs Council should once again have the role of general coordinator of Union business, ensuring the overall coherence of the work of the Council in all the fields of the Treaty. To this end, Spain would strengthen COREPER in its central role of preparing the meetings of the Council in the interests of global coherence. On the matter of publicity, Spain agrees that the Council's activities should be more widely publicized: however, as in practice it is not easy to separate the Council's legislative debates from its discussions as a political institution with executive powers, it feels that what is involved in reality is an intensive process of continuous negotiation which, if it is to be genuine, should not be open to the public. On the Presidency, Spain makes no specific proposals, confining itself to endorsing the importance of its role and its crucial responsibility in conducting the Council's affairs, making a positive evaluation of the system of six-month rotating presidencies under the present Treaty. Nonetheless, Spain recognizes that in an enlarged Union there may be practical problems which will have to be resolved within the limits of the existing Treaty.

On the Commission, Spain follows the Reflection Group in stressing that the raison d'être of that institution is the defence of the general interest of the Community and that its exclusive prerogative of legislative initiative is a key element in the Community's institutional balance (without prejudice to the right of evocation referred to in the Treaty or the possible inclusion of an obligation to reply to requests). Spain considers that legislative proposals should lapse at the end of a parliamentary term unless the Commission specifically determines otherwise. The Commission's role as guarantor of the Treaties is seen as an essential function of the institution which must be retained. As far as its executive powers are concerned, Spain favours continuing with the existing division of powers under which the executive role is shared by the Commission and the Council. It views the Commission, as a collegiate body, as being under the obligation to exercise its powers on the basis of full responsibility, and therefore opposes any transfer of the Commission's executive powers to specialized agencies. Spain believes an effort must be made to ensure the full and equitable application of legislation and Community obligations. The subject of the Commission's powers under the third pillar has already been dealt with above; its role in the CFSP will be considered later, in the analysis of that policy. On the important subject of the membership of the Commission, Spain refers to two possible approaches: either the existing system based on Article 157(1) of the Treaty is retained, i.e. there continue to be two Commissioners each for the larger Member States and one each for the others; or an optimum number of Commissioners for dealing with the Commission's task on settled on, and there are therefore less Commissioners than Member States. Spain considers that the option by which there would be one Commissioner per Member State, doing away with the second Commissioner whom the five largest Member States now have, would be a cause of imbalance and a step in the wrong direction: it would amount

to 'renationalizing' the Commission, turning into a species of Council deciding by simple majority vote, with a negative effect on the representation of population in decision-making. Spain therefore believes that this option should only be considered if it is accompanied by a reform of the voting arrangements on the Commission by which weighted voting based on population would be introduced.

Concerning the other Union institutions and bodies, the Spanish text, once again following the wording and order of the Reflection Group's report, first considers the Court of Justice, whose position, Spain believes, must be reinforced as a matter of priority. Spain stresses the importance of the Court's role in presiding over the Community's legal dimension and ensuring consistency in the legal interpretation of Community matters and the protection of individual citizens' rights. It believes that the IGC should, for reasons of legal security, strengthen the Court's positions in the sphere of justice and home affairs, and that the Court should speed up its procedures and improve its translation service. Concerning the Court's membership, Spain considers that the judges should serve a nine-year, non-renewable term, and that, with a view to enlargement, the factors taken into account for determining national participation should include not only the judges but also the advocates-general. On the Court of Auditors, Spain believes that there should be an explicit obligation on the internal official bodies of the Member States and the national audit boards to cooperate with the Court of Auditors, and that its powers of control over the Union's accounts should be clarified, with respect not only to the Community pillar but also to the CFSP and CJHA spheres. On the Committee of the Regions, Spain considers that this institution should have its own administrative structure and that its consultative functions should be more effectively employed and, indeed, expanded. Parliament should have the right to consult the Committee, which should, in its turn, be enabled to bring actions before the Court of Justice so as to protect its competences. On the Economic and Social Committee, Spain considers that better use should be made of its potential contribution to the preparatory consultative phase of the legislative process.

Spain does not favour including a catalogue of the Union's powers in the Treaty, preferring the present system which establishes the legal basis of Union actions and policies for each separate case. It therefore supports retention of Article 235 as it stands at present, as an instrument capable of handling the evolutionary character of the interpretation of the Union's objectives. On the question of the hierarchy of acts, Spain does not favour its adoption at the present stage of European integration; it considers that the Union should preserve its specific nature, characterized by a specific classification of acts including regulations, directives, decisions and recommendations. Spain believes that this specific system should be clarified as regards the powers of each institution, in the context of respect for the institutional balance. On commitology, Spain is willing to consider simplified procedures, provided they do not vitiate the Council's executive functions; it admits the need to simplify the present commitology set-up, which it sees as cumbersome and confusing, and therefore not viable beyond the next enlargement, and favours improving the quality of the legislation adopted under those procedures. It recalls that the revision of the 1987 decision on commitology does not require any changes to the Treaty. On the monitoring of the implementation of legislation, Spain believes that the Commission should fully exercise its powers under Article 171 to penalize the non-application of Community law, and that it should also be

obliged to draw up annual reports on the effectiveness of policy and make available more effective means of action for private individuals to lodge complaints against failure to implement Community law.

On action against fraud, Spain believes that the Community institutions should step up their campaign, while recognizing that the main responsibility lies with the Member States; at all events, Parliament and the Court of Auditors should make full use of their powers in this field, which require strengthening, and all the institutions and bodies should be subject to the necessary controls. On the matter of resources, Spain recalls that the 1993 interinstitutional agreement (valid up to the end of 1999) on budgetary discipline and improvement of the budget procedure provides for these subjects to be discussed at the 1996 Conference. Accordingly, as far as the own-resources system is concerned, Spain does not think it necessary for the matter to be raised at the IGC, given also that the expiry of the present financial agreement in 1999 will be the right moment to discuss all the aspects of the subject. However, since the own-resources system is one thing and the amount available under it is another, Spain considers that, should the IGC include in the Treaty the legal bases of a new own-resources system for the Community with participation by the Community institutions in these decisions, a new revenue system should be established taking account of the relative prosperity of the Member States. On the control of expenditure, Spain, as seen above, favours a stronger anti-fraud role for the Court of Auditors, accompanied by cooperation with the national audit boards. Concerning possible new policies, Spain considers that the Community should concentrate on improving what it already does rather than acquiring more powers. On the possible inclusion of such areas as energy, tourism and civil protection in the sphere of the common policies, Spain believes that it would be preferable simply to develop cooperation between Member States in these fields. Finally, Spain wishes to see, as a matter of priority, the inclusion in the legislative part of the Treaty of a protocol establishing the permanent character of the special status of the outermost regions of the Community.

The last section of the Spanish text concerns the Union's external action. The first aspect discussed is the extent to which external policy is comprehensive and coherent. For Spain, the priority is to evolve a global approach aimed at transcending the mismatch between the Community's external dimension and its external policy as such: one of the shortcomings of the existing Title V is felt to be the lack of articulation between the political, economic and military domains. Spain therefore stresses the need for the Union to acquire international legal personality, to enable it to conclude international agreements in the spheres of the second and third pillars. It also favours abolition of the division into pillars: the specific nature of the procedures for proposal, decision and execution should be maintained within a unitary Treaty, following the example of EMU. Spain also advocates a more specific formulation of the fundamental interests of the Union referred to in Article J.1(2), considering that the objectives should be expanded to include such notions as: diplomatic solidarity between Member States, protection of the common frontiers and the preservation and defence of human rights and democracy. The distinction between joint positions and joint actions should be clarified in more detail, so as to improve the coherence of the Union's external action. Finally, in the interests of greater coherence in the preparation of the Council's work, Spain proposes clarifying the relationship between COREPER and the Political Committee and strengthening the former's coordinating and

focalizing role as the committee responsible for preparing the work of the Council in all of its areas of competence.

On the common foreign policy, Spain considers, as far as its preparatory phase is concerned, that it would be desirable to set up a body or unit for analysis, forecasting, early warning and planning. This unit should be located within the Council Secretariat, whose structures should accordingly be reinforced; it would cooperate with the Commission in forecasting and analysis activities, and would thus include both Commission staff and officials from the Member States. As a preparatory body, it would have no formal rights of initiative. On the decision-making process, Spain would extend QMV, allowing the possibility of intermediate or ad hoc formulas such as unanimity with 'positive or constructive abstention' or a 'super-qualified majority' arrangement. To complement QMV, Spain believes that it should be accepted that a fundamental or vital interest may prevent adoption of a common position or action. Concerning execution, Spain would support formulas combining retention of the central role of the rotating presidency in the external representation and execution of the CFSP with other elements introducing greater permanence, visibility and coherence. At all events, it believes that there must be greater coordination between the presidency and the Commission: to avoid any further confusion of functions, in preference to the formulas by which the CFSP would be represented by a new individual figure Spain advocates the option by which the CFSP would be directly and jointly run by the President of the Council, the Commission, and a 'political' Commission Secretary-General who would be responsible for the analysis and planning unit and would have reinforced powers. On the financing of the CFSP, the Spanish view is that solidarity in general, and financial solidarity in particular, should inform the funding formulas, which should also apply in the case of positive abstention or opting-out. The CFSP should in any case be funded from the Community budget.

On security and defence policy, Spain believes that the IGC should contribute to the gradual development of a European identity in this field, as agreed by the WEU members at Maastricht. Mechanisms should be created to permit a European response to certain types of crisis: this would include military operations complementing political, economic or humanitarian action under the CFSP. As far as means are concerned, Spain believes that the WEU's operational capacity should be further boosted, while accepting that the Atlantic Alliance and the transatlantic relationship still have a vital role to play in Europe's security. For Spain, the development of a European security and defence identity should reinforce the European pillar of the Atlantic Alliance and include development of the transatlantic link. On CFSP decision-making, Spain believes that the principle of national sovereignty should continue to govern relations between European countries in the field of defence, and that the intergovernmental nature of such decision-making should be retained and applied on a basis of consensus. The rule of consensus should not, however, exclude the possibility of a specific defence role being played by supranational European bodies in the future. At all events, Spain would endorse introducing an element of flexibility in this field, and therefore proposes the application of a non-binding principle to the effect that, while no-one can be obliged to take part in a Union military action, no-one can prevent a majority of Member States from going ahead with such an action. This would be without prejudice to the necessary political solidarity or a suitable sharing of the financial burden. Finally, Spain considers it essential to improve the Union's action in such fields as conflict prevention, peace-keeping and humanitarian operations.



The Spanish text finally examines the future of the EU's relations with the WEU. Spain believes that there must be further improvements in relations, on the basis of full respect for all Member States' national defence policies. It considers that the road to creating a European security and defence identity lies in the gradual integration of the WEU with the EU, in parallel to the development of the EU's operational capacity. The European defence dimension, for crisis management missions as well as for the existing collective defence guarantee under the Treaty of Brussels, would be incorporated, when the time was ripe, in the Union's single institutional framework. Spain believes that integration will only be possible in the medium term, and therefore considers that the IGC should, on the basis of the WEU's continued existence for the time being, determine measures for encouraging the institutional convergence of the EU and the WEU, with full integration as the ultimate goal. This could be done by means of a political or legal agreement under which the WEU would become subordinate to the EU in matters related to the preparation and operational and military application of EU decisions and actions (similar to the Petersberg missions), acting as the Union's implementing organ in the field; the WEU would, however, still be enabled to make autonomous decisions concerning its own actions. Spain believes that the arrangements for such an integration could be decided either at the IGC or later, and that one possibility could be to transfer all the WEU's functions and capacities to the second pillar, constituting a defence function within the CFSP. Another, initially more feasible mode of integration would be to endow the CFSP with crisis management functions along the lines of the Petersberg missions, while leaving the collective defence guarantee to a defence protocol to which those Member States so wishing could accede, on the basis of conditions to be agreed.



Even though the French Government has not yet presented an official document on the Intergovernmental Conference, the main ideas of the previous government were summarized in our note of April 1995 (cf. Task-Force note 55.95) on the basis of the various alternatives and proposals put forward chiefly by the former Prime Minister Edouard Balladur and the former Minister of European Affairs Alain Lamassoure, and by the former President François Mitterrand.

Addressing the National Assembly on 3 November 1994, the French Foreign Minister, Alain Juppé, announced the institutional reform priorities in connection with the IGC, the main thrust of which is as follows: the powers of the Council should be strengthened, providing for a longer term of office and a more extensive role for the presidency; the Commission should not claim to constitute a kind of federal government; the system for electing Parliament and the means by which it could exert influence should be altered; and the role of the national parliaments should be increased. The overall unifying framework would be provided by 'reinforced forms of solidarity' open to all those willing and able to take part, and not confined to a 'hard core' of countries.

During his presidential campaign, President Chirac put forward a number of specific proposals, the main thrust of which is as follows:

- Structure of Europe

European integration must spread eastwards, very rapidly and without fail.

The European Union, which today has fifteen members and tomorrow will have been enlarged to include twenty or thirty members, must continue to form the foundations of the European edifice. It must encompass a customs union and common policies in the trading sphere and areas of common interest. It must have a genuine common foreign and security policy, a necessary consequence of which will be tight checks at its external borders.

Within the founding family that is the Union, those Member States which so wish must be in a position to forge special bonds and reinforced forms of solidarity ... Member States which wish to go faster and further together must be allowed to do so ... I would add that once these strengthened joint actions have been launched, they will be open to such Member States as might be willing and able to take part.

One point, however, needs to be made clear: the Franco-German partnership will remain at the heart of the system.

- Role of the institutions

- \* **The Council:** It is quite obvious that the role of the Council needs to be strengthened ... Why not lay down a longer presidential term, in order to guarantee the continuity required for any ambitious enterprise, and, at the same time, provide additional support in the form of two vice-presidencies? Making the Council a more active prime mover of proposals is a further idea that cannot fail to spring to mind, given that the Commission now exercises a virtual monopoly in this area. In addition, should not the current vote weighting system be revised so as to reflect political reality more accurately?
- \* **Voting system:** The different criteria, including, no doubt, population, need to be linked together in order to create a more effective decision-making system. This does not detract from the principle of fair dealings among the Member States whereby the Union should refrain from obliging a Member State to accept a decision contrary to its vital interests.
- \* **The European Council:** I believe that a three-year European Council presidency should be introduced. The main task of the President would be to represent the Union in its external relations, uphold its interests, and foster its identity.
- \* **The Commission:** The focus of the Commission's activities must be shifted back towards the powers accorded to the Commission under the Treaties, having regard to the subsidiarity principle. The Commission must have complete freedom to make proposals, this being part of its role, and discharge its executive responsibilities. Under no circumstances, however, should it replace the Council, to which it must be accountable. Common sense likewise dictates that the size of the Commission be reduced, taking the necessary action in accordance with specific negotiating briefs and guidelines laid down by the European Council.
- \* **The European Parliament:** The European Parliament, which, apart from its particular role in the institutional machinery, has helped to promote awareness of problems extending beyond Europe's frontiers, for example the

defence of human rights or environmental protection, needs to bring itself into line with the orders of magnitude prevailing in the new Europe.

- Economic and monetary union

I voted in favour of the Maastricht Treaty and am personally committed to full implementation of economic and monetary union once the conditions specified by the Treaty have been met. At present, only one country satisfies the convergence criteria laid down in the Treaty. France, which, along with Germany, should form the backbone of future economic and monetary union, must take the steps required without fail.

- The national parliaments

The national parliaments need to be involved more closely in the Community enterprise, for nothing permanent will be achieved without the support of the peoples. It is necessary to study new procedures whereby the national parliaments can play a part in shaping Community law.

Under Article 88-4 of the French Constitution, proposed Community acts containing provisions of a legislative nature are already referred to the National Assembly and the Senate. The two Houses have persuaded the Government to enforce the 'proviso of parliamentary consideration' *vis-à-vis* Brussels in order that they may deliver their opinions. However, there is a need to go further. I shall ask the Government to ensure that proposed acts having legislative implications in the spheres of common foreign and security policy, justice, or home affairs, and draft interinstitutional agreements, may be submitted to Parliament under the same conditions.

As regards revision of the Treaty, I hope that the national parliaments will be able to wield influence over Union legislation by exercising a right to invoke an 'exception on the grounds of subsidiarity'.

It should also be recalled that, during his election campaign, Jacques Chirac - who had launched his campaign at the end of November 1994 by calling for a further referendum on EMU, a demand which he later withdrew - repeatedly proposed holding a referendum to ratify the revision of the Union Treaty emerging from the IGC.

After Jacques Chirac's success in the presidential elections, Alain Juppé was appointed Prime Minister, while Michel Barnier became Minister of European Affairs and Hervé de Charette became Foreign Minister. In his first television appearance, the latter announced his intention to launch a new policy aimed at bringing about a new Europe.

Addressing the National Assembly on 23 May 1995 in his first statement on general policy, the new Prime Minister, Alain Juppé, also spoke on his government's position *vis-à-vis* the IGC. Even though the Prime Minister saw employment as the central feature of his government programme, he also took the view that the EU should make a special contribution in this connection. He also announced that France was ready to submit proposals on strengthening the Council and its presidency, rationalizing decision-making procedures, clarifying relations with the Commission and strengthening democratic controls by increasing the involvement of the national parliaments. A further

issue to be resolved at the IGC was the question of the relations between an independent central bank and the Council of Ministers responsible for the conduct of economic policy. As a general principle, Alain Juppé declared that France was committed to a single Europe, i.e. a Europe which preserved its acquis communautaire and common policies, which asserted its personality and interests in the international sphere and which provided itself with the necessary means to ensure its identity and security. With regard to common policies and the CAP in particular, the Prime Minister declared himself in favour of maintaining the entire system while new enlargements were taking place, with provision being made for the corresponding transitional periods; specifically, he declared himself in favour of maintaining the principle of Community preference.

**Letter of 6 December 1995 from the President of the French Republic, Jacques Chirac, and the Chancellor of the Federal Republic of Germany, Helmut Kohl**

On 6 December 1995 in the course of the Franco-German summit in Baden-Baden, the two abovementioned leaders addressed a letter to the President of the European Council, Mr Felipe González, setting out the priority objectives of their governments for the European Council in Madrid on 15 and 16 December 1995.

President Chirac and Chancellor Kohl first referred to the five challenges which the Member States of the Union must confront in order to prepare Europe for the twenty-first century. They recalled that these challenges had already been identified at the informal summit in Majorca in September 1995 and stressed that they must be met over the next five years. The challenges in question were to carry through the adjustment of the Treaty on European Union, complete the transition to a single currency in accordance with the timetable and conditions laid down, prepare and conduct the enlargement negotiations with the associated countries of central, eastern and southern Europe in a cordial and determined manner, define the essential criteria for funding the common policies after the year 1999 and, finally, actively pursue the policy of dialogue, partnership and cooperation already launched with the Union's neighbours, especially Russia, Ukraine, Turkey and the Mediterranean countries.

The two leaders believe that the Intergovernmental Conference will be a vital stage in the future enlargement of Europe and must be given thorough preparation. In this connection, they commended the excellent work performed by the Reflection Group under the chairmanship of Mr Westendorp.

With reference to the Madrid European Council, President Chirac and Chancellor Kohl propose that the Intergovernmental Conference should focus on four priority objectives: the common foreign and security policy; the creation of a homogeneous area where freedom of movement is guaranteed by common provisions; improving the efficiency of EU institutions; and consolidating a democratic Europe by bringing it closer to its citizens.

They consider that the Union should have a more visible and more decisive common foreign and security policy implemented in a way that ensures improved efficiency, continuity, consistency and solidarity in its actions. This will require the foreign and defence policies of each Member State to be aligned to a significant extent around clear priorities and objectives. They believe that the relationship between the EU and the WEU must be more clearly defined with

a view to the expiry of the Treaty of Brussels in 1998. They also think it necessary to consider what adjustments are needed in order to equip the CFSP with resources and instruments consistent with the Union's ambitions so as to give it a higher profile and allow it to harness both Community instruments and the Member States' own capacities.

As the second main objective, they propose to complete the creation of a homogeneous area where freedom of movement will be guaranteed by common provisions, particularly in the field of asylum and immigration policy, and through closer cooperation to provide genuine security for citizens from terrorism, international organized crime and drugs.

As the third priority objective, they propose to give the Union more effective institutions. This will entail major adjustments on the part of both the Council and the Commission. With regard to the Council, they propose an extension of the sphere covered by qualified majority voting, together with a revised system of weighting votes. For the Commission, they propose that consideration should be given to its appointment, composition and powers. Finally, they also propose that ways and means should be considered of streamlining and making more transparent the procedures between the Council, Commission and Parliament.

Finally, President Chirac and Chancellor Kohl feel that consolidating democracy by bringing the Union closer to its citizens should also be a priority objective. In this connection, they believe that this would involve the European Parliament having a greater share of responsibility for matters relating to the process of building Europe, as well as closer involvement of the national parliaments. In addition, they call for the subsidiarity principle to be given proper weight and to be more firmly applied. In general, they feel that the Union should be easier for its citizens to understand and should listen more closely to their needs.

On the question of differentiated integration, they believe that all Member States should be able to participate on the same terms in the progress of European integration. However, where one of the partners faces temporary difficulties in keeping up with the pace of progress in the Union, it would be desirable and feasible to introduce a general clause in the Treaties enabling those Member States which have the will and the capacity to do so to develop closer cooperation among themselves within the single institutional framework of the Union.

Memorandum on France's guidelines for the 1996 IGC, published in the daily newspaper 'Le Figaro', 20 February 1996

This is an internal French government document, published in 'Le Figaro' on the date mentioned above, whose main purpose is to serve as a guide for the work of the committee chaired by the two ministers Mr de Charette and Mr Barnier which meets approximately every ten days to make detailed preparations for the IGC. The most interesting points and proposals of this document will now be summarized.

The objectives to be pursued by France at the IGC are the following: improved application of the principle of subsidiarity; greater involvement of the national parliaments in the European integration process; action to improve the

efficiency of the institutions; strengthening the content of the CFSP; and responding to the desire of the Union's citizens for greater security by reinforcing its action in the field of justice and home affairs. The proposals are based on a realist approach entailing retention of the distinctions between the existing three pillars of the EU. France considers that the IGC is not the place to reopen the subject of EMU or the discussion of the common policies.

Concerning the first (Community) pillar and decision-making in Council, two changes are proposed: improved weighting of votes in Council taking account of population, economic factors and Member States' financial contributions; and increasing the number of decisions which can be adopted by a vote, to avoid the risks of blockage arising from the need to decide by consensus. France takes the view that any Member State should still be able to invoke, where necessary, the existence of a significant national interest, thus justifying postponement of the vote and the continuation of negotiations along the lines of the 'Luxembourg compromise'.

On the subject of the Commission, France advocates reducing its numbers in order to strengthen its powers of initiative and decision-making and facilitate the coherence and discipline of the institution. It is also proposed that the Commission should be given clear and urgent mandates in order to improve its role of applying Council policy. It follows that the Commission should consult the Council whenever it cannot continue negotiations with third countries without going beyond the Council's mandate.

Concerning the European Parliament, France believes that the legislative procedures should be simplified, but without modifying the existing balance of powers between Council and Parliament. It also suggests that an upper limit should be set on the number of MEPs at the same time as the project for a uniform electoral procedure is put into practice. Finally, France stresses the need to ensure respect for the 1992 decision on Parliament's places of work, which states that its part-sessions are to be held in Strasbourg.

With respect to the national parliaments, France favours creating a body consisting of their representatives, to be consulted on all matters relating to respect for the principle of subsidiarity, on the grounds that the national parliaments are best equipped to judge on this subject. The confidential document suggests that this 'High Parliamentary Council', which could, for example, comprise two representatives from each Member State, could be created by institutionalizing the existing COSAC.

On the second pillar (the CFSP), the document proposes replacing the existing rotating six-month presidency by a new figure, a 'high representative of the Union', who would have a mandate lasting several years (three to five) and could have an organizational and representative role in the area of the CFSP. This figure would be appointed by the European Council, and would be responsible for exercising the functions assigned him by that body or by the Council of Ministers. The Council Secretariat could be strengthened in order to provide this figure with the necessary support and resources. The memorandum also stresses the need to clarify the division of labour between the CFSP, with its intergovernmental approach, and the external aspects of the Union's common policies.

On the subject of common defence, the document takes the view that endeavours should be made on three fronts: arrangements should be determined for bringing the WEU under the aegis of the Union; there should be a specific decision-making procedure for security matters so as to avoid paralysis in Council; and the WEU's operational capacities should be developed, giving it sufficient flexibility to allow some Member States to combine in more advanced forms of cooperation.

On the third pillar, the text suggests that as far as asylum and immigration are concerned the necessary precautions should be adopted as and when these subjects are brought within the Community sphere. With respect to police cooperation, it is felt that the existing arrangements for intergovernmental cooperation continue to represent the most desirable and suitable formula. Certain improvements are, however, proposed for cooperation on legal matters; it is argued that action should be taken to encourage harmonization of Member States' civil and criminal law. With this in mind, three proposals are made. Firstly, the Commission should be given powers of initiative in this area, while acting in tandem with the Member States; secondly, the national parliaments should participate in the drafting of legislative texts, and, in particular, the 'High Parliamentary Council' should take part where the proposed legislation affects civil or criminal law, to ensure that these bodies' intervention does not happen at the moment of ratification alone; and thirdly, consideration could be given to allowing legislative texts prepared in this way to come into effect without waiting for the instruments of ratification to be deposited, according to a formula already established for international law.

Finally, the document proposes the introduction of a general clause on reinforced cooperation, with a view to enabling those Member States which have the desire and the ability to develop closer forms of cooperation to do so. It is suggested that it would suffice for certain Member States to submit cooperation projects to the Council. These projects, once approved by the Council, would be considered as having been confirmed by the Union as a whole; such an arrangement would introduce the necessary flexibility into the Treaties without reducing the coherence of the Union.

#### Common foreign and security policy

#### Guidelines adopted by the Foreign Ministers of France and Germany at the Freiburg seminar of 27 February 1996

On the occasion of the Franco-German ministerial meeting held in Freiburg on 27 February 1996, the respective ministers, Mr Klaus Kinkel and Mr Hervé de Charette, adopted the following guidelines for the preparation of the 1996 IGC.

Both ministers take the view that the main objectives of the CFSP are to stabilize the Union's relations with its neighbours to the east and south, to consolidate the transatlantic relationship and to develop ties with Russia and Ukraine. With a view to improving the effectiveness of the CFSP, they propose a number of practical improvements. Firstly, in the interests of greater efficiency, the Union's powers of action under the CFSP should be reinforced via improvements to the decision-making process and the implementation procedures, with greater powers of control for the European Council. With specific references to the decision-making procedures laid down in the Treaty, attempts

should be made to overcome the rigidity inherent in unanimity; accordingly, consideration should be given to: reviewing the distinction between political decisions of principle and implementing decisions; invocation of the principle of constructive abstention on CFSP matters; and recourse to qualified majority voting for decisions at the implementation stage. By that stage, no Member State should be forced against its will to send troops or undertake policing operations; at the same time, however, no Member State should be allowed to stop the others from implementing the measures agreed once the decision to do so has been adopted. With a view to making the CFSP more coherent, it is proposed that the Council, the Member States and the Commission should mandatorily have to apply in full the coherence obligation already present in the Treaty, so as to achieve an effective and credible foreign and security policy. In the interests of mutual loyalty and solidarity, it is suggested in particular that the Commission should take on the same degree of commitment vis-à-vis Council decisions as the Member States, and that procedures should be established to this end to ensure that the Commission submits in due time the initiatives required for CFSP decisions adopted by the Council. It is further proposed to set up an advanced research and analysis unit, which would comprise staff from the Member States, the Commission and the WEU Secretariat and would be attached to the Council Secretariat. This unit would have as its main responsibilities the pooling of its members' experience and knowledge and the preparation of specific proposals for action. To improve the visibility and continuity of the CFSP, it is proposed that the institutions should adapt themselves in such a way as to enable the Union to be clearly identifiable in its external relations, to speak with one voice and to have its continuity and visibility ensured. Without going into detail, it is suggested in this connection that a 'new post' should be created to give the CFSP greater visibility and coherence.

Finally, the text raises the question of greater solidarity, especially in the fields of security and defence. In this context, it is proposed that the Treaty should include a 'political solidarity clause' applying to all the Member States, with solidarity defined in such a way as to take account of individual Member States' legitimate interests. The European Council should lay down guidelines for security and defence on the basis of which the WEU could, at the request of the EU, undertake actions on the latter's behalf. This would include the 'Petersberg missions', which should be incorporated in the TEU. The Union's role should also be strengthened as regards the definition of a common European defence policy. There should be a European capacity for action in all circumstances, even where certain partners do not take part in the military side of an operative action. In such cases, the non-participant Member States should express their solidarity through public support and, where necessary, financial aid. Both ministers expressly support the joint objective of incorporating the WEU into the EU, and consider that the IGC should produce clear and specific undertakings in this direction. Concerning CFSP funding, both France and Germany feel that in general CFSP operational expenditure should be financed from outside the Community budget. Finally, both countries favour developing a European armaments policy, whose objectives would be the strengthening, improvement and realization of European cooperation in this field and the establishment of a European armaments agency.





**White Paper on Foreign Policy: 'External challenges and opportunities',  
26 March 1996**

The third of the sixteenth chapter of this Irish Government white paper concerns the European Union and the new shape of Europe. This chapter sets out Ireland's viewpoints and priorities for the 1996 IGC, which are also outlined in the agenda for Ireland's external policy with which the white paper begins.

The Irish Government undertakes to ensure, in general terms, that Ireland will make a constructive and imaginative contribution to the IGC. Ireland will occupy the IGC presidency for the second half of 1996; this will be one of the major tasks of the Irish presidency, which will at all moments endeavour to propel the IGC forward in a positive and open-minded fashion. The general comments in the Irish Government's text include a reference to differentiated integration; on this subject, Ireland considers it essential to avoid the creation of an exclusive 'hard core' consisting only of certain Member States. Ireland believes that provisions favouring certain Member States by enabling them to pursue the same objectives at varying speeds, as in the case of EMU, should be instituted only where necessary and on a case-by-case basis.

Ireland's declared priority for the IGC will be to ensure that the changes to the Treaty agreed result in a Union and institutions which are more sensitive to the genuine concerns of public opinion. The four main concerns will be: the preservation of peace and stability; the need to increase the efficiency of the Union's decision-making procedure; the need for greater responsibility and transparency in the Union; and the need to deal more effectively with the problems of most direct concern to the public, including employment, social exclusion and action to combat international crime and the social problem of drug addiction.

Concerning institutional reform, Ireland stresses that the Union must be enabled, in institutional terms and in due time, to confront its forthcoming enlargement; at the same time, the democratic character of its institutions must be preserved and, where necessary, enhanced. Ireland will not support any proposals tending to undermine any of the existing institutions in respect of their basic functions under the Treaty; nor will it endorse any proposals altering the institutional framework which has served the Union so well thus far. Ireland will support: the numerical reduction and simplification of the EU's legislative procedures; extension of the codecision procedure with a view to strengthening the vital contribution of the European Parliament to democracy in the Union; and greater use of qualified majority voting (QMV) in Council.

The Irish Government reiterates the need to preserve the existing institutional balance in the Union, which constitutes its most salient success; it will oppose a number of notions which it considers to run counter to European integration. In particular, it will not accept two possible approaches in relation to the strengthening and democratization of the decision-making process. Firstly, on the grounds that the existing institutional balance must essentially be preserved, Ireland will oppose any attempt at making decision-making a more

intergovernmental matter at the expense of the Community mechanisms which govern the main EC activities; in this connection, it will firmly resist any endeavours to undermine the role of the European Parliament, the Commission or the Court of Justice. Secondly, Ireland will not permit the IGC to be used to alter the general equilibrium existing between the Member States. Among the aspects concerned here are the membership of the Commission and the European Parliament, the system of rotating presidencies and the weighting of votes in Council. In particular, Ireland strongly opposes any proposal that it should lose its right to appoint a fully-fledged Commissioner. Ireland believes it is highly unlikely that governments representing a majority of the Union's citizens could be outvoted by a bloc of small Member States. Furthermore, in the context of future enlargements, Ireland considers that it is only fair and reasonable that the larger Member States should accept that they would each have only one Commissioner proper. The existing institutional equilibrium of the Union must be preserved.

On the matter of openness and transparency, the Irish Government supports the reinforcement of both aspects via the IGC. It fully supports simplifying the Union's legislative procedures and reducing their number, and recognizes that a higher profile for the national parliaments would help bring decision-making closer to the citizens.

On the CFSP, Ireland will play a constructive part in revising the relevant Treaty provisions. A more effective CFSP would coincide with Ireland's interests; Ireland will therefore use the IGC to make practical and constructive proposals for improving the workings of the policy. At all events, its revision should be based on a realistic evaluation of the functioning of the present system and correct identification of what needs improvement. As regards the reform of CFSP decision-making, Ireland believes that decisions on sensitive foreign policy subjects should be based on broad support among the Member States. The provision in the Treaty of Maastricht allowing QMV for decisions implementing external policy guidelines agreed on by consensus in Council could be used more often. Ireland would favour the development of planning and analysis capacities within the Council Secretariat. There should be close cooperation between any unit set up for that purpose and the Commission, given the latter's competences in the field of external economic relations and the need to ensure coherence between the economic and political aspects of external policy. A higher profile for the Council Secretariat would reinforce its capacity to aid the Presidency in the implementation of the CFSP, while also contributing to enhanced continuity between presidencies as regards the policy's development and execution.

On home affairs and justice, Ireland will support all efforts to reinforce the provisions in this field. It would consider proposals to transfer some of the areas currently falling under Title VI of the TEU to the Community pillar and the EC Treaty, so as to facilitate decision-making and accelerate progress. This would apply to immigration and asylum policy. Ireland would also agree to all decisions concerning matters covered by Title VI adopted by the Justice and Home Affairs Council being subject to appropriate parliamentary control, at both EU and national levels. Concerning action against drug trafficking, a subject which Ireland considers to be of major importance, the Irish Government notes that it has set up an interministerial committee to consider means of achieving greater progress at EU level. This committee is also assisting the Irish Government in preparing a specific national position on anti-drugs action for the IGC.

On other matters which may arise at the IGC, the Irish text refers, in the first place, to employment. Ireland will play an active part in considering possible constructive amendments to the Treaty on this subject; no specific proposal is made, however. On the environment, Ireland recalls that its member of the Reflection Group has already raised the possibility of strengthening the nuclear safety provisions of the Euratom Treaty. On social policy and the possible desire of some Member States to introduce new elements into the Treaty, the Irish Government says it will consider such proposals, taking due account of their potential impact on competitiveness and employment. Ireland considers that if any new proposals are not applied to all the Member States they could worsen the existing disparity in the conditions of competition applying in the different Member States, thus undermining the objective of a level playing field. On the subject of a 'non-discrimination clause', especially in the case of persons with disabilities, Ireland considers that the implications of such a clause must be examined both at EU level and nationally; at all events, the IGC should mark a change of attitude by the EU in this field, which should mean that the rights and needs of persons with disabilities are suitably reflected in the Treaty.

Concerning the principle of subsidiarity, Ireland considers that any attempt to improve the definition of this concept at the IGC must not affect the balance of powers between the Community and the Member States. On the language regime, the Irish Government would like to see an appropriate increase in the use of Irish (Gaelic). On the role of the national parliaments in Union affairs, Ireland considers that any enhanced profile for those bodies should not affect the position of the European Parliament or lead to any further complication of the existing procedures at Union level. Ireland would support a strengthening of the Treaty provisions concerning European citizenship, e.g. by incorporating certain rights or anti-discrimination clauses.

Finally, in the fourth chapter of the white paper (on international security), Ireland considers security and defence. After examining three possible options for Ireland in its future relations with the WEU, the text concludes that it is too early to establish negotiating positions, thus confining itself to stressing Ireland's basic philosophy on the matter. Ireland believes that a common defence policy must take account of the level of political and economic integration attained by the EU and its achievements in the wider context of European security, as well as reflecting the diverse capacities and experiences of the Member States. Specifically, in the discussion of both the 'Petersberg missions' and a global EU defence policy, Ireland's guiding principles may be summarized as follows. Firstly, Ireland promises constructive participation on the matter at the IGC, with a view to influencing the outcome; this also applies to its willingness to take part in implementation. Secondly, a common EU defence policy must have as its main objective the preservation of peace and the strengthening of international security, in accordance with the UN Charter and the principles of the OSCE. Thirdly, the Union's defence policy must be considered in the wider context of the UN system, since the UN alone has final legitimacy in the sphere of world peace and security. Fourthly, the Union's defence agreements should form part of a broader cooperation framework for security in Europe, so that efforts to create an EU security and defence policy do not result in new divisions and greater instability in Europe. Fifthly, a common defence policy should be compatible with a broad-based approach recognizing the crucial contribution to security of economic progress, resolution of the causes of conflict, action against crime and drug trafficking and protection of the

environment. Finally, such a policy must not run counter to Ireland's continued pursuit of its objectives regarding disarmament and arms control.

To ensure that Ireland's traditional policy of military neutrality is unchanged, unless the Irish people should decide otherwise, the Irish Government's text recalls its undertaking to hold a referendum on any proposals emanating from the coming negotiations which could entail Irish participation in a common defence policy. The Irish Government will not propose that Ireland join NATO or the WEU or sign their mutual defence agreements.



The most clear-cut views to have been expressed to date by the Italian Government on the IGC have been contained in the statement on foreign policy matters which the new Government made to the Chamber of Deputies on 23 February 1995 and in the statement made to the Chamber of Deputies on 23 May 1995. Account should also be taken of the Joint Declaration on the IGC made by the German Foreign Minister, Mr Klaus Kinkel, and the Italian Foreign Minister, Mrs Susanna Agnelli, on 15 July 1995.

On 5 December 1995 the Prime Minister, Mr Lamberto Dini, submitted a government communication to the Chamber of Deputies on Italy's six-month presidency of the European Union. After a long debate, the Chamber adopted, on 7 December, a number of resolutions supporting the government's position as regards the presidency. On 1 January 1996 Italy took over the presidency of the Council of Ministers and its various organs. There is no doubt that the landmark event of this presidency was the opening of the IGC in Turin, on 29 March 1996. As far as the IGC is concerned, the key priority of the Italian presidency of the Council is to guide the negotiations on the basis of three principles. Firstly, the IGC must remedy the gaps and insufficiencies in the Treaty, and, above all, prepare the ground for the forthcoming enlargements of the Union. Secondly, on the basis of the Reflection Group's report and the conclusions of the Madrid European Council, the Italian presidency considers that the main aspects to be discussed in the negotiations should be all those related to the goal of a Treaty which the public can understand, which strengthens the Union's democratic character and the efficiency of its institutional mechanisms, which develops the Union's capacity to play a leading, coherent and responsible role on the world stage and which enables cooperation in justice and home affairs to serve to protect the freedom and security of the citizens in a meaningful way. Finally, the Italian presidency believes that the IGC should, from the outset, include the participation of public opinion.

#### Italian Government statement of 23 February 1995 on foreign policy guidelines

The statement issued by the Government on 23 February 1995 concerning foreign policy matters and the Intergovernmental Conference lays down guidelines on the following four subjects: institutional matters, enlargement and relations with Eastern Europe and the Mediterranean, consolidation of the second and third pillars, and measures to strengthen the 'people's Europe'. As regards the institutional aspects, the Italian Government believes that the weighting of

votes needs to be changed and majority voting made the general rule within the Council. The size of the Commission should be reduced, and the presidency strengthened in order to make the Union more visible at the external level and more effective at the internal level. The document maintains that the Intergovernmental Conference should also strengthen democratic involvement in Union decision-making and accordingly proposes that a genuine hierarchy of norms be drawn up with a view to improving the operation of the codecision procedure, in which the Council and the European Parliament each have a say. The Italian Government is likewise calling for Treaty provisions to be organized according to a new technical and legal system, in order to make them more readily comprehensible to the public, and for certain essential constitutional principles to be spelt out explicitly, one such being the basic rights of European citizens, which must be properly protected and subject to review by the Luxembourg Court of Justice. As far as institutional organization is concerned, the document proposes that a way be found to reconcile general observance of certain key rules and policies, in practical terms, the four freedoms and the internal market, and opportunities for specific forms of involvement in other policies, subject to standard institutional procedures and equal conditions of eligibility, albeit depending on the distinct stages of activity. In short, the Italian Government warns against any attempt by particular countries to set up steering committees and maintains that 'opt-out' clauses and permanent exceptions should not be permitted.

With regard to enlargement and relations with Eastern Europe and the Mediterranean, the Italian Government believes that the success of the Intergovernmental Conference is a prerequisite for future enlargement of the Union. It considers that the gradual adoption of Community legislation by the Central and Eastern European countries is a matter requiring careful attention and that the Union should likewise seek to foster integration by developing basic facilities and intensifying cooperation. At all events, it is likely that some policies, in particular the common agricultural policy, will need to be revised and adjusted. The document also warns against the possibility that enlargement towards the east might have made the Union lose sight of its interests in the Mediterranean area and consequently sets the utmost store by the Euro-Mediterranean Conference to be held in Barcelona in November 1995. In addition, it makes a number of points relating to consolidation of the second and third pillars. As regards the second pillar, it rejects the idea that there is no need to go beyond the intergovernmental level for the time being, maintaining instead that the CFSP needs to be strengthened and given a strong identity of its own. It proposes that the CFSP Secretariat be equipped with the resources required to improve its capacity for analysis and forecasting and encouraged to embark on specific steps and ventures in agreement with the Council and Commission and in keeping with the wishes of the Union presidency. The Italian Government is calling for the operational capability of the WEU to be strengthened and for the WEU's complementary relationship to the Atlantic Alliance to be consolidated and worked out in more detail. It believes that the concept of security and defence of the Union should be closely linked. In particular, the WEU should, according to the document, be converted into the defensive arm of the European Union. As far as the third pillar is concerned, the document points to the need to step up judicial and police cooperation and for national laws on the free movement of persons to be closely harmonized. The Italian Government says that it is especially interested in intensifying cooperation in the fight against corruption and in bringing the judicial and

police systems of the Central and Eastern European countries gradually into line with those of the Union Member States.

Italian Government statement of 23 May 1995 on the Intergovernmental Conference to review the Maastricht Treaty

This statement contains a number of preliminary remarks designed to provide the platform for the Italian representative to the Reflection Group. It focuses on the options proposed in order to meet three separate challenges: the challenge of diversity, the challenge of security, and the challenge of democratization.

The Italian Government statement advocates two basic responses to the challenge of diversity. On the one hand, some of the Union's operating rules must be changed and, on the other, the concept of differentiated integration needs to be properly defined. With regard to the institutional system of the Community, the Italian Government proposes that the number of decisions the Council of Ministers takes by consensus should be drastically reduced, while at the same time the extension of majority voting should be accompanied by efforts to give greater weight to citizens of the Member States in voting procedures. For this purpose, the Italian Government's statement advocates a double majority of the votes of the states and their populations, to prevent decisions they do not support being imposed on a majority of the Union's citizens. The Italian Government believes that the Commission should continue to act as guardian of the Treaties and maintain its capacity for initiative and analysis in the areas for which it is responsible. The Italian Government does not consider that a reduction in the number of Commissioners would increase the supranational nature of the institution and proposes a system whereby, although the number of Commissioners would not be reduced below the number of Member States, provision would be made for the larger Member States to have a Deputy Commissioner instead of two Commissioners as at present. With regard to the question of differentiated integration, the statement notes that it will be difficult to avoid arrangements of this kind for the new policies (foreign and security policy and justice and home affairs) where countries will move at different speeds although towards the same goal. The Italian Government believes that this will be the key for resolving the dilemma over deepening and widening, in other words, between unity and flexibility. The Italian Government considers that certain conditions must be set if integration is to proceed at different speeds, including first and foremost the principle of institutional unity, with a single Council, a single Parliament, and a single Court of Justice, all having the flexibility necessary in order to manage policies in which not all the Member States participate. A further necessary condition must be the preservation of the *acquis communautaire*. Subject to these two conditions, the Italian Government is willing to accept compromise arrangements to enable Member States to gradually become integrated in the policies in which they are temporarily not participating, provided that this is done on the basis of equal and predetermined conditions. In any case, more extensive integration should remain open to all Member States and should not be limited in an arbitrary and discriminatory way to certain specific sectors such as economic and monetary union. In this connection, the Italian Government's statement points out that the procedures and mechanisms for the single currency are not among the subjects due to be reviewed at the Intergovernmental Conference

In order to meet the challenge of security, the Italian Government believes that the Union's main priority should be to develop an international identity and a coherent foreign policy consistent with the world without frontiers of which it is a part. After condemning the outdated way of thinking that characterized the European concert of nations, which led the old continent into so many disasters and catastrophes, the Italian Government expresses the view that the progress made with the Maastricht Treaty is still incomplete and deficient. For the Italian Government, securing a consensus between Member States on the principles and content of the Union's foreign policy, as a kind of foreign policy agenda approved by Council and Parliament, could be a prior condition for a genuine Union foreign policy. Consequently, Italy will propose that the Member States should agree on the essential interests they intend to uphold and defend jointly, whether in terms of major geographical areas or more universal topics. In addition, the statement announces the Italian Government's intention of keenly pursuing the goal of following a common strategy at all times within all international organizations, particularly the United Nations and the Security Council, even if the aim of securing a permanent seat for the European Union on the Security Council continues to be a more long-term goal. In addition, the Italian Government believes that the Foreign Ministers of the Union could take decisions by majority vote more frequently, confining the need for unanimity to questions where national interests are closely involved, such as defence, and devising more flexible formulas which will enable a number of Union members to act alone in a climate of joint cooperation and solidarity. With regard to the institutional structure of the second pillar, the Italian Government believes it is absolutely vital for there to be a permanent body empowered to represent the Union in foreign policy matters, with proper structures and performing the tasks of analysing, formulating, proposing and implementing Council decisions. If this principle were to be accepted, the Italian Government would propose that a secretary-general be nominated by the Council, and possibly confirmed by Parliament, in order to give the Union a recognizable identity and confer greater continuity, credibility, responsibility, legitimacy and transparency on the measures it takes, thereby overcoming the constraints imposed by the rotating presidency. As an alternative, the Italian Government also puts forward the idea of an elective presidency, for a period of two or three years, also nominated by the Council and approved by Parliament, although it acknowledges that it would not be easy for an elected presidency to coexist with the system of rotating presidencies and the countless meetings of the Council of Ministers, committees and working parties that would ensue. Consequently, it also suggests that foreign policy could be separated from the other responsibilities of the presidency, in which case the elected president would chair the General Affairs Council and would be assisted by a vice-president, who would be replaced every six months in accordance with the usual rotation and would belong to the country chairing the other Council meetings. The Italian Government's statement proposes that the Western European Union should be the instrument of security and defence for the foreign policy of the Union, although it should be gradually absorbed into the European Union. In this connection, the Italian Government believes that certain institutional changes, such as ensuring that membership of the WEU and the European Union gradually coincide, harmonizing the presidencies, and gradually integrating the functions of the secretariats of the CFSP and WEU, leading to an eventual merger of the two organizations, could give a higher profile to the WEU's capacity to formulate and implement measures with security and defence implications, acting at the same time as a catalyst for European cohesion within the Atlantic Alliance, which would continue to be the basic

pillar of collective defence and of the ties between the United States and Europe.

With regard to the challenge of democratization, the Italian Government's statement takes the view that democratizing the Union means above all that broader legislative powers should be given to the European Parliament, representing the sovereignty of the people, to be exercised through simplified procedures confined for the most part to consultation, codecision and assent. Specifically, the codecision procedure involving the European Parliament should be more widely used by introducing, as proposed by Italy during the debates on the Maastricht Treaty, a hierarchy of acts, which would be divided into three levels: first, constitutional laws, for which unanimity or a reinforced majority would be needed in the Council, together with ratification by national parliaments; second, legislative provisions, which should establish a general framework for particular sectors or subjects and should be adopted by a majority vote in Council in codecision with the European Parliament; finally, regulatory and implementing provisions, which should be the responsibility of the Council, which could delegate to the Commission for those areas which are not left in the hands of the Member States in accordance with the principle of subsidiarity. Democratization also means that the national parliaments should be more closely involved in the tasks of the Union. Leaving aside the idea of establishing an assembly of national legislators to act as a third chamber, the Italian Government considers that, as well as exerting greater control over the actions of the respective governments in the Union, national parliaments should step up their contact, exchange of information and coordination with the European Parliament. As for the possibility of including among the common policies the other sectors already mentioned in the Treaty, the Italian Government feels that the Union should not be given too many areas of responsibility, but rather that flexible use should be made of the subsidiarity principle, which could be more clearly defined so as to avoid an excessive amount of regulation not only in the Union but also in the Member States. However, the Italian Government does not believe it is advisable to draw up a list of exclusive competences. With regard to the 'people's Europe', the Italian Government proposes that a full list of fundamental rights and freedoms should be drawn up so that the notion of European citizenship would include all forms of expression, association, activity and free movement of citizens, with particular reference to civil rights, relations with the institutions, education, employment and the family. It also recommends that the instruments for upholding and protecting these rights vis-à-vis the institutions should be strengthened and extended, particularly as regards the Court of Justice. With regard to cooperation in the fields of justice and home affairs, the Italian Government intends to propose measures designed to simplify joint decision-making, strengthen the binding nature of legal instruments, introduce decision-making mechanisms specific to the Community institutions, and overcome the existing constraints on the power to instigate and initiate policy. Finally, with a view to increasing transparency in the Union and making its main laws more comprehensible, the Italian Government proposes that the provisions adopted during the last 40 years should be brought together and consolidated in a single text, and that a constitution should be drawn up defining the institutions, their powers, basic principles and rights and also including, in the form of protocols, the internal market, economic and monetary union and the new common policies.



**Joint declaration of 15 July 1995 by the German and Italian Foreign Ministers regarding the 1996 Intergovernmental Conference**

This declaration was made following the meeting in Monte Argentario, Italy, on 15 July 1995 between the German and Italian Foreign Ministers and includes an undertaking by the two countries to cooperate closely in the preparations for the 1996 Intergovernmental Conference. Under the terms of the declaration, both countries would be guided by the following principles at the Intergovernmental Conference:

1. Granting full powers of codecision to the European Parliament for all legislative matters. In addition the legislative procedure should be simplified and streamlined to make it more transparent and bring it closer to citizens. In addition, in line with the principle of subsidiarity, decisions should be taken as close as possible to citizens, while deregulation measures should apply both at European and national level.
2. The Commission's right of initiative should be maintained and strengthened, as should its powers over monitoring compliance with Community law.
3. The budgetary control procedure should be improved.
4. In order to enhance and improve the efficiency of the common foreign and security policy, the European Union's capacity to take decisions and to act should be strengthened, mainly by making greater use of majority voting in certain sectors. At the same time, the capacity for the analysis and planning of Union decisions should also be improved. For its part, the European Parliament should be much more closely involved in matters relating to the CFSP. The European Union should develop into a Union of security and, in the longer term, defence, while still maintaining its transatlantic ties. With this in view, the role of the WEU should be strengthened as an instrument for crisis intervention by the European Union. The joint declaration also proposes closer institutional ties between the EU and the WEU, as well as bringing the WEU within the area of competence of the European Council. In any case, the long-term objective is the integration of the WEU within the European Union.
5. With regard to European citizenship, the joint declaration proposes that the fundamental duties and freedoms should be codified and responsibility for safeguarding them entrusted to the Court of Justice. With regard to justice and home affairs, the declaration proposes that increased use should be made of Community procedures, particularly as regards asylum policy, the granting of visas and immigration; the decision-making process should be simplified; the Commission should be given greater rights and wider powers of initiative and the European Parliament should be given wider democratic control, with the Court of Justice responsible for ensuring uniform application of the relevant laws.
6. In order to increase transparency and the understanding of the European Union by public opinion in the Member States, the joint declaration also proposes a new format for the Treaty to make it more legitimate in the eyes of the people.

An essential point in the joint declaration relates to the common foreign and security policy. The declaration gives priority to bringing the countries of central and eastern Europe closer to the European Union and the transatlantic structure, a process to which they give their express support. With regard to the Mediterranean region, both countries also undertake to contribute to the success of the Euro-Mediterranean conference to be held in Barcelona on 27 and 28 November 1995. Both parties also express support for the peace process in the Middle East as an important precondition for stability in the Mediterranean region, while also calling on Europe and its transatlantic partners to develop a shared vision for the twenty-first century. With this in view, both countries believe that transatlantic links must continue to be a driving force behind global trade liberalization within the framework of the World Trade Organization. Both ministers stress the importance of incorporating Russia within the western cooperation structure and call for closer relations between NATO and Russia. Finally, both countries support the reform of the current UN system and its institutions, including the Security Council, while calling on UN member states to meet their financial obligations.

Position of the Italian Government on the IGC for the revision of the Treaties, 18 March 1996

This four-part document was submitted in the days leading up to the Turin European Council. The first part sets out Europe's options for the future; the second describes the Italian Presidency's preparations for the IGC; the third summarizes the Italian position on specific aspects of the negotiations; and the fourth considers the future course of those negotiations.

On the IGC and options for the future, the Italian Government intends to continue with Italy's traditional pro-European commitment, seeking to further develop European integration by means of the following strategic priorities: firstly, consolidation of the Union's federal dimension via greater internal solidarity and cohesion and the bolstering of its capacity to project a common external image enabling it to defend the shared values of all the Member States concerning peace, stability and freedom; secondly, action to prevent any return to a 'Europe of nation-states' which would eventually lead to 'nation-states without Europe'; thirdly, to strengthen the Union's existing structures and institutions; and fourthly, action to stop the Union being surreptitiously transformed into a glorified free-trade area with no soul and no real perspectives for the future.

On the Italian Presidency's preparations for the IGC, the text states that a draft agenda for the IGC will be put to the Turin European Council, setting out three major subjects for the intergovernmental negotiations: relations between the citizens and the Union; adjustments to the institutional set-up; and the Union's external identity.

Concerning Italy's position on the concrete aspects of the negotiations, the Government's priorities are centred on those three main subjects. On relations between the citizens and the Unions, Italy's priorities are: firstly, inclusion in the first part of the Treaty of certain fundamental rights, applicable to everyone irrespective of nationality (specific proposals are made as regards non-discrimination, action against racism and xenophobia and respect for majority rights); secondly, development in the Treaty of the concept of

citizenship, through the inclusion of more far-reaching civil and social rights, making it clear that European citizenship complements national citizenship rather than replacing it; and thirdly, detailed revision of the rules governing cooperation in justice and home affairs (CJHA). On the last point, Italy proposes: a more precise definition of the areas covered by joint positions, joint actions and agreements, and a review of those instruments; the gradual transfer of certain areas to the Community pillar, including immigration, asylum policy and the juridical status of third-country nationals legally resident in the Union; reaffirmation of the legally binding character of joint positions and actions and the possible introduction of legal instruments comparable to Community directives; empowerment of the Court of Justice to rule on acts adopted under the Treaty's provisions on justice and home affairs, together with a reinforcement of parliamentary control; incorporation in the Treaty of the Schengen agreement in the context of a 'differentiated solidarity' mechanism; and rationalization of decision-making.

In the fourth place, the Italian text examines the subject of employment, which it considers must be one of the key themes of the IGC. Italy believes that the revised Treaty must include a chapter on employment committing the Member States to undertake closer coordination of their employment policies on the basis of the strategic guidelines adopted at the Essen and Cannes European Councils. However, Italy does not think the IGC should review the existing Treaty provisions on EMU. Concerning the environment, the Italian view is that more effective protection would be ensured by majority voting in this field and other related areas, such as taxation. Italy believes that the inclusion of certain new policies in the Treaty (in the areas of energy, tourism and civil protection) and the strengthening of certain existing policies (social policy, consumer protection) would improve the public perception of the Union. It also considers that inclusion of the social protocol in the Treaty should be a major objective of the Conference.

On transparency, Italy favours its strengthening, by means of specific provisions regulating the publicization of Union acts and access to all documents and through simplified legislative procedures and a more transparent Treaty. Italy also believes that the occasion of reforming the Treaty should be used to confer legal personality on the Union, thus removing one of the main problems of the existing three-pillar structure. The principles of subsidiarity, proximity and proportionality should also be given their due importance: in this connection, Italy would accept a protocol to the Treaty setting out some of the elements of the 'code of conduct' approved by the Edinburgh European Council. It feels, however, that over-emphasizing subsidiarity could undermine the Commission's ability to submit proposals, re-fragment the single market and destroy the uniform nature of Community law. Finally, Italy believes that the principle of the equality of all the Union's working languages at all levels of the EU must be scrupulously adhered to.

Concerning changes to the institutional set-up of the Union with a view to enlargement, Italy believes that the existing institutional balance should be retained, as should the single institutional framework for all spheres of Union action. A number of alterations to the workings and composition of the institutions are nonetheless proposed. On the Commission, Italy considers that it should keep its existing and irreplaceable role as the guardian of the Treaties standing in a relation of trust with the Member States and the European Parliament; its powers of initiative should be extended to the field of justice

and home affairs. On the number of Commissioners, which Italy considers to be too high already, it is suggested that, while compromise solutions could be considered, there should be less Commissioners than Member States. On the European Council and the General Affairs Council, without wishing to prejudice the increasing political importance of either, Italy considers that the main innovation required is to introduce the generalized use of majority voting in the Community sphere, with the sole exception of certain 'constitutional' provisions; it also argues that majority voting should be gradually applied to Titles V and VI of the Treaty. Italy favours reforming the weighting of votes in Council to take greater account of population, and, as a transitional measure, proposes recourse to a reinforced qualified majority for certain areas at present subject to the unanimity rule. Italy also believes that the IGC should examine the Council's working methods, which have visibly deteriorated in recent years; it wishes to see a genuine qualitative and quantitative reinforcement of the Council Secretariat and the clear attribution to the General Affairs Council and COREPER of the task of global coordination of Union activities, in respect of which it is proposed that Article 151 of the Treaty should be redrafted. Italy does not, however, believe it vital to change the existing six-month rotation arrangement for the Council Presidency, although it believes that consideration should be given to proposals which might genuinely improve the situation.

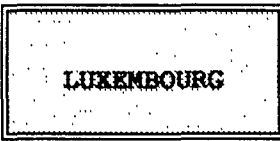
On the European Parliament, Italy considers that the IGC should rationalize and consolidate its role: Parliament should participate more fully in the CFSP and in CJHA. Equality between Parliament and the Council should be ensured through a hierarchy of acts tying the procedure for adopting acts to their status, and the number of legislative procedures should be reduced to three: assent (which should be extended, at least, to the revision of the Treaties), codecision and consultation. Codecision could be streamlined via eliminating superfluous stages and abolishing the possibility of a third reading in Council in the case of disagreement in the Conciliation Committee. On the membership of Parliament, Italy favours a ceiling of 650 to 700 MEPs, which should not be raised after future enlargements. It also advocates setting a deadline for adoption of a single electoral procedure.

On the subject of the national parliaments, Italy considers that their closer association with Union activities entails the effective application of the declarations annexed to the Treaty and the more effective organization of consultation and information links between the national parliaments and their European select committees. The Union's own procedures should also be structured so as to permit more substantial dialogue between the Member State governments and their national parliaments. On the Court of Justice, Italy believes that its existing powers should be preserved in full and extended to the field of cooperation in home affairs and justice on matters directly affecting the rights and freedoms of citizens. It also favours preserving and developing the powers of the Court of Auditors - above all in the context of intensified anti-fraud action - and the Committee of the Regions. Finally, on the subject of flexibility and differentiated integration, Italy believes that the revised Treaty should explicitly set out this principle, alongside a series of indispensable conditions for its operation. These should include preservation of the single institutional framework and the entire acquis communautaire and confirmation that Member States joining a Union policy or sphere of action at a later date will do so on a basis of formal and substantive equality.

On the Union's external identity, Italy believes that the IGC should give priority to the following: rationalization of competences in the area of external economic relations, with a view to improved coordination at Union level in the fields of world trade and development cooperation; creation of an analysis, planning and implementation unit for the CFSP, so as to ensure improved preparation and follow-up of Council decisions; greater visibility and coherence for the CFSP, with the appointment to this end of a 'personality' or secretary-general who would be responsible for continuity at Union level and would assist the rotating presidency and discharge the tasks confided to him by the Council, while fully respecting the competences attributed by the Treaty to the Commission concerning external relations and fostering the coherence of all aspects of the image projected by the Union to the world; reform of the unanimity rule once a consensus has been reached at the highest decision-making level (the European Council) on the principles and substance of the Union's external policy (Italy believes that such a prior consensus would facilitate greater use of simpler decision-making formulas, such as constructive abstention and reinforced qualified majority voting, on the basis of respect for political and financial solidarity on the basis of appropriate rules); and construction of the European security and defence dimension via implementation of the Treaty provisions on the CFSP, leading eventually to a common defence, on the basis of full respect for the transatlantic agreements. Italy also supports working towards the absorption of the WEU by the EU: this process could begin by incorporating the 'Petersberg missions' into the Treaty and bringing the WEU structures under the Union's aegis. Italy wishes to see this objective expressly set out in the Treaty itself. Finally, Italy would support moves towards closer cooperation between the Member States in the field of armaments, in particular through the creation of a multilateral European structure.

Concerning the establishment of a planning and analysis unit and the definition of a 'new function including executive tasks', Italy would prefer to see an institutional structure operating as follows: the European Council would be the highest authority as regards the political dynamic of the Union's external policy and the definition of its objectives; the Council of Ministers would be the decision-making body; and the future Secretary-General for external policy would be responsible for planning and the implementation of decisions, under the political control of the Council and in structured coordination with the Presidency-in-Office and the Commission. Italy believes that this would entail creating a coordinated analysis, planning and implementation structure (a type of European external policy committee) in which the Presidency, the Commission and the future CFSP Secretary-General would cooperate in the various phases of external policy, providing it with the requisite coherence, effectiveness and visibility.

Finally, the Italian text considers the question of the evolution of the negotiations, stating that Italy wishes to avoid lowest-common-denominator solutions and aims to help constitute, along with Member States with similar sympathies, a 'critical mass' which will enable the Union to achieve further progress while preserving its unique character.



Luxembourg Government memorandum of 30 June 1995 on the 1996 Intergovernmental Conference

This paper by the Minister for Foreign Affairs sets out the Luxembourg Government's initial position on the 1996 Intergovernmental Conference. After a brief historical survey of the reasons why the Treaty on European Union needs to be amended at the Intergovernmental Conference, and after describing the goals of the conference, the Luxembourg Government undertakes to take part in the wide-ranging public debate leading up to the reform of the treaties, and stresses that the remarks contained in the document are preliminary in nature, bearing in mind that genuine negotiations will not begin until the formal opening of the Intergovernmental Conference. The general approach that the Luxembourg Government intends to adopt during the Intergovernmental Conference is based on the twin concern of securing realistic progress towards European integration while at the same time safeguarding the country's vital interests. The stated aim of the Luxembourg Government is to achieve a more integrated and more democratic Europe based on greater solidarity. Specifically, it believes that deepening the Union by means of Community integration must be one of the main concerns for the Intergovernmental Conference. Other objectives should be the attainment of the internal market and economic and monetary union, reaffirmation of solidarity between large and small countries, between north and south, and between richer and poorer countries, strengthening cultural ties, measures to combat nationalism, which is a source of so many conflicts, the fight against unemployment and social exclusion and, in general, preserving the social model enshrined in the Treaty on European Union, protecting the environment, achieving greater transparency and involving citizens more closely in the integration process. After defining the European Union as a unique construction bringing together sovereign states which have freely transferred certain sovereign powers to be exercised within a single institutional framework in accordance with common rules and procedures, the document points out that the various powers are currently being exercised at three separate levels: on the one hand, powers held exclusively by the Union and exercised by its institutions; on the other hand, powers exercised jointly by the Union and the Member States in accordance with the principle of subsidiarity and, finally, powers exercised solely by the Member States.

The Luxembourg Government memorandum devotes a chapter to the question of how to achieve a more effective foreign and security policy. It first examines matters relating to the CFSP, and then looks at questions relating to defence. With regard to the CFSP, it stresses that the political will to act is the crucial element in making proper use of the instruments provided for in the Treaty on European Union. However, it also calls for consideration to be given to a number of improvements that could be made in order to make the CFSP more effective and make the external action of the Union as a whole more cohesive. With this in view, the first step should be to look at the design of the CFSP. The document advocates the establishment within the Council secretariat of a joint analysis and planning facility, with which the Commission would be fully associated and to which the WEU would also contribute. With regard to decision making, the Luxembourg Government advocates greater use of majority voting. In

addition, in formulating common positions and actions, the Luxembourg Government believes that the principle of 'unanimity minus one' would represent considerable progress, in that it would enable a Member State to dissociate itself from a joint action without preventing it. With regard to the implementation of the CFSP, the Luxembourg Government believes that closer involvement by the Commission in certain areas, particularly joint actions under the control of the Council, would have advantages from the point of view of efficiency. In addition, the Luxembourg Government proposes that ways should be found of giving the Union legal personality so as to strengthen its capacity to enter into legal commitments vis-à-vis third parties. Finally, the CFSP should in principle be financed from the Community budget, and the principle of full financial solidarity by the Member States should be guaranteed. Finally, the Luxembourg Government believes that measures having military implications should be conducted in such a way that a Member State is not obliged to participate against its will, while at the same time no Member State can prevent the majority from agreeing to undertake such actions. Implementation of these actions would be the responsibility of the WEU, while all the Member States should be required to meet the financial costs of actions with military implications.

With regard to defence, the Luxembourg Government believes that the Atlantic Alliance should continue to be the cornerstone of security in Europe, and that sooner or later all members of the European Union should also become members of NATO. For the time being, the WEU should continue to be a separate organization, although this should not prevent it from playing an increasingly active role in the future. Furthermore, until the WEU can be integrated by stages into the European Union, the Luxembourg Government believes that measures are needed to strengthen relations between the two organizations. In particular, the WEU should be confirmed as the military arm of the European Union and should pursue two objectives: on the one hand, greater participation in collective defence as the European pillar of NATO and, on the other, greater involvement in conflict prevention and management in Europe and the world. At operative level, the WEU should be able to undertake on behalf of the European Union humanitarian missions, peacekeeping and peacemaking missions, and crisis management missions involving armed forces. In addition, all Member States of the European Union should contribute to the funding of actions carried out on behalf of the Union.

The Luxembourg memorandum also supports closer cooperation in the fields of justice and home affairs. The Luxembourg Government believes there are four reasons why no progress has been made in this area: the complexity of the matters concerned and the sensitive nature of the areas covered, which closely affect the sovereignty of the Member States; the need for unanimous decisions to be taken before the legal instruments provided for in Title VI of the Treaty can be adopted; the option of granting jurisdiction to the Court of Justice, which has proved a major obstacle to the adoption of conventions; and, finally, the operating structures at five different levels which have proved a considerable impediment to decision making. Consequently, the Luxembourg Government considers that there should be a single institutional framework for the different pillars. To that end, it suggests that provision should be made in the Treaty for the Court of Justice to be empowered to settle disputes both between the states and between states and the Commission, and to give preliminary rulings. In addition, the Luxembourg Government supports the application of the rules laid down in Article 100c, which provide for initiatives to be taken by the Commission and for decisions to be taken by a

qualified majority in the field of asylum policy, rules governing the crossing of external frontiers, immigration policy and policy regarding nationals of third countries, combating drug addiction, combating international fraud (subject to the proviso in Article K.1) and customs cooperation. At the same time, it proposes reducing the number of levels through which proposals have to pass during the drafting stage so as to accelerate the decision-making process.

The memorandum also touches on the question of differentiated integration in the European Union. After regretting the inclusion in the Maastricht Treaty of the opt-out clauses for the United Kingdom and Denmark, and calling for the provisions deriving from the Schengen Agreement to be included in the Treaty, the Luxembourg Government expresses its desire to see the principles and objectives for all future progress towards integration approved at the same time by all Member States. Nevertheless, the Luxembourg Government accepts that, for reasons recognized as objectively valid by the Commission and the Council, some states may wish to move at a different speed from others. It believes that different speeds of integration will be inevitable in the event of future enlargement. This phenomenon should be viewed in the light of the 1976 Tindemans report, in other words not as a Europe à la carte, since all are agreed on the final objective to be achieved in common and are therefore committed to it; it is simply a question of the implementation being staggered over a period of time.

The Luxembourg Government memorandum then turns to the subject of the social dimension. It begins by affirming that the social dimension is equally as important as the Union's other major ambitions, and should be a common focus for all Member States. It is deeply attached to the principles of the social charter and the social dialogue, and to the drawing up of a list of minimum social rights, and it calls for special attention to be paid to the encouragement of sustainable growth that will generate employment.

The memorandum also refers to other matters connected with the deepening of the Union. First of all, it expresses support for granting the European Union the legal personality already enjoyed at present by the Community, the ECSC and Euratom. It also expresses its willingness to reconsider extending the Community's external competence in the field of services. At the same time, the Luxembourg Government believes that there is no need to grant the Union any new powers when the Treaty is reviewed. However, it would like the preamble to the new Treaty to include explicit reference to the protection of human rights and fundamental freedoms under European law, equality between men and women and measures to combat racism and xenophobia. It wants to see a more transparent decision-making mechanism, with the decisions themselves becoming easier to understand.

Finally, the memorandum turns to institutional questions and enlargement. The Luxembourg Government supports accession on a 'case-by-case' basis, in other words when all the required conditions have been met, and expresses its willingness to consider the possibility of differentiated accession to the three pillars. In addition, from a strictly institutional point of view, the principles that will guide the action taken by the Luxembourg government are as follows:

- (a) First of all, equal status must be maintained for all Member States and all citizens of the European Union in line with the European Parliament



resolution of 17 May 1995, which means that all Member States should be on an equal footing as regards participation and involvement in the Union's decision-making process. Accordingly, each Member State must be represented in all the Union's institutions.

- (b) Similarly, all the main political forces in a Member State must be duly represented in the directly elected European institutions.
- (c) Apart from a number of adjustments necessary for the purposes of efficiency and democracy, the overall institutional balance within the Union must be respected.
- (d) The extension of qualified majority voting in the Council is necessary. However, unanimity should continue to apply to all subjects which closely affect the sovereignty of the Member States and thus of the national parliaments, such as revision of the Treaties, European citizenship, new accessions, taxation and own resources. The Luxembourg Government wants to maintain the existing system of rotating presidencies and will accept no deviation from this principle.
- (e) With regard to the Commission, the Luxembourg Government is in favour of retaining its independence and collegiate nature, its exclusive right of initiative and the possibility of giving it new responsibilities.
- (f) The memorandum provides for a twin-track reform of the European Parliament. On the one hand, the government wants to simplify procedures, particularly the codecision procedure, with the number of procedures reduced to three: codecision, assent and consultation. It is willing to extend the field of application of the codecision procedure to all areas in which the Council currently decides by qualified majority. On the other hand, it is ready to review the Treaty provisions governing the budget procedures with a view to making them more effective and, in this connection, believes that interinstitutional disputes over the classification of expenditure need to be ended.
- (g) The Luxembourg Government is in favour of maintaining the existing powers of the Court of Justice, as well as the procedure for appointing its members.
- (h) With regard to the Court of Auditors, the memorandum proposes improving the instruments for combating fraud available to the institution, as well as stepping up its capacity to investigate and gain access to all the data needed to carry out its checks.

Memorandum on the IGC from the Governments of Belgium, Luxembourg and the Netherlands, 7 March 1996 (cf. Belgium, p. 25)

**THE NETHERLANDS**

Note of 14 November 1994 on the enlargement of the European Union: the opportunities and obstacles

This note was sent to both Chambers on 14 November 1994 and was debated in plenary on 14 February 1995. It contains references and observations concerning the following points: the political dimension of security; the tightening of links with the EU; various practical problems; institutional questions; and, lastly, issues concerning a multi-speed Europe.

With regard to the enlargement of the European Union, the Dutch government is in favour of including the countries of Central and Eastern Europe in the political and economic structures of the West; this should happen as soon as possible, whilst safeguarding the Union's cohesion and stability, and after the appropriate institutional adjustments have been made. As regards its attitude towards future accession negotiations, the Dutch government announces in its reference note that it will be guided, not only by the objective of safeguarding cultural values, but also by the democratic principles and fundamental rights set out in the Union Treaty, subject to the following four aims:

- the achievement in Central and Eastern Europe of a stable security policy, socio-economic development and democratic stability;
- the maintaining of Germany's active participation in the process of European integration, as well as in the joint European and Atlantic security structure;
- the maintaining of the internal market and a common legal system, and hence a European Union capable of acting decisively;
- the achievement of the above objectives at a reasonable cost.

As regards security policy, the Dutch government feels that integration in the European Union automatically implies extending security guarantees to the new Member States, since the criteria for joining the European Union are in a way the same as those required to join the WEU or NATO, and a parallel approach should therefore be maintained for the enlargement of the European Union, the WEU and NATO. This means that the accession of the countries of Central and Eastern Europe to the European Union, the WEU and NATO must be considered together, although in certain cases accession to NATO might precede accession to the European Union, provided that this did not jeopardize relations with Russia. The Dutch government recommends that the countries of Central and Eastern Europe should sign binding agreements with neighbouring countries on the subject of border disputes, frontier problems linked to the issue of minorities and any other potential source of conflict. Finally, as far as security is concerned, the starting-point should be to ensure that the European Union, the WEU and NATO expand eastwards without causing a new split in Europe, although this does not mean that such expansion requires the prior approval of Russia.

With regard to tightening links with the European Union, the Dutch government's document suggests that the countries of Central and Eastern Europe should be

gradually integrated by means of the signing of Europe Agreements providing for the establishment of a free trade area within ten years and offering those countries the prospect of subsequent accession to the Union. At present, the Dutch government considers that this approach should apply to the four Visegrad countries, plus Romania and Bulgaria. It considers that when links with the countries of Central and Eastern Europe are being strengthened, they must receive equal treatment, although, in view of the great political and economic differences between the various countries with which the European Union has concluded Europe Agreements, the relevant distinctions must be made when negotiations begin and when the subsequent enlargement takes place. In any event, such distinctions must be based on the criteria laid down by the European Council in Copenhagen. Furthermore, the Dutch government does not want the expansion of the Union to result in its losing efficiency or the ability to take decisions.

The Dutch government's note also refers to a number of practical problems resulting from enlargement. The first issue dealt with is the adoption of the acquis communautaire. The Dutch government is in favour of laying down long transitional periods or establishing a customs union first. In both cases this would mean maintaining existing border controls for a certain period of time. In connection with migration and cooperation between judicial authorities, the document proposes establishing transitional periods during which certain restrictions on the free movement of workers would apply, in order to prevent large-scale migration in the initial stages towards the current members of the European Union and until both economic development and progress in the countries of Central and Eastern Europe lead to a reduction in migration. In the Dutch government's opinion the problem of migration must be discussed with the CCEE at some stage prior to accession and to this end it recommends cooperating closely with them in launching a policy on internal affairs and justice. It considers that this could be achieved by means of negotiations with those countries, in order to ensure that the resolutions, guidelines and conclusions drawn up by the presidency of the Union in the sphere of internal affairs and justice are put into practice and that possible joint actions in these fields can be implemented in accordance with the provisions of Article K.3 of the Maastricht Treaty or even by concluding binding agreements. The document also deals with the tensions existing between the countries of Central and Eastern Europe and advocates that the bilateral problems among the countries of Central and Eastern Europe and between them and other third countries should be resolved before they join the European Union, the WEU and NATO, so as to ensure that such problems do not entail additional risks, especially as far as the internal decision-making system is concerned. The document also mentions the implications of enlargement for the European Union's Mediterranean policy. It says that equal treatment (at least in material terms) must be granted to all the countries, whether in the Mediterranean area or in the former Soviet Union, whether the European Union has association agreements with them and irrespective of whether, in this case, they may accede to and become members of the European Union at a subsequent stage. The document also discusses the financial implications of enlargement for the common agricultural policy and the Structural Funds. Bearing this in mind and in case the considerable financial consequences of enlargement might lead to a substantial increase in the Netherlands' contribution to the European Union, the Dutch government states that it is in favour of revising the present rules governing the Structural Funds as well as the common agricultural policy. It therefore maintains that the Dutch contribution to the European Union must not rise to an unacceptable level after 1999, when the Structural Funds are

revised, since this would have extremely significant implications for the national budget. It therefore proposes either modifying the present system of contributions for farming and structural policy, or establishing long-term temporary exceptions for the new Member States, or else a combination of the two.

The document also deals with the institutional questions resulting from enlargement. The Dutch government is against the idea of merely extrapolating the present institutional framework when the enlargement negotiations begin and feels that no particularly significant results will emerge from the Intergovernmental Conference unless the imminence of the further enlargements gives rise to new compromise formulas. According to the Dutch government, the institutional reform must be aimed at preserving the successful operation of the single market, and order must therefore be established in the Union beforehand by means of deregulation and subsidiarity prior to enlargement. In its opinion there should be regulation only where strictly necessary, using an accessible and comprehensible form of legislation and pursuing a transparent legislative policy. In its opinion this objective must be at the top of the European agenda in the coming years.

The document also deals with the question of a multi-speed Europe, and considers that a degree of differentiation in the process of European integration is inevitable in a Union of possibly 20-28 Member States. Such differentiation should, however, not undermine the Union's cohesion more than is strictly necessary and the Dutch Government is in favour of a multi-speed approach, which would make it possible for the same objective to be maintained for all the Member States, although they could achieve them at differing tempos. In any case it proposes a series of criteria which should be maintained: firstly, differentiated integration must be compatible with the objectives of the Treaty on European Union; secondly, each Member State must be free to participate if it wants and can meet the requirements for more rapid progress; differentiated integration must not undermine the Community legal system or the cohesion of the internal market (the Dutch government attaches particular importance to this third criterion); finally, States which choose to stay outside must not be allowed to oppose the formation of other more advanced groups which meet the remaining requirements and criteria.

The Dutch government is therefore against 'Europe à la carte' and the possibility of Member States being able to choose freely whether or not to join certain areas and not others, particularly as regards the internal market and connected policies. For example, it considers that the transition to the third stage of economic and monetary union is a good example of the kind of approach which it advocates regarding multi-speed integration. As far as the second and third pillars are concerned, the Dutch government considers that not all the Member States share the same view of the Treaty's objectives and it therefore considers that although the multi-speed approach is preferable, the option of variable geometry in both pillars should not be ruled out. This would mean that the objectives and their implementation would vary for each country or group of countries, as in the case of the Schengen Agreement or the common foreign and security policy and the WEU.

Finally, the conclusions of the Dutch government's document emphasize a parallel approach for accession to the European Union, the WEU and NATO, as an initial point of departure for negotiations with the CCEE and highlight the vital

economic and political importance of preserving the smooth operation of the internal market, the Community legal system and transition to the third stage of economic and monetary union in 1999 at the latest, with a view to accession. It stresses the need to establish long transitional periods once the countries of Eastern Europe have joined as well as maintaining existing border controls initially. The document insists that the financial burden should also be maintained at an acceptable level for the Member States, which would require subsequent modification of the common agricultural policy and a substantial reform of the Structural Funds. From the institutional point of view, the Dutch government states that the accession of new Member States must be preceded by a fundamental institutional reform, to enable the institutions of the European Union to take more effective and decisive action. It then proposes a deepening of the Union, which would not be aimed at adding new policies but at maintaining its capacity to take effective action both internally and externally. Finally, the document expresses doubts about whether the Intergovernmental Conference in 1996 will make sufficient progress in this direction and is in favour of differentiated integration in certain fields, which should not threaten the internal market or jeopardize the cohesion of the European Union as a whole.

**Dutch Government Memorandum of 30 March 1995 on European Foreign Policy, Security and Defence - moving towards more decisive external action by the European Union**

This report was submitted to the Dutch Chamber of Deputies on 30 March 1995 by Foreign Minister Mr Hans van Mierlo. This second memorandum, intended by the Dutch Government to help stimulate the debate in the Netherlands on the future of Europe, begins by briefly describing the new tasks entrusted to the CFSP by the Maastricht Treaty. It goes on to analyze the changes in the political and security situation in Europe, and the need for the EU to take more decisive and incisive external action. In this regard, the Dutch Government believes that political and economic integration should be accompanied by the integration of common security structures. Consequently, the government takes as a starting point the need for a parallel approach to accession to the EU, the WEU and NATO, although it does not rule out the possibility of some countries becoming members of NATO before they join the EU. In any event, transparency should be a vital aspect of the enlargement of the three abovementioned organizations, which will also require a vigorous dialogue with Russia. After mentioning a series of factors which argue in favour of more decisive external action by the European Union, the memorandum considers the objectives and the context for a common European foreign and security policy. First, with regard to the EU and the WEU, the memorandum takes the view that there is no need for the IGC to reformulate the objectives of the CFSP, which have already been adequately defined in Article J.1(2) of the Maastricht Treaty. However, the Dutch Government proposes that the external action necessary to achieve these objectives could be strengthened. With that in view, the memorandum puts forward a series of proposals which will be discussed below. It also analyses plans to improve the efficiency of the CFSP in the light of the policies developed by other international organizations, such as NATO, OCSE and the United Nations. The government believes that NATO has adjusted significantly to the changing circumstances of the current situation, but that further reforms are nevertheless needed, with consideration being given to the composition, size and use of the integrated military structure. With this in view, the implementation of the plan launched by NATO at the January 1994 Summit on combined joint task

forces (CJTF), is moving ahead more slowly than initially scheduled, thereby restricting the operational role of NATO and of the WEU in particular. The memorandum expresses the view that the EU should take maximum advantage of the possibilities offered by the OCSE framework when implementing its own foreign policy. With regard to the United Nations, the memorandum points out that those EU Member States which are also permanent members of the Security Council represent an important link between the UN and the CFSP and, in this connection, the Dutch Government is convinced that the cohesion and effectiveness of the CFSP would benefit if the amended EU Treaty included a requirement for closer coordination, since experience has shown that this leaves much to be desired at present.

The third part of the memorandum contains an assessment of the CFSP and puts forward a number of suggestions on that subject. The document points out that, although the CFSP is an instrument included in Article J of the EU Treaty, in practice the common foreign and security policy does not exist. Although any assessment of the policy must inevitably be provisional given the limited nature of the experience, the memorandum takes the view that the ineffectiveness of the CFSP should be ascribed not only to the technical deficiencies it exhibits, but above all to reasons connected with political will. In this connection, the Dutch Government believes that one of the key questions to be addressed at the forthcoming IGC is whether or not the Member States are willing to translate political will into firm action through the introduction of new Treaty provisions that will curb use of the unanimity rule when taking and implementing decisions relating to the CFSP. In order to make the CFSP more effective, the memorandum puts forward a series of proposals relating to specific areas that have proved to be weaknesses in the system, namely the capacity for analysis, the decision-making system, financing, and the coherence of the second pillar structure as regards the consistency needed for any external action. With regard to the capacity for analysis, the memorandum suggests that the IGC could choose to strengthen the unit responsible for the CFSP in the Council secretariat or establish a separate independent structure headed by a Secretary-General who would deal exclusively with the CFSP and would act as a driving force behind that policy. In any case, the memorandum takes the view that, if the Commission is to be fully associated with the work carried out under the CFSP as laid down in Article J.9, it must be able to participate in the activities of the reinforced unit responsible for the CFSP within the Council, or in the new structure to be established to deal exclusively with the CFSP. The Commission's current participation in the implementation of the CFSP should be extended so as to include preparations for decision-making. With reference to the decision-making system itself, the document puts forward a number of alternatives to the consensus rule. For decisions on the implementation of a common decision, it proposes improving the current wording of Article J.3(2) so as to ensure that all decisions in this area are taken by qualified majority. In addition, it proposes greater use of abstention when adopting a joint action. It also proposes restricting the use of the current unanimity system and introducing a system of 'unanimity minus one', which should become the general rule except where the vital interests of a Member State are at stake, in which case the unanimity rule should continue to apply. The memorandum also considers the idea put forward by Germany of introducing a system of majority voting when adopting joint actions, specifying that this would be a majority voting system within an intergovernmental context, as opposed to a majority voting system within the Community framework, based on the Commission's exclusive right of initiative, the involvement in the process of Parliament and the role played by the Court

of Justice in reviewing the legality of legislation approved in this way. In any case, the possibility of bringing the CFSP within the Community framework could be seen as a long-term option. In addition, after specifying that the options proposed regarding the adoption of joint actions could also be appropriate for the process of adopting common positions under the terms of Article J.2, the Dutch Government expresses the view that under no circumstances should the unanimity rule lead to a situation where Member States could be compelled to deploy troops for the purposes of crisis management as part of any common defence policy that the EU might develop in future. With regard to financing, the Dutch Government believes that joint actions should be implemented by all Member States and funded from the Community budget, which would involve a role for the Commission and the European Parliament. However, should the Council decide that the CFSP should be financed from national budgets, the Dutch Government's view is that the scale of contributions should be based on GNP. In cases where only certain countries take part in a joint action and others do not, although not opposing it, the Dutch Government considers that the costs of the operation should be equitably shared between the participating and non-participating countries. Finally, with regard to consistency and continuity of external action, the Dutch Government once again believes that the 'acquis communautaire' should be respected, which in its view means resolving the current uncertainties and weaknesses of the pillar system which result in the inclusion of Community elements within the framework of CFSP decisions and vice versa, in a tendency for certain Member States to use the CFSP framework to take decisions on matters which under the Treaty should fall within the competence of the Community, and in attempts to use intergovernmental channels to settle questions which are the responsibility of the European Community and which have been decided in the conventional manner under the majority voting system, on the basis of a Commission proposal.

The Dutch memorandum then turns to an assessment of the common European defence policy, putting forward a series of proposals. On the question of the relations between the EU and the WEU following the entry into force of the Treaty on European Union, the government considers that the IGC will offer a suitable opportunity to raise the question of the integration of the WEU within the European Union at political and institutional level, a goal which the IGC could attain by including a provision to stagger this integration over a number of years, with the date of expiry of the amended Brussels Treaty in 1998 offering a useful point of reference for this process. The memorandum goes on to look at the various arrangements under which the integration of the WEU within the EU could be achieved with a view to developing a common defence policy and examines the following three options: the WEU could be incorporated into the EU in two ways, either by maintaining the current arrangements under the second pillar or by establishing a separate fourth pillar. A third possibility would be to maintain the WEU as a separate and independent organization, though working in close cooperation with the EU. On the question of how the WEU should be incorporated into the EU, the Dutch Government stresses that, with regard to security guarantees, most Member States including the Netherlands believe that a common defence policy should involve a mutual obligation, although this does not alter the fact that meeting this obligation should continue to be a matter for NATO. In addition, the Dutch Government believes that the inclusion in the Treaty on European Union of new objectives and tasks in the field of a common defence policy should not involve an obligation to undertake these tasks at any time and in any circumstances, leaving open the possibility that these objectives and tasks could be undertaken exclusively by an ad hoc coalition.

In addition, incorporating the WEU into the European Union should create a direct link between the European Union and the North American members, which could take the form of an Atlantic agreement, although this would not be a substitute for the North Atlantic Treaty. After examining the questions relating to the differing membership of the EU and the WEU, the memorandum addresses the institutional problems deriving from the possible incorporation of the WEU into the EU and concludes that, regardless of whether the common defence policy should come under the second or fourth pillars, the powers of the Commission in this field should be confined to involvement in the implementation of tasks distinct from those mentioned in Article V of the Brussels Treaty. The role of the European Parliament would depend on the position occupied by the WEU Assembly in relation to the common defence policy. The memorandum also raises the possibility of the WEU continuing as a separate body. However, of all the options outlined above, the Dutch Government is in favour of the future integration of the WEU within the EU and does not believe that the establishment of a fourth pillar within the EU Treaty system would be a more valid alternative. The Dutch Government believes that integration of the WEU within the second pillar would have the advantage of facilitating the transition from the CFSP to the common defence policy and would boost the incisiveness and credibility of both. Furthermore, given the complexity of existing problems, it does not believe that the WEU can be fully integrated within the EU in the short-term; however, it proposes that, even if the WEU continues to exist as a separate organization for some time to come, the IGC should take the first steps towards full integration.

After discussing the various mainly operational effects that integration of the WEU would have, the Dutch memorandum places emphasis on the question of democratic control. Should the IGC agree on a decision-making system for the CFSP where the unanimity rule is not applied, it believes that decisions adopted in this way should be subject to parliamentary scrutiny at European level. Although it is to be hoped that the IGC will grant the European Parliament greater powers under the CFSP, if it fails to do so the options described above will have to be considered with a view to determining whether the advantage of greater efficiency can offset the drawback of reduced democratic control. In any case, this dilemma may not arise, since the Dutch Government believes it highly likely that decisions in this sector will continue to be taken on the basis of unanimity.

Finally the document analyses the effects of enlargement of the Union with respect to the proposals for achieving a more vigorous CFSP and the formulation of a common defence policy, taking the view that accession to the EU, the WEU and NATO by the countries of Central and Eastern Europe should as far as possible be a parallel process, given that their accession to the EU should not pose problems from the point of view of the CFSP and the future common defence policy. The memorandum also recommends that there should be sufficient flexibility in the implementation of the CFSP and the common defence policy, given the wide variety of geopolitical interests that will exist after the accessions have taken place and which might make the formation of ad hoc coalitions advisable. Turning finally to the forces at play within the EU, the memorandum notes that although most of the current problems can be resolved by bringing the CFSP within the Community framework, it is certain that at present most of the Member States are not prepared to follow this course and, as a result, the CFSP will continue to maintain its intergovernmental structure for the time being, in line with the approach advocated mainly by the United Kingdom



and France. The Dutch Government intends to support the German position, favouring the introduction of majority voting as a way of making the CFSP more effective as part of a general approach that is more favourable to the Community framework. The Dutch Government believes that the absorption of the WEU by the EU will be a gradual process that will not be completed by 1996, and which the IGC will only be able to set in motion.

**European Cooperation in the fields of Justice and Home Affairs. Third Memorandum for the 1996 Intergovernmental Conference (23 May 1995)**

On May 23 1995 the Dutch Government submitted a third memorandum related to cooperation within the European Union in the fields of justice and home affairs (JHA). For the Dutch Government those matters (free movement of persons; visa and asylum policy; immigration; position of nationals of third countries; fight against organised crime; drug trafficking and fraud; so as measures to combat racism and xenophobia) can no longer be tackled on a purely national basis. On the contrary, those problems require effective cooperation within the European Union, and judicial, customs and police cooperation is the only means of affording citizens security and legal protection. Anyway, given the slow progress that has been made after the coming into force of the Treaty on European Union, the Dutch Government considers it desirable for the functioning of the third pillar to be properly evaluated in the framework of the IGC and points out two central issues to such an evaluation: the effectiveness of cooperation and the maintenance of the rule of law. In this third memorandum the Dutch Government briefly summarizes the background to cooperation in the field of justice and home affairs, analyses the problems involved and makes a number of proposals aimed at improving the situation. In four different chapters the Dutch 'position paper' deals with the JHA policy framework; the state of play; the evaluation of JHA cooperation; and possible ways of improving JHA cooperation.

After describing the current JHA policy framework, the memorandum points out the results to date of the JHA policy concerning migration policy; asylum policy; police and customs cooperation and action against international organised crime; combating illegal drug trafficking; and the judicial cooperation in criminal and civil matters. As a conclusion, the Dutch Government believes that, generally speaking, the concrete results of cooperation in the fields of justice and home affairs have been somewhat meagre, especially in view of the ambitions entertained in the initial work programme of November 1993. Even in those areas - visa, customs, drugs and fraud policy - in which measures have to be laid down in both a Community and a JHA framework, harmonisation problems sometimes arise, and decision-making proceeds at a different pace. This has consequences for the efficiency of cooperation and the legal protection of citizens.

Concerning the evaluation of JHA cooperation, the Dutch Position Paper refers to a certain number of problems. Some of them relate to the efficiency of decision-making; decisions requiring unanimity; the lack of detailed objectives and multi-year work programmes; the limited role of the Commission; cumbersome committee system; the problem posed by the legal nature of JHA decisions; and the problem of funding JHA activities. Certain other problems, following the Dutch memorandum, relate to the democratic and judicial supervision of the decision-making process: the influence of national parliaments on JHA decision-making; parliamentary access to administrative information; public access to

administrative information; and legal guarantees via the jurisdiction of the European Court of Justice. As a conclusion, the Dutch memorandum states that cooperation in the fields of justice and home affairs is characterised by a number of shortcomings. More particularly, these relate to the following areas:

- *policy results and decisiveness:*
  - (a) decision-making subject to unanimity of votes;
  - (b) absence of policy objectives;
  - (c) lack of direction in the policy preparations conducted by the Presidency and the limited role of the Commission;
  - (d) cumbersome decision-making structure.
  
- *access to information, judicial supervision and democratic scrutiny*
  - (e) parliamentary and public access to administrative information is limited;
  - (f) no certainty that the Court of Justice can exercise jurisdiction in order to provide legal guarantees;
  - (g) parliamentary influence on decision-making in the JHA framework is limited.

Finally, the Dutch memorandum proposed a certain number of possible ways of improving cooperation in the field of justice and home affairs. Concerning the double option full communitarization or abandonment of the third pillar, the memorandum clearly outlines that while the Dutch Government takes the existence of the JHA pillar as the starting point for its stance on the IGC, each JHA policy area and problem identified must be examined to determine what improvements are possible, including further communitarization.

In particular, the memorandum include a certain number of intermediate options for improving JHA cooperation, some relating to procedural improvements which could be effected without any need for an amendment to the Treaty. Other, more far reaching measures, particularly those involving institutional alterations, would require an amendment of the Treaty on European Union. All those measures could be summarized as follows:

a) Clarification of the Treaty's policy objectives:

The Dutch Government is of the opinion that more specific policy objectives and resources should be incorporated. This would imply that Article K.1 of the Treaty on European Union would no longer simply list a number of policy areas, as it does now, but would indicate, for each of the policy areas in question, the principles on which the policy is based, the objectives of the policy and the policy resources to be used.

b) Improvements in political guidance, and multi-year work programmes:

The Dutch Government believes that a multi-year work programme would help to promote the progress and the continuity of cooperation in the fields of justice and home affairs. Such a programme would be even more effective if its main points were laid down by the European Council. The JHA Council could then interpret and elaborate these points.

c) Strengthening the Commission's right of initiative:

Following the memorandum, the Dutch Government would argue in favour of extending the right of initiative to cover three areas in which it has thus

far been reserved to the Member States: judicial cooperation in criminal matters, customs cooperation and police cooperation. On the other hand, the Dutch Government believes it would be less appropriate to furnish the Commission with an exclusive right of initiative in an intergovernmental JHA structure. Rather than introduce an exclusive right of initiative in the JHA pillar, a more obvious course of action would be - in view of the connections between the pillars - to review the merits of transferring certain areas from the third to the first pillar.

d) Streamlining decision-making:

The Dutch Government takes the view that the decision-making structure would be streamlined. This would make it easier for the K.4 Committee to play the coordinating role assigned to it under the Treaty on European Union. In conjunction with a multi-year work programme consideration could then be given to projects for which the K.4 Committee would be responsible. No amendment to the Treaty would be required for this purpose.

e) Clarification of the legal nature of JHA decisions:

The Dutch Government believes that the legal force of the 'common position' and 'joint action' should be defined more clearly. The IGC should clarify Article K.3 of the Treaty on European Union on this point. It could, for example, be laid down that a decision is binding the respect to the result to be achieved, but leaves the Member States with competence when it comes to selecting the ways and means of achieving the result.

f) Clarification of financing mechanisms:

The Dutch Government's basic principle is that Community financing has clear advantages over intergovernmental financing. Both policy-related and institutional factors come into play here. From the point of view of policy, financing from the Community budget facilitates cooperation between the third and the first pillar, which is an advantage when assessing policies. From an institutional point of view, the Netherlands attaches importance to the fact that funding from the Community budget involves the Commission, the European Parliament and the European Court of Audit more closely in financial aspects of the third pillar.

The Dutch Government believes that the Treaty on European Union should clearly indicate what expenditure could be considered for Community budget funding and what procedures will apply if intergovernmental financing is adopted.

g) Greater involvement of the EP and national parliaments

The Dutch Government feels that, in addition to existing national parliamentary supervision, the European Parliament should be more closely involved than it now is in decision-making on justice and home affairs matters. This could be done in two ways. Firstly, the EP, no less than national parliaments, must be afforded better access to administrative information in the context of the third pillar. To this end, the Government is in favour of a Treaty provision stating that all draft decisions which would be binding on the Member States should be put before the EP prior to the decision-making procedure in the Council. Secondly, such a provision should

also make it possible for the EP to offer an opinion on the draft decision before it within a reasonable time (for example, three months) and thus help in directing the political debate.

h) Strengthening the role of the Court of Justice

In order to ensure the most extensive role possible for the Court in the JHA pillar, the Dutch Government believes that the Court should have full, compulsory jurisdiction. Full jurisdiction should be understood to mean jurisdiction in regard to both the settlement of disputes and the giving of preliminary rulings.

Moreover, the Dutch position paper refers to the communitarization of specific sectors. In this respect, and after recalling that full communitarization of cooperation in the fields of justice and home affairs would not be a reasonable course of action, the memorandum recognises that consideration should be given to examining the extent to which certain specific areas would lend themselves to communitarization as provided for in the Article K.9 of the Treaty on European Union. In particular, the Dutch memorandum declares that the Dutch Government wishes, in consultation with the Dutch parliament, to examine the merits of communitarization of visa and asylum policy. Any policy adopted by the EU should expressly take the Schengen acquis as the starting point for further policy development.

Furthermore, concerning Schengen and JHA cooperation, the memorandum establishes that the limited results of cooperation in the fields of justice and home affairs are offset to a certain extent by the results of cooperation by the Schengen countries. Schengen does not, however, compensate for the absence of access to information, judicial control and parliamentary involvement at European level. It would not be desirable, in the Dutch Government's opinion, to endeavour to introduce separate provision for this in the Schengen framework. It therefore believes that the goal should be for the EU to adopt the Schengen acquis. Such a transfer should not, of course, result in a dilution of the acquis. The Dutch Government believes that combining the substantive achievements of Schengen with the institutional structure and safeguards of the EU will make it possible to achieve significant advantages in numerous respects. The IGC should elaborate on this proposal.

Fourth memorandum by the Dutch Government (12 July 1995) on the institutional reform of the European Union

The fourth and final memorandum of 12 July 1995 was submitted by the Netherlands Government to the Dutch Parliament in late July. It is the final part of the Dutch Government's contribution to the public debate on the planned revision of the Maastricht Treaty, not only in the Netherlands, but in the whole of Europe. In fact, the government is still in the process of drawing up its contribution to the IGC. The memorandum begins by expressing the belief that the IGC, the move to the third stage of EMU, the reform of the Structural Funds, the CAP and the financing system, and the accession of new Member States to the Union, must be dealt with separately, and in accordance with the relevant rules in order to ensure the success of the negotiations. The Dutch Government places special importance on the institutional reforms necessary for the future development of the Union and draws a distinction between the reforms needed within the

framework of the current Union of fifteen, in order to improve what it calls the 'constitutional quality' of the Union, and on the other hand those necessary with a view to enlargement. It therefore believes that, in addition to the CFSP and cooperation under the third pillar, the conference agenda should be confined to a certain number of fundamental issues connected with these two questions.

The first part of the memorandum dealing with 'constitutional quality' considers the measures needed to introduce greater transparency, a more effective division of tasks between the EU and its Member States and an increase in the democratic legitimacy of the decision-making process. In general terms, the Dutch Government believes that the levels of effective administration existing at national level should also be achieved at European level, something which could be done through more effective application of the three principles of subsidiarity, democracy and transparency. On the question of subsidiarity, the Dutch Government believes that in cases where a problem can be dealt with only at European level, the Union should have the necessary instruments at its disposal. At the same time, when submitting a proposal, the Commission should explain why provisions are needed at European level (subsidiarity), whether there is a possibility of adopting less stringent provisions (proportionality), and should include a cost/benefit analysis and an assessment of the scope for fraud and for monitoring implementation. Following a public debate on the Commission proposals and their justification, the Council could hold a debate on admissibility, which would focus on the three criteria mentioned above. To avoid any possible deadlock and abuses, it is proposed that the revised Treaty should make provision for these debates to be held solely in cases where requested by a Member State and these subsidiarity tests should be accompanied by the necessary guarantees, including the possibility of referring cases to the Court of Justice.

With regard to the principle of democracy, the Dutch Government believes that for all decisions adopted by the Council under the majority voting rule, national parliaments should have a say over legislative and budgetary matters and should be able to exercise control over political decisions of the Union and their implementation. In addition, in cases where the Council takes decisions unanimously, whether political or legislative in nature, parliamentary scrutiny should be guaranteed in principle by the involvement of the national parliaments. However, given that a single government or national parliament could block the process for taking decisions unanimously, the memorandum proposes that the European Parliament should also be consulted on decisions requiring unanimity. The memorandum proposes that Parliament's right to put forward recommendations should be spelled out more clearly so that the Council cannot adopt decisions until Parliament has made its recommendations or until a certain period of time has elapsed. This right of consultation would also entail the right to receive adequate information, and this would relate to EU policy as a whole, including cooperation under the second and third pillars. Furthermore, even in cases where decisions are taken unanimously, Parliament's powers could go beyond the right of consultation. For example, with reference to current Article 228 of the Treaty, the Dutch Government considers that the revised Treaty should recognize Parliament's right to approve any Treaty signed by the European Community. For those legislative provisions adopted under the Community pillar, the Dutch Government believes that the codecision procedure should be extended and should replace the cooperation procedure, which is less democratic. It is also in favour of increasing Parliament's powers of control, particularly as regards proper and efficient use of funds from the Community

budget. At administrative level, the Dutch Government repeats the view it expressed at the previous IGC that the European Parliament should have the right to veto individual Commissioners.

On the question of transparency, the document expresses support for the principle of open government at European level. In this connection, it supports public access to information and calls for the European Union to establish legislative provisions giving citizens full rights of access to information as well as proper facilities for appeal. The basic view of the Dutch Government is that government documents should be accessible unless there are good grounds to justify confidentiality. In any case, proper justification should be provided for the refusal of any individual request for information. In addition, the Dutch Government proposes that a provision be included in the Treaty to guarantee Parliament's right to full and timely information. The document also raises the question of the public nature of proceedings during the decision-making process and expresses support for holding Council meetings in public as far as is possible when the latter is acting as legislator. This would also involve holding the admissibility debate (subsidiarity) mentioned above in public, as well as the final vote in Council, including explanations of vote, while the intermediary negotiating stage would remain closed to the public.

The memorandum then moves on to discuss the need for clarity in the decision-making procedure, and argues in favour of simplifying this procedure. The Dutch Government puts forward four proposals: extending the codecision procedure to other areas; simplifying and clarifying this procedure; abandoning the cooperation procedure; and better regulation of the right of consultation. The Dutch Government also proposes that for legislative matters the assent procedure should be replaced by the codecision procedure and retained solely for the approval of treaties. The document also advocates the radical simplification of the text of the Treaty on European Union, a task which the Reflection Group could entrust to a group of independent legal experts. With regard to the quality of legislation, the memorandum recommends that this is necessary not only to make it more accessible, but also to facilitate its application and curb abuses. On the subject of commitology and the hierarchy of Community acts, the memorandum merely states the Dutch Government's intention of taking a constructive approach to this question, bearing in mind that the needs of efficiency and democracy require a simpler system of commitology and a hierarchy of Community acts.

The second part of the memorandum deals with institutional changes in the light of future enlargements, and discusses what institutional measures will be needed, together with reform of the CAP, Structural Funds and budget system, in order to maintain the Union's cohesion and its capacity to act decisively, while putting forward a series of proposals. The document first notes that to continue applying the extrapolation method used for the various enlargements, which made it possible to extend the appropriate initial balance achieved between strict proportionality and equality between all the original Member States to the benefit of the smaller States, would inevitably lead to a loss of efficiency, decision-making capacity and democratic legitimacy. The Dutch Government therefore believes that the composition and decision-making mechanisms of the institutions need to be amended. In any case, any institutional reform will have to leave the Community legal order and the existing institutional structure unchanged, although these need to be protected and strengthened.

With regard to the Council four questions need to be considered: the decision-making system; the weighting of votes; the presidency; and the Council's working methods. With regard to decision-making by the Council, the document refers to the views expressed in the second and third memoranda on the second and third pillars, and proposes that Council decisions on first pillar matters should in principle be made by a qualified majority, although unanimity should continue to be needed for matters relating to taxation, the decision on own resources, and decisions of a constitutional nature concerning reform of the Treaties, use of languages and accession. With regard to the weighting of votes, the Dutch Government considers that a reasonable balance should be struck in the weighting of votes between large, medium and small States. After discussing the option of granting more votes to the larger countries, the Dutch Government expresses its support for a double majority system (current weighting of votes plus representation of a given percentage - in principle 50% - of the Union's total population), since it would strengthen the democratic legitimacy of the current decision-making system. In addition, the Netherlands would continue to oppose the Ioannina agreement. Of the four proposals considered on the question of the Council Presidency (making it annual, separating internal and external affairs, introducing an elected presidency or appointing a presidential team), the Dutch Government expresses provisional support for the last of these options. The presidential team would consist of a 'troika' of Member States (one president and two vice-presidents) who would share responsibilities for one year. Finally, on the question of the Council's working methods, the Dutch Government urges the IGC to seek new formulas and calls on the Reflection Group also to consider the question and to put forward proposals to improve the situation which would not involve amendment of the Treaties.

With regard to the Commission, the Dutch Government supports the principle that each Member State should have one Commissioner. Of the other possible options, the government would be willing to accept a situation where there were fewer Commissioners than Member States, but only if all Member States were willing to renounce permanent representation. The Dutch Government was opposed to the idea that some Member States had a permanent right of representation and others did not.

On the question of how many seats the European Parliament should have, the memorandum calls on Parliament itself to put forward proposals as to how the maximum scheduled number of 700 seats should be divided. Nevertheless, the Dutch Government believes that a certain minimum number of seats should be set aside for the smaller countries.

With regard to the Court of Justice, the memorandum proposes that the principle of 'one State, one Judge' should be maintained. At the same time, in order to ensure the effectiveness of its work, which could be disrupted by an excessive increase in the number of judges following successive enlargements, the document proposes the introduction of a system of two 'plenary' Chambers. To ensure the uniform application of Community law by both Chambers, the memorandum suggests that judges should be rotated or that the Advocate-General should act as an intermediary.

Finally, on the question of different speeds of integration, the document refers to views expressed in the first memorandum. However, the Dutch Government believes that, whatever developments occur in this field, the single institutional framework of the European Union should be preserved. It also

repeats that the Union should move forward in a single direction as far as possible, and that it would prefer not to see integration at different speeds. In fact, it believes that the concession previously granted to the United Kingdom was a last resort which needs to be remedied.

Memorandum on the IGC from the Governments of Belgium, Luxembourg and the Netherlands, 7 March 1996 (cf. Belgium, p. 25)

Communication of March 1996: 'From Madrid to Turin: the Netherlands' priorities for the 1996 IGC'

In this memorandum the Dutch Government submitted the results of the Reflection Group's work to the national parliament, while also outlining (in the third section) the main positions to be defended in the discussions by the Netherlands on the themes of the IGC. A summary of these positions follows.

Concerning the IGC agenda, the Netherlands wish it to concentrate on a minimum number of areas, in the interests of its own success. On the Netherlands' objectives for the Conference, the government stresses that its positions have already been set out in detail in the four previous memorandums: the present text represents a further stage of clarification. On the question of principles, the Netherlands supports the strengthening of fundamental rights in the TEU, considering that before the IGC decides on the matter there should be careful examination of the legal implications of the various possible options. The Treaty should enshrine the right of the public to access to government information in the Union; the Treaty should be simplified; there should be improved application of the principle of subsidiarity on the basis of better-argued proposals from the Commission; and efforts should be made to improve the quality of Community legislation. The Netherlands feel that the IGC should not rule out the notion of a multi-speed Europe: the revised Treaty should specify criteria and provisions for a selective process of multi-speed integration. On the environment, the legislation in this field should be clarified with a view to integrating environmental policy into the other Community policies. The Netherlands believe that all the Community languages should have equal status.

Concerning the institutions and with reference to the European Parliament, the Netherlands favour reducing the number of decision-making procedures to three (consultation, codecision and assent), and would simplify the codecision procedure and extend it to further areas. On the Council, the Dutch view is that QMV should be retained and, if possible, extended as far as the internal market is concerned; the text calls for caution on the matter of changing the weighting arrangements, and does not rule out a dual weighting system based on a majority of both votes and population. On the Commission, the Netherlands favour: extending its existing prerogatives and powers; increasing its efficiency; making it more fully accountable to Parliament, especially as regards the personal responsibility of the commissioners, considered individually; simplifying the commitology procedures; and retaining at least one Dutch commissioner. On the Court of Justice, the Netherlands would keep its existing prerogatives intact and extend them to third-pillar (CJHA) cooperation.

On the internal market, the Dutch Government supports reinforcing the instruments for combating fraud; would, under certain conditions, favour



inclusion in the Treaty of provisions concerning employment; opposes new Treaty provisions on energy, tourism and civil protection; does not think any new exemptions should be granted with respect to the freedom of provision of public services; and would incorporate the social protocol in the Treaty.

On the CFSP, the Netherlands favour setting up a planning and analysis unit, to which the Member States, the Council Secretariat and the Commission would contribute; such a body should not, however, in the Dutch view, have any right of initiative. The Netherlands endorse the extension of majority voting to CFSP decisions, considering that the precise arrangements could be decided later, and oppose the idea of a high-profile, political 'Mr or Mrs CFSP', considering that the role in question should be filled by an official under the authority of the General Affairs Council. The Dutch Government would support the gradual integration of the WEU with the EU, and would step up cooperation between the two to this end.

Finally, in the CJHA field, the Netherlands favour: strengthening the roles of the Court of Justice, the Commission and the European Parliament; communitarizing visa and asylum policy; incorporating the Schengen 'acquis' into the TEU; and, in general terms, making greater use of the 'passerelle' between the first and third pillars, so as to facilitate the transfer of certain areas from the third pillar to the Community legal framework.

<b>AUSTRIA</b>
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Guidelines of the Austrian Government on the subjects likely to be dealt with at the 1996 IGC (submitted in June 1995)

I. Introduction

The guidelines have been drawn up by the Federal Chancellery and the Foreign Affairs Ministry in cooperation with other ministries, the Länder and the social partners. The positions adopted by the Conference of 'Landeshauptmänner' (heads of government of the Länder) of 4 May 1995 have been taken into consideration.

The main challenges to be met in the field of institutional reform are as follows:

- strengthening democratic legitimacy, transparency and bringing the Community closer to its citizens; the consequent need to apply the principle of subsidiarity;
- strengthening capacity to act under the CFSP and in the field of justice and home affairs;
- in the context of Union enlargement, consolidating and strengthening the Community's capacity to act and the efficiency of the action in the field of economic, social and environmental policy.

With regard to models for differentiated integration, the guidelines single out four principles to be observed:

- differentiated integration should remain the exception to the rule. Phased integration should be the model to follow;

- in the case of phased integration, the goals for Community integration should be determined in common. With regard to the institutional aspects of phased integration, the guidelines favour the use of a single institutional framework;
- differentiated integration should not be allowed in political areas where certain Member States wish to secure competitive advantages;
- the different levels of integration established as a result of differentiated integration should remain open to those Member States not taking part. Agreements establishing integration at various levels should include transitional arrangements.

## II. Functioning of the Community pillar

The guidelines devote considerable attention to the question of existing policies and how they can be strengthened in material and institutional terms and with regard to decision making.

In general, the Government considers that the Community should give priority to environment policy and the fight against unemployment.

With regard to granting new powers to the Union, the Government believes that:

- Community powers in the field of energy policy would be useful for measures currently under way in the energy sector;
- Community powers in the field of civil protection policy should be included in the Treaty on European Union;
- Community powers in the field of tourism policy are not necessary.

The Government is opposed to any discussion of the material aspects of EMU at the 1996 IGC.

The Government has serious reservations about discussing CAP reform at the 1996 IGC.

On the question of Community social policy, the Government stresses the fact that the United Kingdom has secured unwarranted competitive advantages. The Community's social policy should be brought within the Community framework and harmonized by including the protocol and agreement on social policy in the first pillar. In addition, the Government urges that the procedure provided for in Article 189b (simplified) should be extended to cover all aspects of Community social and employment policy.

With regard to environment policy, the Government calls for:

- inclusion of the term 'sustainable development' in Article 2 of the TEU;
- inclusion of 'protection of the environment' in the list of prohibitions or restrictions contained in Article 36 of the TEU;
- inclusion of 'environment-friendly agricultural production' in the objectives listed in Article 39 of the TEU;
- improvement of Article 100a (4) of the TEU;
- extension of the procedure under Article 189b of the TEU to all measures implementing Article 130s of the TEU.

### III. Institutional questions

#### **European Parliament**

The Austrian Government supports the extension of the European Parliament's legislative and supervisory powers. With this in view, discussions are needed on the simplification of legislative procedures and committee work.

The Austrian Government seems to have reservations about the European Parliament's request for a right of initiative vis-à-vis the Commission. However, it is in favour of revising the investiture procedure for the Commission and stresses the value of the proposal made by Mr Santer during the last investiture procedure in January 1995.

The question of the number of Members of Parliament is not a matter of priority for the Austrian Government. According to the guidelines, the functioning of the European Parliament is dependent upon its working methods.

On the question of cooperation between national parliaments and the European Parliament, the Government calls for interparliamentary procedures of the COSAC kind to be consolidated. It is opposed to any attempt to establish a second chamber of national parliaments.

#### **Council**

The Austrian Government wants the role of smaller Member States to be maintained. This is one of the constituent elements of the European Union.

With regard to institutional provisions concerning the role of the Council, the Austrian Government is opposed to any reduction in the members needed for a blocking minority.

It calls for a partial revision (article by article) with regard to the extension of qualified majority voting in the Council.

The Government is in favour of retaining the current system of rotating presidencies.

#### **Commission**

The Government is willing to consider a reduction in the number of Commissioners. However, each Member State must have the right to nominate one member of the Commission.

With regard to the extension of the Commission's powers, the Government calls for it to be given powers to combat fraud and in the areas covered by the third pillar.

#### **Subsidiarity**

According to the guidelines, the subsidiarity principle should be strictly applied. It is seen as an instrument for improving the distribution of tasks between European, national and regional level.

### **Hierarchy of acts**

The Austrian Government is 'interested' in establishing a hierarchy of acts, but account would have to be taken of the need for balance between the bodies of the Union.

### **Basic rights**

The Austrian Government believes that the basic rights of Union citizens need to be guaranteed. The 1996 IGC should discuss how this should be done.

### IV. CFSP

Austria subscribes to the objectives of the CFSP as set out in Article J.1 of the Treaty on European Union. It has a strong interest in seeing the Union become a factor for stability in Europe.

In accordance with the dictates of the integration progress, Austria supports the principle that the Union's foreign policy should be gradually brought within the Community framework.

### **Institutional questions**

The major shortcomings can be seen as the lack of preparation for decision making and implementing measures.

- In order to improve the capacity for planning and analysis, the Austrian Government proposes that a planning unit be set up consisting of members of the Council secretariat, the Commission and the Member States. The unit would operate alongside the Council secretariat. The government proposes that its functions should be:
  - \* information and observation
  - \* analysis and evaluation
  - \* drawing up options and proposals in order to put into practice the conclusions reached by analysis.
- Austria accepts that the role of the Council presidency should be to guide policy and sees no need for reform.
- On the question of the role of the Commission, the government proposes that its right to propose measures should be reinforced.

### **Decision-making**

- The Austrian Government affirms its readiness to discuss a cautious move towards majority voting:
  - \* in stages (for joint actions)
  - \* on a sectoral basis (with regard to decisions taking 'unanimously minus one', 'positive abstention', except in cases of vital national interests)
  - \* the Government is in favour of retaining unanimity for the military security aspects of the CFSP.
- The cohesion of common positions and joint actions needs to be enhanced.

### **Financial questions**

- To ensure that CFSP decisions can be implemented as quickly as possible, funding must be guaranteed by the Community budget, taking account of the specific role of the Council of Ministers.

### **European Parliament**

- Under the present circumstances, parliamentary control over the CFSP must be exercised by the national parliaments. However, the information component in Article J.7 of the TEU could be extended and made more systematic.

### **Common defence policy**

- The priority goal of the CFSP is to prevent military conflicts. At the same time, the means and structures must be found to respond to and punish military aggression.
- Austria's position is based on the need for a European security policy involving the EU, WEU, NATO and OSCE.
- With regard to the European Union's role in the European security system, the Austrian Government proposes that its capacity to act be enhanced in the following areas:
  - \* conflict prevention,
  - \* crisis management,
  - \* peacekeeping operations,
  - \* civil protection,
  - \* humanitarian actions.

### V. Cooperation in the field of justice and home affairs

The government largely agrees with the assessment on the (mal)functioning of the policy on justice and home affairs made by the Commission, Council and European Parliament.

It proposes that a work programme should be established and a genuine institutional impetus given to the third pillar.

In order to overcome the structural problems of intergovernmental cooperation, the Austrian Government is in favour of including Community instruments under the third pillar.

- \* Article K.9 must be used and made operational. With this in view, the government proposes that the decision-making mechanism (unanimity and ratification in the Member States) should be revised and its field of application extended to all areas covered by Title VI of the TEU.
- \* Respect for fundamental rights under the third pillar must be guaranteed, particularly as regards data protection.
- \* To achieve the proposed institutional impetus, the Austrian Government proposes that either the Commission or another 'monocratic and collegiate' body should have a more extensive right of initiative than at present.

## European Parliament

The Austrian Government's position on the role of the European Parliament and the national parliament is the same as for the CFSP.

## Duplication of powers

The Austrian Government would like to see a clarification of the powers governing visas, health, measures to combat drugs and international crime, and nuclear security.

## Clarification and simplification of work structures

The Austrian Government proposes that at least one level of activity should be abolished under the third pillar. For that purpose, it proposes:

- \* Option A: abolition of the steering groups
- \* Option B: merger of the K.4 committee with COREPER, leading to creation of COREPER III

## Measures to combat racism and xenophobia

The Austrian Government proposes:

- requiring governments to consult and inform each other on all measures to combat racism and xenophobia;
- establishing minimum standards for protection against racist and xenophobic activities.

## Austria's positions of principle on the Intergovernmental Conference: Austrian Government document of 26 March 1996

This text was submitted by the Austrian Government on the eve of the Turin European Council, and consists of nineteen pages divided into four parts, concerning: 1) the challenges facing the Union; 2) the need to bring the Union closer to the public; 3) efficiency and democracy; 4) the CFSP.

Concerning the challenges facing the EU, the Austrian Government considers it necessary to reinforce the Union's capacities for action in a number of areas. European integration in general is seen as crucial to social and economic development in Europe, and EMU is felt to offer further potential benefits. Austria believes that the peace and stability which are the fruit of the integration process must be extended to other European countries. In this connection, Austria enumerates a number of issues that the IGC must face. Firstly, as regards democracy and bringing Europe closer to the public, Austria considers that Member States must be suitably represented in the legislative process, and that the 'extra' representation of small and medium-sized Member States should be retained. The existing interinstitutional balance should therefore be preserved; the legitimacy and transparency of Union policies should be improved through simplification of the legislative process, closer cooperation between the Council and Parliament and the consolidation of links with the national parliaments. The regional dimension of the integration process should be strengthened as a contribution to transparency; the principle of

subsidiarity should be consistently applied; and the protection of fundamental rights should be improved. All these measures would serve to bridge the existing gap between the Union's citizens and its institutions.

On the subject of employment, Austria considers that action against unemployment should be a major priority for the Union, alongside environmental protection, which, as a matter of major concern to the public in the Union, should be one of the key themes of the IGC. The Conference should promote the ecological dimension of the Community policies.

On internal security, on the grounds that full freedom of movement for Union citizens will only be possible once their security has been guaranteed at European level, Austria considers that all matters relating to immigration, asylum and action against crime, terrorism and drug trafficking should be dealt with in the basis of supranational coordination of legal and police authorities. On the CFSP, Austria believes that the IGC should: encourage greater coherence between the various aspects of external policy; set up a joint planning and analysis capacity; improve the effectiveness of decision-making and implementation in the CFSP field; and develop the policy's operability in the areas of conflict prevention, crisis management, peace-keeping measures, disaster aid and humanitarian action. On the subject of enlargement and the workings of the Union, the Austrian Government proposes: clarifying and simplifying the legislative procedures; extending majority voting; improving working methods and organizational procedures; and retaining the Commission's role as the motor of the system. Enlargement and institutional reform are seen as part of one and the same process, to be undertaken in tandem on a phased basis. On the subject of flexibility and coherence, Austria considers that the dual challenge of widening and deepening the Union will necessitate differentiated integration; this should, however, remain the exception rather than the rule, should be transitional in nature, and should under no circumstances mean that Member States which, for reasons of economic development, are not in a position to accede to a higher level of integration (as in the case of EMU) end up shut out of the integration process as such.

After this first section setting out the challenges facing the Union, the Austrian text goes on in its second part to consider means of bringing the Union closer to the public. On the question of human rights, Austria favours: accession of the EU to the European Convention on Human Rights; incorporation of the content of the European Social Charter in the Treaty; strengthening and further development of the principle of gender equality in the Treaty; and reference in the revised Treaty to action against racism and xenophobia. On the subject of the existing inequalities between men and women, Austria suggests that there should be an explicit Treaty provision conferring on Member States the right to undertake actions in favour of women. On European citizenship, Austria believes that a fresh impetus should be given to this concept, which should be more fully defined: it should be made clear that European citizenship complements national citizenship but does not replace it.

On CJHA, Austria considers that a number of policies at present falling under the third pillar should be communitarized. These include: visa and asylum policy, external frontier controls, immigration policy, policy concerning third country nationals resident in the Union action against drug trafficking and international fraud, customs cooperation and action to combat fraud against the Community budget. However, it believes that criminal law matters should remain

under the third pillar. The role of the Community institutions, instruments and procedures will require strengthening to deal with the subjects still under the third pillar, with a view to improving the latter's continuity and dynamism. There should be greater use of majority voting on third-pillar matters, especially as regards action against organized crime. On the operational level, there should be a significant reduction in the number of working levels, and a clarification of the powers corresponding to the different pillars. The Commission should play a greater role in third-pillar matters, in the interests of improved continuity, dynamism and coherence, and its right of initiative should be extended to the third pillar. The Treaty should include a provision guaranteeing the uniform interpretation of third-pillar legislation by the Court of Justice. Concerning Parliament's role in the third pillar, Austria favours strengthening its right to be informed and consulted, and also believes the national parliaments have an important role to play in third-pillar matters. Transparency should be increased in the area of the third pillar: all non-confidential documents should be published, and the European Parliament should be kept regularly informed on Council meetings. The funding of the third pillar should be more clearly defined, and should be subject to financial control by the Court of Auditors. Finally, Austria feels that the continued existence of different national laws on internal security, with respect to the third pillar, the Schengen agreement and the Dublin Convention, is inefficient and confusing, and believes that the IGC should unify all these systems; in particular, Austria supports incorporation of the Schengen agreement into the Treaty.

On employment and social affairs, Austria believes the Treaty should include a high level of employment as one of the Union's fundamental objectives. With a view to coordinating and monitoring employment policy in the Member States, Austria supports introducing a control mechanism. Provisions should be instituted to improve the coordination of consultation on employment policy between the Employment and Social Security Council and ECOFIN. The substance of the Social Charter could be incorporated in Title VII of the Treaty. In addition, all future proposals should be examined by the Commission for their impact on social policy and employment.

On the environment, Austria believes that the concept of environmental protection should be incorporated in the Treaty in relation to the CAP, the trans-European networks and the common transport policy. In certain cases, environmental protection should be incorporated in such a way as to permit economic sanctions in certain cases. Member States should still have the possibility of establishing or maintaining stricter environmental rules at national level. On the institutional aspect, codecision of Parliament should be extended to environmental matters, and there should be greater use of majority voting in this field; it should, however, be possible for certain sensitive questions, such as water resources or land use, to be decided on by unanimity. The Commission should examine all future proposals from the viewpoint of their likely impact on the environment, and could, in this connection, submit a report annually to the Council. Finally, Austria reiterates its hope that nuclear energy will eventually be abandoned, and states its intention to press for animal welfare to be taken into account in Union policies.

On transparency, Austria would like to see a greater involvement of public opinion in the preparation of EU legislation, through green papers, white papers and Commission proposals. It favours publication of the texts of interinstitutional agreements, and supports the idea of clearer and more



comprehensible legislation. The public should have easier access to Union documents, and the structure of the Treaties should be simplified.

On subsidiarity, Austria wishes to see this principle clarified, and supports the participation of the national parliaments in the monitoring of its application; it could be added to the Treaty in the form of a protocol. The Committee of the Regions and individual regions should have the right to bring legal action in cases of breach of the principle of subsidiarity or the powers of the regions.

The third part of the text concerns efficiency and democracy. The first aspect discussed is the institutions, followed by the subjects of legal acts, financial matters and Union policies. On the subject of the European Parliament, Austria would maintain the existing proportional arrangements concerning its membership, and would not change the voting system; it would simplify and speed up the complex legislative procedures now in force. There should be only three procedures: codecision, assent and consultation. Codecision should be extended to fresh areas, and Parliament should play a greater role in the process of selecting the President of the Commission.

On the subject of the national parliaments, Austria believes the Treaty should include an explicit reference to the need to involve them in the integration process, while leaving the precise form in which this is done to the Member States. At all events, the national parliaments should receive clear, full and timely documentation on important Commission legislative proposals. The relationship between the European Parliament and the national parliaments should be complementary, not competitive, and existing cooperation structures such as COSAC should be further developed.

With respect to the European Council and the Council of Ministers, Austria supports greater use of QMV, which should apply to such areas as taxation, some spheres of social policy and the harmonization of provisions directly affecting the internal market. Unanimity should, however, still apply to sensitive areas of derived legislation and decisions on own resources. On the weighting arrangements, Austria believes that the current relative 'over-representation' of the small and medium-sized Member States in the decision-making process should remain. It would, however, reform the Council's working methods, while keeping the system of rotating presidencies. The Presidency should be supported by a reinforced Council Secretariat, and there should be a more efficient division of labour between the members of the troika.

On the Commission, Austria wishes to see it retain its three main functions, namely: determination of the common interest, monopoly powers of legislative initiative and monitoring of the implementation of Community law. It believes it is crucial for the Commission's legitimacy that each Member State should continue to have a Commissioner. On the Court of Justice, Austria would preserve its central role as the body responsible for interpreting Community law, and would strengthen its powers in third-pillar matters. On the Court of Auditors, Austria stresses its vital role in the fight against fraud, and believes it should give the power to bring actions before the Court of Justice; the Treaty should include a provision making it compulsory for the national authorities to cooperate with the Court of Auditors. Austria, as a federal state, supports greater powers for the Committee of the Regions, and will put to the IGC various proposals submitted in this connection by the Austrian Länder, the Federation

of Regions and the Federation of Cities. Finally, on the Economic and Social Committee, Austria would promote this body to fully-fledged institutional status, with its members being appointed for a five-year term, in line with Commissioners and MEPs.

Austria does not think it realistic to introduce a list of the Union's and Member States' competences at the IGC, and would, rather, retain the existing Article 235 of the EC Treaty. It does, however, support the reform and simplification of commitology. On action against fraud, Austria favours intensified and more effective measures based on suitable monitoring mechanisms. It does not believe that the IGC is the moment to discuss own resources and the budgetary procedures, taking the view that these matters should be debated when the post-1999 financial perspectives are negotiated. On other Union policies, Austria would intensify application of Article 113 of the EC Treaty, on the lines suggested by the Reflection Group. It would also institute a high level of consumer protection: this dimension should be extended to other Union policies, and Article 129 of the EC Treaty should be modified accordingly. Austria considers that all proposals tending to extend the scope of Community policies should be examined from the viewpoint of the subsidiarity principle.

The last section of the Austrian text concerns the CFSP. The discussion begins with the question of planning and analysis at Union level: Austria would support the creation of a planning and analysis unit consisting of experts from the Member States, the Council Secretariat and the Commission. Institutionally, this unit would be an adjunct to the Council Secretariat, but would work closely with the Commission with a view to utilizing the latter's experience and resources. It should not have a formal right of initiative, as this would complicate the CFSP's institutional structure. On the subject of second-pillar decision-making, Austria favours a gradual transition to majority voting, with the proviso that certain sensitive areas of national sovereignty, such as military security, would remain subject to unanimity. On the precise arrangements for majority voting, Austria suggests examining the following models: firstly, qualified majority voting for specific areas of the CFSP (to be decided on at the IGC); secondly, super-qualified majority voting (consensus minus one/two) for non-military areas of the CFSP, so as to stop decisions being blocked by a Member State; thirdly, majority voting as the general rule for all aspects of the implementation of joint actions. In all of these cases, Austria believes there should be the possibility of 'constructive abstention' or 'opting-out'. Austria would not support a 'flexible' model (as suggested by some Member States) enabling a group of Member States to undertake an action on behalf of the Union without that action being endorsed by the Union as such. It would, however, endorse measures to ensure greater coherence between the CFSP and the Union's external economic relations.

Concerning the implementation of the CFSP, Austria would reinforce the role of the Council Secretariat, which could be given specific external policy responsibilities, such as dialogue with third countries. The members of the troika should also be systematically involved in CFSP execution; the same applies to the Commission in areas connected to the first (Community) pillar. The Union should have its own legal personality. Finally, on the matter of security and defence, Austria expresses its willingness to play a full part in the European security structures. With a view to facilitating convergence between the EU and the WEU, Austria would support the latter becoming subject

to the former's instructions and guidelines in the area of the 'Petersberg missions'.

**PORTUGAL**

**Portugal and the IGC for the revision of the Treaty on European Union - Foreign Ministry document, March 1996**

With this official document of the Foreign Ministry, the Portuguese Government has for the first time adopted an official document expressing its position on the IGC. The text begins by listing the subjects to be discussed at the IGC and outlining the philosophy which should underlie the revision. On the matter of objectives, Portugal stresses that the European integration process should continue to be based on the principles of: equality between all Member States; respect for the cultural identity and specific national and institutional characteristics of each Member State; respect for fundamental human rights; political, economic and social solidarity between peoples, regions and Member States; and sufficiency of means. Portugal lays the highest importance on preserving the basic institutional balance, in the context of a single institutional framework, respect for the principle of participation of all Member States in the Union's decision-making process and its institutions, and guaranteed equality of status for all its national languages. It also emphasises the need to deepen the concept of solidarity, which, it considers, has political, economic and also social aspects. Portugal believes that the concept of economic and social cohesion must be retained as a key element of any reform, and proposes that job-creation policy and action against social exclusion should be tackled at Union level. It also suggests that, parallel to the IGC, there should be consideration of the effects of enlargement and its impact on the common policies and the Union's finances.

The Portuguese document goes on to consider the process of revision, ratification and entry into force of the revised Treaty. Portugal favours the rigorous retention of the existing terms of the Treaty, opposing any alteration in the existing mechanisms concerning revision, whether at the negotiating stage or in the ratification process. On the subject of differentiated integration, it rejects any strategy or model which would permanently institutionalize a differentiation between groups of Member States, with their own objectives, methods and specific calendars, since this would lead to the dissolution of the Union. Portugal does, however, favour using exceptional and transitional mechanisms and formulas to deal with the conjunctural problems of European integration, but stresses that under no circumstances must these be turned into rules for its future. Portugal believes that the Union already possesses sufficiently flexible formulas, such as transition periods and temporary derogations, which represent the ideal means of finding solutions without running the risk of dissolution or break-up. It feels that any 'hard core' solution, with certain Member States going further down the road to integration, can only be viable if the common objective is defined by all, with its implementation alone being subject to differentiated time schedules on the basis of full respect for the Union's single institutional framework. Such a system would have to be governed by clear rules, jointly determined beforehand, with special support mechanisms for those Member States which were temporarily unable to commit themselves to all the agreed policies.

On the subject of institutional reforms, Portugal places great importance on the global preservation of the institutional balance in the EU. It also believes that institutional reform must go hand in hand with discussion of other key factors for the Union's future development, such as: evaluation of the impact of enlargement on the operation of the Community policies; the financial perspectives and the own-resources regime; and the continuation of the present rhythm of integration.

Concerning the Council and the Council presidency, Portugal believes that the rotating presidency and its exercise in the same conditions by all the Member States are corollaries of the principle of equality in sovereignty, and that the revision of the Treaty should therefore here take the form of ensuring that the rotating presidencies have sufficient back-up to give their work the necessary continuity. With respect to the weighting arrangements and the qualified majority threshold, Portugal considers that the existing weighting of votes in Council should basically be preserved. Concerning the qualified majority threshold (at present 71%), the Portuguese view is that in view of the possibility of successive enlargements leading to a situation where a qualified majority could increasingly be obtained by a group of Member States corresponding to an increasingly lower percentage of total population, formulas for weighing the votes should be found to ensure balance without reducing Member States' ability to form qualified majorities or blocking minorities.

On the subject of the European Council, Portugal advocates developing its role of defining basic principles and general political guidelines, while not altering its nature or its position in the institutional framework; given the eminently political character of this institution, its functions and powers should not be excessively formalized in the direction of full integration into the decision-making structures.

On the European Parliament, Portugal feels that some of the functions conferred on it by the Treaty of Maastricht have not yet been sufficiently considered or put into practice, and that the revision and adjustment of the existing mechanisms should not affect the existing institutional balance. On the codecision procedure, the Portuguese view is that its field of application could be extended, especially as regards the areas currently governed by the cooperation procedure; it is also felt that the codecision procedure should be simplified. Portugal favours explicit recognition of the principle of consultation in those first-pillar areas where it remains optional, and believes that the principle should be reinforced in the field of citizens' rights and interests and that improvements are needed to the application of the system of consulting the European Parliament under the second and third pillars. Concerning the number of MEPs, Portugal suggests a ceiling of 700; it considers that the present over-representation of the smaller Member States is the best way of responding to the need to ensure representation of the different national political forces in an institution which should be a faithful reflection of the diversity of the peoples of the Member States.

On the Commission, Portugal believes that there should be at least one Commissioner per Member State, and has no objection to maintaining the existing system of vice-presidents. It would consider the possibility of having the President of the Commission elected by the European Parliament from a list of names submitted by the European Council; it feels that Parliament's existing powers of control over the Commission are sufficient, and opposes any formula

involving the possibility of censuring individual commissioners. Portugal considers that the nature, role, composition and structure of the Commission should remain as they are, in accordance with the existing terms of the Treaties; it does, however, favour simplification of the procedures by which the Commission exercises its existing powers. The Commission should remain a collegiate, independent and dynamic body, and should retain its exclusive right of initiative; at the same time, it should be more closely involved in second-pillar and third-pillar matters, with a view to improved coherence and coordination as between Community and intergovernmental spheres.

With regard to the institutions and bodies, Portugal believes that the Court of Justice should play a more prominent role in the protection of the individual rights of the Union's citizens, and that its powers and independence and the mode of appointment of its members should not be called in question. Portugal considers it particularly necessary to strengthen its powers in the area of the third pillar, and favours a longer term of office for the judges. The role of the Court in anti-fraud action and that of the control institutions in ensuring the rigorous administration of Community resources should be reinforced, as well as their effective cooperation with the Member States. However, Portugal sees no reason to change the statutes of the Court of Auditors. The Portuguese Government considers that the Committee of the Regions should retain its present statutes and consultative role, although the range of subjects on which it has to be consulted could be extended and the possibility of Parliament consulting it could be introduced. On the subject of the Economic and Social Committee, Portugal feels that its powers and character should remain as they are.

On the decision-making process, Portugal stresses the need for simplification and transparency. It favours reducing the number of procedures: the cooperation procedure should be abolished and the codecision procedure rationalized and simplified. With a view to improving the Council's efficiency, Portugal advocates extending the range of decisions eligible for qualified majority voting, alongside recourse to super-qualified majorities in particularly delicate circumstances. It believes, however, that certain ultra-sensitive subjects will still require unanimity: a non-exhaustive list would include the revision of the Treaties and other subjects affecting the structure of the Union, the own-resources system, taxation, etc.

On the subject of transparency, Portugal feels that this principle should be embodied throughout the Community institutional system: it should be included in the Treaty as a guarantee of the citizens' right to information, but its practical implementation should involve ensuring the confidentiality of negotiations in Council while guaranteeing substantial openness concerning all aspects of the Council's legislative activity. Portugal also favours the simplification of the procedures and the Treaty, considering that the provisions which are obsolete or refer to the transition periods could be deleted or updated. On the language regime, Portugal opposes any reduction in the number of working languages, in the interests of preserving the cultural diversity of Europe and the principle of equality between Member States; it takes the view that the use of national languages is a factor of transparency in the Union's working and of legal security, as well as permitting greater participation by the national parliaments and facilitating the understanding of the European integration process by public opinion in the Member States. Portugal accordingly calls for guarantees concerning the equal status of all Member State languages.

On the hierarchy of legislation, Portugal suggests that the IGC should examine the matter with a view to determining improved means of organizing legislative activity, in terms of both the interinstitutional sphere and the Union's relations with national legislative bodies. Concerning the national parliaments, it believes they should be more closely and effectively linked with the work of the Union, but without altering the Union's institutional set-up. As a specific formula, Portugal proposes extending the COSAC model to other fields, especially the areas of the second and third pillars.

On the subject of deepening the Union, the Portuguese text firstly considers Union citizenship. Portugal favours giving a higher profile to the concept of citizenship in the revised Treaty, especially with respect to social and economic rights. It therefore believes that the new Treaty text should include a 'European Citizenship Charter'. It also feels that the Treaty should include a more detailed definition of the human rights dimension, with regard to compliance with the duties of protecting minorities and combating racism, xenophobia and intolerance. Portugal also believes the Union should accede to the European Convention on Human Rights and its protocols, and considers that the revision of the Treaty should lay maximum stress on the functioning of democracy in the Member States and respect for the rule of law within the Union. On unemployment, it believes that action to combat joblessness should be explicitly referred to in the revised Treaty. It takes the view that economic and monetary progress should be accompanied by a series of pro-employment instruments applying throughout the Union, rather than conjuncturally as has hitherto been the case. This should be complementary to the continued effort to create economic and social cohesion, as a key element in solidarity within the Community and a vital principle that must be preserved in any future model of development of the integration process. Concerning the distribution of powers, Portugal advocates deepening the process of European integration, alongside a positive and dynamic interpretation of the principle of subsidiarity, which is seen as fundamental to respect for the acquis communautaire. It would also consider extending the Community's powers to cover such fields as energy, tourism and civil protection. It also proposes strengthening the social dimension and correcting the existing imbalance between the single market and its flanking policies, which are in need of reinforcement. On the environment, Portugal feels that policy should be compatible with the Union's other fields of action and suitably linked to the cohesion policies. On economic matters, it supports continuing with the close coordination of policies, with a view to ensuring effective, integrated and Community-wide action to combat marginalization and social exclusion of whatever type. The Portuguese Government feels it is vital that the IGC should find means of promoting balanced, sustainable and employment-creating growth. Concerning the outlying regions, Portugal believes that particular consideration must be paid to them in the revised Treaty. On subsidiarity, it feels that the provisions set out in the TEU, further developed by the Edinburgh European Council and consolidated in the institutional declaration of November 1993 are sufficient for the full application of the concept, and that no further definition is required on the legal front. Portugal does not favour including an exhaustive or restrictive 'list of powers of the Union' in the Treaty.

On budgetary matters, Portugal favours retaining the basic equilibria already established, coupled with full use of the existing mechanisms. It would, however, consider accepting greater powers for the European Parliament in the budget process. It welcomes the stepping-up of fraud prevention and anti-fraud

action, as well as the strengthening of the control functions aimed at ensuring sound management of the Community's resources. At all events, Portugal does not consider that these objectives require changes to the Treaty. On financial questions, it rejects all approaches implying renationalization of the common policies or applying subsidiarity criteria to important areas such as economic and social cohesion.

On the CFSP, Portugal considers that its 'communitarization' is not a realistic option: the policy should remain in the intergovernmental area in which it was created, as it affects the core of the Member States' sovereignty. However, Portugal would support including procedural changes and minor adjustments to the CFSP in the Treaty revision. The key principles here should include that of full respect for the principle of equality between Member States and, at all times, that of gradual deepening of the Union and that of political solidarity between Member States. Portugal favours preserving the institutional balances laid down in the Treaty in this field, taking the view that any changes must take account of the existing acquis and the retention of the single institutional framework, as well as the continued existence of the 'pillar' structure under the TEU, corresponding to differentiated models of integration. As far as decision-making in this field is concerned, Portugal favours introducing a formal provision into the Treaty permitting 'constructive abstention': in other words, in a particular situation a Member State could abstain from a particular action without stopping those Member States which wished to undertake that action from adopting and implementing it. Portugal feels that it is essential to decide how many Member States could invoke constructive abstention over individual joint actions or positions, and to define clearly the cases in which financial solidarity between Member States would not apply universally. It does not think it realistic to extend qualified majority voting to the second pillar in unalloyed form; it does, however, consider it possible to define, rigorously and by consensus, a number of subjects or 'platforms' to which qualified majority voting could later be applied. Portugal favours basing the qualified majority on the principle of absolute equality between Member States: each Member State would have one vote, and a qualified majority would require a minimum number of Member States.

With regard to the external representation of the Union, Portugal believes that the central role of the Presidency should remain, but would consider extending the troika system via the ad hoc inclusion of other Member States having particular expertise or experience related to specific purposes. Any such alterations should be adopted on a case-by-case basis and by consensus in Council; Portugal is totally opposed to the creation of any kind of 'directorate'. It could accept the notion of an external representative of the Union ('Mr or Mrs CFSP'), provided the formula devised is compatible with the existing institutional balance. Such a figure should only exercise the powers devolved to him by the Council, and should not have powers of initiative. His functions could be linked to the Commission, and he should in all circumstances be appointed on a consensual basis by the Council. He could put forward subjects for discussion to the Presidency and intervene in the process of consultation between Member States, facilitating compromise solutions if necessary. He would not, however, in any circumstance be entitled to limit the presidency's room for manoeuvre or to affect the CFSP decision-making bodies.

Concerning the operational reinforcement of the second pillar, Portugal favours the setting-up of a unit for analysis, forecasting, planning and monitoring in the field of the CFSP, under the aegis of the Council Secretariat including

representatives of all the Member States, with a greater role for the Presidency, and acting in coordination with the Commission. This unit would have no right of initiative, but would have the role of supporting the actions of the Presidency, fostering interinstitutional cooperation without affecting or undermining the central role of the Member States in CFSP matters. Portugal accordingly believes that the CFSP should remain in the intergovernmental sphere, and proposes that it should be dynamized via such actions as the opening of joint embassies in third countries or the sending of joint delegations to certain international conferences, as is the case in certain areas of the Community pillar. Portugal advocates conferring legal personality on the Union, enabling it to be party to international treaties.

On security and defence matters, the Portuguese position is that NATO should remain the basic entity for the collective defence of the countries of Europe and the preservation of their territorial integrity. Portugal also favours, in principle, prolonging the Treaty of Brussels and maintaining the WEU as a separate body beyond 1998. It feels that the IGC should set up closer links between the EU and the WEU, without prejudicing the latter's articulation with NATO, with a view to creating a European security and defence identity and an effective European pillar within the Atlantic alliance; NATO should remain responsible for collective defence in the sense of Article 5 of the Treaty of Washington and for crisis management and peace-keeping missions which require a major US presence by reason of their size or complexity, while the WEU should have strengthened operational functions in the sphere of European defence, as the European pillar of the alliance, in addition to other responsibilities entailing the deployment of military forces in smaller-scale peace-keeping and crisis management missions or support for humanitarian actions. Portugal considers it premature for the IGC to try to create a fourth 'defence' pillar, and stresses that the unanimity principle must be retained for all aspects of this subject.

Finally, concerning cooperation in justice and home affairs, Portugal proposes three types of action to improve the effectiveness of the existing arrangements. Asylum policy and action against illegal immigration should be transferred to the Community pillar, as, possibly, should the rules on crossing external frontiers and the conditions governing the free movement of third-country nationals, as well as the aspects of visa policy which have not yet been communitarized. Should full communitarization not be possible, Portugal suggests that the Community procedures in these areas should be extended via new legislative instruments and new institutional powers, greater use of qualified majority voting, including, where necessary, 'super-qualified' majority voting. For other fields such as police and legal cooperation and, in particular, action against drug trafficking, Portugal proposes a substantial reinforcement of the existing intergovernmental cooperation mechanisms. On the institutional plane, it suggests more frequent use of the binding legal instruments and simplification and reduction of the levels of preparation of the Council's work. It would also strengthen the role of the European Parliament in this field, confer greater powers on the Court of Justice and reinforce the Commission's right of initiative. Portugal also believes that there should be greater cooperation among the national parliaments and between them and the Union institutions on third-pillar matters, in terms of the exchange of information and the consultation mechanisms.



Summing up, Portugal stresses that its main objective at the IGC will be to ensure that there is no reduction in its own relative ability to influence the European integration process and that its particular interests are safeguarded.



**Memorandum of the Foreign Ministry of 18 September 1995 on the views of the Finnish Government concerning the 1996 Intergovernmental Conference**

In this memorandum to the Finnish Parliament the Government of Finland states its position for the first time on the forthcoming Conference. Its purpose is to introduce a series of views to be used as the basis for subsequent preparation of Finland's official position at the IGC.

Its first chapter on the future of the European Union and the IGC states as a basic premise that the European Union should continue to develop as an association of independent states, to which its members have transferred powers to be exercised jointly for the achievement of agreed objectives. Finland's objective is a Union which will efficiently safeguard the welfare and common values of its citizens and work for the development of the international community in stability, cooperation and security. The objectives for the Union's development and the timetable this will require should be defined jointly, respecting the right of all the Union's Member States to take part in the decision-making process on an equal footing. The Finnish Government takes the view that the European Union cannot be based on differing classes of membership and that the Member States may only in exceptional cases decide by common agreement that a given country should observe a different speed or timetable in its progress towards fulfilment of the jointly agreed objectives.

The memorandum's second chapter discusses citizens and the Union. On European citizenship, it says that a more precise definition of this concept in the Treaties would be a way of ensuring that the principles of transparency, democracy, legal primacy, equality, social justice and respect for human rights are observed at European level. The Conference should also study how to develop the social rights and duties of European citizens. In the Finnish Government's view, a key principle should be that citizenship of one Member State is a precondition for citizenship of the Union. On the need to increase democracy, the memorandum wants a bigger role for the European Parliament and the national parliaments in the Union decision-making process and points to the need for strengthening cooperation between them. In the campaign to increase democracy the role of the national parliaments should continue to be the point of reference, though the question must be examined at the IGC from every point of view. To increase transparency, the European Union must improve the ways in which the Member States and their citizens gain access to day-to-day information on the Union, its legislation and decision-making procedure. In this respect the Finnish Government refers to the final report of a working party on the subject set up by the Finnish Ministry of Justice on 22 June 1995, which lists a series of ways of increasing transparency and easing the flow of information. Of these, the memorandum raises the possibility of adding a specific article on public information to the Treaty; the possibility of adopting legislation to increase public access to the Union institutions' documents; and systematic encouragement

of transparency in various other ways. The need for efficiency, in the memorandum's view, requires applying such criteria as the proper use of resources in relation to the objectives pursued, setting an adequate timetable for adopted decisions and the way in which such decisions are put into practice. The paper also discusses the issue of the subsidiarity principle, which it regards as essentially political rather than legal in character and hence a point of reference when assessing the possibility of extending the Union's powers. Be that as it may, the Finnish Government considers that the principle should not be applied in such a way that it impedes the achievement of objectives laid down in the Treaties, in certain important areas such as environmental protection and social rights, or dilutes existing Community law by delegating too many implementing decisions to the national sphere. On fundamental rights, the memorandum suggests that a possible way of strengthening the human rights and fundamental freedoms of Union citizens and other persons legally residing in the Union would be for the Union to accede to the Council of Europe Convention on the Protection of Human Rights and Fundamental Freedoms and to include certain basic rights in the Treaty on European Union, such as the principle of equality. This list of fundamental or key rights should be worded in a clear and legally binding way. Finland is in favour of including a provision in the Treaty banning racism and xenophobia, for instance by inserting such a ban in the principle of equality or non-discrimination. The memorandum points out that equal opportunities for men and women is an important issue and that a specific provision should be included in the Treaties on this principle. Sexual equality should extend to every sphere of human activity, and to ensure compliance with the principle Finland thinks there should be a right of appeal to the European Court of Justice and that the powers of the European Ombudsman should be extended to include the monitoring compliance with the principle of sexual equality.

The memorandum's third chapter deals with the Union's institutional system, which should be democratic, transparent and efficient. On the Council, Finland believes it should continue on the basis of equal status for all the participating Member States. On the decision-making process in the Community sphere, the memorandum points out that using population as a criterion for the adoption of decisions by a qualified majority could weaken the position of the smaller countries. It appears to support the idea of increasing the number of decisions adopted by qualified majority in the Community pillar, specifically on environmental issues, in order to improve the effectiveness of the decision-making process, but at the same time calls for a definition of the areas in which the unanimity requirement should continue to be the norm. On the Presidency, after listing the various options put forward the memorandum says that continuity is important but the acceptance of such proposals could lead to unequal treatment of the Member States. It therefore concludes that the proposals under discussion are not justified and suggests that other ways be considered for improving current practice in this area.

On the Commission, the Finnish Government thinks its current independence from the Member States should continue, as should its present position under the Community pillar, and that there is no need to make fundamental changes to the Treaties on the Commission's role with regard to the second pillar (CFSP). On the other hand the Finnish Government proposes looking into ways of strengthening the Commission's roles in areas covered by the third pillar (CJHA). On the question of the composition and number of Commission Members, it thinks each Member State should have one Commissioner. At the same time it

cannot accept a change in the present system for appointing Members, arguing that it is important for Member States to retain the power to choose their own individual Commissioners. On the responsibility of the Commission and Commissioners, Finland considers it sufficient for the Commission to continue to be legally responsible to the Court of Justice and continue to enjoy the political confidence of the European Parliament. There is no need for individual Commissioners to be subject to a vote of confidence before Parliament, nor for changes to be made to the current system for dismissing Members.

On the European Parliament, Finland admits the possibility of slightly changing its status in the Community sphere provided this does not lead to an institutional imbalance. It thinks that when preparing for the Conference there should be an analysis of the present scope of the cooperation procedure and the extent to which this procedure could be replaced by the codecision procedure under Article 189b of the Treaty. Similarly, it thinks that the IGC should ascertain whether the budget procedure could be simplified without affecting the role of the various institutions in the decision-making process. Finland thinks there is no case for putting amendments to the basic treaties to the European Parliament for approval. Again, since it would also affect the present institutional balance, Finland is sceptical about the possibility of giving Parliament the right of initiative. While recognizing Parliament's extremely limited role in the spheres of the second and third pillars, i.e. in the fields of intergovernmental cooperation, Finland considers that Parliament's role is adequate at present in the case of the second pillar (CFSP) while its role could be reviewed in regard to the third pillar (CJHA) by making changes to the subjects that are currently governed by the third pillar. On Parliament's composition, Finland considers that in the event of further enlargement an increase in the number of MEPs could be limited by reducing the current quotas. In any case it considers that the number of MEPs from smaller Member States should be higher than that resulting from the application of any method of calculation based exclusively on the population of the various Member States.

Turning to the Court of Justice, the memorandum considers there is no case for extending the Court's powers to the second pillar. However, it does think close attention should be given to extending the Court's powers to the field of cooperation on justice and home affairs. It argues that there is no need to change the procedure for appointing judges and that their present mandate should be maintained. It points out that the Court of Justice and the Court of First Instance are not formally superior in rank to the national courts and believes that the role of the Court of Justice and its relationship with the national courts should not be changed, since the present system ensures that Community law is complied with and interpreted and applied consistently.

The memorandum draws attention to the important political and policy-making role played by the European Council, although it is not at present a Union institution and does not take legally binding decisions. It suggests that consideration should be given to making the necessary changes to enable this Council to develop its guiding role more efficiently and define the way in which it can operate in other spheres. On the issue of the hierarchy of Community acts the Finnish document reviews the present system and points to the technical problems to which clarification of the hierarchy could give rise, suggesting the need for a pragmatic approach to progress in this area. It goes on to look at the issue of commitology, favouring clarification of the present process. Finland would like the Council's role to be redefined in this area and thinks

it conceivable to reduce the use of this procedure by transferring major implementing powers to the Commission. It thinks the procedure should be revised in those cases where decisions are adopted under the codecision procedure with a view to defining Parliament's role in such cases and taking account of the need to act with the greatest possible efficiency. On the question of implementing Community law, Finland favours giving the Commission sufficient resources to monitoring the implementation of Community law in the Member States, if necessary by introducing new forms of penalties.

Chapter 4 of the Finnish memorandum deals with the common foreign and security policy. It points out that enlargement of the European Union to include the Central European and Baltic countries is vital for the Union's security and considers that when defining the needs of the Union's security policy sufficient attention must be given to the Scandinavian dimension. When discussing the decision-making procedure under the CFSP, Finland wants all important decisions to be adopted by consensus, while the qualified majority procedure could be used to deal with other issues such as the implementation of agreed measures. On the role of Parliament and the Commission in the second pillar, the Finnish Government considers that there is no need to change the present law (Articles J.7 and J.9) which respectively give Parliament the right to be consulted and informed and the Commission the right to be associated with the CFSP. On other ways to strengthen the CFSP, the memorandum would like to develop a joint assessment system and analysis capacity in this field, proposing that such assessment and analysis is integrated into the range of functions to be developed by the Council secretariat. Finland supports the idea of stepping up efforts to implement and monitor decisions, arguing that since the measures concerned are intergovernmental, it is up to the Member States to play a key part through their normal procedures for parliamentary supervision. On funding, Finland thinks that the CFSP should be financed primarily outside the Community budget in order to safeguard the Council's independence when adopting operational decisions under the CFSP. It does not favour changing the present rotational system for the Council presidency in the CFSP sphere and considers that the establishment of a new figure to take charge of external relations, such as a CFSP Secretary General, would not help to clarify the Union's activities in its relations with the outside world. On crisis management, the memorandum considers it essential to define relations between the European Union and the WEU, which it regards as one of the main tasks for the IGC. Finland thinks political leadership should continue to be situated in the European Union, which should entrust the implementation of crisis management operations to the WEU. On the specific issue of defence, Finland thinks that intergovernmental action and unanimity in decision-making should continue to be the fundamental principles. It also thinks there is a need to extend military cooperation beyond the Petersberg agreements. Finally, Finland declares its willingness to make a constructive contribution with regard to amending Article 223 of the Treaty with regard to cooperation on arms.

The Finnish memorandum discusses cooperation on justice and home affairs in its fifth chapter. It argues that there is a need to define the Union's objectives clearly and precisely under the third pillar. The transfer of matters currently covered by the third pillar to the first or Community pillar should be studied case by case on a pragmatic and open basis, but Finland considers that issues of great importance to national sovereignty in the national states should not be placed under Community responsibility. Specifically, it considers that issues connected with the control of external frontiers should continue to be subject

to intergovernmental cooperation and that cooperation against international crime should be stepped up. This could take the form of increasing cooperation between the various Member States' police authorities and or reciprocal, legal and administrative assistance. It also thinks there is a need for the rapid entry into force of the Europol Convention and is interested in the proposals to set up a European legal area. Here it is especially interested in cooperation on issues connected with the operation of the single market, such as the campaign against fraud in the Community, and the application of sentencing in the field of family law. The Finnish Government would also like to see harmonization and joint action on immigration and other forms of entry to the Union's territory, demanding that due attention is given to the budgetary cost. On political asylum, Finland would like work to continue on coordinating the various present points of view, stating that it is ready to sign the Dublin Convention as soon as this enters into force. It would like to strengthen the Commission's role in the area of the third pillar, while considering that the role currently played by Parliament in this field is sufficient. It also thinks the powers of the Court of Justice should not be extended to areas affecting national sovereignty. On the other, it would like the Community institutions automatically to assume their responsibilities on any issues transferred from the third pillar to the Community pillar. Finally, Finland considers that the present working methods under the third pillar are unnecessarily complex and involve too many stages. It would therefore like to simplify the present five-level structure.

Chapter 6 of the Finnish Government's memorandum deals with Union activity in the fields of employment, the environment and other issues. Generally speaking, Finland thinks there is no need to substantially increase the European Union's powers, though it does think there could be a case in some areas for introducing further amendments to the Treaties, to facilitate joint action that would help more effectively to solve problems affecting all the Member States and coming under the common objectives. On employment, the Finnish Government points out that any amendment of the Union Treaties should be designed to ensure that employment policy and its relationship with economic policy are properly organized at European level, and that the conclusions of various European Councils on the subject of employment could be a sound starting basis. At the same time, careful thought should be given to the various suggestions put forward for establishing separate employment funds and for possibly setting up an employment administration at Community level with its own budget, or for developing financial investment mechanisms of a pan-European nature, while greater use should be made of existing funds to support employment policies.

On the environment, Finland considers that the issue of sustainable development, including the integration of environmental considerations into all sectoral policies, should be a priority when the Treaties are revised. At the same time, environmental cooperation with third countries should be promoted. With regard to the Community objectives on the environment, Finland considers that sustainable development should be adopted as one of the Community's basic objectives. The aim should be to consolidate the principle already set out in Article 130r(2) of the Maastricht Treaty in order to introduce these objectives into other sectors of Community policy, mentioning in particular the single market, agriculture, transport, industrial policy, the Structural Funds and policies on trans-European networks. Finland considers that the Community already has sufficient powers on the environment, though it does think that the decision-making system in this area needs simplifying, and Parliament's position

within this system should be revised. Specifically, more use should be made of the qualified majority procedure in all issues relating to the environment, possibly including energy and environmental taxes. Community decisions in this field should be designed to obtain the highest possible level of environmental protection, leaving the various Member States free to lay down stricter environmental protection laws, while taking into account the principle of the free movement of goods.

The memorandum further refers to the social dimension of the Union, which it believes should be tightened up. Finland thinks the European Union should pursue a policy based on social and economic development that will make it possible to prevent any form of social exclusion or division. It believes the principle should be adopted at European Union level that social policy aspects should always be taken into account in any decisions that are adopted. It supports the view that all social policy provisions should be fully integrated in the Treaty, to ensure that a range of minimum social protection standards is established at Community level, while allowing the individual Member States to apply higher levels of protection than required by the European Union. Finland is not in favour of Community-level economic control of social security but does support Community-level research projects on social and health policy. It would like the social dialogue at Community level to be stepped up to include social security issues, and would also like general questions of public health to be taken up at Community level. Finally, it believes the Union should be responsible for increasing cooperation in all these areas so as to even out current differences in the standard of living of citizens in different Member States.

On energy, Finland considers that the Union energy policy should complement the national policies of its Member States and enhance their value. It favours the establishment of a single market in the energy sector and any initiative to encourage energy savings in the Union and lay down European energy consumption standards. Finland believes the Union should endeavour to promote at European level further progress and commercialization of the energy policy and develop trans-European networks. Taking the view that energy issues could be dealt with outside the present framework of Community competence, Finland believes that any extension of these powers should be carefully examined. On tourism, it believes coordination should be stepped up in the Community framework, initially by making use of existing instruments and resources. It calls for special attention to be given to cooperation on commercialization throughout the European Union and for cooperation with neighbouring areas, giving special attention to protection of the environment and the cultural heritage when implementing tourist policies. On civil protection, Finland considers that this should continue to be the responsibility of the Member States and should be based on cooperation between them. It proposes that cooperation on civil protection, which is currently based on Council of Europe resolutions, should continue to be developed in a rational way on that basis. The Commission could encourage cooperation but without changing its present role. At the same time, questions of civil protection could be better taken into account when dealing with issues of security or involving certain hazards, and at the same levels of protection in this field could be increased.

Finland's starting-points and objectives for the 1996 IGC - report of the Finnish Government, 27 February 1996

Unlike the note of 18 September 1995, which was submitted by the Foreign Ministry in anticipation of the Government's official positions on the IGC, the report of the Finnish Government submitted to the national Parliament on 27 February 1996 outlines the Government's starting-points and objectives for the 1996 IGC. The document begins by summarizing the various stages of the internal procedure in Finland leading to the definition of the national position on the IGC, and goes on to set out Finland's starting-points for the Conference.

Finland wishes to see the Union develop as an association of independent states, and undertakes to support all efforts to improve its ability to promote sustainable economic development, employment and environmental protection, while also committing itself to endorsing the advances in the CFSP required for effective furthering of its objective and responding to crises threatening the Union's stability and security. Finland will also promote transparency in the Union's decision-making process. It supports preservation of the acquis communautaire; on differentiated integration, Finland believes it necessary to respect the conditions set out in the report of the Reflection Group of 5 December 1995. The Finnish Government does not think the IGC should cover the other subjects included in the agenda of future challenges for the Union agreed on at the Madrid European Council. Otherwise, the statement of the Finnish position broadly reproduces the order of the Reflection Group's report.

Concerning Finland's positions for the IGC, and following the methodology of the Reflection Group's report, the Finnish Government's text starts by examining citizenship and the Union. It first considers the aspect of the promotion of European values, beginning with fundamental rights. Finland feels that the human rights and fundamental freedoms of Union citizens and persons resident in its territory must be protected, for instance by the Community's accession to the European Human Rights Convention. On equality and non-discrimination, the Finnish Government supports inclusion in the Treaties of a general provision outlawing discrimination, including a ban on racism and xenophobia. Concerning equality between the sexes, it feels that the Treaties should also include a ban on discrimination and a specific clause on the equality of men and women. Such a clause would commit the Union to promoting compliance with the principle of sexual equality within its fields of competence, without stopping Member States from adopting more advanced legislation. On Union citizenship, the Finnish Government considers that the existing provisions should be complemented by the introduction of new rights linked to this concept.

In the same chapter, the text examines freedom of movement and internal security. Finland believes that clearer objectives should be attached to the provisions on cooperation in justice and home affairs, including a specific obligation on the Union to ensure that the single market does not endanger the security of those resident within its territory. Finland also wishes the Treaty should include an objective stating that the legal status of a natural person changing residence from one Member State to another should be maintained as far as possible. Concerning the possible communitarization of the third pillar, Finland thinks it especially important that the Conference should remedy the existing shortcomings in the decision-making system which represent obstacles to third-pillar cooperation, concerning, in particular, the unanimity rule for most decisions, the Commission's limited powers of initiative and the uncertain

or inadequate legal status of the decisions adopted. Finland believes that more CJHA decisions should be adopted by qualified majority voting, and that the Commission should have greater powers of initiative in this area. There should also be guarantees that the legality of the Union institutions' decisions can be examined by the Court of Justice.

On employment, the Finnish Government believes that the Union's objectives should stress the importance of competitiveness and of achieving as high an employment level as possible in the Union. The Union should also be obliged to undertake horizontal examination of employment-related matters. Given the reality of mutual interdependence, Finland believes that the EU should actively pursue a pan-European strategy for employment, in parallel to the implementation of EMU; this strategy should be included in the Treaties. Equally, the Treaties should incorporate specific provisions concerning common monitoring of the employment situation in the Union. On the social dimension, Finland insists that close attention should be paid to the balanced development of economic and social integration, with strengthening of the Union's social aspect: the social protocol and a complementary agreement should be incorporated in the Treaty in such a way as to cover all the Member States. Nonetheless, Finland considers that the adoption of basic social policy decisions should continue to be a national matter. On the environment, Finland wishes to see the principle of sustainable development added to the Treaty objectives in this field. At the same time, the basic principles already included in it should be reinforced and the objectives of the sectoral policies should be revised in the light of the principle of sustainable development, though without abandoning the principle of the free movement of goods. The Union should be obliged to include horizontal consideration of the environmental aspects in, at least, the CAP, transport policy, training and research policy, industrial policy and policy on the Structural Funds and the various networks. The Community's authority in the environmental field should be increased, and the decision-making process in this area should be simplified. Finland proposes that qualified majority voting should be used wherever possible for such matters, without prejudice to a reinforcement of the possibility of Member States adopting more advanced rules than the Community legislation in the environmental field.

The text goes on to consider transparency. After recalling the declaration approved by Finland on the subject, the document reiterates Finland's support for greater public access and transparency in the Union's activities. It points out that in Finland 'open government' means that public access to official documents is a political and legal obligation, and states that Finland will continue to apply that principle in accordance with its rights and obligations as an EU member. Concerning the publication of documents, the Finnish Government believes that the Treaty should include an article which would allow the Council, at a later date, to adopt legislation on the subject. Finland would also accept inclusion in the Treaty of a provision obliging the Council to take its legislative decisions in public whenever the adoption of new decisions is involved. On simplification of the Treaty texts, Finland considers that the Conference should take the necessary action to ensure that the texts are understood by the public. With respect to subsidiarity, the Finnish view is that there is no need to alter Article 3b of the Treaty, where the concept is defined: clarification and correct application of the principle could be achieved by including a protocol in the Treaty based on the Edinburgh declaration on subsidiarity.



On institutional matters, the text first discusses the European Parliament. Finland agrees that Parliament's role should be strengthened as far as the legislative procedures are concerned. However, given that Finland's starting-point is the preservation of the Union's basic nature as an association of states, it proposes rejecting all proposals entailing greater powers for Parliament in the decision-making process concerning modification of the Treaty. On the Commission, Finland favours preserving its independent status vis-à-vis the Member States and its central role in the Community pillar. It also feels that the Commission must have sufficient resources to enable it undertake effective monitoring of the implementation of Community legislation and compliance with the other duties of Union membership; monitoring should, Finland believes, be based largely on effective use of the existing arsenal of sanctions. Finland does not, however, see any need to make substantial changes to the Commission's position regarding intergovernmental cooperation in the sphere of the CFSP; it nonetheless welcomes the possibility of extending the Commission's right of initiative in third-pillar matters. On the Commission's membership, the appointment of commissioners and the institution's responsibilities, Finland considers that there should be one commissioner per Member State and opposes the notion of different 'classes' of commissioner. It endorses the existing arrangements for choosing the Commission and its President, sees no need to amend the Treaty provisions concerning votes of censure on Commissioners or their resignation. On the European Council, Finland again sees no reason to alter the relevant Treaty provisions. Concerning the Council, the Finnish view is that it should continue to be the central decision-making body, on the basis of the equality of the Member States. On the subject of the decision-making process and the weighting arrangements, Finland would not change the existing arrangements for qualified majority voting, at least not until after enlargement. It believes, however, that qualified majority voting should be extended to other fields, including social and environmental policy matters. Finland does not rule out adopting more decisions by qualified majority voting under the second and third pillars. With regard to the Council Presidency and the Council's working methods, Finland does not think that any practical improvements designed to make the Presidency more efficient would require changes to the Treaty. Concerning the Court of Justice, the Finnish Government sees no reason to alter its status or its relations with Member State courts; it believes that the court's jurisdiction should be extended to the third pillar but not to the CFSP. Finland is satisfied with the existing system of appointing ECJ judges. On the Court of Auditors, Finland believes this body's powers should be developed and strengthened, to improve the efficacy of its monitoring of the use of Community funds. It should be compulsory to consult the Court of Auditors on certain legislative subjects, and the institution should have the right to lodge formal complaints where its action is obstructed; its jurisdiction should be extended to cover all three pillars. On the Economic and Social Committee, Finland is satisfied with this body's status and sees no reason for any change to the Treaties in this respect. Similarly, it believes that the consultative role of the Committee of the Regions should continue on the existing lines.

The Finnish Government's text goes on to consider the question of the national parliaments, taking the view that they should have the genuine opportunity to influence the Union's actions, thus fortifying its democratic character. Decisions concerning relations between national governments and parliaments should continue to be adopted at national level; the Union institutions should work on the basis of openness and maximum efficiency, using procedures which facilitate, rather than limiting, the national parliaments' ability to influence

the adoption of positions by the Member States. Finland would accept cooperation between the national parliaments and the Member States on the lines set out in Declaration No 13. It sees no need to make any changes in the ratification process for Treaty revision or to create a legislative hierarchy of Union acts. On commitology, Finland favours clarification of the use of this procedure and a reinforced role for the Commission in its application. It does not, however, favour participation of the European Parliament or of any other institution in the work of the executive committees. On the subject of the Union's resources, Finland does not consider this a matter for the IGC, and therefore sees no reason to include specific provisions on the Union's financial system in the Treaty. Finland considers that the budgetary procedure should be simplified, with the introduction of a single stage both in Council and in Parliament - a change which could alter the balance of competences between the two institutions. The classification of expenditure into compulsory and non-compulsory categories should be simplified. Finland believes that the Court of Auditors should have greater powers to act against fraud and carry out effective supervision of resource use. Concerning the Community policies, Finland considers, in general terms, that the Community should first concentrate on improving its performance in its existing areas of competence. Accordingly, Finland does not support the inclusion of energy, tourism and civil protection among the common policies, although conceding that the last-named could in practice be subsumed under the third pillar. It does, however, believe that the Treaties should be amended to improve consumer protection.

The text also examines the Union's external action. It is argued that there must be a global approach to the question of the EU's external relations, to ensure that they are consistency and that the CFSP's resources are used in a uniform manner. Finland believes that it is possible to develop cooperation between the various areas of the Union's external relations within the present institutional structure, by strengthening a global approach transcending the division into pillars. It therefore considers that the existing procedures should be subject to continuous development and the relationship between COREPER and the Political Committee spelt out. Finland does not feel that any of this should call for changes in the Treaties. Concerning the development of the CFSP, Finland stresses the need to take equal account of the interests of all the Member States, and considers that the CFSP must continue to be based on intergovernmental cooperation, mutual trust between Member States and a sense of sense or joint responsibility. On the decision-making process, Finland supports greater use of qualified majority voting on matters related to CFSP implementation, and consideration of the possibility of its extension to other areas. On the external representation of the Union, the Finnish position is that the 'visibility' of the CFSP is primarily a matter for the Member State holding the presidency, and opposes the notion of a permanent figure representing the CFSP, arguing that this could create more, rather than less, confusion over the Union's external role. Finland supports the setting-up of a joint planning and analysis capacity in the area of the CFSP, in principle under the aegis of the Council Secretariat, and argues that the role of Parliament in CFSP matters should be clarified on the basis of the existing Union Treaty. It also calls for a more flexible and rapid procedure for the financing of the CFSP, to be associated with its implementation.

Finally, the Finnish Government's report examines security and defence policy, taking the view that military crisis management is part of the CFSP, in whose decision-making process and implementation all the Member States should be

enabled to participate on an equal basis; individual Member States should, however, have the right to make independent decisions concerning their own security, which should be respected. The aim should be to ensure the effectiveness of the Union's collective action while safeguarding the right of individual Member States to decide independently whether or not to take part in an operation. Finland believes that the Union's capacity for action will become more effective as the CFSP's scope of coverage increases: this will strengthen the security of both the Union and the Member States. On the subject of EU-WEU relations, Finland favours preserving the Union's political leadership, and feels that the WEU could, in its turn, be an instrument of the CFSP in the execution of decisions concerning military crisis management. This objective is seen as one of the central tasks of the IGC as far as the CFSP is concerned.

The report concludes by listing a series of practical arrangements adopted internally with a view to preparing Finland's position for the IGC and ensuring that public opinion and the country's other bodies and institutions are kept informed on the subject and enabled to discuss it.



**Note of July 1995 on the fundamental interests of Sweden with a view to the 1996 Intergovernmental Conference**

In this first official statement of the Swedish Government's position on the 1996 Intergovernmental Conference, the Government seeks to highlight Sweden's fundamental interests in the IGC. In its introduction, the Swedish Government states that it proposes to work for a Europe characterized by democracy, solidarity and openness. The three most important objectives for Sweden at the IGC are: first, to provide cooperation within the European Union with greater popular support and greater democratic legitimacy; second, to pave the way for further enlargement of the European Union; and third, to promote fuller cooperation in areas Sweden regards as important, particularly to encourage a higher rate of growth and employment in Europe and improve the environment.

On popular support and democratic legitimacy, the Swedish Government regards it as a challenge for the European Union and Sweden as a Member State to make European integration a concern for the individual citizen and step up democratic influence. On enlargement, it says that Sweden has a great interest in enlarging the European Union towards the East and that once the Conference is completed negotiations for enlargement should begin with a large number of countries at the same time and should be completed as the respective country is fully prepared for accession. It is particularly important to Sweden that the Baltic states should be treated in the same way as the other Central and Eastern European countries. On the institutional aspect, the Swedish Government considers that the European Union's working methods will need adjusting to ensure that its future capacity for action and decision-making is preserved. Sweden considers that enlargement should be backed up by strengthening cooperation and that such cooperation should be coordinated in a way that will give the European Union the necessary capacity to take decisions and formulate policy both internally and in the international sphere, on matters relating to the foreign, security or commercial policies. To make the European Union more

open, simple and efficient, Sweden wants to see a greater openness not only towards the citizen but also in relations with the media. In this regard, it announces that at the IGC the Swedish Government will put forward proposals designed to apply at European level the principles of transparency and public access to official documents in the same way as it has been doing at national level. At the same time, Sweden considers that the European Union should simplify its working methods and should be easier to understand, more efficient in its decision-making procedures and more effective when implementing decisions.

The Swedish Government also comments on the principle of subsidiarity, pointing out that Sweden does not want the European Union to develop in a federalist direction. It calls for balanced application of the principle while recognizing that some other questions, such as transfrontier crime or environmental pollution, are good examples of subjects which must be solved by cooperation at European level. In the Swedish Government's opinion, there is no need to change the current terms in which the principle of subsidiarity is incorporated in the Treaties. On the common foreign and security policy, the Swedish Government wants to see greater efficiency and thinks it will need strengthening with a view to further enlargement. In Sweden's view, the CFSP should continue to maintain its intergovernmental character, although decision-making on certain issues which are not of vital interest to national security could be reviewed. As regards the possible tasks which could be entrusted to the European Union in the field of defence, Sweden supports the view that this area could include peace-keeping operations, humanitarian aid and conflict management, but not territorial defence. The Swedish Government also comments on economic and monetary union, and here it states that Sweden does not seek a review of this subject at the Intergovernmental Conference. At the same time, it points out that it would be for the Swedish Parliament ultimately to pronounce on Swedish participation in the third stage of economic and monetary union starting in 1999.

On employment, the Swedish Government points out that the campaign to reduce the present severe unemployment and promote a high and sustainable level of employment is a major objective for Sweden in the context of European cooperation. According to the Swedish Government, this objective should be promoted by the Conference itself and it calls for action to ensure that employment and social policy are given their own chapters in the Treaties and that consideration is given to an 'employment union'. On cooperation in the field of justice and home affairs, the Swedish Government points out that its purpose is freedom of movement for persons, an objective closely related to the first pillar and its institutions, the legislative acts of the European Community and practice in the private individual sphere. In the Swedish Government's opinion, a review of the Treaties should therefore take account of these circumstances. It also calls for stronger and more efficient cooperation on justice and police affairs. However, the essentially intergovernmental nature of such cooperation should be preserved, while endeavouring to involve the Community institutions in the European Union in such intergovernmental cooperation to a greater extent.

The Swedish Government also deals with 'Europe à la carte', taking the line that the various formulas of differentiated integration should not be discarded automatically, since they allow a degree of flexibility which could be necessary to strengthen cooperation. In any event, the Swedish Government is particularly

interested in European integration continuing and being based as far as possible on general cooperation maintaining a single institutional system. 'Europe à la carte' does not interest Sweden as it could damage the opportunities for bringing about the advantages of the single market. Finally, on the position of the smaller countries, the Swedish Government's note states that the position of such countries should be safeguarded in the case of European cooperation, particularly with regard to the Council as a place for the expression of cooperation between sovereign and equal countries. Sweden accordingly takes the view that any proposals which, on the pretext of efficiency, seek to change the balance between larger and small countries should be rejected.

Finally, the Swedish Government says that the Intergovernmental Conference is only another more step in the continuing process towards enlargement and consolidation of the European Union, and however important it may be, it should not get in the way of equally important projects such as economic and monetary union, reform of the common agricultural policy and the structural policy, the forthcoming financial perspectives for 1999-2004 and full negotiations on enlargement.

#### Communication of the Swedish Government of 30 November 1995 on the 1996 IGC

This is a written communication from the Swedish Government to the Riksdag (the national parliament) summarizing the work of preparation for the 1996 IGC and presenting a number of statements of principle on some of the Conference's probable subjects.

The document begins by explaining the state of affairs concerning the IGC and the preparatory work for it carried out by the relevant parliamentary committee of the Swedish Government and by the Reflection Group, and goes on to summarize Sweden's general objectives. These include: employment creation; environmental progress; improvements in the field of competition and the free market; development of the CFSP; promotion of sexual equality; action against international crime; and strengthening of the position of consumers and employed persons within the common market. Sweden wants to see more specific objectives for employment policy and a firmer institutional foundation for that policy, with the Union becoming a 'Union for employment'. On the environment, it supports extending majority voting and the integration of the environmental dimension in all other Community policies. Sweden also favours more effective legal and police cooperation at Union level. The Swedish Government considers it vital that the IGC should lay the bases and conditions for the forthcoming enlargement of the Union. Concerning the nature of the Union, Sweden starts out from the position that it should continue to develop as an association of independent states to which its members delegate certain powers of decision with a view to more easily attaining certain common objectives. Sweden recognizes that the position of the smaller Member States is relatively more favourable under the first pillar, and, on subsidiarity, considers that there is no need to introduce new extra provisions into the Treaty. It lays great stress on access to information and transparency as a means of strengthening the influence of the citizens, as well as the uniform interpretation and application of the acquis communautaire as regards all aspects of economic integration. Sweden does not rule out possible new formulas of differentiated integration, but it considers that integration must in all circumstances continue to be based, as far as possible, on cooperation with solidarity and a strong common

institutional framework. It does not favour an 'à la carte Europe', on the grounds that this would make the single market meaningless.

The Swedish document continues with a detailed consideration of the subjects of democracy, access to information and transparency, seen as of major importance for Sweden in the context of the IGC. Sweden believes that the EU should practise greater transparency, and that its institutions should operate on the principle of openness of administrative action as it exists in Sweden. The Council's legislative meetings should be more effectively publicized, and their minutes should be available to the public. The Treaty should include a statement of basic principle concerning openness of administrative action of the EU institutions. The Commission would be responsible for ensuring respect for those principles, and the Court of Justice would have the role of interpreting the provisions on openness of administrative action and confidentiality within the Community system; the Member States would determine what rules concerning openness of administrative action would apply at internal national level.

Sweden would support action to make the revised Treaty on European Union simpler and more comprehensible, and would also favour revising the decision-making procedures in Council and Parliament, reducing their number and simplifying and rationalizing them. On human rights, it believes the Community should ratify the European Convention on Human Rights and Fundamental Freedoms, and that the revised Treaty should provide greater support for the right of association of Union citizens, while not impinging on the Member States' competences in the matter.

The Swedish Government devotes a special section to equality between the sexes, making it clear that at the IGC Sweden will advocate reinforcing the provisions of the Treaty of Rome on equality between men and women, so as to make this one of the Union's major objectives, with the equality dimension being taken into account in all the Community's activities.

On the enlargement of the Union, Sweden considers that the accession negotiations due to begin once the IGC is over should open on the same date for all the applicant countries and not later than six months after the close of the IGC. Sweden feels it is particularly important that the Baltic states should be treated in the same way as the other would-be members. The prospect of enlargement should be taken into account throughout the Conference and in the discussion of all the subjects debated at it.

On employment, the Swedish Government stresses that the current high level of joblessness is the biggest internal problem in the Union and the Member States. It believes the Treaty should include a new section on employment policy giving greater weight to the subject in a long-term perspective. This section should establish objectives and common procedures and bind all the participants to respect a number of principles on employment policy. The Treaty should also contain more effective mechanisms for ensuring coordination between finance and employment ministries, and should set up a 'special employment committee' consisting of Member State representatives of both ministries at ministerial level. There should be closer coordination of economic policies with a view to achieving more decisive and steady progress on growth and employment. Sweden also supports introducing specific provisions into the Treaty to strengthen the procedures for monitoring job creation measures introduced by the Member States and the Community. On EMU, Sweden does not think the IGC is the place for

re-examining this subject. On the internal market, it would support any proposals at the IGC aimed at improving the application of its rules.

On consumer affairs, the Swedish Government considers that there is a need to strengthen the legal basis of a common consumer policy. Consumer protection should be one of the Union's most important objectives, and consumers' interests should be given greater weight in the other Community policies. The Treaty should clearly set out the right of consumers to legal protection of their interests and to have genuine influence on matters affecting them. One of the express objectives of EU consumer policy should be to develop environment-friendly forms of production and consumption which are favourable to long-term sustainable development. Sweden also suggests that the IGC should examine the question of animal protection in its ethical dimension.

On the environment, Sweden proposes new measures to reinforce the common environmental policy and make it compulsory to integrate the environmental dimension in all decisions relating to other policies. One of Sweden's major objectives in this field is to ensure that it is not forced to lower its own environmental protection standards, while making every effort to bring the Union's environmental norms up to the highest level possible. Sweden favours establishing a series of minimum Union-wide standards while allowing Member States the option of establishing higher internal standards. The Swedish Government also suggests examining the possibility of strengthening the environmental dimension of the Euratom Treaty. It believes, furthermore, that the principles of sustainable development set out in the Rio de Janeiro declaration of June 1992 should be more clearly reflected in the Union Treaty. In addition, with a view to ensuring greater attention to the environmental dimension in the other policies, Sweden will propose to the Conference that Article 39 of the Treaty of Rome should incorporate an environmental objective for the CAP. The Swedish Government considers that a number of other important aspects could be discussed at the IGC, i.e.: the need to state more clearly that the Community's environmental rules should be based on a high level of protection; the need to have the principle of substitution, as applied in Sweden, accepted as a Community norm; the need to strengthen the environmental obligations of Article 100a of the Treaty of Rome; the need to insist on the right of the citizens to a decent environment and to improve access to information on the subject; the need for greater respect for the Union's environmental rules; and the need to introduce majority voting in the areas where unanimity is currently required.

On workers' rights, the Swedish Government supports incorporating the social protocol into the Union Treaty, and believes that the Treaty should be amended to place collective bargaining and legislation on a uniform basis in those Member States where this is possible. Sweden does not favour Community regulation on industrial action, but endorses the adoption by Member States at national level of provisions authorizing international solidarity actions. On matters concerning young people, Sweden proposes reinforcing the existing forms of cooperation, and considers that actions under the various Union policies, such as anti-employment policy, should take account of young people's needs. On the rights of persons with disabilities, Sweden wishes to see them taken into account in all Community decisions likely to affect them, but without the Union being given legislative powers in this area.

On the CFSP, the Swedish Government's document begins by considering the decision-making procedure. Sweden supports retaining the unanimity rule for vital matters affecting its own foreign and security policy. On fundamental subjects of this nature, such as non-participation in military alliances and the basic Swedish position on neutrality and other matters of general importance in the area of foreign and security policy, Sweden wishes to be fully in control of its own decisions; it is, however, willing to examine the possibility of modifying the unanimity principle for other, less important subjects. On the preparation, implementation and monitoring of decisions, Sweden favours boosting planning and analysis capacities by developing a 'reinforced joint element' for the preparation and monitoring of decisions. This would include a conflict prevention element, and could be under the umbrella of the Council Secretariat, leaving a certain scope for the Commission to play a role. On the external representation of the Union, Sweden does not oppose the idea of the Union being represented to the outside world by a 'personality', but it feels that this function should be limited in character and should not create confusion as regards the division of labour vis-à-vis the other representatives of the Union's external policy. The 'personality' concerned should, at all events, act only in support of the Council or the Presidency and under their mandate. Finally, Sweden calls for enhanced monitoring of the CFSP with a view to strengthening it.

On defence and peace-keeping actions, Sweden stresses the importance of conflict prevention and crisis management, seeing this as the main aspect of defence policy to be raised at the IGC. The Swedish Government believes that an active commitment to peace-keeping actions, disaster aid, evacuation operations and crisis management in general should constitute a natural, high-priority task for the EU Member States in the context of preserving peace in Europe. On the WEU, Sweden recalls that it has no intention of joining this organization, owing to the mutual security guarantee included in its Treaty. Sweden also stresses that it will not join a common defence, will maintain its traditional neutrality and will stay out of all military alliances. Rather than join the WEU, Sweden has opted for observer status. At all events, Sweden states that it is willing to take part in peace-keeping operations implemented by the WEU, but on behalf of the EU. Any such participation would be conditional on a national decision, on a case-by-case basis. Finally, Sweden wishes to see a clear separation between the mutual security guarantees of the WEU member states and its peace-keeping cooperation aspect, since the latter includes operations in which non-member countries such as Sweden could take part.

On cooperation in the area of justice and home affairs, Sweden says that it wishes to join the Schengen agreement, provided there is more effective action against drugs. Sweden's long-term aspiration is that there should be free movement of persons between all the EU Member States, not just within the Schengen group. It also proposes rationalizing and developing police and legal cooperation. The Swedish view is that the third pillar should continue to be based mainly on intergovernmental cooperation, although the role of the institutions could be reinforced if necessary. On asylum and immigration, Sweden would accept the transfer of such matters to the Community pillar where suitable. On third-pillar decision-making, Sweden favours rationalizing the existing forms of cooperation by reducing the number of levels of appreciation and decision: either the steering groups or the coordination committee should be abolished.



In its last section, the Swedish Government's report considers the institutional aspects and makes a number of proposals. On the Council, Sweden proposes introducing greater clarity and order into its meetings and decision-making procedures, as well as making the necessary changes to allow the national parliaments to take part the decision-making procedures. These procedures should be simplified and reduced in number, with greater use of qualified majority voting in certain fields in the interests of more efficient decision-making. On the vote-weighting arrangements, Sweden does not wish to see its own influence reduced or the balance between larger and smaller Member States reduced. In this connection, and in relation to the possible introduction of population-based criteria, Sweden insists that cooperation between Member States in the Commission, the Council and the Court of Justice must, as far as possible, be based on the principle of equal representation. It favours keeping the existing rotating presidency, while not ruling out consideration of other models, such as a collective or multi-state presidency, in the context of the objectives of a rational overall division of labour and improved continuity. Sweden feels it is necessary to strengthen budgetary discipline within the Union's existing legislative and budgetary procedures.

On the Commission, Sweden believes that it should continue to play a key role in the Union's institutional framework, and that it should be made more efficient. All the Member States should continue to have a commissioner, and if the number is to be reduced it should be on the basis of 'one and only one' commissioner per Member State. The Commission could be given more influence in third-pillar matters, acquiring the right of initiative in areas where it does not exist at present, including legal cooperation in the field of criminal law and police and customs cooperation. The Commission should be responsible for ensuring respect for third-pillar agreements, with a view to achieving a more effective and uniform national application of the relevant conventions and other agreements. On the Court of Justice, Sweden favours retaining the system of one judge per Member State. It wishes to see changes enabling the Court to issue its decisions and opinions much more rapidly than at present, in cases where it is necessary to settle disputes or interpret agreements concluded by Member States under the third pillar. On the European Parliament, Sweden wishes to see Parliament continue to play a major role in the Union's decision-making process, and advocates the large-scale simplification of the multiple and complex decision-making procedures of the Council and Parliament. After noting that Parliament itself agrees that the Commission should retain its sole right of initiative, the Swedish Government argues that Parliament's role should be strengthened as regards the control of the Union's finances, especially in matters of monitoring and evaluation, but not as regards decisions on the level or orientation of expenditure. Sweden considers that the national parliaments should play a greater role in the decision-making process, and concludes that the IGC should offer them improved opportunities of influencing the Union's actions: to this end, the national parliaments should have more time to examine the subjects and positions brought before them. Without going into detail, Sweden also proposes that the IGC should examine means of strengthening the role of the European Parliament in the decision-making procedures.

On the Court of Auditors, Sweden supports revising and clarifying the existing provisions in the Treaty of Rome governing its work, with a view to giving it the necessary powers for fulfilment of its control responsibilities under the Treaty. The existing rules should be supplemented so as to enable the Court to receive information from all the bodies which administer Community funds. Sweden

appears to support the request of the Court of Auditors that it should have the power to bring actions before the Court of Justice in cases where information which should have been communicated to it under the Treaty has not been received. Sweden also considers that each Member State should have the right to appoint one person to the Court of Auditors, and raises the possibility of fixed terms of office for its members.

UNITED KINGDOM

The United Kingdom Government's Memorandum of 2 March 1995 on the treatment of European defence issues at the 1996 Intergovernmental Conference

In this, its first official document on the IGC, the United Kingdom states its position on the British perspective on Europe, the present European defence policy situation and the institutional and defence policy adjustments needed in the context of the CFSP or second pillar. In the document the United Kingdom declares that its membership of the European Union is irrevocable and that it intends to play a leading role in its future development. It establishes that the United Kingdom's position with regard to European defence at the IGC will be based on five key factors:

- \* a view of the European Union as a peaceful and beneficial power in the world, which encourages and allows flexibility, recognizing the diversity of the Member States rather than trying to impose conformity against their will, and whose development is realistic, sustained and supported by the peoples of the Member States;
- \* the maintaining of NATO and of the United Nations' commitment in Europe as the foundations of European security and defence policy, as well as support for NATO's ability to carry out all the tasks needed to tackle future crises which may arise in this area;
- \* recognition of the need for Europeans to contribute more effectively to shouldering their share of the burden of promoting security and stability in Europe, on its periphery and beyond; this burden must be shared equitably amongst all European nations;
- \* the desire to see all the agreements concluded in this area respect the different rights and responsibilities of the European nations and, in particular, preserve each one's capacity to act in defence of its own national interests without restriction;
- \* finally, the firm conviction that the basis for action in the field of security and defence must be intergovernmental and must be based on cooperation between states.

On the basis of these key elements, the United Kingdom's proposals basically refer to the following areas:

Firstly, the adoption of a realistic assessment of the tasks which Europeans can and must tackle. However, these tasks must not include territorial defence,

which is a NATO prerogative. In view of this, no proposal should prejudice NATO's capacity to carry out small-scale operations for which it must continue to be equipped.

Secondly, the development of practical agreements needed to organize, mount and control European military operations. The British proposals regarding this are as follows:

- The drawing-up of detailed practical agreements to develop the capacity of the WEU to carry out operations of this kind which, in any event, should be compatible with and not contradictory to NATO.
- The implementation of the agreements reached at last year's NATO summit, which undertook to make available its expertise and resources for Europe-led operations. In practical terms, this means the launching of the Combined Joint Task Force (CJTF).
- Reinforcement of the WEU's political and military capacity and expertise, for which purpose the United Kingdom declares its willingness to make a significant contribution to the development of the WEU's capacity, basically by using officers who would help to set up a Situation Centre for the WEU and collaborate in improving intelligence handling capabilities.

Thirdly, the document comes out in favour of establishing a more clear and efficient decision-making mechanism. In this context, the basic ideas expressed in the memorandum are as follows:

- No new institutions should be set up, nor should the WEU be absorbed by the European Union, since membership of the two organizations is separate.
- The WEU should be developed, on the basis of its own Treaty, as a vehicle for European cooperation in defence matters, in close connection with NATO.
- Decisions should be taken exclusively at intergovernmental level by means of consensus between sovereign governments, with neither the European Parliament nor the European Commission taking part.
- The creation of a new WEU body at Head of State and Government level (the 'WEU summit') consisting of full Members of the WEU, Associate Members and Observers. It would be responsible for agreeing on any military action and on European defence policy and would, if necessary, meet with the European Council in order to ensure adequate coordination between the European Union and the WEU. The rights and responsibilities of the nations represented on that body would be those of the present WEU Council. Only Full Members of the WEU would be able to force the WEU to act, although the other members of the organization could be allowed to choose to take part in certain operations without thereby changing their status in the organization.

Finally, the Memorandum presents the British view that new institutions are not needed and that the debate should focus on military realities and not institutional abstractions; Britain does not want the WEU to merge with the European Union, since it considers that membership of each, like the status of the individual countries which are members of them, is separate. Both the WEU and NATO should therefore continue to act on an intergovernmental basis and the

WEU, not the European Union, should be the basis for cooperation on European defence. In fact, the tasks which should depend on European cooperation in defence matters, according to the British document, are, basically, crisis management, the application of sanctions and embargoes and humanitarian missions, generally in support of the United Nations or the Organization for Security and Cooperation in Europe.

#### UK White Paper of 12 March 1996 on the IGC: 'An association of nations'

This (very didactic) memorandum contains the first statements on the IGC by the UK Government, and was submitted to the national Parliament on 12 March 1996. In its introduction, the document stresses the importance of the UK's role as a leading fierce in the EU for its own national interests. The UK sees the Union as more than a free trade area: it is the basis for democratic consolidation and prosperity throughout Europe and it is a means to the overcoming of the historic divisions which disfigured the continent during the cold war, contributing to the consolidation of peace. Enlargement is seen as a historic responsibility for Europe and as in the UK's long-term interest. After referring to the present climate of uncertainty and doubt afflicting the Union, the UK Government rejects any moves towards a political union leading to the inexorable transfer of powers to supranational institutions, the erosion of the national parliaments and the gradual creation of a 'United States of Europe'. The UK expressly rejects this model of the future of Europe, and expresses its determination to safeguard the powers and responsibilities of the nation-states that are the Treaty's signatories. From the British viewpoint, the national parliaments should remain the core element of democratic legitimacy. The text goes on to set out the British approach to the IGC, expressing the UK's willingness to contribute to the success of a Conference, on the assumption that it will consolidate an EU conceived as a union of nations cooperating on the basis of agreements freely entered into and adopted by the national parliaments of the Member States. The position of the UK Government will at all times be based on the detailed analysis of Britain's interests. On the matter of flexibility, the Government considers the question of differentiated integration, taking the view that the EU needs to accept a certain degree of flexibility or 'variable geometry', while not falling into the trap of a two-speed Europe with a hard core centred on certain Member States or certain policies. The UK realizes that in certain areas certain Member States will integrate deeper or faster than others, but it also feels that such policies will only become Union policies when they are agreed by all the Member States; no Member State should be excluded from an area in which it wishes to participate and for which it is qualified - in other words, Union policies must be open to all the Member States.

The text outlines the challenges with which the EU will be faced in the next few years, and considers the scope of the Conference, conceived as an important first step towards responding some of these challenges and preparing the Union for the forthcoming enlargement. The British Government considers that, rather than substantially amending the Treaty, the best course is to develop improved policies for achieving its existing objectives: an example here is the CAP, which the UK insists should be liberalized. The UK Government insists that any revisions to the Treaty must be adopted by all, and therefore proposes a pragmatic and realistic approach during the negotiations. After recalling the procedural mechanism for the IGC, as established in the Treaty and the successive European Council decisions, the British document sets out a detailed

list of the main subjects which the UK Government hopes will form the IGC agenda: the legislative process; qualified majority voting; the presidency; the new Community policies; the number of commissioners; the role of the national parliaments; the powers and procedures of the European Parliament; the Court of Justice; a general examination of the CFSP; defence; the third pillar; European citizenship, human rights and non-discrimination; employment and social protection; openness and transparency; fraud and financial management; budgetary matters; the common fisheries policy; and animal welfare.

On the legislative process, the UK white paper begins by considering the principle of subsidiarity. The UK Government says it will put forward proposals for the entrenchment of this principle in the Treaty. It will also press for the Commission to undertake more systematic consultation of business circles, the national parliaments and other interested parties before introducing legislative proposals. Concerning the 'sunset clauses', the UK proposes that Commission proposals should be automatically withdrawn if they are not adopted within a given time-limit. It also supports the proposal concerning greater use of this type of clause in Community legislation with a view to providing for its automatic expiration or review after a certain time. On deregulation, the UK says it will insist on this in the context of Community legislation, some of which should be revised while certain specific directives should be amended or repealed. Concerning the opinions of the Court of Justice on the legal basis of legislation, the UK Government considers that the Council should consult the Court beforehand in cases where one or more Member States are in disagreement with the legal basis recommended by the Commission for the adoption of a particular measure. There is no specific proposal on commitology. Concerning the limitation of Community action, the UK Government raises the possibility of limiting the scope of Community action in certain areas, with a view, in particular, to prevent the application of health and safety legislation to social policy or of fiscal measures to the internal market or the environment. On the implementation of legislation, the UK will put forward proposals aimed at improving the monitoring and implementation of Community legislation, including: annual reports by the Commission on its control activities; clearer procedural rules for complaints; a more systematic approach to implementation on the Commission's part; and improved use of Article 171 of the Treaty. On the hierarchy of acts, the UK Government does not favour introducing a distinction between different categories of Community legislation which would allow certain types of act to be adopted by the Commission with minimal Council supervision.

On qualified majority voting, the UK Government in principle supports retaining the principle of protecting national interests deriving from the 'Luxembourg compromise'. However, on the subject of the criteria for obtaining a majority, it favours increasing the influence of the Member States with larger populations, for various reasons of democratic legitimacy. It proposes a system of weighting of votes under which the four largest Member States would continue to have the same number of votes while the smaller Member States would have a reasonable degree of influence in the system as a whole. The UK therefore supports changing the existing total number of votes, rather than introducing a second voting criterion. On the scope of majority voting, the UK opposes any extension of qualified majority voting, on the grounds that unanimity is not incompatible with effective decision-making and is the best means of preserving vital national interests.

The text also considers the subject of the Council Presidency, expressing a preference for the 'presidential teams' option under which three or four Member States would jointly occupy the presidency for a year or even longer. This system is felt to be particularly suited to the second (CFSP) pillar, where the presence of one of the larger Member States with global foreign policy interests would confer greater credibility on the EU's external representation. On the matter of new Community powers, the UK does not favour including chapters on energy, civil protection and tourism in the new Treaty.

On the number of commissioners, the UK Government considers that further enlargement will make it impossible to retain the present system, and that a balanced solution should be agreed on at the IGC. The white paper here merely lists the various suggestions, such as: that the larger Member States would have the automatic right to a commissioner while the smaller Member States would not have this privilege; that there should be two classes of commissioner, voting and non-voting; or that not all the commissioners would have a specific portfolio. On the role of the national parliaments, the UK, seeing them as still constituting the main element of democratic legitimacy in the Union, proposes a higher profile for them. It suggests, variously, that: the main points of Declaration No 13 (attached to the Treaty of Maastricht) on the role of the national parliaments should be made legally binding by being incorporated into the Treaty; or there should be a minimum period for the national parliaments to examine Community texts, especially legislative proposals, except for the most urgent cases; or the national parliaments should be given a more important role in third-pillar matters.

On the European Parliament, the UK Government considers that this institution should obtain greater public support and develop its role through the responsible exercise of its existing powers, in particular its powers of control over Community spending. Parliament can contribute to the campaign against fraud and maladministration, and improve its monitoring of the details of expenditure submitted by the Commission. The UK does not favour new powers for the European Parliament: this is because it considers that in a Union of nation states the European Parliament cannot claim to replace the fundamental role of the national parliaments, and because, in the view of the UK Government, it has not shone in responsibly exercising its new post-Maastricht powers (examples here being the appointment of the European Ombudsman, the temporary committees of inquiry, and full participation in the legislative process via the codecision procedure, in all of which Parliament has been sluggish in using its powers effectively while showing a certain tendency to exercise them irresponsibly, endeavouring to force the Council to accept institutional changes not directly related to the legislation in question).

On the Court of Justice, the UK Government considers that its workings need improvement. The UK puts forward the following options, in the context of limiting the retrospective effect of the Court's decisions: a Member State should only be considered responsible for damage caused by a serious and manifest failure to fulfil its obligations; there should be national time limits for all cases based on Community legislation, except in cases where a Member State's failure to comply with a directive represents a serious and manifest breach of its obligations; there should be an internal appeal procedure; there should be improved procedures for the rapid modification of Community legislation which had been interpreted in a manner diverging from the Council's intentions; a procedure should be instituted for urgent and highly sensitive

cases; a provision should be incorporated in the Treaty clarifying the application of subsidiarity in the interpretation of Community legislation. The UK Government says it will shortly submit a memorandum setting out its proposals on the matter in detail.

The document goes on to examine the CFSP. The British view is that it is in the UK's national interest that the EU Member States should be able to speak and act together as far as possible on the international stage in situations where they have common interests. The UK therefore favours a CFSP leading to joint action on the basis of joint analysis and joint policy. However, it is expressly stated that the CFSP must in no circumstances become an exclusive policy replacing national policy; accordingly, whenever British interests are involved, the UK Government will insist on maintaining its capacity of action. The UK will therefore not accept any type of compromise obliging it to adopt collective decisions it does not agree with. At the IGC, the UK Government will press for a more active and effective, but still intergovernmental CFSP. With a view to developing coordination between Member States at the planning, analysis and implementation stages of joint policies in this field, the UK White Paper sets out some specific proposals (in Annexes B and C). These include holding more regular meetings of the Political Committee (responsible for preparing interministerial decisions) and strengthening the CFSP secretariat. The UK would be willing to consider the idea of appointing a single person to represent the Union's external policy to the outside world in the context of the CFSP, considering that such a figure should be fully responsible to the Council and should represent the collective viewpoints of the Member States, rather than taking autonomous decisions. On the CFSP decision-making process, the UK Government stresses that the CFSP's main weakness has been at the stage of formulation and implementation of political initiatives, while there has been no major problem in the decision-making process. The UK does not accept the view that the unanimity rules concerning CFSP decisions are an obstacle to its development, and will oppose any reform of the CFSP involving the introduction of voting methods which do not take account of the basic concerns of the individual Member States. The British view is that if there is no collective will to act in the Union there is no point in trying to force action with artificial voting procedures. The UK also feels that the CFSP will only carry genuine international weight if it represents an actual joint position, rather than a mere majority view.

The White Paper also considers defence matters. Here the text refers the reader to the UK memorandum of 2 March 1995 on European security questions and the IGC, whose Annex D is formed by the White Paper itself. The UK Government reaffirms that the IGC should reinforce the role of NATO as the cornerstone of the European security system, while also enhancing the potential contribution of all the European countries to global and regional security. The UK believes that defence stands at the very core of national sovereignty, and that the most suitable system is the existing one based on NATO under which final decisions are always adopted by consensus and national governments are responsible to their home parliaments. The UK considers that there are no suitable subjects for decision at EU level, and that the Member States must be free to act in the defence of their own national interests in this area. It does, however, believe that the countries of Europe should be able to act in smaller-scale peace-keeping, humanitarian or crisis management operations which are not big enough to warrant UN intervention. The UK Government sees the WEU as the most suitable forum for this, since the intergovernmental treaty on which it is based states

that defence policy decisions must be adopted unanimously, thus ensuring that they remain what they should be, namely decisions of the sovereign member states. The EU as it stands is not able and does not have the resources to play such a role; the UK Government does not believe that the Commission, the European Parliament or the Court of Justice should play any role in the adoption of defence decisions. The British position is that the WEU should remain as a separate organization with its own Treaty, and that its operational capacities should be developed to enable it to act effectively in peace-keeping, humanitarian and other crisis management operations of limited scope. This is the main priority of the UK presidency of the WEU over the first half of 1996, in line with the measures and procedures proposed in the above-mentioned memorandum of 2 March 1995.

Concerning the third pillar, the UK Government believes that all matters relating to action against terrorism, organized crime, drug trafficking and illegal immigration should continue to be dealt with under this intergovernmental pillar, and that unanimous decision-making should continue to apply, with the Member States cooperating on an intergovernmental basis within a single institutional framework. The UK considers that the role of the Commission, the European Parliament and the Court of Justice in these matters should remain as it is, i.e. strictly limited. The White Paper also includes a number of suggestions aimed at improving the efficiency of third-pillar cooperation (see Annex E). The UK Government favours, for instance, simplifying the structure of the preparatory work for the Council, but opposes other reforms which might affect the nature of the third pillar, such as a greater role for the Community institutions. It also opposes transferring any third-pillar areas to the Community pillar.

On European citizenship, human rights and non-discrimination, the UK Government does not believe the EU is an appropriate forum for the protection of fundamental human rights, and opposes introducing a general non-discrimination clause covering gender, sexual orientation, race, religion, age and disability. In general, the UK is concerned that the creation of new rights might lead to the need to establish new duties, something which it does not favour on the grounds that the EU is not a state as such.

On employment and the social protocol, the UK Government says it will oppose any extension of the Community's powers in the field of employment. It will not accept incorporation of the Maastricht social chapter, on the grounds that this would undermine competitiveness and destroy jobs. The UK Government fears that if the social chapter became part of the Treaty the UK could find its views ignored in a large number of directives on working conditions, with enormous potential financial and employment costs. The UK will, accordingly, not give up its opt-out clause, and does not believe it can be forced to do so.

On openness and transparency, the UK is willing to cooperate in the interests of progress in these fields; it points out, however, that total openness could lead to the real negotiations being conducted in the corridors - precisely the opposite effect to that intended. The UK Government favours simplifying the Treaty, and proposes the deletion of all its obsolete articles. It argues, nonetheless, that many of the proposals for simplification of the Treaty raise problems because they could, in some cases, change its substance or alter the institutional balance. On fraud and financial management, the White Paper recalls the work under way in this field and Britain's contribution to it, and



argues that the reform of certain key policies, especially the CAP, will be vital if the campaign against fraud and maladministration of funds is to succeed. On the budgetary provisions, the UK feels it would be premature to amend them at the IGC, as the Community is to review its financing as a whole before the end of the century. On the common fisheries policy, the UK Government accepts the need for its existence, but believes that the IGC should re-examine its implementation, and, in particular, overfishing in European waters and the equitable allocation of quotas. Finally, the White Paper contains references to animal welfare, concerning which it advocates inclusion of a principle in the Treaty, possibly on the basis of the declaration approved at Maastricht calling for Community legislation in all relevant sectors to pay particular attention to animal welfare.

In conclusion, the UK Government announces its intention of making numerous proposals to the IGC and maintaining a constructive and realistic approach throughout on the basis of the UK's national interests. The White Paper includes a number of annexes: Annex A (containing the agenda for the 1996 IGC), Annex B (a series of measures for improving the efficiency of the CFSP), Annex C (on the workings of the CFSP and the role of the Council Secretariat), Annex D (containing, as referred to at the beginning of this chapter, the memorandum of 2 March 1995 on European security and the IGC) and Annex E (a summary of the UK's proposals for improving the working methods of the third pillar).

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