

430 C

Translation

The Chancellor of the  
Federal Republic of Germany

The President of the  
French Republic

Bonn and Paris, 9 December 1996

Dear Mr President,

The European Council will hold its next meeting on 13 and 14 December in Dublin under your chairmanship. Alongside the preparations for Stage Three of Economic and Monetary Union and the fight against unemployment, the Intergovernmental Conference on the EU's further development and deepening will play a particular role in our Dublin summit. We can base our deliberations on the Irish Presidency's excellent preparations and on the results of the special meeting of the European Council on 5 October in Dublin. Against this background we are confident that the Dublin summit will supply a strong impulse for a successful conclusion of the IGC in June 1997 and thus lead to progress towards initiating enlargement negotiations on schedule, i.e. six months after the conclusion of the IGC.

In our view, during the Dublin summit on 13/14 December, we should concentrate our IGC deliberations on three groups of issues which are of special significance for our shared goal: Internal and external security and institutional reform.

I.

Given the worrying increase in the threat to our citizens and national institutions posed by international organized crime, the drugs mafia and terrorism, it is vital in order to gain public support for European integration that we create a common European legal area which guarantees the citizen both greater freedom of movement and enhanced security.

Mr John Bruton, T.D.,  
Taoiseach of Ireland and President-in-Office  
of the European Council

Dublin



EUROPEAN COMMISSION  
DIRECTORATE GENERAL X  
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cc: H.C.S.

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**Message:**

You may find this Council document interesting.  
Kind Regards

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- 2 -

The present provisions and procedures for cooperation in the field of justice and home affairs contained in the Treaty on European Union are insufficient. The EU Member States are therefore called upon to coordinate their policies in this field to a much greater extent and to seek joint answers.

Therefore the Dublin European Council should send out a clear signal that the EU Member States are determined to counter the threats to internal security by agreeing to wide-ranging measures as part of the forthcoming Treaty review. In order to achieve this we suggest that the EU's primary aims in this field be laid down in the Treaty and that its options for action be adapted accordingly. To this end it would be important to agree in Dublin on the basic direction to take and to charge the IGC with negotiating the details.

1. Our fundamental aim continues to be the full implementation of the citizens' freedom of movement by lifting controls on our internal frontiers. This presupposes that we secure effective control of the external borders and, in addition, that we take all other measures necessary in order to guarantee the security of people within the Union.

Thus a Community policy on external borders, visas, immigration, asylum and customs cooperation should be elaborated and implemented, with implementation, for subsidiarity reasons, being largely left to Member States.

So as to guarantee the safety of our citizens and in particular to effectively combat international organized crime, drug-related crime and terrorism, it is also essential that Member States ratify the Europol Convention as quickly as possible and swiftly and fully implement the measures envisaged in the Maastricht declaration on police cooperation. We should also, as part of the IGC, determine what measures and intermediate steps are necessary in order to further develop Europol into an effective police authority with operational powers. To this end we should agree to include clear objectives in the revised Treaty and set an agenda for the progressive implementation of specific steps. Following an appropriate trial period, for example five years, the Council should examine what has been achieved in order to ascertain whether the agreed measures are sufficient.

2. In order to better organize the fight against serious transboundary crime, terrorism as well as drug abuse and trafficking, Member States should also aim to gradually harmonize existing laws and procedures in this field.

- 3 -

We think that a coherent drugs policy on the part of the EU Member States is a basic requirement for winning the battle against drug addiction and international organized drug trafficking, and therefore in this area, too, we should, beyond the steps already approved, agree to harmonize both the legal bases and practical procedures for fighting these phenomena.

In general we should increase police and customs cooperation, especially on combating international fraud which also hurts EU budgets, as well as illegal trading and all other forms of smuggling. In the field of criminal law cooperation should be simplified, especially by further developing legal assistance in criminal matters. We should also strive to agree on minimum standards for the classification of crimes and punishments, so as to enhance law enforcement and security.

We would also consider it right for the IGC to recognize that the democratic nature of our societies and their shared commitment to human rights must no longer be used to effectively invoke the right to political asylum between Member States.

3. In addition, we feel it is important to increase the legal security of our citizens in civil and criminal law matters by facilitating access to justice, the recognition and execution of judicial decisions and civil and criminal-law assistance.

The Member States should cooperate more closely and increasingly harmonize their legislation in these areas.

They should also agree on common procedures for administrative and legal assistance which would offer citizens, courts and authorities practical improvements.

4. The implementation of these aims presupposes the further development of existing instruments and procedures.

Cooperation on justice and home affairs among the EU Member States is a relatively new area in which further experience is required before we can ultimately decide where communitarization would provide the best answer to a problem.

- 4 -

We should therefore, where necessary, consider - as in the Treaties of Rome - agreeing on criteria and a definite timetable for communitarizing areas of justice and home-affairs policy and, in accordance with these agreements, to implement this process on a step-by-step basis.

In the case of areas which are to be communitarized immediately or following a short transition period, we should, departing from the usual EU Treaty institutional procedures, envisage a right of co-initiative for Member States for a fixed initial period. We must also consider involving the national parliaments to a greater extent.

In addition, we think it would be advisable to examine making fundamental changes to the rules of procedure and instruments in these areas which, for the time being at least, will remain part of intergovernmental cooperation. This particularly applies to the introduction of qualified majority voting, the creation of a directive-like instrument binding on Member States, the introduction of a comprehensive right of (co-)initiative for the Commission and the hearing of the European Parliament. We should also agree on precise provisions regarding the role of the European Court of Justice and the national parliaments in this field.

In principle, there should be the option, in the fields of justice and home affairs as well, of enhanced cooperation in keeping with the proposals presented by Germany and France on 17 October 1996, which were based on our joint message of 6 December 1995. The "Schengen cooperation", which is basically open to all EU Member States, could thus be included in the institutional framework of the EU through a protocol to the EU Treaty which would of course only bind participant Member States.

## II.

A further key aspect of the IGC negotiations is the deepening of the Common Foreign and Security Policy. In view of the major international challenges facing united Europe, the provisions of the Treaty on European Union have proved insufficient to allow Europe to speak with a single voice that is actually being heard on the global stage.

All Member States are largely agreed that improvements in the CFSP are urgently needed, particularly with a view to increasing its efficiency, continuity, coherence, solidarity and

- 5 -

visibility. To this end it appears to us to be indispensable to arrive at an overall concept which should notably contain the following elements:

1. The establishment in Brussels of a permanent joint working unit (Analysis and Planning Unit) as part of the Council Secretariat, consisting of staff from the Member States, the Commission, WEU and the Secretariat. It should play a central role in preparing and implementing Council and Political Committee decisions, and should present these bodies with, in particular, analyses, recommendations and strategies in order to provide a common basis for the consultations of the foreign ministers.
2. It is, among other areas, the CFSP where the EU must be given wider scope for action, not least against the background of yet another Union enlargement which is in the making, by reinforcing the efficiency of decision-making processes and ensuring more effective implementation of decisions. We suggest that:
  - the European Council determine the principles and general direction of the CFSP. It could also define its priorities. This means, in our opinion, that the EU Member States have a commitment to act in concert and to demonstrate political solidarity in implementing European actions, and thus also to renounce all counterproductive action.
  - Measures should also be taken to loosen the consensus principle. We should therefore make greater use of majority voting on the CFSP, too; this should become the rule for implementation decisions in particular. The European Council, which represents the Union's supreme political will, should, however, continue with the principle of consensus voting. This also applies to Council policy decisions and to security and defence in general.

We are aware of the difficulties involved in finding clear definitions and feasible approaches. For this reason the IGC should elaborate solutions which are as practical and meaningful as possible.

  - Decision-making could also be further eased if we basically agreed that in the CFSP an "abstention" will not stand in the way of a decision even in cases where unanimity remains obligatory. Each Member State could, by means of this "constructive

- 6 -

abstention", express its reservations towards certain decisions without hindering joint European action.

3. Moreover, we require greater continuity, as well as a "face" and "voice" for the CFSP. Our partners in the world often wonder who their foreign-policy "counterpart" in the EU is. We therefore propose that the Member State governments agree to entrust with this task a person with the necessary political qualification. This person would be responsible to the Council and would report to it at regular intervals and, on request, also to the European Council.

He or she would support the Council on all CFSP matters, head the Analysis and Planning Unit and represent the EU abroad in matters where a specific mandate to do so had been issued by the Council or, as the case may be, by the European Council, in close cooperation with the Presidency and the Commissioner in charge for foreign relations. At the same time that person would take part in meetings of all relevant EU bodies, with speaking rights, and could possibly also assume the chairmanship of the Political Committee.

Our proposal to appoint a person to take charge of the CFSP does not mean that new institutions ought to be created outside existing structures. In our view we should look at two different options:

- to either create a specific post whose occupant would carry out his or her functions in close coordination with the Secretary-General of the Council;
- or to charge that person with heading the Secretariat-General. In this case we would have to redefine the Secretary-General's status and function and transfer his or her typical tasks to a Deputy Secretary-General.

4. In this connection we should also ask ourselves whether an enhanced CFSP does not also demand a reform of the troika system, which in our opinion cannot continue in the present form. The external representation of the EU could in future take place in a new form, based on close cooperation between the Presidency, the person charged with CFSP tasks and the Commissioner for foreign relations. The subsequent Presidency would also fully participate. At the same time there should be the option of changing this format of EU external representation according to the issue, requirements or the competence of each institution.

- 7 -

So as to guarantee the coherence of foreign policy as a whole, the Commission shall be fully involved in CFSP elaboration and implementation. Correspondingly, it would make its full contribution to the implementation of the decisions made by the European Council and the Council in this field.

5. Other concerns of ours are the development of joint security and defence structures and the step-by-step movement of an operationally enhanced WEU towards the EU with the aim of gradually integrating it into the Union. The IGC should already fix a definite timetable for the accomplishment of specific steps as part of a phased approach.

As initial measures we would suggest the incorporation into the EU Treaty of a general political solidarity clause which would be below the level of a military assistance clause, as well as of the WEU "Petersberg tasks". In addition, the European Council should be given the power to set policy guidelines for WEU. In this field, too, the introduction of "constructive abstention" for joint measures could reinforce efficiency and effectiveness.

### III.

The progressive steps we are proposing in both internal and external policy open up the prospect of markedly strengthening the role of the European Union. In order for the EU to play this role as competently as possible, it is indispensable to further develop the EU's institutions, particularly against the background of the forthcoming enlargement.

We are aware that this difficult set of issues requires detailed discussion over the next few months. Special attention will be devoted to the following questions which we think are of particular importance and for which we want to make the following tentative suggestions:

#### 1. Council

In order to increase the efficiency of decision-making, the Council should as far as possible use qualified majority voting to decide on proposals put to it. Limited exceptions to this rule, which should be listed, would need to be discussed in detail in the coming months.

Additionally, the weighting of votes in the Council should be reviewed so as to guarantee a representative balance of Member States, particularly with a view to enlargement.



- 8 -

## 2. Commission

The Commission, too, must be made more effective and efficient. This is why, with enlargement in mind, we do not think it is feasible to retain the present composition. The future size of the Commission should be geared to its principal tasks and should in any case have fewer members than there are future EU Member States.

The authority of the President over his fellow Commissioners should be increased.

## 3. European Parliament

The present number of procedures in which Parliament participates should be reduced, and the procedures themselves should definitely be simplified.

In addition, we should also examine how to extend the co-decision procedure to other areas.

## 4. Involvement of national parliaments

In order to improve the EU's democratic legitimacy we also consider it necessary to involve the national parliaments to a greater extent than hitherto in the process of European integration. A provision to that effect should be included in the revised Treaty. This applies above all to those areas in which the national parliaments have up to now played a major role.

We are prepared to consider all proposals aimed at a joint association, such as those recently disseminated by the Conference of bodies concerned with Community affairs in the Parliaments of the European Community (COSAC). We should also examine whether the formation of a joint committee comprising an equal number of MEPs and national MPs might not be a suitable solution.

Dear Mr President,

By submitting these joint reflections Germany and France seek to help advance the IGC negotiations in two key areas in order to further deepen and strengthen the EU and its Member States. Our citizens rightly expect us to answer the burning questions of our times at the IGC.

- 9 -

and in our opinion internal and external security and institutional reform are especially pertinent. If we cannot reach consensus on these issues we will gravely endanger European integration as a whole and fail to live up to our responsibility for future generations.

We must of course also keep other themes in mind which are just as important for the further development of the EU as the key areas of internal and external security and institutional reform.

Of vital importance for the future of European integration are, in our opinion, the further definition and consolidation of the subsidiarity principle and the improvement of the EU's democratic legitimacy and responsiveness to the needs of its citizens. We also consider agreement on options to increase flexibility and cooperation among several Member States to be indispensable. In this regard we welcome the debate which the Irish Presidency has initiated on the basis of the relevant Franco-German proposals.

We would like to assure you once again, Mr President, that Germany and France are submitting these proposals in order to ensure that the IGC can be concluded on schedule by the end of June 1997 and that it leads to substantial results for our joint cause. Our two governments remain willing to jointly support any move that would advance the European Union.

We take the liberty of also transmitting this message to the other members of the European Council.

Please accept, Mr President, the assurance of our highest consideration.

(sgd) Dr Helmut Kohl

Jacques Chirac