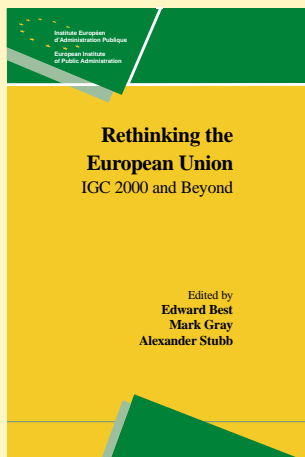


Going for Gold at Nice: Assessing the EU's Form



Crossing the Bridge of Size: Reaching a Deal at Nice

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Abstract

The Intergovernmental Conference which should conclude at Nice in December 2000 deals with issues of institutional reform which must be resolved before proceeding with enlargement. There are four main questions. Should all countries be able to name a Member of the European Commission, or should the number of Commissioners be 'capped' at a number lower than the number of Member States? How should the weighting of Member States' votes in the Council be adjusted to ensure that winning coalitions under qualified-majority voting represent an adequate proportion of the total EU population – as well as to 'compensate' those five Member States which lose their second Commissioner? How far should qualified-majority voting be extended? Should the conditions for 'closer cooperation' be relaxed to make it easier to press ahead with integration in particular areas without the participation of all Member States?

A deal must be reached at Nice, but the IGC has revealed serious differences between the Member States. There is likely to be an agreement: for one Commissioner per Member State, probably with an internal hierarchy; a significant re-weighting of votes in favour of the big Member States; a moderate extension of qualified-majority voting; and at least the removal of the veto regarding closer cooperation.

Yet relative size has emerged as a source of frictions and concerns about long-term solidarity. The big countries fear being tied down. The smaller ones have long-term concerns about being dominated or absorbed, as well as presentational problems. If all the results of the IGC are seen as concessions to the large countries, it will be hard to sell the Nice Treaty at home – and Denmark has again shown that people can say No.

Too much intergovernmentalism is not the answer. The Community institutions cannot do everything, but they have played an essential role in overcoming fears about relative power. They need to be renewed, not replaced.

A new Intergovernmental Conference (IGC) began on 14 February 2000 and is expected to end on 8 December 2000 in Nice. The reason behind this fresh round of treaty re-negotiation is that the last IGC, which ended in Amsterdam in the small hours of 18 June 1997, did not finish its business. Several key questions of institutional reform which are considered essential prerequisites for enlargement were simply put off.

Unless these "left-overs" are now resolved at Nice, the whole enlargement process will suffer a serious blow. There must not be any further postponement of preparatory steps. Yet the depth of the differences has raised questions as to whether a satisfactory deal (or any deal) can be reached, while the terms in which the debate is conducted have caused concern. Some fear there will be insufficient movement over fundamental issues of the extension of qualified-majority voting and the easing of "flexibility" provisions, without both of

which the European Union may face a threat of paralysis in the future. At the same time, the IGC arguments over the representation of different-sized states are taking place amid a more general "slide" towards intergovernmentalism. This has created concern among smaller states that the Community process is in danger of being replaced by pure inter-state bargaining on the basis of relative power. This trend should not be exaggerated in reality, but the fact remains that the spectre of a *directoire* of big states is now openly cited in public discourse.

This article first presents the background to the IGC 2000 and the scope of the agenda. It then outlines the principal options and arguments regarding each of the four main points under consideration, and looks at the prospects as of September 2000 for the results of the IGC. Finally it highlights some broader concerns about how the institutional debate has developed, concentrating of the question of size, and considers what might be the

most appropriate outcome of the IGC in the light of the need to ensure coherence and solidarity in an ever larger Union among the peoples of Europe.

The Background

The unanswered questions in 1997 were clear. The Commission is presently composed of at least one national from each Member State, with the five most populous countries having two each. If this system were to be continued in an EU of 27, the Commission would have 33 members. There was a consensus that this number would be excessive. Yet if the five big countries were to “give up” their second Commissioner, they demanded to be “compensated” by more proportional representation in the Council, in which the weighting of votes is skewed in favour of the smaller states.¹ However, there was no agreement as to how this should be changed.

The two questions remained linked, it being somehow overlooked in the struggle that the Commission is supposed to be independent. The result was a “Protocol on the institutions with the prospect of enlargement of the European Union” which states in its first article that: “At the date of entry into force of the first enlargement of the Union ... the Commission shall comprise one national of each of the Member states, provided that, by that date, the weighting of votes in the Council has been modified, whether by re-weighting or by dual majority, in a manner acceptable to all Member States...” The second article provides that “At least one year before the membership of the European Union exceeds twenty a

new Intergovernmental Conference shall be convened to carry out a comprehensive review of the provisions of the Treaties on the composition and functioning of the institutions.” Belgium, France and Italy also insisted on the Conference taking note

of their Declaration to the effect that reinforcement of the institutions was “an indispensable condition for the conclusion of the first accession negotiations”, in particular a “significant extension of recourse to qualified-majority voting”.

Why were the decisions put off? The institutional questions had been left to the end and there had been little time to prepare a compromise. As the IGC ran into the early hours, some issues of particular sensitivity came up. For example, Belgium had reacted badly to the suggestion that The Netherlands, with nearly 16 million people, should receive one more vote than Belgium, which has around 10 million but has traditionally had equal voting weight. One reason for putting off a decision appears to have been the possibility of now also discussing differentiation between France and Germany, given the latter’s increase in population to over 80 million compared to France’s 59 million.

It seems to have been considered better just to drop the matter than to press on. On the one hand it did not seem sufficiently urgent to take a decision. Enlargement was over the horizon, and at that time only five new members were ostensibly expected in the first wave. On the other hand, difficult issues had to be resolved without delay, which could be affected by additional problems over institutional matters. The decision as to which countries would join the single currency had to be taken in the first half of 1998. Delicate discussions were also imminent over the financial implications of enlargement, particularly reform of the common agricultural policy and of the structural funds.

The Agenda

Only after the launch of the single currency in January 1999 and the completion of the Agenda 2000 negotiations in Berlin in March 1999 was there any movement even in agreeing the agenda for the new IGC.

Proposals for a broad agenda, including strong pressure from the European Parliament, having been repeatedly rejected, there are four main points under consideration. The Cologne European Council of June 1999 decided that the IGC should examine the size and composition of the Commission, the weighting of votes in the Council and the possible extension of qualified-majority voting (QMV) in the Council, as well as “other necessary amendments to the Treaties arising as regards the European institutions in connection with the above issues and in implementing the Treaty of Amsterdam”.

This was confirmed by the Helsinki European Council of 10-11 December 1999, although it was agreed that the Portuguese Presidency “may propose additional issues to be taken on the agenda of the Conference”. The European Council in

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Feira on 19-20 June 2000 duly agreed that the new provisions on closer cooperation should also be considered “while respecting the need for coherence and solidarity in an enlarged Union”.

The “other” institutional issues which could be covered at Nice include implementation of the ceiling of 700 Members of the European Parliament introduced by the Amsterdam Treaty, as well as the possible extension of co-decision (for some delegations as a necessary corollary of QMV); amendments concerning the competences and procedures of the Court of Justice and Court of First Instance; the numbers of members of the Economic and Social Committee and the Committee of the Regions; and a variety of other articles which different delegations consider “necessary”.

The two parallel processes taking place concerning a Charter of Fundamental Rights and the European Security and Defence Policy may also converge with the IGC if any treaty amendments are proposed.²

The Arguments

The Size and Composition of the Commission

If maintenance of the present system is discarded, there are two options.

The first is to have one national from each Member State. In favour of this it is argued that all countries would permanently have a visible link with the Commission, which would help boost popular identification with the institution. Also, smaller countries – which continue to believe that a strong and independent Commission is an essential guarantee of their interests in the face of the larger countries – would feel assured that their positions will be taken equally into account in defining policies and controlling implementation, and that the Commission does play an independent role. Against, it is stressed that a Commission of this nature would have greater problems of internal coordination, because of the greater division of responsibilities, and face difficulties and sensitivities over the distribution of portfolios. Some internal hierarchy would appear inevitable, but the smaller countries in September reacted strongly against proposals to increase the number of Vice-Presidents from two to perhaps six and strengthen their powers, suspecting that by one means or another these positions would be dominated by the larger countries. From another point of view, such a Commission would tend to be another intergovernmental assembly rather than an independent college, which would actually weaken its ability to act autonomously in defence of smaller countries' interests.

The second option is to “cap” the Commission at a figure lower than the number of Member States, perhaps at the present 20 Members. Proponents of this option argue that the Commission would thus be more efficient, which would boost its legitimacy. It would also be visibly de-nationalised, which would strengthen its credibility as an impartial European body. National equality could be assured if the system of rotation by which the Member States would nominate the Commissions were strictly “size-neutral”. Acceptance of such a system by some larger states, however, has seemed difficult. There have been clear signs that some would not be willing to renounce having one Commissioner on a permanent basis.

The Weighting of Votes

The first question here is whether the share of votes³ should be made more directly proportional to Member States' populations at all.

Those in favour imply that, at the present stage of institutional development of the Union, it is inappropriate

to argue simply that Parliament should represent the citizens while the Council represents the states. Even if this were not the case, moreover, there is no *a priori* reason to prefer the American model of equal representation of States to the German system of weighted bloc votes for *Länder* governments. Efficiency would not be served if decisions could be blocked by votes representing too small a minority of the overall population: in an EU of 27 this could drop to 10% if nothing is done.⁴ Legitimacy requires that decisions should not be adopted by coalitions representing barely a simple majority of the total population: at present the minimum share of population which can be represented in a winning coalition has dropped to around 58%, and this figure should not, it is said, be lowered.

Those arguing against greater proportionality tend not only to cite the different representational functions of Council and Parliament; they argue also that the Community, as an exceptionally strong union between states of very different size and between very heterogeneous societies, must give an unusually high priority to the protection of minorities, rather than the rule of majorities. Some would add that it may be no bad thing for decision-making to be a bit more complicated if this would increase both consensus and effective implementation of what is adopted.⁵

The second question is how any changes should be made.

One option is a re-weighting of votes in favour of the larger countries. In its favour, this would raise the population share of a minimum winning coalition in a

way which is easy to manage and to understand. It is also argued that it would be the clearest means to “compensate” those States which lose their second Commissioner.⁶ Against, it is pointed out that the stronger the re-weighting of votes towards direct proportionality, the more

likely it is that winning coalitions would not represent a majority of states; and that to accentuate the formal differentiation between states *qua* states would weaken solidarity. Also, unless some fairly artificial clusters were maintained, this would open up sensitive questions of differentiation between traditionally equal pairs of countries.

The second option is a dual majority. In this case, decisions would require both that a majority of votes should be cast in favour (either left at the current weighting or, in a more radical approach, reduced to one vote for each state) and that these votes represented a majority of the population (either a special majority of perhaps 60% or, in the more radical approach, a simple majority). Those in favour argue that this system would

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reflect more accurately the double legitimacy of the EU as a union of states and a union of peoples. It would be more likely to produce legitimacy of the system as a whole, as opposed to individual countries' assessments of their relative representation. Those opposed assert that it would be more difficult to manage and understand.

Qualified-Majority Voting

The perspective of enlargement has somewhat eased acceptance of extending QMV, since a unanimity requirement in a Union of 27 or more countries clearly threatens to paralyse decision-making. However, deep differences have remained. There was consensus by June that "a number of constitutional and quasi-constitutional issues intrinsically call for unanimity".⁷ These included four categories: provisions expressly to be adopted by the Member States in accordance with their respective constitutional rules (e.g. treaty revision, new accessions etc.); "quasi-constitutional" provisions (e.g. number of Commissioners, Judges and Advocates-General; amendment of Commission proposals; committee procedure etc.); "provisions allowing derogations from normal Treaty rules" (e.g. measures constituting a step back in movement of capital or in transport); and "provisions in respect of which the rule of unanimity ensures consistency between internal and external decisions".

The Portuguese Presidency also proposed to the Feira European Council a list of 39 provisions to be examined for straightforward transition to QMV on the grounds that they had a close link to the internal market or with other areas already under QMV, and a series of provisions for which a move to QMV could only be considered for specific aspects.⁸ However, countries differed strongly as to which areas should remain under unanimity. The most sensitive fields under discussion were taxation and social security.

Closer Cooperation

Several Member States urged changes in the provisions on closer cooperation, to facilitate the adoption of future "flexibility" arrangements by which deeper integration can be pursued in particular areas without the participation of all countries.

The proposals mainly aim at relaxing the "enabling clauses" introduced at Amsterdam – that is, the general conditions and procedures contained in the Treaty of European Union, and the specific provisions included for the European Community and in Police and Judicial Cooperation in Criminal Matters. First, the right of veto should be removed. At present the Council may decide

by qualified majority to authorise closer cooperation. However, if any Member State declares that it opposes the authorisation "for important and stated reasons of national policy", the Council may by qualified majority refer the proposal to the European Council for a unanimous decision. This "emergency brake", it is argued, should go. Second, the minimum number of States participating in a proposed arrangement should be reduced from the majority now stipulated, perhaps to one-third. Proposals have also been made regarding the Second Pillar.

The need for change has been questioned on three basic grounds. The provisions have not been used since the Treaty of Amsterdam came into force, so it is hard

to see how changes should be evaluated. The conditions should be kept strict to avoid future fragmentation, while the progressive extension of QMV should make it possible to advance in integration without closer cooperation arrangements. And the wrong message would be sent

to the applicant states.

Defenders of flexibility respond that the aim is precisely to avoid separate arrangements being reached outside the Treaty and that, in the words of the Report to Feira, "closer cooperation must not be seen as a factor of fragmentation or dilution but, on the contrary, as a factor of integration insofar as it sets more ambitious objectives to be shared by all members".⁹ The negative result in the Danish referendum on entry into the single currency on 28 September will probably intensify pressure for greater flexibility.

The Prospects

As of September 2000, it seemed most probable that the principle of one Commissioner per Member State would be confirmed, due to the firm defence of this position by the smaller Member States. There could be new provisions regarding hierarchy within the Commission, as part of proposals to ensure coordination, despite the smaller countries' concerns. The issue remained open as to how far the five countries which lost their second Commissioner would have to be "compensated" in the Council. With regard to the weighting of votes, the re-weighting option appeared to have more support than a dual majority, but agreement on numbers remained elusive. It also seemed likely that there would be some extension of QMV, although it remained unclear how many cases would concern major policy areas in the end, rather than relatively minor questions of procedure. In the case of closer cooperation the outcome promised to be an end to the veto and possibly some easing of conditions regarding the number of Member States

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which had to be party to proposed flexibility arrangements. Other issues would be included and could prove important elements in reaching an overall deal at Nice.

Yet the difficulties have not seemed to lessen. Moreover, the possibility that a fresh IGC would be convoked after Nice – in order to tackle broader constitutional questions such as treaty reorganisation and clarification of competences – could reduce the pressure to find compromises.

The Concerns

Many of the concerns expressed around Europe about the IGC have related to what is *not* on the agenda. Yet there are also various reasons to be concerned about what *is* being discussed and how it is being treated.

Are These the Right Problems?

The extension of qualified-majority voting and the issue of closer cooperation are clearly central and urgent issues for the future of European integration. There has been some questioning, however, as to whether the issues concerning representation in the institutions are the most important, or even the real, problems to be addressed?

Relative size is not a determining factor in day-to-day European decision-making. More or less stable coalitions are formed on a variety of issues – trade policy, agriculture, budget, environment – but not by size. Small countries simply do not gang up against big countries (or vice versa) on any substantive issue. The impact of different voting weights is far from clear. The Commission has carried out a study in which the alternative systems of re-weighting and dual majority were applied to Council legislative decisions in the three years before the Amsterdam Treaty, only to discover that not one of those decisions would have been altered.¹⁰ Even the importance of voting itself can be exaggerated. Governments are outvoted, but much less than the formal provisions might suggest. Although unanimity is not the rule, the search for consensus is still the norm.

In addition, the fuss about majority voting and relative weighting comes at a time when decisions are increasingly taken by means other than the classic Community, or “Monnet”, method even within the Community system. New instruments of “open coordination”, such as guidelines, benchmarking and peer review, are increasingly being favoured in place of

legislation. New patterns of execution through independent bodies and non-hierarchical networks are common in policy management. Is not managing these new forms of European governance more important than retouching Monnet?

Moreover, it is often pointed out that the major advances in the European Union in the 1990s have come from intergovernmental initiatives (such as the UK-French proposals since 1998 in the field of security and defence), and that the European Council has become the motor of integration rather than the Commission, or the Parliament.

Finally, it is not clear either that the main problems of institutional reform are due to enlargement or that the main challenges of enlargement are to do with the institutions.

Size Does Seem to Matter

Yet the question of size does seem to have become an issue of principle, and even of emotion, affecting the broader debate over the future of European integration.

It is not a matter of questioning the importance of leadership by larger Member States. This has always been an essential element in the process of integration and will remain so in the future. And the “big-small” question has certainly not been absent in the past. Since

the 1950s the distribution of votes has always been based on explicit equations about the relative ability of different combinations of larger and smaller states to out-vote each other.¹¹ Until the 1980s the situation could be well summed-up as being that “no more than one big Member State could be out-voted, but that the big Member States could not by themselves out-vote the smaller Member States.”¹² However, following the 1966

Luxembourg compromise, majority voting did not in fact take place until the 1980s, which made the whole thing rather academic. When voting did become an accepted practice, national governments and parliaments quickly (albeit belatedly) began to focus on the implications of weighting and to find some problematic aspects.

For a while, however, it was still felt that the “big-small” question would largely be diluted by a system in which the Commission and the Court would protect the interests of the weak. The Union was only beginning to become involved in sensitive areas of politics and security. And the kind of massive enlargement agreed at

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Helsinki in December 1999 was still unthinkable. By 2000 things had come together in a way which qualitatively changed the terms of the debate.

First, this Intergovernmental Conference is taking place in the context, and somewhat in the spirit, of a “slide towards intergovernmentalism”. This is not the same as the trend towards new forms of governance mentioned above. It is a principled belief that major decisions should be reached by agreement between the Member States, whether this is preferred in a loose association or a tighter confederation of nation-states.

The current drift in this direction is partly a reflection of the low credibility of the Community institutions (although the Court has escaped the public eye in most countries), which hit bottom in 1999. The Commission has received most of the criticism, with the resignation of the Santer Commission providing a focal point for public attention. Yet the Parliament is also challenged. Average turnout at European elections has fallen in each of the five direct elections held since 1979, reaching a low of 49% in 1999. The Parliament showed some institutional muscle to the public in the confrontation with the Santer Commission, perhaps to some short-term advantage. Yet, because people do not appear to discriminate between the institutions and because the Commission remains the Parliament’s long-term ally in the Community process, Commission-bashing is not in the Parliament’s interests – and the Parliament could also do more to improve its own image.

Second, the larger Member States have simultaneously manifested a sort of “Lilliput complex” – a fear of being tied down by a host of small states. No sooner had the Helsinki European Council agreed in December 1999 that negotiations should be conducted with 12 applicant states and that Turkey was now recognised as a candidate country, than a fresh burst of political anxiety was heard among the Member States about the need to ensure the possibility of flexibility in the future.

The consequence has been an increasingly open interest among some larger states in a more intergovernmental kind of Union in which they would be in control. The idea of institutionalising a special role for the larger states is not new even within the Community. Five of the eight Advocates-General of the Court, for example, are reserved for the Big Five while the others are rotated. It is even clearer in the area of foreign policy and security, most notably with the

“Contact Group” for former Yugoslavia in which European participation was limited to France, Germany, Italy and the UK.

Yet the idea becomes worrying to many people concerned about the future solidarity and coherence of the Union when it is linked more systematically to intergovernmentalism (as in the UK proposals in the autumn of 2000 for a radical reform involving a much-strengthened European Council) or to both intergovernmentalism and flexibility. This could be noted in the reactions to the varying expressions of the idea heard so far during 2000. German Foreign Minister Joschka Fischer on 12 May thus proposed that an “avant-garde” group of states should conclude a new framework treaty. He explicitly argued that “Initially, enhanced

cooperation means nothing more than increased intergovernmentalization under pressure from the facts and the shortcomings of the ‘Monnet method’.” French President Jacques Chirac made his own offering on 27 June, proposing closer cooperation between a “pioneer group” of states around the Franco-German tandem, which would have its own small secretariat, apart from the Community institutions.

The European Union will remain a union of states as well as of peoples, in which intergovernmental bargaining must be diluted and checked by strong European institutions, and minority protection must take precedence over simple majority rule.

These ideas have, not surprisingly, provoked fears of a de facto *directoire* of the larger Member States, in particular of Germany, France and the United Kingdom – a sort of new Concert of Europe. And all of this has coincided with the sanctions on Austria, which were widely seen (independently of feelings about the Freedom Party) as the Member States pushing a small country around.

In this context it is not hard to see why there is unease about the insistence by larger Member States on having a strong re-weighting of votes in their favour in the Council in addition to the proportional representation in the Parliament, while the Commission’s role is questioned.

Conclusions

Views as to what precisely should be done in the IGC depend crucially on what kind of European Union one wants (and/or believes is likely). Here differences are inevitable and, let it be emphasised, desirable. My own proposal and preference for the institutional points under consideration at the IGC would be a package deal consisting of the following basic elements:

- a Commission “capped” permanently at 20 Members

with a rotation system not defined according to size – not because of the supposed problem of finding work for more than 20 people but because the Commission would thus finally be denationalised, which is a vital element in the whole European construction;

- a “stand-still” in real terms on the weighting of votes in the Council, meaning that the current system should be “stretched” only so far as is needed to ensure that the minimum share of total population represented by a possible winning coalition under QMV should be around 60%, taking EU 27¹³ as a reference population, and with the minimum possible extra differentiation being introduced in the visible relation between States (i.e. the degree to which the public will perceive non-equality);
- the establishment of QMV and co-decision as the basic rule for all legislative acts, but the retention of unanimity for all constitutional and “quasi-constitutional” provisions; and
- an increase in the proportionality of representation in the European Parliament in the context of implementing the 700-MEP ceiling.

This would be, in my view, the most appropriate solution for a European Union which will remain a union of states as well as of peoples, in which inter-governmental bargaining must be diluted and checked by strong European institutions, and minority protection must take precedence over simple majority rule.

At the same time, closer cooperation should be eased in order to ensure that it takes place within the Union structures.

The experience of the IGC so far has illustrated the continuing difficulties in overcoming the problem of size, which make it all the harder to reach agreement over the fundamental issues at stake.

The big countries’ apparent interest in simultaneously ending the smaller countries’ right to have a national permanently in the Commission (or at least “fixing” their own dominance in an internal hierarchy) and in having a major increase in their own relative weight in the Council, seems guaranteed to provoke deep opposition from the smaller countries.

It is partly a question of substance. There is a genuine and understandable fear in smaller countries of being dominated as states by an intergovernmental *directoire*, or absorbed as populations into a European polity in which they would be permanently marginalised.

It is also a problem of presentation. The governments of the big countries may feel obliged partly for domestic reasons to insist on “compensation” and “restoration” of their relative weight – particularly France, Germany and the United Kingdom, in all three of which less than 50% of the population now supports membership of the EU.¹⁴ Yet the governments of the small countries have public opinions and concerned parliaments too. If the results of the IGC are all seen as concessions to the larger countries the governments may have great difficulty in selling them at home. As the Danish referendum of 28 September has again shown, people can say “No”.

It is vital not to give the peoples of Europe – both in the present Member States and, even more so, in the applicant countries – the feeling that relative size is the only thing that matters. At a time of low public support for European integration and of delicate feelings surrounding the “negotiations” with the applicants, it seems all the more essential to insist that the underlying principles of European (re-) unification are still less to do with relative power and much more to do with overall solidarity. The European Community was created to overcome the power-balancing systems of the past. A renewal of Community institutions is certainly needed. A return to Congress diplomacy is not.

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NOTES

¹ At present France, Germany, Italy and the UK each have 10 votes; Spain has 8; Belgium, Greece, Netherlands and Portugal 5; Austria and Sweden 4; Denmark, Finland and Ireland 3; and Luxembourg 2.

² See the articles by Laura Carrasco and Simon Duke respectively in this number.

³ It is beyond the scope of this paper to address the relevance of voting power analyses which, in different ways, set out to demonstrate the undeniable point that real voting power, which derives mainly from the ability to shape the formation of winning coalitions, is not the same as relative voting share.

⁴ The French Presidency’s first Note on the subject stresses with precision that the current minimum population share which could be represented by a blocking minority is 12.83%; and that this could fall to 10.50% in a Union of 27 if nothing is done and to 11.62% in a dual-majority system. One of the starting points, it argues, is that this percentage must on no account be allowed to fall.

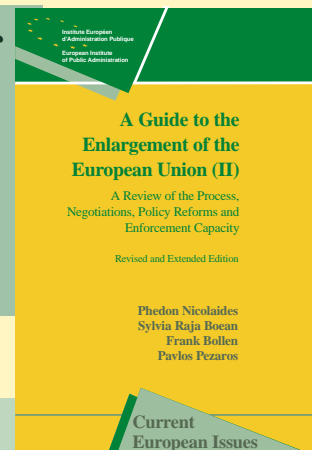
- (Presidency Note, *IGC 2000 – Weighting of Votes*, CONFER 4754/00. Brussels, 3 July 2000 p. 2)
- ⁵ As Madison observed when defending the equality of State representation in the US Senate: “as the larger States will always be able, by their power over the supplies, to defeat unreasonable exertions of this prerogative of the lesser States, and as the facility and excess of lawmaking seem to be the diseases to which our governments are most liable, it is not impossible that this part of the Constitution may be more convenient in practice than it appears to many in contemplation”. James Madison, Alexander Hamilton and John Jay, *The Federalist Papers*. (Harmondsworth: Penguin, 1788/1987) No. LXII p. 366.
- ⁶ The Presidency Note of 3 July 2000 stresses this distinction, emphasising that, in the second case “the correction must be limited to only those Member States referred to in the Protocol” – i.e. those which give up a second Commissioner.
- ⁷ See Annex 3.7 to the Portuguese Presidency’s Report to the Feira European Council, CONFER 4750/00, 14 June 2000.

- ⁸ In August, the French Presidency proposed a total list of 43 points, of which 35 could be considered for transition in their entirety. Note de la Présidence, *CIG 2000 – Extension du vote à la majorité qualifiée*. CONFER 4767/00 Bruxelles, le 29 août 2000.
- ⁹ Presidency’s Report, Feira, pp. 52-53.
- ¹⁰ Michel Petite, “The IGC and the European Commission” in Edward Best, Mark Gray and Alexander Stubb (eds.), *Rethinking the European Union. IGC 2000 and Beyond*. (Maastricht: EIPA, 2000) p.64.
- ¹¹ See Edward Best, “The Debate over the Weighting of Votes” in Best et al. *Rethinking the European Union*.
- ¹² John A. Usher, *EC Institutions and Legislation*. (London & New York: Longman: 1998) p.23.
- ¹³ EU 27 = the present 15 plus the 12 applicants recognised at Helsinki in December 1999.
- ¹⁴ According to *Eurobarometer 53* published on 24 July 2000, and based on surveys in April and May, the EU average of respondents saying that membership of the EU was a “good thing” was 49%. The figure for France was also 49%; for Germany 41%; and for the UK only 25%. □

The Feira European Council and the Process of Enlargement of the European Union¹

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Abstract

Although one of the main issues which is being discussed by the EU and the candidate countries is the request of the latter for a date for their accession to the Union, this article argues that, in a rather paradoxical way, the process of enlargement would be facilitated if the EU and the candidates were less concerned about the date itself and more keen to focus their efforts on identifying arrangements that would ensure that the benefits of enlargement are spread widely so that all Member States support the accession of new members.

It is also argued in this article that there are other issues which can have a significant impact on the process of enlargement. The candidates should decide what they want fixed above all: the date of entry, the derogations they wish to have at the negotiations or the entry criteria? The analysis in this article suggests that they should aim for the latter because vague criteria have a much greater potential to stall the enlargement process on both sides. For its part, the EU should begin identifying the pre-commitments that can be made by the Member States now in order to smooth the process of enlargement later on. The Feira European Council, therefore, has served to reveal where the problem really lies in that process.

The request to fix the date of the next enlargement

Unlike several of its recent predecessors, the Feira European Council of June 2000 appeared to be of little significance to the process of enlargement of the European Union because it did not resolve a key issue in that process. For several months before the Feira Council, the countries that had applied for membership of the Union asked EU leaders to fix a date for their accession to the EU. In the end, no such date was fixed at Feira. The response of the EU was terse. It was not possible to fix a date before the candidate countries

could demonstrate that they were fully prepared to assume all the obligations of membership.³

The purpose of this article is to explain why, in a rather paradoxical way, the process of enlargement would be facilitated if the EU and the candidates were less concerned about the date itself and more keen to focus their efforts on identifying arrangements that would ensure that the benefits of enlargement are spread so that all Member States support it. The preoccupation with the date of the next enlargement has diverted attention from other, potentially more serious problems.