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SECOND INTERIM REPORT

drawn up on behalf of the Committee on Institutional Affairs

on the preparation of the meeting with the national parliaments to discuss the future of the Community (the 'Assizes')

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- PART B: EXPLANATORY STATEMENT -

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EXPLANATORY STATEMENT

The best definition of the 'Assizes' is to be found in the speech which Mr Andreotti was due to make on 24 January 1990 in the Committee on Institutional Affairs (where he was unable to appear). 'Their value', he wrote, 'consists mainly in the opportunity for linking the intergovernmental debate of the Conference on economic and monetary union with the expression of the popular will which is vested in the parliaments of the Member States and the European Parliament'. The fact that a Conference on political union is now to accompany the Intergovernmental Conference on economic and monetary union heightens the importance and urgency of the 'Assizes'. Political union implies far-reaching institutional reforms towards which the popular will will be highly sensitive. An agreement on these reforms between the national parliaments and the European Parliament could not be ignored by the intergovernmental conferences and this is a token of the potential importance of the 'Assizes'.

I. PREPARING THE WAY WITH THE NATIONAL PARLIAMENTS

By entrusting the same rapporteur with the task of looking into the organization of the 'Assizes' and of generally examining ways of developing relations between the European Parliament and the national parliaments, the Committee on Institutional Affairs has demonstrated its determination to place the 'Assizes' in a broad and permanent perspective. The above resolution accompanies an interim report dealing solely with the 'Assizes' while considering them as a factor in the development of relations between the various parliaments and as a means of enhancing those relations. The rapporteur attaches overriding importance to the preliminary contacts with the national parliaments with a view to organizing the 'Assizes' as a joint undertaking between the national parliaments and the European Parliament, i.e. the Cork Conference of 10 and 11 May, the talks between the presidents of parliaments in Brussels on 7 June and the meeting of chairmen of specialist committees of 26 June 1990 in Brussels.

(1) Interparliamentary Conference in Cork (10-11 May 1990)

The Irish Presidency took up the initiative by Mr Fabius under the French Presidency and the second Interparliamentary Conference of Committees on European Affairs accordingly met in Cork on 10 and 11 May 1990. Three MEPs were invited to attend the proceedings with the 45 members of national parliaments, viz Mr Oreja, Chairman of the Committee on Institutional Affairs, Mr Duverger and Mr Martin. An in-depth discussion of the 'Assizes' was thus possible.

Some members of national parliaments were initially somewhat distrustful of the European Parliament while fully aware of the democratic deficit prevailing in the Community. Having familiarized themselves with the preceding version of this explanatory statement and the draft resolution which it introduced, most of them found that 'Assizes' bringing together 260 members of national parliaments and as many MEPs were on too large a scale. There was fairly general support for the idea of an assembly of not more than 260 members in total and some participants wanted an even smaller assembly. Moreover, the

idea of parity was challenged by some delegations who drew attention to the original disparity between the two groups, i.e. 518 MEPs as against several thousand members of national parliaments. This was to forget that the representativeness of parliaments is not measured by the number of their members but by the number of citizens whose representatives they are. In a system of a federal nature like the Community, the European Parliament represents 320 million Europeans, exactly the same as all the members of national parliaments. Each MEP represents 618 000 inhabitants. Others voiced the fear that the members of the national parliaments would act in a very undisciplined manner owing to the fact that they would depend on 20 different assemblies whilst the representatives of the European Parliament would form a united front. This was to forget that the latter come from more than 80 parties which are the same national parties that the members of the national parliaments come from. It would incidentally be desirable for all the participants at the 'Assizes' to be seated therefore by political group.

Overall, the Cork Conference has helped the idea of the 'Assizes' gain acceptance with our colleagues in the national parliaments since the dialogue showed that the European Parliament in no way wishes to secure the transfer of new powers from the national parliaments but, above all, is seeking an alliance with them in order to ensure democratic scrutiny of the way in which the powers already transferred are exercised, with the national parliaments themselves necessarily being involved in such scrutiny.

(2) Talks between the presidents of the national parliaments and the President of the European Parliament (7 June 1990)

The meeting of the presidents of the parliaments of the Member States of the Council of Europe of 8 and 9 June 1990 provided an opportunity for the presidents of the parliaments of the Member States of the European Community to meet on 7 June with the President of the European Parliament to discuss the 'Assizes'. The President of the Belgian Chamber of Representatives was able to give his colleagues a very accurate account of the discussions in Cork on this subject since he had attended that meeting as Chairman of the Belgian Parliament's Committee on European Affairs. What emerged from this meeting is close to the perspective outlined by Mr Andreotti: 'At a time when the Community is faced with the steady attainment of economic and monetary union and of political union, the European Parliament and the national parliaments are required to make a joint effort, i.e. ensuring that the institutional balance within the Community and in its relations with the Member States takes account of the need for the peoples brought together within the Community and for the legitimate interests of the Member States to be represented in parallel by recourse to democratic processes', this clearly corresponding to the dual representation by universal suffrage, that of the European Parliament and that of the national parliaments.

(3) Meeting with the chairmen of specialist committees (26 June 1990)

The President of the Belgian Chamber of Representatives, Mr Nothomb, convened a meeting on 26 June in Brussels of the chairmen (among whom he is also included) of the committees of national parliaments specializing in European affairs in order to prepare the way for the 'Assizes'. Three members of the European Parliament's Committee on Institutional Affairs were also invited, viz. Mr Oreja, Mr Prag and Mr Duverger.

The meeting adopted a number of important conclusions, in particular stating its preference for a meeting of the 'Assizes' in Rome around 15 November rather than early October. It acknowledged that the discussions should focus on the four reports to be discussed by the European Parliament on 12 July, on the basis of which the national parliaments could express their views, since these basic reports reflect different aspects of the fundamental issue underlying the 'Assizes', i.e. the future of the Community. The problem of convening the 'Assizes' was settled and joint invitations will be issued by the President of the European Parliament and the presidents of the two chambers of the Italian Parliament, thereby formalizing a joint initiative by the presidents of the national parliaments and of the European Parliament.

As soon as this meeting was over, all the chairmen of the specialist committees in attendance went to the European Parliament where they took part in a meeting of the Committee on Institutional Affairs. President Nothomb explained the main conclusions as summarized above, which gave rise to a discussion in a forum foreshadowing a joint committee.

II. AIMS OF THE 'ASSIZES'

The main aim is to promote close cooperation between the European Parliament and the national parliaments, which is becoming more and more essential in order to uphold and foster democracy in Europe with an eye to preparation of the intergovernmental conferences. The 'Assizes' will be an essential step towards fostering close relations between the European Parliament and the national parliaments for the purpose of developing democracy in the Community.

(1) Making good the democratic deficit

The proliferation of directives required to complete the single market has made the national parliaments aware of the limits which the Community treaties place on their powers. The statement that by 1993 the Member States will have lost nearly 80% of their economic and social powers naturally adds to their anxiety. The national parliaments consequently had more or less the distinct impression that the European Parliament is encroaching on their prerogatives. It was vital to dispel this misapprehension and the resulting distrust, for the truth of the matter is quite different.

First of all, the bulk of the powers transferred to the EEC were transferred in 1957, and invariably under agreements (such as the Single Act) ratified by the national parliaments. Secondly, most of the powers that the treaties have removed from the parliaments of the Member States have been transferred not to the European Parliament but to the Council of the Community, an inter-governmental body which, to all intents and purposes, cannot be called to account. The onward march of democracy in Eastern Europe is being accompanied by a large-scale retreat in Western Europe in these final years of the twentieth century.

The legislative and supervisory powers taken away from national parliaments by Community legislation are mostly outside the remit of the European Parliament although they should be vested in that body. They have thus been taken away from those elected by universal suffrage. This is the democratic deficit which it is the first aim of the 'Assizes' to make good. It is just as much a matter of concern to the national parliaments as to the European Parliament. Everyone has an interest in defending their prerogatives. It would therefore

be conceivable for the 'Assizes' to make a kind of declaration of the rights of parliaments concentrating on the following two points:

- The constituent power, the legislative power, the budgetary power and the power to supervise the executive belong essentially to the parliament in a democratic system.
- The prerogatives which the Treaty of Rome and subsequent legislation have taken away from the parliaments of the Member States must be transferred to the European Parliament subject to the adaptations entailed by the Community framework, which must themselves be decided by democratic means.

The European Parliament also considers that the national parliaments should be given a greater say in the democratic control of the powers exercised by the Commission and the Council of the Community. The meeting of delegates from the parliaments of all the Member States with delegates from the European Parliament will be the first to afford an opportunity for the problem to be considered jointly. Prior cooperation in this sphere could eventually take specific forms.

(2) Cooperation in the exercise of the constituent power of the Community

In 1984 the European Parliament took the first steps in this area of cooperation by sending all the national parliaments a draft - in effect a Community constitution - revising the Community treaties: the disadvantage of this procedure was that the national parliaments were not consulted until after the text had been drawn up and adopted. The second aim of the 'Assizes' is to replace this manifestly inadequate cooperation after the event with cooperation prior to any exercise of constituent power.

So far, the European Community has been instituted and transformed through the normal procedure for the conclusion of treaties. Once negotiations have been completed, the governments sign an international agreement. The national parliaments must then ratify it in accordance with the procedures laid down by their respective constitutions. This type of procedure no longer corresponds to the Community's current structure and it only aggravates the democratic deficit in the Community.

Any constitution that is drawn up by those in government and can only be ratified or rejected en bloc by the people's elected representatives is not a democratic constitution. Now that the European Parliament is elected by universal suffrage, it can no longer be excluded from the process of institutional reform. It is only natural that it should claim constituent power at the beginning of this process, just as it is natural for the national parliaments to exercise this power at the end of the process through ratification. It remains conceivable that the intergovernmental conference should intervene in the middle of the process. However, any reform must rest on the agreement of these three bodies given the stage of development now reached by the Community.

By bringing together the two forms of popular representation in the Community, it is only natural that the 'Assizes' should raise the problem of constituent power in terms of general principles and that they should begin to outline its perspectives in the new phase of the Community opened up by the parallel conferences on economic and monetary union and political union. Two avenues seem worth exploring at the beginning of this new phase. Firstly, the

formulation of a preliminary stage to any constituent procedure during which the European Parliament would define the basic guidelines for the plan in mind and would submit them for discussion by the national parliaments within the context of the 'Assizes' with a view to reaching a consensus, on the basis of which it would draw up an actual draft constitution.

Were the 'Assizes' to agree on such an approach, they would open up the possibility of its immediate application to the changes to the Community initiated by the intergovernmental conferences which will begin work in December 1990. The 'Assizes' do in fact have before them the set of draft guidelines contained in the Martin report on institutional changes. They could accept the basic thrust of the guidelines laid down here, for example, on the question of joint decision-making. In this eventuality, the intergovernmental conference would have difficulty in ignoring such a consensus involving all the parliaments elected by popular suffrage.

(3) Determining the general guidelines for European union

The third aim laid down for the 'Assizes' is 'determining by common agreement the general guidelines for European union with a view to the drawing up by Parliament of a final draft constitution to be submitted for national ratification'. This formula is in line with the approach suggested above as a topic for discussion at the 'Assizes'.

Clarification of these various points will emerge only from the discussions on the principles underlying European union. Even if this discussion is not completed at the first session of the 'Assizes' and the latter cannot discuss in depth the general guidelines for European union, it matters that the question should be raised at the very outset of this assembly of the parliaments of the Community. The ultimate goal must be clearly envisaged, even if the various stages by which it is to be attained are necessarily long.

III. ORGANIZATION OF THE 'ASSIZES'

The resolution of 23 November 1989 calls for the 'Assizes' to be convened in the second half of 1990. This date can be met since, on 21 March 1990, the Italian Chamber of Deputies adopted a resolution which proposes, working in collaboration with the Italian Senate and the European Parliament, to stage the first plenary session of the 'Assizes' in Rome.

The practical arrangements for the 'Assizes' were taken in hand by the presidents of parliaments at their talks on 7 June where they decided to act through the intermediary of their secretaries-general. Only the problems raised by the mix of participants and the joint committees will be considered here.

(1) Participants: number and mix

In terms of general principles, the sovereignty of the people is undoubtedly expressed in the Community through two institutions enjoying equal legitimacy: first, the twelve parliaments of the Member States as a whole embodying the diversity of nations through their history, culture and patriotism; secondly, the European Parliament embodying their desire for union transcending these differences. This logically leads to parity between the representatives of

the national parliaments and those of the European Parliament. It has been explained above why the Committee on Institutional Affairs was unable to set aside this fundamental precept. In exchange, it decided to leave the national parliaments free to fix the total number of their representatives, with this number determining that of the representatives of the European Parliament. It also leaves the national parliaments free to decide the allocation between them of their total number of representatives, simply referring to the 'democratic principle of proportional representation between Member States', this being an allusion to the allocations laid down in Community legislation relating to the number of MEPs allotted to each Member State. However, this principle is immediately qualified by the phrase 'while nevertheless giving special consideration to the smaller states'. All this serves to underline the fact that the committee wants the national parliaments to have as free a hand as possible in organizing the 'Assizes'.

(2) Joint committees

The holding of the 'Assizes' will probably mean setting up beforehand joint committees in which the debates can be prepared and their conclusions formulated. A comparison of the activities of the European Parliament's Committee on Institutional Affairs and those of the European affairs committees of the national parliaments indicates that joint committees could be organized around the following subjects: (a) the principle of subsidiarity, (b) interparliamentary cooperation in the development of democracy at Community level, (c) the institutional reforms entailed by economic and monetary union and (d) the guidelines for the constitution of the European political union. These correspond broadly to the subjects of the four reports being discussed jointly by the European Parliament, i.e. those by Mr Giscard d'Estaing, Mr Duverger, Mr Martin and Mr Colombo. The other European reports follow on both the latter two. The subjects envisaged by the national parliaments as perceived during the discussions in Cork can easily be allocated within this general framework.

Each committee could be made up of representatives of each national parliament and of representatives of the European Parliament. The meeting of 26 June of the chairmen of specialist committees of national parliaments did not have time to look at the question of these joint committees. The Committee on Institutional Affairs of the European Parliament is in the same situation. However, the likelihood that the 'Assizes' will be put back to around 15 November leaves the time to organize these committees bringing together national parliaments and the European Parliament.

IV. NAME TO BE GIVEN TO THE 'ASSIZES'

There are a number of possible options, reflecting parliamentary resolutions and motions.

(1) Terms rejected by a majority

The term 'Assizes' was used in a proposal put forward by the Spanish and French presidencies and also appears in the European Parliament's resolution of 23 November 1989. This term had become standard usage in the Committee on Institutional Affairs before the discussions in recent months. However, the word 'Assizes' has in many countries a very different meaning to that of a meeting of MEPs and members of national parliaments.

On 15 November 1989, the Italian Chamber of Deputies took up the term 'States General' already used by 250 MEPs who had signed on 16 May 1988 a written declaration published on 27 June 1988 in the Official Journal of the European Communities (OJ No. C 167, p. 19, Doc. 1.88) calling for the 'European States General' to be convened. However, the term 'States General' is incomprehensible in a number of languages.

(2) Possible terms

The European Parliament's resolution of 23 November 1989 states that 'European Assizes' will function as an 'assembly of the parliaments of Europe'. This phrase is certainly better than the previous ones as a provisional name for the 'Assizes' until such time as they themselves decide on their name. It makes sense in all languages, it is neutral and it is accurate. In the Committee on Institutional Affairs, several amendments proposed the term 'Congress' which is doubtless the best. In the USA, the Congress is the two chambers acting together, just as in France the 'Congress of Parliament' plays a role of a constituent nature. The meeting of the chairmen of the specialist bodies of 26 June in Brussels adopted virtually unanimously the name of 'Congress of the Parliaments of the European Community'.

