

EFFICIENT INSTITUTIONS AFTER ENLARGEMENT / Options for the IGC

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EFFICIENT INSTITUTIONS AFTER ENLARGEMENT OPTIONS FOR THE INTERGOVERNMENTAL CONFERENCE

PRESIDENCY REPORT

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INTRODUCTION

Ensuring that the Union's institutions can work efficiently after enlargement is a priority task for the Union. With that objective in mind, the Cologne European Council decided that a Conference of the governments of the Union's 15 Member States (Intergovernmental Conference - IGC) would be convened in 2000 in order to resolve the institutional issues left open at the end of the Amsterdam IGC in 1997.

This report has been drawn up under the Presidency's responsibility at the European Council's request in order to explain and take stock of options for resolving the issues that the Conference will have to settle. The report is based on extensive consultations undertaken by the Presidency over the previous five months with the Member States, the European Parliament and the Commission. This report sets out the Presidency's assessment of avenues to be explored by the Conference and indicates the general direction of the debate on the main issues.

The Presidency's consultations have highlighted consensus on three clear ambitions for the IGC:

- First, the agenda of the IGC should be focused on the institutional reforms necessary for enlargement. The Conference should endeavour to undertake comprehensive and lasting institutional reforms covering the issues referred to in the Cologne European Council conclusions so that the Union is able to increase its membership to include all the states involved in the enlargement process.
- Secondly, the Conference should work towards a balanced outcome which can be politically defended. The results should be understandable to and acceptable also by the public in the Member States.
- Thirdly, the Conference should finish its work by the end of 2000 as envisaged by the Cologne European Council, given the importance of maintaining momentum in the enlargement process.

The report is divided into two parts. Part One deals with the four issues referred to in the Cologne European Council conclusions, namely the size and composition of the Commission, the weighting of votes in the Council and the possible extension of qualified majority voting, as well as issues which are widely considered to constitute *"necessary amendments to the Treaties arising as regards the European institutions in connection with the above issues and in implementing the Treaty of Amsterdam"*.

In the Presidency consultations it emerged clearly that by the end of 2000 the next Intergovernmental Conference must find solutions on these four issues.

Part Two first of all briefly describes the two parallel exercises currently being undertaken separately from the IGC itself. One involves the development of a common European security and defence policy

(ESDP) and the other the drawing up of a draft Charter of Fundamental Rights for the Union. Part Two also covers further suggestions made during consultations for other institutional reforms. These relate to closer cooperation and restructuring the Treaties.

On the basis of the consultations a broad understanding has emerged that these issues should not be taken on the agenda of the next Intergovernmental Conference. However, as far as the ESDP process is concerned, it is considered that it might have relevance for the Conference at a later stage of its work.

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The Presidency has held informal exchanges of views with the applicant countries to keep them informed about the work being undertaken inside the Union.

PART ONE: THE COLOGNE TOPICS FOR THE 2000 IGC

1. THE SIZE AND THE COMPOSITION OF THE COMMISSION

An efficient and independent Commission is a lynchpin of the Union's institutional system. A suitably constituted college of Commissioners is fundamental for the credibility and legitimacy of this institution.

In the consultations the prevailing view was that the IGC should address the size and composition of the Commission with regard to enlargements, aiming to find a lasting solution.

There are two basic options which have emerged in the consultations.

- (i) Firstly, a college consisting of one national from each Member State. This is considered to be the best way of ensuring the Commission's legitimacy.
- (ii) Secondly, a Commission consisting of a limited and fixed number of members, which would result in a Commission with fewer members than Member States. This is considered by some to be the best way of enabling it to fulfil effectively its functions as a College.

Based on the consultations, the overwhelming view is that there should be one national from each Member State in the Commission.

2. THE WEIGHTING OF VOTES IN THE COUNCIL

The original weightings allocated to each Council member were constructed to reflect respective population size and a balance between groupings of larger, medium and

smaller Member States. With each successive enlargement, the new Member State or States have been slotted into categories following the same principle. The threshold for attaining a qualified majority has remained largely unchanged at around 71% of total votes.

There is a widespread support for finding an acceptable outcome on this issue on the basis of a system, which is simple, transparent and does not give rights to further adjustments in the course of the process of enlargement. An acknowledged link exists between the changes to be made in the size and composition of the Commission and the weighting of votes in the Council.

In consultations two options have been discussed:

(i) reweighting of the votes;

(ii) introducing a so-called dual majority system (i.e. an agreed majority of both votes and population).

In the consultations, very broad support has emerged in favour of the option of reweighting of votes. In addition, the need for any change in the QMV threshold in relation to enlargement will need to be examined.

It was pointed out that a solution on reweighting could be facilitated by applying an across the board proportional increase in the number of weighted votes to allow for differentiation in voting weights to be introduced to take account of new Member States.

3. POSSIBLE EXTENSION OF QUALIFIED MAJORITY VOTING (QMV)

Experience shows that QMV creates a dynamic decision making process and paves the way for compromises. QMV was the most instrumental factor in helping push through the single market programme. With an increase in the number of Member States and the inevitable divergence of national interests which will exist in a broader Union, the issue at stake is to what extent greater recourse to QMV is now necessary in order to preserve the efficiency of Council decision-making, and how the Intergovernmental Conference should approach this question.

Two points have emerged from the consultations:

- qualified majority voting is the key to efficient decision-making;
- even in an enlarged Union, a number of issues will remain subject to unanimous decision-making.

In the consultations, a broad degree of preparedness was expressed for extending QMV with the prospect of enlargement.

The Presidency suggests that issues could be grouped into categories for which sound arguments exist for seriously considering recourse to QMV. Among these categories the following, which do not constitute an exhaustive list and will have to be developed by the Conference:

- Provisions in closely related areas of Community policy where QMV already applies, such as the single market, the Community budget or external economic relations.

- Provisions contained in articles which, as such, cannot be subject in their totality to QMV, although it might be possible to envisage QMV for certain matters within these articles if they are specified in greater detail.
- Provisions on visas, asylum and other policies related to free movement of persons for which the Treaty of Amsterdam envisages passage to QMV (see Article 67).
- Provisions regarding certain appointments to the institutions so that they can proceed more smoothly after enlargement.
- Provisions which constitute so-called institutional "anomalies", such as those where codecision is coupled with unanimity in the Council.

4. OTHER NECESSARY TREATY AMENDMENTS IN CONNECTION WITH THE ABOVE ISSUES AND IN IMPLEMENTING THE TREATY OF AMSTERDAM

I. RESPONSIBILITY OF THE MEMBERS OF THE COMMISSION

Among various issues raised in relation to the Commission, broad support has emerged for the approach followed by the President of the Commission in having sought and obtained an undertaking from every member of the Commission that he or she would resign in the event of being asked to do so by him.

The general view was that the Conference should consider whether this de facto form of accountability of individual Commissioners to the President of the Commission needs to be reflected somehow in the Treaty.

II. THE EUROPEAN PARLIAMENT

Consultations have highlighted two issues which the Conference may need to address in relation to the European Parliament.

Allocation of seats within the 700 member ceiling

Retaining the ceiling of 700 Members for the European Parliament has not been called into question during the consultations. However, the Conference may need to consider the way in which a proportional reduction should be made in the number of members from each Member State once the ceiling is reached, and whether provisions need to be included to cover any transitional period between the accession of new Member States and the end of the term of office of serving MEPs.

Legislative procedures

Broad support has been expressed for the Conference to examine to what extent extended recourse to qualified majority voting on legislative acts should be coupled with the codecision procedure. Regarding the assent procedure, the question has also been raised as to whether it should be replaced by the codecision procedure for the adoption of legislative acts.

III. THE EUROPEAN COURT OF JUSTICE AND THE COURT OF FIRST INSTANCE

The structural imbalance between the volume of incoming cases and the Courts'

capacity to dispose of them will be further accentuated by enlargement. The Courts' increasing workload is causing serious delays in proceedings.

Broad support was expressed for the Conference to give consideration to whether the Treaty provisions concerning the Courts (e.g. the organisation, the composition and the competencies of the Courts) could be amended in order to make decision making and procedures more flexible.

IV. OTHER INSTITUTIONS AND BODIES

In the course of consultations, it was widely felt that, given the impact of enlargement, the Conference will have to consider certain Treaty amendments relating to the Court of Auditors, in particular the number of Members, and possibly amendments regarding other Union bodies.

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PART TWO: OTHER INSTITUTIONAL ISSUES HIGHLIGHTED

DURING THE PRESIDENCY CONSULTATIONS

5. SEPARATE EXERCISES IN PARALLEL WITH THE IGC

I. COMMON EUROPEAN SECURITY AND DEFENCE POLICY (ESDP)

In accordance with the Cologne European Council mandate, work is currently underway to give the European Union the structures and capabilities necessary to assume its responsibilities in military and non military crisis management in support of the common European policy on security and defence. The Presidency will present two complementary progress reports to the Helsinki European Council. The reports propose concrete measures and provide guidance for further work to take the necessary decisions by the end of the year 2000 to achieve the objectives set at Cologne.

The need for possible Treaty amendments will become discernible only at a later stage of this process.

II. DRAFT CHARTER OF FUNDAMENTAL RIGHTS OF THE UNION

The Cologne European Council took the view that at the present state of development of the European Union, the fundamental rights applicable at Union level should be consolidated in a Charter and thereby be made more evident. The Cologne European Council decided that this draft Charter should be elaborated by a Body set up for that task and presented in advance of the European Council in December 2000. The European Council would propose to the European Parliament and the Commission that, together with the Council, they should solemnly proclaim on the basis of the draft document a European Charter of Fundamental Rights.

After the completion of the process on a charter of fundamental rights, consideration will be given to whether, and if so how, the Charter should be integrated into the Treaties.

6. SUGGESTIONS MADE FOR OTHER REFORMS

I. PROVISIONS ON CLOSER COOPERATION

During consultations, mention has been made of possibly exploring certain aspects of the Treaty provisions on closer cooperation (in particular the number of Member States required to proceed with closer cooperation, the requirement for consensus, some of the specific conditions to be fulfilled and the need for similar provisions under the second pillar as exist in the first and third pillars).

In the consultations, a clear preference emerged for not taking this issue on the IGC agenda.

II. RESTRUCTURING THE TREATIES

Proposals have been made by the European Parliament and the Commission to restructure the Treaties. The Commission has indicated that a feasibility study for a possible reorganisation is being undertaken by the European University Institute in Florence.

In the consultations only little support was expressed for the Conference to undertake any exercise on restructuring.