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NOTICE TO MEMBERS

*Summary of the proceedings of the Intergovernmental Conference
between 14 February and 6 June 2000
on the eve of the Feira European Council to be held on
19 and 20 June*

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**Summary record of the proceedings
of the Intergovernmental Conference**

Since the opening of the Intergovernmental Conference on 14 February, four meetings have been held at ministerial level and the Preparatory Group has met on nine occasions. In addition, the delegates to that group have held one informal meeting. The President of Parliament took part in the ministerial meetings and Parliament's representatives attended all the official meetings and the informal meeting of the Preparatory Group. As laid down at the Helsinki European Council, the IGC is due to complete its work by the end of the year under the French Presidency. Hitherto, the discussions have focused on the following topics:

Extension of qualified-majority voting

The extension of qualified-majority voting in the Council to cover provisions in respect of which the Treaty has hitherto specified unanimous decision-making is one of the three issues left unresolved in Amsterdam. It is thus a key topic of the current Intergovernmental Conference. It concerns some 70 legal bases in areas of major importance.

At the Conference, Parliament is adopting the position that qualified-majority voting should be extended to cover all Treaty provisions – in other words, should become the rule in the legislative process – with the exception of constitutional decisions which require ratification by the national parliaments. This 'rule and exception' approach has the backing of a number of delegations. For its part, the Portuguese Council Presidency, supported by a majority of the delegations, favours an approach whereby, at an initial stage, certain categories of decision and, subsequently, certain areas and/or articles would be reviewed. This approach has prompted each delegation to focus on the objections raised by a given government and the reservations it has voiced with regard to the introduction of qualified-majority voting. For the moment, there is virtually no legal basis in respect of which a consensus has been achieved regarding the transition to qualified-majority voting. Thus far, neither the Portuguese Council Presidency nor the vast majority of the delegations have endorsed Parliament's call for the establishment of an automatic link between the voting procedure and the legislative procedure (codecision in respect of proposals adopted by the Council by a qualified majority, including in areas already covered by qualified-majority voting, such as the common agricultural policy). The only practical proposal is that an extension of the codecision procedure should be considered on a case-by-case basis.

At the outset, the Presidency put forward a long list of articles in respect of which decision-making by qualified-majority voting might become the rule. The Presidency then took a very cautious view of developments during an initial round of discussions and considerably shortened that list. As a result, appointments, provisions concerning the CFSP (Article 23 of the EU Treaty), municipal and European elections (Article 19 of the EC Treaty), the euro and the ECB (Articles 105(6) and 11(1) and (4)) and the provisions on the seats of the Union institutions and bodies (Article 289 of the EC Treaty) were dropped.

The list now incorporates 25 provisions. Some delegations at least have expressed reservations regarding the transition to qualified-majority voting in respect of all the provisions on the list, with the exception of two articles.

The strongest reservations have been expressed in the areas of taxation and social affairs.

In the area of taxation, the most recent proposal put forward by the Council Presidency takes account of the disapproval voiced by a number of Member States and proposes a rewording of Article 93 of the EC Treaty which would make unanimous decision-making the rule and would introduce qualified-majority voting in respect of certain clearly defined matters.

In the sphere of social policy, the Presidency has proposed a rewording of Articles 42 and 137 of the EC Treaty making provision for a substantial extension of qualified-majority voting. However, some delegations are categorically opposed to the transition to qualified-majority voting in this sphere.

In the area of environmental policy, and in particular Article 175(2) of the EC Treaty, the new wording provides for the retention of unanimous decision-making. The new version of Article 93 of the EC Treaty, in respect of which decisions will be taken by a qualified majority, covers only ecotaxes. This restrictive standpoint adopted by the Council Presidency is surprising when set against the open-minded approach displayed by most of the Member States.

The Presidency is proposing the creation of two new legal bases, perhaps stipulating decision-making in the Council by a qualified majority, to cover matters which have often been dealt with under Article 308: the establishment of decentralised agencies and economic, financial and technical cooperation with third countries. The Presidency's key idea is that these are areas which are already fall within the Community sphere of responsibility. Although also covered by Article 308, energy policy has been excluded from this proposal.

In the area of justice and home affairs, no changes are being proposed to Title VI of the EU Treaty (police and judicial cooperation in criminal matters); however, the Presidency is proposing a switch to qualified-majority voting in respect of certain articles in Title IV of the EU Treaty.

These include, in particular, provisions which stipulate, during a five-year transitional period following the entry into force of the Amsterdam Treaty, unanimous decision-making in the Council on a proposal from the Commission and/or a Member State and after consultation of the European Parliament. Once the five-year period has expired, the Council may take a unanimous decision to alter the procedure in force.

All the decision-making aspects of external economic relations, apart from the extension of qualified-majority voting, were dealt with at the most recent meeting of the Preparatory Group, held on 6 June (under the Portuguese Presidency), and a number of delegations called for this subject to be discussed again at a later stage of the Conference.

Weighting of votes in the Council

The standpoints adopted by the various delegations can be summarised as follows:

- Almost all the Member States are linking the definition of a qualified majority to the composition of the Commission, but on the basis of contrasting views: most of the less populous Member States consider that the revision of the current system should be made contingent on retention of the arrangement whereby each Member State provides one Commissioner. The more populous Member States are prepared to give up their second Commissioner in return for a relative improvement in their position in voting procedures (as already provided for in the protocol on the institutions).
- Some Member States are also linking the extension of qualified-majority voting to the outcome of the negotiations on the definition of that majority.
- Many Member States would prefer a re-weighting of the votes or a dual majority. Conversely, there is virtually no support for a dual simple majority.
- There is unanimous agreement that a decision adopted by a qualified majority must have the support of more than 50% of the total Union population. However, many feel that this minimum figure should be 60%.

Composition and functioning of the Commission

Most of the delegations have expressed support for a Commission consisting of one Commissioner per Member State, but unlike the Commission and Parliament, who are linking this option with a revision of the Commission's internal structures and, in particular, the introduction of some form of hierarchy, all the Member States concerned are defending the idea of equality between Commissioners, putting forward the argument that the Commission should remain a collective body. A number of Member States have welcomed the proposal that several vice-presidents without portfolio should be appointed to carry out coordinating duties, but with no hierarchical superiority. The argument most frequently put forward by the delegations defending the option of one Commissioner per Member State has been the need to secure public support for and identification with the Commission in the Member States.

The most populous Member States have advocated a restriction on the number of Commissioners, in conjunction with a rotation system, and some have shown a willingness to consider the other option, provided it is accompanied by a complete revamping of the Commission's internal structures. These delegations have also drawn attention to the link established by the protocol on the institutions between the composition of the Commission and the forfeiture of their right to nominate a second Commissioner and to the gradual weakening of their institutional position since the inception of the Community.

Many delegations have emphasised the need for a strong Commission. Many have also argued in favour of a stronger role for the President. However, very few have shown any willingness to consider amendments to the Treaty with a view to achieving those aims. The general consensus is that no changes should be made to the current balance between the institutions.

Allocation of seats in the European Parliament

The Presidency has put forward two options: that advocated by Parliament in its resolution of 13 April 2000 and a second based on an across-the-board reduction in the number of seats currently allocated to each Member State. Three options have been put forward for the

transitional period between 2004 and 2009: adjustment at the end of the parliamentary term, either in two stages or by means of a final decision which would come into force in 2004; retention of the current scale, combined with a provisional agreement to exceed the maximum figure of 700 Members; changes when required to the number of seats allocated to each Member State during the parliamentary term so that the new Members can be accommodated as they arrive.

There is a general consensus on the need to restrict the number of MEPs to 700, although some delegations have expressed the view that flexible arrangements will be required during a transitional period. Parliament's proposal was supported by a number of delegations, but a majority came down in favour of an across-the-board and proportional reduction in the current number of Members from each country.

The Presidency has submitted proposals concerning Parliament's legislative role. Some delegations welcomed the move to draw up a definition of the term 'legislative act', but the practical proposal to amend Article 249 of the EC Treaty was met with scepticism by most of the delegations, including Parliament's. Consideration has also been given to the amendment of Article 251 of the EC Treaty (unanimously rejected) and the abolition of the cooperation procedure (approved by a large majority, although no decision was taken as to whether it should be replaced by the codecision or consultation procedure).

Other institutions

The Council Presidency has set up a technical working party with a task of carrying out the practical preparations for the reform of the Court of Justice. Those preparations include consideration of the possibility of incorporating into the Treaty flexible provisions which would make it easier in the future to adjust the division of responsibilities between the Court of Justice and the Court of First Instance and to transfer to the latter responsibility for dealing with requests for preliminary rulings. These discussions took place at the same time as those in the Preparatory Group. The initial report was submitted in late March. The final report was distributed on 31 May and will serve as the basis for further work under the French Presidency, either in the Preparatory Group or in the technical working party, whose term of office may be renewed.

As regards the composition of the Court of Auditors, there is a large majority in favour of a Court made up of one Member per country. However, most of the delegations opposed the idea of discussing issues relating to the powers of the Court of Auditors at the IGC. Only one delegation welcomed the proposal put forward by the Commission and Parliament to establish a European tax authority with responsibility for combating fraud against the Community budget.

As regards the Committee of the Regions and the Economic and Social Committee, the majority view is that the IGC should deal only with the size and composition of the two committees: limited enlargement-related increase in their number of members and maintenance, in general terms, of the current arrangements concerning their composition.

Other items on the agenda of the Intergovernmental Conference

The Presidency has endeavoured to expand the agenda to include, for example, the following matters:

The discussions on closer cooperation were held at two working lunches attended by the members of the Preparatory Group and at an informal meeting organised by the Council Presidency. Some delegations are prepared to consider the standpoint adopted by Parliament on this matter. Moreover, at the most recent working lunch (6 June) an exchange of views was held on the study on the 'reorganisation of the Treaties' drawn up by the Florence Institute at the request of the Commission.

The agenda includes two further topics on which discussions will start under the French Presidency, as decided by the delegations: defence and the Charter of Fundamental Rights. As regards the former, the report of the working party responsible is due to be submitted in late May; as regards the latter, the body responsible for drawing up the Charter will submit its conclusions after the summer. On a proposal from the Belgian and Austrian delegations and Parliament, the Conference also considered, under the Portuguese Presidency, Articles 6 and 7 of the EU Treaty concerning respect for fundamental rights.

The calendar of IGC meetings under the Portuguese Presidency will come to an end with the ministerial meeting on 13 June at which preparations will be made for the Feira European Council on 19 and 20 June 2000. The Portuguese Presidency will submit its final report on the stage reached in the proceedings of the IGC in Feira. Work will then resume under the French Presidency.