

THE 1996 INTERGOVERNMENTAL CONFERENCE: WHY ANOTHER IGC?

The Maastricht Treaty on European Union was the first in the history of the Union to create a procedure for its own revision. At the time it was being negotiated, Europe was in the grip of a vortex of change and none could be sure that the Union would be adequately adapted to deal with those changes, particularly in the areas of foreign and security policy and justice and home affairs which occupied important places in the Treaty.

Since then, the need for review has been strengthened by the much more definitive assurances about membership which the Union has given to the countries of central and eastern Europe, as well as Cyprus and Malta. The Union may number 25 Member States within the next decade which may mean major reforms of the institutions and their procedures.

The issues to be examined according to the Maastricht Treaty on European Union

The Treaty indicates that the main issues should be:

- * whether decisions are being taken as closely as possible to the citizen
- * whether the internal market is succeeding in promoting balanced economic and social progress
- * whether the provisions on Common Foreign and Security Policy should be revised
- * whether the rights and interests of citizens are being protected
- * whether cooperation is developing effectively on justice and home affairs
- * whether the Council of Ministers should share more legislative powers with the European Parliament
- * whether the competencies of the Union should be extended to include energy, civil protection and tourism

This list is by no means exclusive. As can be seen from the annex, the Treaty allows virtually any issue to be raised which relates to the Union's objectives. Since it was signed in February 1992, the prospect of the enlargement of the Union prompted the European Council to add a number of other items to the IGC's agenda:

- * should there be a limit on the number of European Commissioners and if so, on what basis should they be appointed
- * the extent of qualified majority voting in the Council of Ministers and the weighting of votes
- * measures to make the institutions work better.

The Reflection Group

The European Council meeting in Essen in December 1994 called for the formation of a Reflection Group to prepare for the IGC. It was to be made up of representatives of foreign ministers, the

structures to an architecture that was already far from simple. Some complications derive from the fact that the Treaty created a structure based on three pillars:

Pillar One - founded the Union on the established Community institutions and procedures with the Commission, the Council, the Parliament and the Court of Justice playing their recognised roles

Pillar Two - provides for a Common Foreign and Security Policy essentially based on intergovernmental cooperation with limited roles for the Commission and the Parliament

Pillar Three - provides for cooperation on justice and home affairs on a similarly intergovernmental basis

Agreed goals, differing approaches

The generally agreed goals of the 1996 IGC are to bring more effectiveness, coherence and democratic accountability to the workings of the Union. Among other things, this means simplifying procedures, clarifying responsibilities and bringing more transparency and democracy to the decision-making processes.

However, Member States will be bringing contrasting approaches to the search for these objectives. Many wish to see further progress towards deepening the Community by means of more majority voting in the Council, more powers to the European Parliament and stronger roles for the Commission and Parliament in developing the CFSP.

Others, however, believe that the integration process has now gone far enough and that further deepening would require unacceptable transfers of sovereignty from the Member States. Its members want to preserve and expand the intergovernmental spheres of action and possibly even transfer some areas of competence which currently belong to the Union back to national governments.

So the debate in the IGC will be shaped by the principles of effectiveness, coherence and democratic accountability as well as by the contrasting attitudes of federalism and intergovernmentalism.

The main issues

It is still too early to clearly identify all of the issues which will feature on the agenda of the IGC. However, declarations by both the European Council and the Council of Ministers indicate that institutional questions will be particularly prominent including:

* **voting systems in the Council of Ministers** (the size of blocking minorities, weighting votes in proportion to size of population, extending the scope of qualified majority voting). As far as decision-making procedures are concerned, there may be plenty of scope to simplify the process

involving the Commission, the Council and the Parliament. At the moment, there are more than 20 different ways of arriving at a decision

* **the size of the Commission.** There are now 20 Commissioners and there would be 38 in a Union of 25 members. The search for a more effective Commission leads many to agree with the former President, Jacques Delors, that the number of Commissioners should be reduced. This would break the system under which smaller Member States are entitled to one Commissioner and larger ones, two

* **powers of the European Parliament.** Should an extension of majority voting in the Council be accompanied by an enlargement of the Parliament's powers of co-decision - a possibility explicitly referred to in the Maastricht Treaty - so as to strengthen democratic accountability? Could the Commission's accountability to the Parliament be strengthened if its next President was elected by the Parliament from a list drawn up by the European Council, as President Santer has suggested

* **justice and home affairs.** Do the procedures and machinery for intergovernmental consultation need simplifying in order to speed-up decision-making?

Other issues

* **foreign and security policy.** It is widely recognised that lack of political will is largely responsible for the relatively meagre progress in applying the Maastricht Treaty's provisions in this area. However, there is likely to be some discussion at the IGC of more majority voting on decisions which implement unanimously agreed common positions.

* **defence.** The end of the Cold War and the need to revise the Treaty of Brussels (the founding Treaty of the Western European Union) in 1998 raises the question as to whether defence and the WEU should be formally incorporated into the structure of the European Union.

* **subsidiarity and simplification of procedures.** Member states will want to review the working of the subsidiarity principle which decrees that in those areas for which the Union does not have exclusive competence, the responsibility for action should lie with the Member States unless they cannot "sufficiently achieve" the objectives. Subsidiarity concerns above all the exercise of powers, not their allocation, which is determined by the Treaty. Implicit in the Treaty is the principle that national powers are the rule and the Community's the exception.

PARTICIPANTS IN THE REFLECTION GROUP

President:

Spain: Carlos WESTENDORP, Secretary of State for Relations with the European Communities

Austria: Manfred SCHEICH, Permanent Representative

Belgium: Erik DERYCKE, Minister for Foreign Affairs and Development

Denmark: Niels ERSBOELL, former Secretary General of the EU's Council of Ministers

Finland: Ingvar MELIN, former Defence Minister

France: Michel BARNIER, Minister for European Affairs

Germany: Werner HOYER, Minister of State for European Affairs

Greece: Stephanos STATHATOS, former Ambassador to London, Paris and Brussels

Ireland: Gay MITCHELL, Minister of State for European Affairs

Italy: Silvio FAGIOLO, formerly Deputy Ambassador to Washington

Luxembourg: Joseph WEYLAND, Ambassador to London

Netherlands: Michiel PATIJN, State Secretary for Foreign Affairs

Portugal: Andre GONZALVES PEREIRA, former Minister for Foreign Affairs

Sweden: Lund GUNNAR, Under Secretary for Trade

United Kingdom: David DAVIS, Minister for European Affairs

European Commission: Marcelino OREJA, Commissioner for Institutional Affairs

European Parliament: Elisabeth GUIGOU (Socialist Group) and Elmar BROK (European Peoples' Party).

INTERGOVERNMENTAL CONFERENCES: AN OVERVIEW

Once very rare indeed, the Intergovernmental Conference (IGC) has become a surprisingly frequent event on the European Union's political calendar. The IGC of 1996 will be the fourth in eleven years, but only the sixth in the Union's 45-year history. All of its predecessors have marked crucial advances in the European construction.

Their growing regularity is vital testimony to the pressures for change which have been, and continue to crowd in on the Union. Pragmatically, but with determination, the three in the last decade have tried to respond to these pressures with a mix of institutional reforms, changes in procedures and the addition of new competences and forms of cooperation.

Obviously, the IGC process is not an invention of the Union - it is as old as the relationships between sovereign powers. With the growth of global interdependence, intergovernmental conferences have been seeking multilateral solutions to problems in such areas as the environment, aid programmes and international trade. They have resulted in agreements and Treaties between sovereign nations which expand the frontiers of international cooperation, and frequently deepen it.

Within the Union, however, the IGC process has acquired a more general importance. IGCs do not directly develop the specific content of policies - as might, for example, an international agreement limiting pollutants - but they do alter the legal and institutional framework and the procedures by which policy agreements are made between Member States. The two IGCs of the 1950s were exercises in political construction based on the writing of new Treaties. The three most recent, were involved in adding to the existing Treaties and in amending them.

Characteristics of an IGC

An IGC is, by definition, a negotiation between governments outside of the framework of the Union's procedures and institutions. Each has its own particular flavour and qualities, but they all share important similarities:

- * their negotiations are usually shaped by a previously-prepared reports and recommendations
- * most of the detailed work is done by expert officials under the guidance and coordination of the Council of Ministers (1985 and 1990-91). In 1991, the final terms were determined by the European Council
- * all have succeeded in achieving their fundamental objectives

Laying the Foundation Stone - The 1950-51 Intergovernmental Conference

This was the founding moment in the Union's history. The IGC, which began in May 1950, brought together France, Germany, Italy and the Benelux countries under the chairmanship of Jean Monnet. Other participants included Walter Hallstein, who led the German delegation and

was subsequently an outstanding President of the Commission, and for the Dutch delegation, Dirk Spierenberg, later a prominent public servant in European affairs.

Negotiations were based on the Schuman Plan - the proposal for placing Franco-German coal and steel production, and that of other nations that wished to join, under a common High Authority.

The Treaty of Paris of April 1951 placed the Coal and Steel Community under the control of a High Authority which was made answerable to an Assembly with powers to dismiss it. Its actions could be legally challenged at a European Court of Justice.

Essentially, this institutional model was to be adopted for the European Economic Community at the second IGC.

Building Europe - 1955-57 Intergovernmental Conference

After the foreign ministers of the Six had launched the IGC at Messina in April 1955, a project group was set up under Paul-Henri Spaak which reported in favour of creating a common market for all goods and services based on a customs union with a common external tariff. It also proposed a union in the field of nuclear energy. The report was approved by Foreign Ministers at Venice in May and negotiations between officials began shortly afterwards at the Chateau Val Duchesse in Brussels.

In March 1957, the Six signed the Treaties of Rome establishing the European Economic Community and the European Atomic Energy Community (Euratom). The institutions of these two Communities were merged with the ECSC in 1965.

From the outset, the EEC shared the same Parliamentary Assembly and Court of Justice with the ECSC but its High Authority, the Commission, had less authority over member governments.

A long interlude

Twenty seven years were to elapse after the launch of the EEC before Member States were again to resort to an IGC in search of a response to new challenges. Why was this? Some historians say there was a decline in the federalist impulse which had led to the creation of the ECSC and the EEC. Others put the blame squarely on the economic difficulties created by oil price shocks which pushed inflation and unemployment up and political confidence down.

Certainly, attempts were made in the early 1970s to set the Community on a path to economic and political union after its enlargement to include Britain, Denmark and Ireland in 1973. But these were not based on any use of the IGC and were nullified by economic crisis and political weakness. At the same time, a new and transparently intergovernmental element was introduced into Community decision-making in 1974 with the first meeting of the European Council.

Originally conceived by the then French President Valéry Giscard d'Estaing as an opportunity for intimate and informal discussion and agreement between heads of state and government, the

European Council swiftly filled a void in Community decision-making. It became the locus of discussion and negotiation on issues which the Council of Ministers was unable to resolve. From that point, it was only a small step for the European Council to assume its modern strategy-setting role, not only for internal policies but also in determining common positions on key issues of foreign policy.

The 1980s turning point

During the first half of the 1980s, however, new external and internal pressures were strengthening demands for reforms which prompted most member states to think in terms of reviving the IGC mechanism. Internal demands for change were generated by widespread dissatisfaction with the working of the Community and anxieties that Europe was steadily falling behind the US and Japan in economic performance and technological development. Economic weakness was attributed by many to fragmentation of the Community's market by non-tariff barriers.

Many blamed this lack of dynamism on a reassertion of national power at the expense of the Community's institutions and procedures. This view was particularly rooted in the European Parliament which had been directly elected since 1979. In 1984, the Parliament adopted the Draft Treaty of European Union, inspired by the mercurial, grey-bearded Altiero Spinelli, an Italian radical and former Commissioner.

The Draft's proposal for a federal reform of the Community institutions appeared to many to be too federalist for its time. Nevertheless after the European Council had responded by setting up an ad hoc committee, this committee (headed by the Irish Senator James Dooge) produced a report in favour of institutional reform which found much to commend in the Parliament's draft.

Meanwhile, the new Commission headed by Jacques Delors produced its recipe for galvanising the Community's economy: the White Paper, Completing the Internal Market, which set out a detailed timetable for enacting nearly 300 measures to remove non-tariff barriers by the end of 1992.

But if this was the remedy for economic weakness, it could only be applied by attacking the sclerosis which was steadily invading the Community's decision-making process. At the European Council in Milan in June 1985, the heads of government approved the Commission's White Paper on the internal market and also decided, by an unprecedented majority vote, to set up an IGC to consider institutional reform.

Relaunching Europe - the 1985 IGC

The Dooge Report and the Single Market White Paper were working papers for this IGC. The political objective was to agree a package of reforms which would guarantee fulfillment of the 1992 programme. In reviving the IGC mechanism, governments could now draw upon nearly 30 years of experience of working together to use it to best advantage.

Most of them fielded their Permanent Representatives as chief negotiators. These all had immense knowledge of the Community's policies and practices and knew each other well from their weekly encounters in the Committee of Permanent Representatives. As members of an exclusive club with well-established conventions and a high level of personal trust between many of its members, they knew how to negotiate to agreement. This IGC reached a rapid conclusion in less than four months between September and December.

The trophy presented to the European Council was the Single European Act, a series of treaty amendments which at the time disappointed those who were looking for a federalist leap forward. Subsequent experience revealed, however, that the Single Act enabled the Community to make very significant progress.

It committed the Member States to completing the internal market by 1992, made this possible by a significant extension of majority voting, developed the Community's powers in economic and social fields, enhanced the role of the European Parliament and formalised cooperation in foreign policy and the existence of the European Council - neither of which had previously featured in the Treaties.

Towards Economic and Monetary Union - the 1990-91 Intergovernmental Conferences

As it became clear that Member States had the political will and, thanks to the Single Act, the procedural flexibility needed to achieve the single market, attention swiftly turned towards the question of a single currency. Jacques Delors, the Commission President, shared the view of many influential economists that free movement of capital goods and services was not compatible with nationally determined monetary policies.

They believed that the European Monetary System was too fragile an arrangement to survive this anomaly, and that it could be severely damaged if economic and monetary policies were not unified - a conviction that was vindicated by the currency storms of September 1992.

In June 1988, the European Council set up a committee, chaired by Delors, to produce proposals for an economic and monetary union. The Committee reported in April 1989 and explicitly drew attention to the transfer of powers to the Union which would be necessary as well as the institutional changes. In December of that year, the European Council decided to call an IGC to prepare the necessary Treaty revisions for a complete economic and monetary union.

The sudden collapse of the Soviet empire in eastern Europe and the reunification of Germany in October 1990 led both France and Germany to seek closer political integration of the Community. The European Council of June 1990 adopted the proposal of Chancellor Kohl and President Mitterrand that an IGC on political union be held in parallel with that on monetary union. Both were formally launched by the European Council in Rome in December 1990 and resulted in the Treaty on European Union, agreed by the European Council at Maastricht in December 1991.

One IGC will lead to another

The IGC on economic and monetary union was comprised mainly of officials from national Treasuries and Finance Ministries. As did all previous IGCs it had a seminal report to draw upon - the Delors report - and also a great deal of preparatory work that had been carried out by governors of the Community's central banks. The result was a structured design for EMU based on a single currency, a European Central Bank and a phased programme for establishing them by 1997 or at the latest by 1999.

Most Member States again deployed their permanent representatives in Brussels for the IGC on political union - France, Denmark and Italy were the only exceptions. The result of their labours was more complicated - stronger powers for the European Parliament, a modest extension of Community competences and of majority voting into areas of social policy, counterbalanced by cooperation in the fields of justice and home affairs on a largely intergovernmental basis.

Modest steps were designed towards the construction of a common foreign and security policy in a system which is more intergovernmental than that of the Union, although the Commission and Parliament do play a part and there is an opening for the use of majority voting.

The Treaty on European Union, which amends the other Treaties but does not replace them, is the first to schedule a subsequent IGC to review its working. This is to be launched in 1996 with preparations opening, symbolically, with a meeting of Foreign Ministers in Messina on the 40th anniversary of that historic conference which laid the path to the Treaty of Rome.

INTERGOVERNMENTAL CONFERENCES 1950-95

1950-51:

resulting in the Treaty establishing the European Coal and Steel Community

1955-57:

resulting in the Treaties establishing the European Economic Community and the European Atomic Energy Community

1985:

resulting in the Single European Act

1990-91:

two IGCs resulting in the Treaty of European Union

WHAT THE TREATY SAYS ABOUT THE IGC

The Treaty's concern is that the IGC should examine how effectively the Union's mechanisms and institutions are achieving the objectives set out in Articles A and B:

Objective of Article A

- * whether decisions are being taken as closely as possible to the citizen

Objectives of Article B

- * promoting economic progress through the internal market
- * strengthening economic and social cohesion
- * establishing Economic and Monetary Union and a single currency
- * implementing a Common Foreign and Security Policy and eventually framing a common defence policy possibly leading to a common defence
- * protecting rights and interests of citizens through Union citizenship - developing close cooperation on justice and home affairs.

All of these objectives to be achieved while respecting the principle of subsidiarity (Article B).

The Treaty also states that the scope of the co-decision procedure involving the Council and the Parliament may be widened (Article 189 (b)), that the CFSP provisions may be revised, bearing in mind the expiration in 1998 of the Brussels Treaty establishing the Western European Union (Article J.4).

Two declarations call for an examination of the possible extension of Community competency to include energy, civil protection and tourism (1st Declaration) and for an examination of the reclassification of Community acts to establish a legal hierarchy between different categories of actions.

THE IMPORTANCE OF REPORTS

Most IGCs have been shaped by a key report:

- * in 1950: the Schumann Plan

- * in 1955: the Spaak Report

- * in 1985: the Dooge Report and the Single Market White Paper

- * in 1990-91: the Delors Report on Economic and Monetary Union