



European Communities

**EUROPEAN PARLIAMENT**

# **SESSION DOCUMENTS**

English Edition

26 March 1992

A3-0123/92/PART I

## **REPORT**

of the Committee on Institutional Affairs

on the results of the intergovernmental conferences

Rapporteur: **Mr David MARTIN**

with Mr Fernand HERMAN as regards EMU

**PART I : A. MOTION FOR A RESOLUTION  
B. EXPLANATORY STATEMENT**

DOC\_EN\RR\205517

PE.155.444/fin./Part I  
Or. EN

A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

\* = Consultation procedure requiring a single reading

\*\*II = Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment

\*\*I = Cooperation procedure (first reading)

\*\*\* = Parliamentary assent which requires the votes of a majority of the current Members of Parliament

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Part II containing the opinions and Part III containing the annexes will be published separately.

By letter of 29 September 1989 the Committee on Institutional Affairs requested authorization to draw up a report on the intergovernmental conference in the context of Parliament's strategy for European Union.

At the sitting of 20 November 1989 the President of the European Parliament announced that the Committee had been authorized to report on this subject.

At its meeting of 31 October 1989 the Committee on Institutional Affairs appointed Mr D. Martin rapporteur.

On 14 March 1990 the European Parliament adopted the resolution contained in the first interim report by the rapporteur (Doc. A3-47/90). On 11 July 1990 the European Parliament adopted the resolution contained in the second interim report by the rapporteur (Doc. A3-166/90). On 22 November 1990 the European Parliament adopted the resolution contained in the third interim report by the rapporteur (Doc. A3-270/90).

At its meeting of 28 January 1992 the Enlarged Bureau decided to ask all the other committees that wished to deliver an opinion to do so.

At its meeting of 29/30 January 1992 the committee decided, following a proposal by the President of the European Parliament on 28 January 1992, to incorporate the conclusions contained in the opinion of the Committee on Economic and Monetary Affairs and Industrial Policy into its resolution in view of the special responsibility of that committee and its rapporteur, Mr Herman, for the intergovernmental conference on Economic and Monetary Union.

At its meetings of 17/18 December 1991, 22/23 and 28/29 January, 18/19 and 26/27 February and 17/18 and 24/25 March 1992 the Committee on Institutional Affairs considered the draft report.

At the last meeting it adopted the motion for a resolution by 23 votes to 4 with 2 abstentions.

The following took part in the vote: OREJA, chairman; PRAG and BRU PURON, vice-chairmen; D. MARTIN, rapporteur; AGLIETTA, BEIROCO, BOCKLET (for LUSTER), BOISSIERE, CASSANMAGNAGO CERRETTI, CHEYSSON, DE GIOVANNI, DE GUCHT, DURY (for GLINNE), DUVERGER, FERRER (for BOURLANGES), HÄNSCH, HERMAN, LAGAKOS, MARINHO, METTEN, MUSSO, PEREZ ROYO, PLANAS PUCHADES, ROUMELIOTIS, SCHODRUCH (for BLOT), TURNER (for SPENCER), VALVERDE LOPEZ, WOLTJER (for FORD) and VON WECHMAR.

The report was tabled on 26 March 1992.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A.

MOTION FOR RESOLUTION  
on the results of the intergovernmental conferences

The European Parliament:

- having regard to the Treaty on European Union signed in Maastricht on 7 February 1992,
- having regard to the European Parliament's proposals submitted to the IGCs,<sup>1</sup>
- having regard to the Declaration adopted by the Conference of the Parliaments of the Member States of the European Community in Rome in November 1990 and submitted to the IGCs,
- having regard to the proposal from President Mitterrand and Chancellor Kohl to establish European Union,
- having regard to the report of its Committee on Institutional Affairs and the opinions of the Committees on Economic and Monetary Affairs and Industrial Policy as well as all its other standing committees (Doc. A3-0123/92),

A. whereas the European Parliament defined the essential elements of European Union as being:

- "- economic and monetary union with a single currency and an autonomous central bank;
- a common foreign policy, including joint consideration of the issues of peace, security and arms control;
- a completed single market with common policies in all the areas in which the economic integration and mutual interdependence of the Member States require common action notably to ensure economic and social cohesion and a balanced environment;
- elements of common citizenship and a common framework for protecting basic rights;
- an institutional system which is sufficiently efficient to manage these responsibilities effectively and which is democratically structured, notably by giving the European Parliament a right of initiative, of co-decision with the Council on Community legislation, the right to ratify all constitutional decisions

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<sup>1</sup> Notably EP Resolutions of 11 July 1990 (OJ C231, P.97), 22 November 1990 (OJ C324, p. 219) (MARTIN Reports); 16 May 1990 (OJ C149 p.66) and 10 October 1990 (OJ C284 p.62) (HERMAN Reports)

requiring the ratification of the Member States also and the right to elect the President of the Commission;"<sup>2</sup>

- B. whereas the Treaty of Maastricht contains provisions which are inconsistent with regard to the above requirements and whereas although some progress has been achieved on EMU, common policies and citizenship, the institutional system contains shortcomings to the extent that it is doubtful whether the European Union will be able to achieve its proclaimed objectives, especially if its membership is enlarged, and whereas it has not eliminated the parliamentary democratic deficit;
- C. whereas the IGCs themselves recognised the insufficiency of their achievements in that they provided in the Treaty for a new IGC in 1996.
- D. whereas, at the intergovernmental conference, a temporary mandate was given for further improvements to be made by the end of 1992 and a decision was taken to create a cohesion fund.

#### In general

1. Considers that the urgent need for a formal act embodying the desire for union of the Member States of the Community and the reactions so far in several Member States require immediate ratification of the Treaty of Maastricht, despite its shortcomings, but considers that the EP and the national parliaments must seize the opportunity of ratification to demand significant progress towards a genuine European union and to put forward specific proposals as outlined in this resolution and in accordance with the final declaration of the Conference of Parliaments of the European Community;
2. Draws attention to the following major shortcomings in the new treaty which:
  - a) Is based on a "pillar" structure that:
    - leaves the common foreign and security policy outside the Community Treaty (with, therefore, a lesser role for the Commission and for Parliament and no possibility for legal redress at the Court of Justice) and will confuse the rest of the world with the "Union" (represented by the Presidency of Council) acting in some areas and the "Community" (represented by the Commission) acting in others;
    - leaves cooperation in the spheres of justice and home affairs outside the Community treaty thus escaping effective parliamentary and judicial control in an area in which citizens' rights are directly affected<sup>3</sup>;

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<sup>2</sup> EP Resolution of 11th July 1990, OJ C231, p.97, para. 3

<sup>3</sup> however, this "pillar" cannot remove from the Community the competences that it already has in this field, notably those accepted in the White Paper on completing the internal market (paragraphs 24-31 and paragraphs 47-56) and those provided for in the EEC treaty (Articles 100a and 235)

- provides for defence matters to be delegated to WEU without providing for appropriate parliamentary control of the activities of this organization.
- b) Fails to provide any economic policy authority with adequate democratic legitimacy to counterbalance the autonomous monetary policy authority of the European Central Bank and lays down specific procedures for economic policy decisions which derogate in Council's favour from traditional Community procedures.
- c) Does not provide a real co-decision procedure, which would have meant that the EP and the Council would have had the same decision-making powers over any legislative act, since the Council is allowed to act unilaterally in the absence of an agreement with the EP, and also applies this procedure only to a limited area.
- d) Fails to provide for parliamentary assent for future treaty changes, for the modification of own resources or for additional measures concerning citizenship.
- e) Retains procedures requiring unanimity in Council for a very wide range of decision-taking and legislative procedures, including, remarkably, two areas in which the procedure of Article 189b applies, and areas of vital interest to the Community such as many aspects of social and environmental policy and taxation.
- f) Contains altogether such a variety of legislative procedures, mostly with variants, that overall transparency and clarity is lacking, and making conflicts over legal bases inevitable.
- g) Provides for only a limited increase in the scope of Community action in the field of social policy, even among the eleven Member States committed to making progress in this field, particularly where issues to do with social security and the nationals of third countries are concerned, these matters still being subject to a unanimous vote by the Council.
- h) Does not stipulate that members of the Committee of the Regions must be democratically elected representatives of regional or local bodies.
- i) Introduces a provision allowing Council unilaterally to repeal international agreements to which both Parliament and Council had previously given their assent, and to adopt sanctions without Parliament's approval.
- j) Contains in the Protocols, annexed to the Treaty, provisions that will derogate from the principle of equal treatment laid down in Article 119 of the EEC Treaty.
- k) Fails sufficiently to develop the concept of citizenship and protection for fundamental rights and freedoms, and, in particular,

fails to institute a charter of fundamental rights and freedoms on the basis of Parliament's resolution of 12 April 1989<sup>4</sup>.

- l) Fails to address the issue of the classification and hierarchy of Community acts, thus maintaining the lack of distinction between legislative and executive acts, or the related issue of the procedures for delegating implementing measures to the Commission (commitology procedures), which remain unsatisfactory.
  - m) In budgetary matters it formally incorporates the principle that not all expenditure should be included in the budget; maintains the imbalance in relation between the two arms of the Budgetary Authority, notably by granting the Parliament, with regard to own resources, no more than a right of consultation and by maintaining the obsolete distinction between compulsory and non-compulsory expenditure; fails to incorporate any of the procedural advances which have been made in recent years.
  - n) Fails to merge the EAEC and ECSC treaties with the EEC Treaty or even to adjust their legislative procedures in order to bring them into line with the EEC Treaty.
  - o) Fails to adjust the number of members of the European Parliament to take account of German unity.
  - p) Fails to lay down specific provisions concerning energy, civil protection and tourism, although these are now added to the list of Community activities specified in Article 3 of the EEC Treaty.
  - q) Fails to modify the procedures for appointing members of the Court of Justice and the Court of Auditors in order to involve confirmation by the European Parliament and enhance their independence.
  - r) Fails to recognize Parliament as having equivalent rights to initiate and participate in proceedings before the Court of Justice as the other political institutions and the Member States of the Community.
  - s) Ought to have stated that the Council, when enacting legislation, will meet publicly;
3. Recognizes, nevertheless, the positive elements included in the new Treaty, all of which were requested before the IGCs by the EP, notably:
- a) The commitment to establish economic and monetary union with a single currency and central bank.
  - b) The wider scope of Community competences with the addition of new titles and articles to the EEC Treaty concerning, notably, consumer protection, public health, culture, education, industry, development and trans-European networks.
  - c) The inclusion in the Treaty of the principle of subsidiarity in defence of national and, especially, regional powers.

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<sup>4</sup> OJ C 120, 16.5.1989, p. 51

- d) The commitment to a common foreign and security policy - though Parliament regrets that this is not covered by the institutional Community system and therefore by Parliament's supervision and political initiative - including, eventually, a common defence policy.
  - e) The enhanced commitment to the principles of economic and social cohesion, ecologically sustainable growth, and a high level of employment.
  - f) The enlargement, albeit small, of the domain of qualified majority voting.
  - g) The new procedure for the appointment of the Commission which involves the European Parliament and which links the term of office of the Commission to that of Parliament.
  - h) The extension of the legislative powers of the European Parliament in certain areas.
  - i) The extension or confirmation of certain powers of control of the European Parliament and certain obligations of the Commission regarding the implementation of the budget, the establishment of committees of inquiry, the right of petitions, the recognition of sound financial management as a formal criterion for budgetary control.
  - j) The recognition of a right of initiative for the European Parliament, albeit limited.
  - k) The citizenship provisions, in particular those providing for voting rights in the Member State of residence for European and local elections.
  - l) The obligation on the Member States to prosecute infringements of the Community's financial interests and to coordinate their activities, and the consequent need to promulgate an EC-wide judicial basis to harmonize national judicial systems in this area.
  - m) The granting to the Court of Justice of the right to impose penalties on Member States failing to comply with its judgements.
  - n) The creation of a consultative Committee of the Regions.
  - o) Provisions encouraging cooperation between national parliaments and the European Parliament without creating new superfluous institutions.
4. Also welcomes other elements introduced into the Treaty, including the appointment by the European Parliament of a European Ombudsman and consular protection for Community citizens in third countries.
5. Regrets the attitude of the current British government that led to special provisions for the UK regarding monetary union and social policy; welcomes, however, the fact that the other Member States were not willing



to be blocked by the negative attitude of a single national government; expects that the opt-out clause regarding EMU will, in practice, never be used and considers that the derogation from parts of social policy is not sustainable and should be rectified as soon as possible.

As regards economic and monetary union

6. Welcomes the historic decision taken by the Maastricht European Council to introduce a single currency by 1999 at the latest and by 1997 at the earliest, a decision which implies the conduct of a uniform monetary policy and the establishment of an independent European System of Central Banks, but regrets that the transitional period should be so long, and urges the governments to coordinate their budgetary policy efforts to the utmost, with a view to minimizing the adverse effects and instability inherent in a lengthy transitional period, since the implementation of the convergence programmes will have an undesirable economic and social impact, in particular in certain Member States.
7. Deplores the marked similarity between the management structure chosen for the European Monetary Institute and that of the Committee of Governors and the EMCF; this is not sufficient to ensure the independence of the EMI vis-à-vis the current central banks and vis-à-vis national governments.
8. Deplores the fact that, if economic policy-making is to be effective, the scope for parliamentary influence will suffer at national and European level, since national parliaments will lose their ability to discipline national governments because the Council will act by a qualified majority, while the European Parliament will only be notified after the event; is shocked by the provision that recommendations to individual Member States will normally not be disclosed, even to the parliament of the Member State concerned.
9. Regrets that EMU appears to be exclusively geared to stability; while acknowledging the importance of stability, calls for deflationary effects to be prevented when Member States not yet meeting the strict convergence criteria gear their policy to those criteria; calls for the objectives of responsible growth and a high level of employment and social protection to be taken equally seriously, even though there is no provision as yet in the Treaty for specific binding measures in this regard.
10. Regrets that the blueprint for economic policy outlined in the Treaty makes redundant the democratic control exercised hitherto by the national parliaments; such a loss, whether direct or indirect, is evident in the following areas:
  - (a) the economic policy guidelines traditionally established by democratic control of their budgets;
  - (b) safeguard measures vis-à-vis third countries;
  - (c) financial assistance from one Member State to another;
  - (d) the right to ask their governments to make a recommendation in the areas referred to in Art. 109c;this loss has not been offset by transferring equivalent democratic control to the European Parliament.
11. Calls, with a view to reducing this democratic deficit, and prior to being in a position to include them in the forthcoming amendments to the Treaty,

for an interinstitutional agreement between the Council, the Commission and the European Parliament on the basis of which these institutions can cooperate with Parliament, particularly in the areas mentioned in the last paragraph and in the following areas:

- (a) the penalties imposed by the Council on a Member State which fails to comply with a decision concerning the reduction of an excessive deficit;
  - (b) international agreements concerning monetary or foreign exchange regime matters;
  - (c) the appointment of the chairman, the vice-chairman and the other members of the Executive Board of the European Central Bank;
  - (d) the Council directives or decisions laying down the terms and conditions for mutual assistance for a Member State threatened with balance of payments difficulties;
  - (e) the abrogation of a derogation granted to a Member State concerning the introduction of the ECU as the single currency;
  - (f) the assessment of convergence programmes.
12. Deplores the fact that the Maastricht European Council made no provision for the decisions concerning tax harmonization to be taken by a majority in the Council in cooperation with Parliament. It considers it strange that Art. 115 was revised rather than simply deleted. It also regrets that the contribution of the new cohesion fund to financing trans-European networks has been limited under Art. 130d of the Treaty to transport infrastructures instead of being extended to cover telecommunications and energy infrastructures.
13. Welcomes the inclusion of Title XIII on industry, but considers that the only way to compensate for the weakness of European industry would be to endow the Community with powers and financial resources equal to the task of overcoming the handicaps in order to face up to the intensification of international competition. It also regrets that the decisions to be taken by the Council on the basis of these articles remain subject to the unanimity rule, and that Parliament's role is confined to delivering a non-binding opinion.

#### Conclusions

14. Expresses its determination, as with the Single European Act<sup>5</sup> to:
- exploit to the very limit the possibilities offered by the Treaty of Maastricht;
  - to pursue its endeavours to obtain a democratic and effective European Union of federal type.
15. In this light:
- a) Invites the national parliaments, when ratifying the Treaty to call on their respective governments:
    - to prepare the next IGC in order to eliminate the shortcomings of the Treaty of Maastricht in particular as regards the remaining

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<sup>5</sup> Resolution of 16 January 1986

democratic deficit and the efficiency of the decision making process;

- to invite their respective governments to undertake not to make use in Council of the provisions of paragraph 6 of Art. 189b which allows Council to act unilaterally in the event of conciliation failing to reach agreement, and not to adopt in Council any legislative act which Parliament has earlier rejected by absolute majority.
- b) Invites the Council and the Commission, as in the past, to enter into interinstitutional agreements with the Parliament to ensure that new treaties are applied in the most constructive and democratic way possible.
- c) Invites the Commission, wherever legally possible, to choose for its proposals legal bases that require the co-decision procedure and expects the Commission to withdraw its proposals where, under that procedure, Council and Parliament fail to reach agreement in the conciliation committee or where, under the consultation and cooperation procedures, Parliament rejects a text.
- d) Invites the Council to make use of the "passerelle" provided for in Art. K9 to the Treaty of Maastricht and thereby transfer matters concerning justice and home affairs to the field of competence of the European Community.
- e) Instructs the responsible parliamentary organs to prepare a reform of Parliament's working methods that will enable it to make full use of the new procedures and to take the necessary measures within their field of responsibility, bearing in mind the obligation imposed by Art. F (3) of the Maastricht Treaty for the Union to "provide itself with the means necessary to attain its objectives and carry through its policies".
- f) Undertakes to begin already preparations for a new revision of the treaties which should aim to eliminate the shortcomings of the Treaty of Maastricht; believes that many of the issues must be addressed before the IGC scheduled in 1996, in particular because treaty amendments are necessary:
- to adjust the number of members of the European Parliament for German unity;
  - to allow the accession of new Member States which requires a significant improvement in decision-taking procedures, notably as regards Parliament's right of co-decision and the functioning of Council;
  - to remedy the democratic deficit.
- g) Stresses that it will not agree to the accession of new members unless the democratic deficit is eliminated.
- h) Instructs its responsible committee to continue its preparation of a draft constitution (COLOMBO Report) through procedures involving the

national parliaments as provided for in the Declaration of the conference of the parliaments of the European Community of November 1990 in Rome ("assizes") in order to consolidate the achievements of Maastricht and the further changes required into a coherent, balanced and democratic and efficient institutional system.

16. Instructs its President to forward this resolution and the report of the Committee on Institutional Affairs to the Commission, the Council, the Court of Justice, the Court of First Instance, the Court of Auditors, the Economic and Social Committee, the governments and parliaments of the Member States.

B.

EXPLANATORY STATEMENT

No-one can be fully satisfied with the results of the Maastricht Summit. Any negotiation involving a compromise with at least one Government that was philosophically opposed to the whole exercise was unlikely to go far beyond the lowest common denominator. That it did so in some respects is thanks to the pressure brought to bear by the supporters of a federal Union, both within the Community institutions (notably the European Parliament) and outside.

In defining what it envisaged for the Union, the European Parliament defined their essential items to be:<sup>1</sup>

- "- economic and monetary union with a single currency and an autonomous central bank;
- a common foreign policy, including joint consideration of the issues of peace, security and arms control;
- a completed single market with common policies in all the areas in which the economic integration and mutual interdependence of the Member States require common action, notably to ensure economic and social cohesion and a balanced environment;
- elements of common citizenship and a common framework for protecting basic rights;
- an institutional system which is sufficiently efficient to manage these responsibilities effectively and which is democratically structured, notably by giving the European Parliament a right of initiative, of co-decision with the Council on Community legislation, the right to ratify all constitutional decisions requiring the ratification of the Member States also and the right to elect the President of the Commission;"

If we look at the results of Maastricht in light of the above definition, we can see that it does indeed contain provisions for attaining economic and monetary union with a single currency under an autonomous central bank; for establishing a foreign policy that would also deal with the issues of peace, security and arms control; for complementing the single market with policies for economic and social cohesion, a balance environment etc and for a definition of some elements of common citizenship.

Progress is insufficient, however, as regards the last indent of the above definition, namely an effective and democratic institutional system. As it stands, the institutional structure of the Union may well prove too weak to be able to manage the policies attributed to it.

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<sup>1</sup> Resolution of the European Parliament on the Intergovernmental Conferences in the context of Parliament's structure for European Union (Martin II), OJ C 231, 17.9.1990, p. 97.

Let us examine the key points of the new Treaty, in each case comparing the outcome of the IGCs with the requests made by the European Parliament (Martin Reports\*) and by the Conference of Parliaments ("Assizes") held in Rome in December 1990.

It should be noted that this comparison is made on the basis of the texts issued following the Maastricht European Council meeting, prior to the final legally "polished" text. References to article numbers may therefore not be those which appear in the final Treaty.

## I. Principles and Structure of the Treaty

The European Parliament called for a "European Union of federal type" (MARTIN II resolution, para. 4) which "must be based on a single institutional framework" with EPC matters "to be dealt with in the Community framework" (Martin II, para. 8).

The Rome assizes wished "to remodel the Community into a European Union on a federal basis" (Recital C) and took the view that "European Political Cooperation must be incorporated into the treaty and into the Community structures" (paragraph 4).

The Maastricht Treaty provides for a "pillar" structure whereby one part of the Treaty amends and adds to the Community treaties, but the provisions concerning foreign policy and security (and those concerning cooperation on internal affairs and justice) are not incorporated into the Community treaties. They stand in their own right with largely intergovernmental procedures not subject to judicial review in the Court of Justice. Compared to the current EPC system, it will at least be the Council (rather than "the Foreign Ministers meeting in political cooperation") which conducts the policy, with a degree of involvement from the other institutions: the process is therefore brought closer to the Community framework even if it is not yet fully integrated within it. The reference to the "federal destiny" of the Community was, in the end, not incorporated into the Treaty - (but the US Constitution does not contain the word federal either!).

\* There were three MARTIN reports, MARTIN I (March 1990) which laid down the basic approach of Parliament. MARTIN II (July 1990) which spelled out in detail Parliament's proposals to change the treaties and MARTIN III (November 1990) which put these proposals into the legal language of treaty articles. MARTIN II is the one most suitable for quotation.

## II. Common Foreign Policy

The European Parliament called for EPC to be dealt with in the Community framework (paragraph 8, MARTIN II resolution) for Council "to be given the prime responsibility for defining policy" for the Commission "to have a right of initiative" and "a role in representing the Community externally"; for the EPC secretariat "to be absorbed by the Commission and Council"; for foreign policy to be the subject of European Parliament "scrutiny" (paragraph 9, MARTIN II Resolution); for the scope of foreign policy to include security, peace and disarmament (paragraph 10) and for the Community "to have common policies in all matters in which the Member States share essential interests" (paragraph 11). Qualified majority voting would be the norm, but Member States could be granted derogations or, exceptionally, opt out (MARTIN III).

The assizes considered "that a political Union comprising a foreign and security policy of matters of common interest must be established and that EPC must be incorporated into the Treaty and into the Community structures" (paragraph 4).

The Maastricht Treaty provisions on a common foreign and security policy were laid down in Title V which remain separate from the Community treaties, as did Art. 30 of the Single European Act. However, it is to be the Council (rather than "the Foreign Ministers meeting in EPC") which is to lay down policy. The Commission will have a right of initiative, but the Union will be represented externally by the President of Council. Decisions will be taken by unanimity, but, in cases where it is agreed to follow "joint action" Council may define (unanimously) those matters on which implementing decisions can then be taken by a qualified majority. The EPC secretariat will be absorbed by the Council secretariat. The CFSP includes "all questions related to the security of the European Union, including the eventual framing of a common defence policy, which might in time lead to a common defence". However, defence matters are sub-contracted to WEU, whose membership will be enlarged to all those Member States wishing to accede to it. WEU secretariat and council will be moved to Brussels and close working relationships will be established with the Community institutions (synchronized presidencies, contact with the Commission, cooperation between the EP and WEU Assembly).

## III. Economic & Monetary Union

(see the opinion of the  
Committee on Economic and Monetary Affairs and Industrial Policy)

## IV. Citizens Rights

The European Parliament called for the incorporation into the treaties of its Declaration of fundamental rights and freedoms and the Joint Declaration against racism and xenophobia. It called for the Community to accede to the European Convention on Human Rights (ECHR). It called for the development of common forms of European citizenship through "such measures as voting rights

for Community citizens in municipal and European elections in their Member State of residence" (MARTIN II, paras. 18 & 19).

The assizes called for "the inclusion in the treaties of provisions to establish the idea of European citizenship, including the right for Community citizens to vote in European elections in the Member State in which they reside" and called for the inclusion in the treaties of the EP's declaration on fundamental rights and EC accession to the ECHR (Rome Declaration, para. 10).

The Maastricht Treaty added a new section on citizenship to the EEC Treaty. It opens with the statement that "citizenship of the Union is hereby established". Citizens of Member States are citizens of the Union, enjoying the rights conferred by the Treaty, including the right to move and reside freely within the territory of the Member States, the right to vote in local and European elections and the right to enjoy consular protection abroad by the diplomatic authorities of other Member States where his/her own is not represented. These rights must, however, be exercised in accordance with detailed arrangements to be adopted by the end of 1994 by Council (assent of Parliament required regarding residence rights). Union citizens are also given the right to petition the Parliament or apply to a Community ombudsman to be elected by Parliament. An article states that European political parties "contribute to the forming of a European awareness and expressing the political will of the citizens of the Union". The new Treaty does not comprise a declaration of fundamental rights but the "common provisions" (Article F) of the Union Treaty, which are not subject to review by the Court of Justice, states that the Union shall respect fundamental rights as guaranteed by the ECHR.

## V. Subsidiarity

The European Parliament proposed to add a new article 3a to the Treaty specifying that the Community "shall act only to fulfill the tasks conferred on it by the treaties and to achieve the objectives defined thereby. Where powers have not been exclusively or completely assigned to the Community, it shall, in carrying out its tasks, take action wherever the achievement of the objectives requires it because, by virtue of their magnitude or effects, they transcend the frontiers of the Member States or because they can be undertaken more efficiently by the Community than by the Member States acting separately" (Martin III, Article 3a).

The assizes took over this definition in Parliament virtually without change, but took the view that it should be enshrined in the preamble to the treaties (Rome Declaration, paras. 23 & 24)

The Maastricht Treaty includes a new article 3b which reads:

'The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein. In areas which do not fall within its exclusive jurisdiction, the Community shall take action, in accordance with the principle of subsidiarity, only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the



Member States and can therefore, by reason of the scale or effects of proposed action, be better achieved by the Community.  
Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty'.

#### **VI. Strengthening Community Competences: a) social**

The European Parliament requested a substantial extension of Community competences and powers in the social field, in particular to provide for the adoption, with majority voting in Council, of policies concerning employment, labour law and working conditions, vocational training, social security, health and safety at work, the right of association and collective bargaining, as well as for the establishment of a legal framework conducive to negotiations of collective conventions at Community level (Martin II, paras. 13, 14 & 15).

The assizes stated that the treaties "must provide for a common social policy" and "this requires not only strong assertion of the objectives in the treaties but also decision-taking in these areas by qualified majority". It also called for a European system of concerted action involving management and labour (Rome Declaration, para. 5).

The Maastricht Treaty contains no modifications to the social chapter of the treaty as this was not accepted by one Member State - the UK. However, protocol no.14 in Annex I of the new Treaty allows the other eleven Member States to use the Community framework to adopt a series of measures that would not apply to the UK, and the UK would not vote within Council (44 votes instead of 54 necessary for a qualified majority). Under this protocol, the eleven would be able to adopt measures by a qualified majority concerning working conditions, information and consultation of workers, equal opportunities and equal treatment and integration of persons excluded from the labour market. The eleven could also adopt, unanimously, measures concerning social security, redundancy, workers representation and co-determination, employment of third country nationals and financial aid for employment and job creation. Provisions for management and labour to negotiate and agree at European level, with the possibility to follow up such agreements with legislation, is included. The EEC Treaty has been amended to provide for a vocational training policy (new chapter on education and vocational training).

#### **VI. Strengthening Community Competences : b) environment policy**

Parliament considered that Community competences regarding environment policy were adequate (except as regards Community participation in international action and the absence of an environment fund) but that a switch from unanimity to majority voting was the key reform needed in this area. It also called for Article 2 of the Treaty to be amended to support the goal of sustainable development (MARTIN II, para. 15 & MARTIN III, Articles 2 & 130r).

The assizes asked for the EC to be given "additional competences in the field of the environment and that decision-taking in this area should be by qualified

majority voting". It called for Article 2 of the Treaty to be amended to support the goal of sustainable development (Rome Declaration, para. 9).

The Maastricht Treaty amended Article 2 to refer to sustainable growth and amended Article 130s to provide for qualified majority voting on environment policy, except for fiscal measures, land use planning, management of water resources and choice of energy supply. It also provided for the establishment of a "cohesion fund" devoted largely to environmental matters.

#### **VI. Strengthening Community Competences: c) economic & social cohesion**

The European Parliament requested a strengthening of policies for economic convergence and actions for economic and social cohesion in particular to "aim at overcoming the disparities between the various regions" (Article 130A in MARTIN III).

The assizes called for the treaties to "include adequate provisions for economic and social cohesion" (Rome Declaration, para. 5) and for regional policy to "aim gradually to eliminate the disparities between the regions and considers that the resources at the disposal of the Community, notably the structural funds, must be reinforced.

The Maastricht Treaty listed the strengthening of economic and social cohesion as one of the objectives of the European Union (Article B of common provisions) and of the Community (Article 2). The chapter of the Treaty on economic and social cohesion was revised, strengthening its references to the need for cohesion, and providing for the establishment of a new cohesion fund providing financial contributions to projects in the fields of the environment and trans-European networks in less prosperous Member States. This fund shall be established by the end of 1993. The IGC also adopted protocol No.15 in Annex I of the Maastricht Treaty. This protocol looks toward the review of the structural funds and of the Community's system of own resources due to take place during 1992 and states the intention of the Member States "to take greater account of the contributive capacity of individual Member States in the system of own resources and to examine the means of correcting for the less prosperous Member States degressive elements existing in the present own resources system". It states "their willingness to modulate the levels of Community participation in the context of programmes of the structural funds" and to review the size of the structural funds.

#### **VI. Strengthening Community Competences: d) other areas**

The European Parliament called for provisions to be added to the Treaty giving the Community strengthened competences in the fields of transport (in particular to add safety provisions and trans-national infrastructures to the existing competences), consumer protection, culture ("to protect and promote the cultural wealth and diversity of the European Community"), womens' rights, and development cooperation (Martin II & III).

The assizes called for a separate article on cultural policy to be inserted into the Treaty (para. 11), and for "the Community to pursue active policies" in the fields of social and civil rights, education, etc (Rome Declaration, para. 6).

The Maastricht Treaty added new titles and chapters to the EEC Treaty concerning trans-European networks for transport and telecommunications, consumer protection, culture, education and vocational training, public health, industrial policy and development cooperation. However, despite development being added to the EC Treaty, the financing of the Lomé convention remains intergovernmental. New articles were added to existing chapters (eg. safety added to the transport chapter).

## VII. Judicial System & Application of Community Law

The European Parliament called for the Court of Justice to be given powers "to impose sanctions, including financial sanctions on Member States which fail to apply Community legislation or implement Court judgments" (MARTIN II, para. 29). Parliament also requested the right to go to the Court of Justice for annulment (MARTIN II, para. 38).

The assizes took the view "that it is essential for the decisions taken by the Community to be implemented both by the Member States and the Community and calls on the Member States to take whatever legislative and executive action it required to ensure that Community legislation is transposed into domestic law on schedule" (Rome Declaration, para. 15).

The Maastricht Treaty added a new paragraph to Article 171 allowing the Court of Justice to impose "a lump sum or penalty payment" on Member States that have not complied with its judgments. It adds to Article 173 a new sentence allowing the European Parliament (and the Central Bank) to bring cases for annulment, but only "for the purpose of protecting their prerogatives" and provides for Parliament itself to be taken to the Court (this entrenches current case law). However, the Court will not be competent to review decisions taken pursuant to the foreign policy or internal cooperation "pillars" of the Union Treaty.

## VIII. Qualified Majority Voting in the Council

The European Parliament considered "that unanimity should no longer be required for decision-taking in Council, except for constitutional matters (revision of the treaties), accession of new Member States and extension of the field of Community responsibilities (Article 235)" (MARTIN II, para. 20).

The assizes considered that "the Council must be able to take its decisions by simple or qualified majority according to the circumstances; unanimity will only be required in the limited cases provided for by the treaties" (Rome Declaration, para. 12).

The Maastricht Treaty extended qualified majority voting to some aspects of environment policy, development policy, consumer protection, educational measures, public health, trans-European networks and some minor matters. It will extend as of January 1996 to the determination of which third country nationals require visas. No change was made in the social field, except as applies among the 11 Member States to a limited number of areas. In some areas, (foreign policy, cooperation in justice and home affairs, other areas of environment policy) Council will be able to agree unanimously to use qualified majority voting for certain matters.

#### **IX. Appointment of the Commission**

The European Parliament called for "Parliament to be given the right to elect the President of the Commission on a proposal from the European Council: the President should, with the agreement of Council, choose the members of the Commission;" and Parliament should then have a "vote of confidence" in the new Commission as a whole before it takes office (MARTIN II, para. 35). This procedure should be followed in the months following each European parliamentary election with the Commission's term of office therefore being changed to five years to follow that of Parliament (MARTIN III, Article 158).

The assizes took the view "that the President of the Commission must be elected by the European Parliament on a proposal from the European Council by an absolute majority; that the President of the Commission, in agreement with the Council, should appoint the members of the Commission and that the incoming Commission as a whole should present itself and its programme to the European Parliament for a vote of confidence; believes that the Commission's term of office should start at the same time as that of the European Parliament; the same procedure should be followed if a new Commission has to be appointed during the parliamentary terms;" (Rome Declaration, para. 18).

The Maastricht Treaty provides for the Member States to consult the European Parliament on the person they intend to appoint as President of the Commission, to consult the nominee for President on the other persons whom they intend to appoint as members of the Commission and for the "President and the other members of the Commission thus nominated" to "be subject as a body to a vote of approval by the European Parliament" (Article 158). As of January 1995 the term of office of the Commission shall be five years, thus enabling a new Commission to be appointed in the months following each European parliamentary election, as requested by Parliament.

#### **X. Co-decision Powers for the European Parliament on Community Legislation**

The European Parliament had asked for Council and Parliament to be given "equal rights and equal weight in the legislative process" with two readings in each body, a conciliation procedure to reconcile differences, and the approval of both bodies necessary to adopt Community legislation (Martin II, para. 33).

The assizes considered that "Parliament must play an equal part with the Council in the legislative and budgetary functions of the Union" (Rome Declaration, para. 12) and that "as regards the European Community's legislative powers, co-decision arrangements between the European Parliament and the Council must be devised" (para. 19).

The Maastricht Treaty introduces a new procedure in Article 189b which provides for two readings, each in Council and Parliament to be followed, if necessary, by a conciliation procedure to reconcile differences. Both Parliament and Council would have to approve the outcome of conciliation. However, if conciliation fails, Council can adopt a text unilaterally which will become law unless it is rejected within six weeks by the European Parliament acting by a majority of its members. This co-decision procedure, weighted in favour of Council, would apply to some fifteen articles under the EEC Treaty (see annex on proposed Maastricht procedures). The Treaty also extends the parliamentary assent procedure to six new areas and introduces the old cooperation procedure (two readings but final say in Council if it is unanimous) to some fifteen new areas and maintains it in three. Finally, the procedure for consulting Parliament is introduced in some twenty-four new areas.

#### **XI. Right to Initiate Legislation**

The European Parliament called "for Parliament also to be given the right to initiate legislative proposals in cases where the Commission fails to respond within a specified deadline to a specific request adopted by the majority of members of Parliament to introduce proposals" (Martin II, para. 34).

The assizes took the view that "a right of initiative must be established in the event of the Commission failing to act" (Rome Declaration, para. 19).

The Maastricht Treaty introduced a new provision whereby "the European Parliament may, acting by the majority of its members, request the Commission to submit any appropriate proposal on matters on which it considers that a Community act is required for the purpose of implementing this treaty" (Article 138b).

#### **XII. Right to Establish Committees of Inquiry**

The European Parliament asked for "a right, enshrined in the treaties, to establish committees of inquiry to investigate alleged contraventions of Community law or instances of maladministration with respect to Community responsibilities" (MARTIN II Resolution, para. 40).

The assizes believed "that the European Parliament's supervisory powers must be enhanced and formally enshrined in the treaties" (Rome Declaration, para. 20).

The Maastricht Treaty provides that Parliament may "set up a temporary committee of inquiry to investigate, without prejudice to the powers conferred

by the treaty on other institutions or bodies, alleged contraventions or maladministration in the implementation of Community law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings". It provided for detailed provisions governing the exercise of this right to be determined by common agreement among Parliament, Council and the Commission.

### **XIII. Powers of Budgetary Control**

The European Parliament called for greater information rights, for its powers of budgetary control to be enhanced and in particular called for "the principle that the observations made in the discharge decisions are binding on all the institutions to be enshrined in the treaty and for the discharge authorities' right to ask the Court of Auditors to carry out investigations and submit reports to be enshrined in the treaty" (Maastricht II Resolution, para. 37).

The assizes called for Parliament's supervisory powers to be enhanced and the position of the Court of Auditors to be strengthened (Rome Declaration, para. 20).

The Maastricht Treaty specifies that "the Commission shall submit any necessary information to the European Parliament at the latter's request" and that "the Commission shall take all appropriate steps to act on the observations in decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure" and that "at the request of the European Parliament or the Council, the Commission shall report on the measures taken in light of these observations and comments, and in particular on the instructions given to the departments which are responsible" (Article 206). It is also specified that the Court of Auditors may issue special reports on specific questions at the request of other institutions (Article 188b). The Court of Auditors is elevated to the rank of a Community institution (Article 4).

### **XIV. Budgetary Procedures**

The European Parliament asked for the reaffirmation of the principle of budgetary universality (i.e. the inclusion in the budget of the Lomé expenditures, and the capital account operations), the right of assent for the own resources, the abolition of the division between the obligatory and non-obligatory expenditures. It proposed to lay down in the Treaty the principle and general rules for a system of multiannual financial planning and a reform of the budget procedure (MARTIN III).

The assizes took the view "that the Community must finance its policy activities from its Own Resources; considers that the decision concerning the Community's own resources should be taken in agreement with the European Parliament and the national parliaments and that the financial provisions contained in the Treaties must be thoroughly revised in order to ensure a more even balance between the two branches of the budgetary authority;" (Rome Declaration, para. 3).

The Maastricht Treaty amended article 199 to ensure that administrative expenditures relating to common foreign and security policy and to cooperation in the spheres of justice and home affairs shall be charged to the budget though this introduces a possible area of tension between intergovernmental decisions by Council on CFSP and justice and home affairs with implications to the EC budget and Parliament's budgetary powers.

The Maastricht Treaty gives the European Parliament the right of consultation for the own resources and does not contain any of the other proposals made by Parliament in this field, though some of them will be dealt with in the forthcoming revision of the Community's finances ("DELORS II")

### **XV. Role of National Parliaments**

The European Parliament expressed "its readiness to assist the parliaments of the Member States with access to information" and to "cooperate with the parliaments of the Member States in the now regular meetings that take place at various levels". However, it considered "that it would not be useful to set up a new institution" or congress of members of national parliaments alongside the European Parliament (Martin II, para. 23).

The assizes supported "enhanced cooperation between the national parliaments and the European Parliament, through regular meetings of specialized committees, exchanges of information and by organising conferences of parliaments of the EC when the discussion of guidelines of vital importance to the Community justifies it, in particular when IGCs are being held" (Rome Declaration, para. 13).

The Maastricht Treaty does not set up any new permanent institution but has two declarations contained in Annex 2 to the Union Treaty. In declaration no.12, the national governments undertake to ensure "that national parliaments receive Commission proposals for legislation in good time for information or possible examination" and took the view that it is important "for contacts between the national parliaments and the European Parliament to be stepped up, in particular in the granting of appropriate reciprocal facilities and regular meetings between members of Parliament interested in the same issues". In declaration no.13, the European Parliament and the national parliaments "are invited to meet as necessary as a conference of the parliaments (or "assizes")". This will be "without prejudice to the powers of the European Parliament and the rights of the national parliaments".

### **XVI. Regions**

The European Parliament called for the creation of "a body consisting of representatives of the regional authorities in the Member States whose function would be comparable to that of the Economic and Social Committee in its specific field" (Martin II, para. 22).

The assizes did not mention this subject.

The Maastricht Treaty established a "Committee of the Regions" with advisory status. It is to have the same number of members as the Economic and Social Committee with which it will share a common secretariat. It will be consulted on matters affecting the regions and may also give an opinion if it wishes, wherever the Economic and Social Committee is consulted (Articles 198a, b & c).

## XVII. Economic & Social Committee

The European Parliament proposed moderately to strengthen the autonomy of the Economic and Social Committee by giving it the right to adopt its own rules of procedure, subject to Council's approval by a qualified majority (instead of unanimity as now) and to be able to deliver opinions on its own initiative (Martin III, Article 196 & 198).

The assizes did not deal with this subject.

The Maastricht Treaty allows the Economic & Social Committee to adopt its own rules of procedure without reference to Council, to meet on its own initiative, and to issue opinions on its own initiative. It also raised the minimum time limit for its opinion from 10 days to 1 month (Articles 196 & 198).

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## CONCLUSIONS AND FUTURE STRATEGY

We are back to the old question of whether a glass is half-full or half-empty. But when you are thirsty you do not spend too much time discussing that point: you drink what there is and you then go looking for more.

So it must be for the Parliament. It must make the most of the changes brought about by Maastricht and it must start to prepare for the next IGC which is already envisaged for 1996. If possible it should bring forward this date, for instance by taking advantage of opportunities such as the enlargement of the Community which inevitably raises institutional questions.

In the course of 1992 the Community will have to deal with some issues left open at Maastricht, notably:

- the review of the number of members of the European Parliament and of the Commission. It is worth noting that the former requires treaty amendment (or adaptation in the context of adopting a uniform electoral system);
- financial and budgetary matters left over to the "DELORS II" package: this will be one of the most important issues facing Parliament this year.



Parliament will also have to take full advantage of the provisions of the Maastricht Treaty. This must be done in a number of ways. The following immediately spring to mind:

- \* Maximising the co-decision procedure (Article 189b) by ensuring that Council never makes use of its right to act unilaterally in the absence of agreement with Parliament. Parliament must make it clear that it would always reject any act adopted by Council in this way. We should seek an undertaking from the Commission to withdraw proposals in such circumstances. We should ask national parliaments, when ratifying the new Treaty, to instruct their governments not to use this option.
- \* Maximising the impact of the procedure for appointing the Commission, for instance by making the vote on the President as solemn as possible and organising hearing within individual candidate-members of the Commission.
- \* Seeking to overcome the "pillar" structure of the Treaty by encouraging the Commission to develop its role in foreign policy and judicial matters.
- \* Making full use of all the other procedures involving Parliament.

Clearly, the rules of procedure of Parliament will have to be modified in this light in time for the entry into force of the new Treaty.

Above all, however, Parliament must prepare the ground for the next treaty revision. The Maastricht Treaty itself provides for a new IGC in 1996 in order to review the provisions concerning the scope of the co-decision procedure, foreign policy and security, defence, the classification and hierarchy of Community acts and the "pillar" structure of the Treaty. Other issues will no doubt be dealt with as well. Parliament must prepare its own detailed proposals beforehand, either in the form of treaty amendments and/or in the form of a draft constitution. (For those who consider that the treaties are, in effect, the constitution of the Community, the distinction between these two approaches is not enormous).

Parliament must also explore the possibility of reopening at least some issues before 1996. One opportunity to do this is in the context of enlargement. Parliament is on record as stating that it will only give its assent to enlargement if the institutions are capable of handling it (HERMAN resolution of 1989). Clearly a Community or Union of 16 or more member states can only function with stronger institutions, not least as regards majority voting in Council: unanimity allows individual states to hold the Community hostage.

Maastricht was a step forward, albeit it an insufficient one, on the road to a European Union of federal type. Parliament's task now it to make sure that the next step is one of substance and comes quickly.

