

EUROPEAN PARLIAMENT



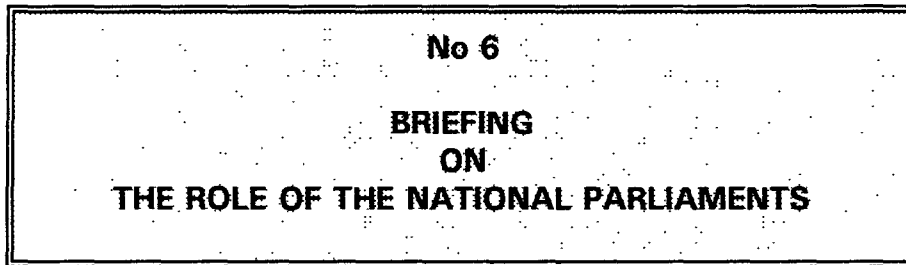
SECRETARIAT WORKING PARTY

TASK-FORCE
ON THE
" INTERGOVERNMENTAL CONFERENCE "

WORKING PARTY SECRETARIAT

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(first update)

These Briefings have been drafted by the Parliament Secretariat Task Force on the Intergovernmental Conference. Their purpose is to gather together, in an organized, summary form, the proposals and suggestions which the authorities in the Member States, the Union's institutions and specialist commentators have put forward on the issues likely to be on the IGC/96 agenda.

Briefings will be updated as negotiations proceed.

Already out:

- 1 The Court of Justice**
- 2 The Commission**
- 3 The Court of Auditors, ESC and COR**
- 4 Differentiated integration.**
- 5 The common foreign and security policy**
- 6 The role of the national parliaments**
- 7 The hierarchy of Community acts.**
- 8 Codecision procedure**
- 9 CJHA**
- 10 European citizenship**
- 11 WEU, security and defence**
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- 14 The European Parliament**
- 15 The European Council**
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**PROPOSALS SUBMITTED IN THE MEMBER STATES
AND THE UNION INSTITUTIONS
WITH A VIEW TO ALTERING THE ROLE OF THE NATIONAL PARLIAMENTS
IN EUROPEAN AFFAIRS
AS PART OF THE REVISION OF THE TREATIES**

SUMMARY

The issue of the role of the national parliaments is beginning to be examined in the Member States' preparatory discussions for revision of the Treaties. The French government and parliament, followed by the new President of the Republic, have singled this out as a priority issue in the revision of the Treaties. The issue has been discussed, though to a lesser extent, in the United Kingdom, the Netherlands, Portugal and Luxembourg in terms of the role of the national parliaments vis-à-vis Community legislation. In the Scandinavian countries, there is general agreement on developing 'the Danish model' of parliamentary scrutiny.

However, again with the exception of France, two principal ideas emerge from the proposals put forward:

- general opposition to the second Chamber, as proposed by the French authorities,
- broad agreement that each national parliament's powers of scrutiny over its government should be strengthened and that this should generally be done in a pragmatic fashion, without any amendment of the Treaties. This was most often mentioned in relation to the second and third pillars (CFSP and JHA) and subsidiarity, on which involvement of national parliaments seems to be widely advocated, though the exact form this would take still remains to be determined.

On the other hand, the proposals so far put forward in France (involvement of the parliaments in drafting Community legislation), which would require an amendment of the Treaties, have not received any significant support.

Finally, most parliaments have begun to draw up reports on the subject of their involvement in preparations for the Intergovernmental Conference. Mr SEGUIN, President of the French National Assembly, is, for his part, trying to convene a working party of the national parliaments to study the revision of the Treaties at the same time as the Reflection Group. This Group's existence and working methods are currently being challenged by a number of parliaments.

I. POSITIONS IN THE MEMBER STATES

AUSTRIA

- Discussions initiated within a subcommittee of the Foreign Affairs Committee
- Second Chamber of National Parliaments: against
- At the recent Conference of Presidents of the Parliaments of the European Union (London, 12-13 May 1995), the President of the Nationalrat said that his parliament already exercised close scrutiny over the Austrian Government with regard to the three pillars.
- In its 'policy guidelines for the 1996 IGC', the Austrian Government makes the following remarks:
'as regards cooperation between the national parliaments and the European Parliament, the Government advocates consolidating COSAC-type interparliamentary cooperation procedures. It opposes any attempt to set up a second Chamber of the National Parliaments'.

BELGIUM

- The Government recently published its policy guidelines for the IGC. These will be submitted to the parliament for discussion. The Government makes the following remarks:
'As regards the role of the national parliaments, the Government takes the view that the national parliaments already exert some influence on the decision-making process and the Union's business, in particular through their powers of scrutiny with regard to their respective national members (Ministers) of the Council and through information and consultation procedures - in Belgium, through regular joint meetings between Members of the European Parliament and of the national parliament in the Chamber of Representatives Advisory Committee on European Affairs. The Government is convinced that it would be highly advisable to apply this Belgian method in the other Member States. In any case, the Government will aim at strengthening the European Parliament's powers of democratic scrutiny, as the most effective means of making good the democratic deficit'.

DENMARK

- Second Chamber of National Parliaments: against
- In a recent report the Folketing advocates increasing the influence of the national parliaments' European affairs committees by taking such measures as:
 - * conferment of powers similar to those of the Folketing's relevant committee;

- * appointment of an official to represent each parliament in Brussels;
 - * closer cooperation within COSAC and closer multilateral cooperation between equivalent parliamentary committees in all the parliaments of the Union.
- In a preliminary report, the Danish Government has put forward three further proposals:
 - * incorporating a specific reference to the national parliaments in the Treaty on European Union;
 - * giving the national parliaments an opportunity to deliver an opinion during the preliminary legislative phase - within a limited period to be determined - on Commission proposals before they are officially submitted by the Commission;
 - * possibly, considering that the national parliaments should approve certain major Community decisions that are not subject to formal ratification.
 - Position of parties:
 - * Conservatives: closer cooperation between the EP and national parliaments.
 - * Social Democrats: national parliaments should have greater influence on EU legislation; the future Treaty should include a requirement that each country provide for adequate parliamentary scrutiny of its government's European activities.
 - * Liberal Party: governments to be required to inform their parliament in due time about all European Union proposals; common information system between EP and national parliaments.
 - * Socialist People's Party: national parliaments should have a right of initiative, as well as 'the possibility of stopping' Commission initiatives; national ministers taking part in the Council should have a mandate from their parliament.

GERMANY

- Bundestag: parliamentary report currently being prepared.
- Bundesrat: the Bundesrat has asked to be involved in the preparation of the German IGC negotiating position and to be represented at the IGC by Länder representatives. It favours closer parliamentary cooperation with regard to subsidiarity.
- Second Chamber of National Parliaments: against
- Position of parties:
 - * FDP: improving cooperation with the national parliaments by setting up joint specialized committees and ad hoc working parties.
 - * Other parties: no mention of this issue in their proposals.

At the Conference of Presidents of Parliaments of the European Union (London, 12-13 May 1995), Mrs SÜSSMUTH made the following suggestions for strengthening the role of parliaments in the European Union:

- need to increase parliamentary scrutiny with regard to the second and third pillars,
- making the Council's 'legislative' meetings public,
- greater involvement of the European Parliament in appointments to the Court of Justice and Court of Auditors and the procedure for dismissing a Member of the Commission.
- as regards preparations for the 1996 IGC:
 - * stepping up debates on European affairs in each parliament,
 - * improving information flows between governments and parliaments,
 - * setting up an information network between presidents of parliaments, European affairs committees, COSAC and the Conference of Presidents,
 - * seeking common positions between parliaments on issues on the IGC agenda.

SPAIN

- Parliamentary report pending,
- Second Chamber of National Parliaments: against
- Position of parties:
In a talk given in Paris on 16 January 1995, Mr Aznar (chairman of the 'Partido popular') said that '... from the institutional viewpoint, the national parliaments should be in a position to exercise prior control over Council decisions in a positive manner, i.e. as a mechanism supplementing the states' role in determining Union policy and in compliance with Article 146 of the Treaty, which stipulates that each member of the Council should be able to commit his Member State'.

FINLAND

- Awaiting position of the new parliament,
- Second Chamber of National Parliaments: against
- At the recent Conference of Presidents of Parliaments of the European Union (London, 12-13 May 1995), the representative of the Finnish Parliament pointed out that national parliaments should have access not only to

Commission proposals but also to Commission preparatory working parties.

FRANCE

- National Assembly:

The CATALA report calls for 'the national parliaments to be involved in the decision-making process before the Council of the European Union takes its decisions' and 'considers that the establishment of an interparliamentary committee, made up of an equal and smaller number of representatives from each Member State, could represent the national parliaments in this respect. This committee could express its endorsement of or opposition to specific texts, without being able to amend them, at brief monthly sessions.

This committee's responsibilities could cover the major decisions of the European Union - revision of the Treaties, international agreements, enlargements, the budget, home and judicial affairs - , monetary affairs and defence, as well as a priori monitoring of respect for the principle of subsidiarity, possibly through the adoption of a subsidiarity exception.'

In his report to the Conference of Presidents of Parliaments of the European Union (London, 12-13 May 1995), Mr SEGUIN, President of the National Assembly, proposed that the national parliaments be involved in drafting European legislation, without however setting up a new institution. 'They could act jointly with the European Parliament, which would retain its power to amend draft Community legislation falling within its sphere of competence, with regard to respect for the principle of subsidiarity and the substance of draft legislation. It would also be necessary to improve scrutiny by the national parliaments over their respective governments' action in European affairs and to strengthen interparliamentary cooperation in this field'.

On the subject of subsidiarity, as in the case of draft Community legislation, where a majority of parliaments expressed their opposition to a text within a given period, the Commission would be required to withdraw its proposal.

This procedure could be applied, mutatis mutandis, to the Union's draft legislation relating to the second and third pillars'.

Mr SEGUIN also proposes incorporating Declaration No 13 of the TEU in the new Treaty, strengthening parliamentary

cooperation and setting up a national parliaments' centre in Brussels.

- Senate:

The report by Mr GENTON assesses the two declarations on the national parliaments annexed to the Treaty on European Union and notes that:

(a) Declaration No. 13 on the role of national parliaments has been 'partially applied'. For instance, with regard to the sentence calling on the governments to ensure that national parliaments receive Commission proposals for legislation 'in good time for information or possible examination', the report points out that, in actual practice, it is often the Commission which does not allow the parliaments to receive proposals in good time (because it tends to ask the Council to take its decision very rapidly);

(b) Declaration No. 14 (on the regular holding of Assizes between the European Parliament and the national parliaments) 'has not been applied' following the experience of the first parliamentary Assizes held in Rome in November 1990 (about which 'a number of delegations, including the French delegation, had mixed feelings').

Mr Genton therefore makes suggestions concerning:

(a) prior scrutiny of the Government's action in the Council. In his view, the following measures should be taken:

- inclusion in the Treaty of the principle that proposals for legislation should be forwarded to the national parliaments in good time;
- 'in certain specific and limited areas' (budgetary resources, enlargement, association agreements), allowing the Council to be composed 'at a preparatory stage' in such a way as to involve the national parliaments;

(b) monitoring respect for the principle of subsidiarity and supervision of interinstitutional agreements. Mr Genton believes that:

- a genuine counterbalance should be established to ensure that the Union institutions fully respect the principle of subsidiarity, e.g. by allowing each parliament to raise a 'subsidiarity exception' (with a body appointed by the presidents of the parliaments of the Member states) or allowing an action to be brought jointly before the

European Court of Justice by at least two assemblies from at least two Member States;

- all interinstitutional agreements should be forwarded for approval to the national parliaments, which should ascertain whether the agreements alter the letter or spirit of the Treaties;

(c) parliamentary scrutiny in respect of the second and third pillars and, where appropriate, applications of 'variable geometry'. Mr Genton suggests:

- as regards defence policy, that the role of the WEU Assembly should be strengthened;
- as regards the CFSP and third pillar, that a consultative body representing the national parliaments should be set up or, alternatively, that interparliamentary scrutiny in respect of the second and third pillars should be entrusted to the Parliamentary Assembly of the Council of Europe (composed, in this instance, only of Members from the Union Member States).

In discussions within the Reflection Group, Mr Barnier, Minister for European Affairs, put forward the idea of a 'High Council for Subsidiarity', made up of three members of national parliaments, which would be consulted on the preliminary issue of the subsidiarity of a Community legislative initiative. Mr Barnier said that he had received little backing for this idea from the Reflection Group.

In a speech which he delivered on 31 August 1995, Mr Jacques CHIRAC, President of the Republic, made the following remarks regarding the IGC: 'The European Parliament's decision-making procedures, which are far too lengthy and complex, will need to be adjusted. At the same time, added powers will need to be given to the national parliaments to ensure that they become guarantors of the subsidiarity principle and play a more important role in all matters relating to the third pillar, i.e. justice and home affairs'.

GREECE

- Second Chamber of National Parliaments: against
- The 'Neo-demokratia' party recently stated that it favoured 'the strengthening of the European Parliament's supervisory role, in close interaction with the national parliaments'.

IRELAND

- Second Chamber of National Parliaments: against
- Parliamentary report currently being prepared

- At the recent Conference of Presidents of Parliaments of the European Union (London, 12-13 May 1995), the Deputy Speaker of the Dail spoke in favour of involving EP Members in the work of the national parliaments' European affairs committees.

ITALY

- Second Chamber of National Parliaments: against
- At the recent Conference of Parliaments of the European Union (London, 12-13 May 1995), the Vice-President of the Chamber of Deputies said that consideration should be given to the possibility of the national parliaments being allowed to ask for the annulment of Community legislative acts. He also suggested that there should be direct contacts between the national parliaments and the Commission.

LUXEMBOURG

- Mr Charles GOERENS, Member of the European Parliament, has been asked by the Government to draw up a report on relations between the national parliaments and the European institutions.
- Mr POOS, Foreign Minister, has stated that Luxembourg wishes to improve the involvement of national parliaments in the European decision-making process and that the Luxembourg Government agrees in principle with Mr Goerens' proposals.
- Mr Goerens believes that consideration should be given to a kind of 'charter' of 'minimum obligations which all governments would now accept vis-à-vis their parliaments' with respect to parliamentary scrutiny of Community affairs. In his view, the best method would be to incorporate in the Treaty the 'minimum obligations of governments vis-à-vis the national parliaments' and 'to strengthen the Community institutions' obligations - already set out in the Treaty - vis-à-vis the European Parliament. He proposes:
 - * organizing, in addition to the possible general Assises, Assises on specific topics, such as combating fraud and preparation of EMU;
 - * holding a debate on the Commission's legislative programme at each autumn session of COSAC (Conference of bodies specialized in Community affairs);
 - * mutual granting of facilities between the EP and national parliaments: EP Members should be able to attend committee meetings which concern them in their national parliament; national parliaments can already attend virtually all EP committee meetings;

- * more extensive powers of scrutiny, specified in the Treaties, for the national parliaments in respect of their government's action since 'it is no longer possible to leave the governments to decide what information should be forwarded to their parliaments and when this should be done'. In Mr Goerens' view, 'it is now time to give formal recognition in the new Treaty to the right of each national parliament to be informed of all proposals relating to the three pillars of the Treaty on European Union, with a government explanatory note outlining the justification for the Commission proposal and its impact on national legislation';
- * initiatives to improve exchanges of information between members of national parliaments and of the European Parliament in the same country. Governments should thus authorize MEPs to put questions to the appropriate Ministers, as is the case in Belgium (where, as in Germany and Greece, MEPs are full members of their national parliament's European affairs committee, in some cases with the right to vote);
- * conferring on the national parliaments the right to bring an action before the European Court of Justice where a European Union act exceeds the Union's powers and provided their government has voted against the act in question. Mr Goerens believes that Article 17 of the Treaty should be supplemented for this purpose, but rejects the proposal to set up a Chamber of National Parliaments to monitor respect for the subsidiarity principle.

NETHERLANDS

- The second Chamber of the Netherlands Parliament set out its proposals on the subject in the report submitted to the Conference of Presidents of Parliaments of the European Union (London, 12-13 May 1995). It believes that giving the national parliaments a more effective role will not require any amendment of the Treaties nor the holding of a conference of parliaments. It has put forward specific proposals based on the following five points:
 - * for national parliaments to be able to exercise powers of scrutiny, agendas for Council meetings will need to be published well in advance,
 - * scrutiny of second- and third-pillar activities should be based on specific procedures, along the lines of the internal agreement reached between the Dutch Government and Parliament to monitor the implementation of the Schengen Agreement,

- * the national parliaments should, in conjunction with the European Parliament, exercise more effective control over the use of Community funds,
 - * the European Parliament should inform the national parliaments, especially in areas where, under the terms of the Treaties, it has no decision-making powers but is informed by the Council and Commission,
 - * the national parliaments' coordinating body should draw up a comparative calendar of ratification of European Union decisions by the Member States.
- In its recent report on the third pillar, the Dutch Government calls for closer involvement of the European Parliament and the national parliaments in this area.

PORTUGAL

- A resolution, adopted by the Assembly of the Republic on 2 March, calls for:
- * greater involvement of the national parliaments and more effective scrutiny at national level,
 - * closer cooperation between the national parliaments and the EP, by giving greater importance to COSAC and the continuity of its work, as part of the process of making institutions more transparent,
 - * mutual provision of facilities between the EP and national parliaments and development of an information exchange network.

The resolution also raised the idea of appeals to the Court of Justice on matters relating to subsidiarity.

The Portuguese Parliament has also expressed reservations about the idea of a second Chamber of National Parliaments.

UNITED KINGDOM

The two parliamentary committees concerned adopted preliminary reports in July. The Committee on Community Legislation presents a series of very detailed proposals for the Intergovernmental Conference. These proposals concentrate on the role of national parliaments and the mechanisms needed to make the system more efficient and democratic. The committee:

- proposes that the Treaty's should provide for a minimum period of four weeks between the receipt of a document by a national parliament and the Council's decision;
- considers the possibility of giving the national parliaments a formal role in the legislative process. If a certain number of these parliaments recommended amending or rejecting a

proposal, it could only be adopted unanimously by the Council;

- is categorically opposed to the convening of a new Conference of Parliaments;
- reiterates the importance of consolidating and updating Community legislation to enable private and public organizations and individuals to understand Community law;
- At the XIIth COSAC meeting in Paris, the chairman of the House of Commons European Affairs Committee, Mr HOOD, pointed out that part of Declaration 13 of the TEU had largely been ignored and that it could therefore be seen as having failed. Governments ought therefore to insist that national parliaments have a say in Union affairs¹.
- Speaking in Leyden (September 1994), Prime Minister John MAJOR called for greater efforts to build up links between the national parliaments and the European Parliament. He put forward the idea of a joint committee (asking Members of the European Parliament to contribute to the work of national parliamentary scrutiny committees and vice versa).
- Position of parties:
 - * Tony BLAIR, of the Labour Party, has proposed that the Commission should be made more answerable to the national parliaments.
 - * Sir Leon BRITTAN, speaking in a personal capacity, has put forward the idea of a council of members of national parliaments meeting regularly to discuss proposals for directives at first reading and the Commission's legislative programme before it is submitted.

SWEDEN

- At the XIIth COSAC meeting, Mrs LOEFSTED, chairman of the Riksdag advisory committee, reacted to the French proposal for a second chamber as follows: 'We are not sure that the setting up of a "second chamber" is the best way of enabling members of national parliaments to monitor European developments.

We feel it is more important that they should be provided with the necessary documents to engage in fruitful dialogue with their government'.

¹ CRAO, 27 February 1995, pp. 15-16

II. POSITION OF THE COMMISSION

In addition to democratic scrutiny at Union level, national parliaments must be more directly involved in scrutinizing and steering national policies relating to the Union.

According to the Commission, this will, in accordance with each Member State's national rules, cover both the role which national parliaments can play in determining each Member State's position in the Council and monitoring the Member State's implementation of Union decisions.

(Source: Commission report on the functioning of the Treaty)

III. POSITION OF THE COUNCIL

The Council points out that Declarations 13 and 14 annexed to the Treaty on European Union have only partly been followed up: for instance, the Conference of Parliaments has not met since the entry into force of the Treaty.

(Source: Council report on the functioning of the Treaty).

IV. POSITION OF THE EUROPEAN PARLIAMENT (resolution of 17 May on the basis of the MARTIN/BOURLANGES report)

As regards democratic control:

'Democratic control of EU matters would be best achieved by partnership between the European Parliament and the national parliaments. The role of national parliaments should be reinforced in a number of ways, such as through strengthened cooperation between equivalent parliamentary committees of national parliaments and the European Parliament, and providing opportunities for specialist organs of national parliaments to discuss major European proposals with their ministers prior to Council meetings' (paragraph 24).

'Democratic accountability for matters which do not form part of the first pillar must be shared between both the European Parliament and the national parliaments'.

As regards the follow-up to the IGC:

'The negotiating phase of the 1996 Conference should involve more open debate than at previous IGCs, and the role of both national parliaments and of the European Parliament should be reinforced:

- a consultative conference of parliaments could meet at the beginning and at the end of the revision conference' (extract from paragraph 42).

As regards future revisions:

'The Treaty should be amended to provide for future revisions to be approved jointly by Parliament and the Council before being submitted to national parliaments for ratification. In addition to forwarding all proposed Treaty changes to the parliaments of the Member States and the European Parliament for final ratification, the Council must communicate a single, consolidated text of the founding treaties at the same time.'

V. INTERIM REPORT BY THE CHAIRMAN OF THE REFLECTION GROUP

(a) Basic points

- 'Agreement on the need to increase the powers of scrutiny of national parliaments in respect of their governments in areas falling within the Union's jurisdiction. This will require the cooperation not only of all the governments but also of the Community institutions (languages, prior information, time limits).
- Agreement that a Second Chamber should not be set up.

(b) Future considerations

- 'Exploring ways of involving the national parliaments in the work of the European institutions. Examining the possible clarification of Declarations Nos 13 and 14 of the Treaty. Further consideration of means of facilitating scrutiny of Union decisions by the national parliaments.
- Studying the proposal to set up a consultative High Council for Subsidiarity, made up of delegations from the national parliaments.'

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For further information on this note, please contact Mr LAPRAT, Division for Relations with the Parliaments of the Member States - Tel. 3753 (Brussels).

