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**BRIEFING**  
**ON**  
**THE IGC AND THE DEMOCRATIC NATURE OF THE UNION**

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The 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
12. Public services
13. Social policy
14. The European Parliament
15. The European Council
16. The Council of the European Union
17. The budget and the IGC
18. The IGC and transparency
19. Subsidiarity and the allocation of powers
20. The Union's legal personality and external representation
21. Commitology
22. Fundamental rights
23. The IGC and the democratic nature of the Union
24. Coherence of the external action of the EU under the first and second pillars
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33. The CAP and the IGC
34. Civil protection and the IGC
35. Non-discrimination on sexual grounds
36. EU enlargement
37. Employment and the IGC
38. The IGC and Economic and Monetary Union
39. Asylum and immigration policy
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**BRIEFING  
ON  
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**BRIEFING  
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**I. SUMMARY**

More democracy, or 'the democratization' of Community acts, is the requirement set out in all the texts of the Institutions of the Union and the governments of the Member States concerned with the 1996 IGC. This demand is closely linked to the request to improve the transparency<sup>1</sup> and the efficiency<sup>2</sup> of the Union, essential objectives of a revision of the Maastricht Treaty.

Although there is unanimity on the need to eliminate the Union's democratic deficit, there are differences of opinion as to the areas in which democracy is inadequate as well as to the means that must be used to reduce the lack of democracy. Accordingly, the degree and intensity with which this objective is pursued are entirely different.

For example, the United Kingdom seeks greater representativeness in the voting in the Council of Ministers and greater participation by national parliaments in the Union's legislative process. On the other hand, according to the opinion of the British Government, an extension of the EP's powers is unlikely to strengthen democracy.

This view seems to be shared, at least partially, by France. The French Government is more likely to stress the strengthening of the Council of Ministers and the participation of national parliaments in the Union's legislative process rather than on any extension of the EP's powers.

On the other hand, most of the other countries, particularly Germany, Austria and Italy, call not only for an improvement in the decision-making procedures in the Council, e.g. majority voting, but also a strengthening of the EP, above all by improving the codecision procedure and its extension, for example, to the third pillar of the TEU. The Netherlands advocate more scrutiny by the EP, with particular regard to the budget. Germany, Denmark and Sweden are even prepared to grant the EP a genuine right to propose legislation. A minority of Member States, such as Denmark and the Netherlands, call for the EP to be given the power to dismiss one or more Commissioners without causing the entire Commission to resign.

Most of the Union's institutions also agree that more powers should be granted to the EP, for example by means of an extension of the codecision procedure. They also favour closer cooperation between the EP and national parliaments.

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<sup>1</sup> See Briefing No 18: the IGC and transparency

<sup>2</sup> See Briefing No 25: the IGC and the effectiveness of the Union

This corresponds broadly to the opinion set out in the Justus Lipsius report on the 1996 IGC. An enhancement of the role of the EP, a strengthening of the role of the national parliaments, an improvement in the representative nature of voting in Council and the virtual blanket use of majority voting are the recommended means for making the European Union more democratic.

On the other hand, J.C. Piris believes that the Maastricht Treaty has already made a major contribution to the democratization of the Union, in particular through the enhanced role of the EP. It is specifically in the field of the policy on justice and home affairs where the author still sees that the powers of the EP can and must be increased.

As far as the Reflection Group is concerned, strengthening democracy is bound up with the challenge to bring the Union closer to the European citizen and to ensure respect for fundamental rights.

At institutional level, the Reflection Group comes out in favour of simplifying and reducing the number of legislative procedures. Accordingly, monitoring of their governments by national parliaments must be strengthened and forms of cooperation with Community institutions developed for subjects falling within the remit of the Union.

## **II. THE AGENDA FOR THE CONFERENCE**

The 'democratization' of the European Union is one of the fundamentals of the agenda for the 1996 IGC. Article 189b(8) of the Treaty establishing the European Community lays down that 'the scope of the [codecision] procedure ... may be widened ... on the basis of a report to be submitted to the Council by the Commission by 1996 at the latest'.

Accordingly, the Corfu European Council of June 1994 mandated the Reflection Group to consider and draw up ideas concerning the provisions of the TEU scheduled for revision as well as other possible improvements in a spirit of democracy and openness.

This mandate was confirmed and spelt out in detail by the European Council Summit in Cannes (26 and 27 July 1995) which laid down certain priorities to be dealt with by the Reflection Group, including the need to strengthen the efficiency, the democratic nature and the transparency of the institutions.

**The European Council in Madrid (15 and 16 December 1995) "recieved with great interest" the Report drawn up by the Reflection Group and confirmed the Presidency Conclusions of Cannes.**

**Finally, the Turin European Council (29 March 1996), which officially opened the IGC, demanded that the Conference should examine:**

- the most effective means of simplifying legislative procedures and making them clearer and more transparent;**
- the possibility of widening the scope of codecision in truly legislative matters;**

- **question the role of the European Parliament besides its legislative powers, as well as its composition and the uniform procedure of its election; and**
- **how and to what extent national parliaments could better contribute to the Union's tasks.**

### **III. SOURCES**

#### **A. INSTITUTIONS OF THE UNION**

##### **1. EUROPEAN PARLIAMENT**

###### **(a) REPORT ON THE FUNCTIONING OF THE TEU<sup>1</sup>**

'The European Parliament,

- B.** whereas at the 1996 Intergovernmental Conference the European Union will have to face up to a three-fold institutional challenge:
- the need to tackle a democratic deficit that a growing number of European Union citizens find unacceptable, ...
- C.** whereas the major deficiencies under the Treaty on European Union are:
- the lack of openness and full democratic accountability of the Council, notably when deciding in legislative matters, ...

Adopts the following guidelines:

#### **I. Objectives and policies of the Union ...**

- 3.(iv) Democratic accountability for matters which do not form part of the first pillar must be shared between the European Parliament and the national parliaments. ...

Stronger and more democratic Union Institutions

23. Democratic control of EU matters would be best achieved by partnership between the European Parliament and the national parliaments. ...
31. ... and the democratic role of the European Parliament before, during and after the negotiating process [concerning international agreements] should be reinforced ...

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<sup>1</sup> PE 212.450, 17.5.1995.

## **V. Follow-up measures ...**

40.(ii) In order to ensure that the process of revision in 1996 is more transparent and democratic, the representatives of Parliament in the Reflection Group should stress the need of a decisive change in the method of the Treaty revision and of the full involvement of Parliament both in the negotiating phase as well as in the ratification process; ...'

### **(b) ANNUAL DEBATE OF THE EUROPEAN PARLIAMENT ON THE PROGRESS OF THE POLICIES UNDER THE THIRD PILLAR (JUSTICE AND HOME AFFAIRS)<sup>1</sup>**

Several Members of the European Parliament have criticized the democratic deficit in intergovernmental cooperation in the field of justice and home affairs, a field which is particularly sensitive with regard to the citizen's fundamental rights. They feel that the potential provided for in Articles K.3, K.4, K.6 and K.9 for giving a Community dimension to the policies involved have not been used or not used to the full.

### **(c) RESOLUTION ON (i) PARLIAMENT'S OPINION ON THE CONVENING OF THE INTERGOVERNMENTAL CONFERENCE AND (ii) EVALUATION OF THE WORK OF THE REFLECTION GROUP AND DEFINITION OF THE POLITICAL PRIORITIES OF THE EUROPEAN PARLIAMENT WITH A VIEW TO THE INTERGOVERNMENTAL CONFERENCE<sup>2</sup>**

In its resolution of 13 March 1996, Parliament again calls for 'decisive progress towards a more democratic and more efficient Europe, based on the concept of statutory equality of states, thereby guaranteeing that all Member States are on an equal footing in terms of participation in the institutions of the Union; progress must be achieved in particular by introducing majority voting and a simplified codecision procedure as the general EU procedure on legislative matters, and by reinforcing the role of the European Parliament'.

In relation to Title VI of the TEU, the resolution also calls for 'strengthening of the powers of the Commission (right of initiative) and the European Parliament (codecision), in order to improve the level of democratic control'.

### **(d) RESOLUTION OF 19 JUNE 1996 ON THE FLORENCE EUROPEAN COUNCIL AND THE INTERGOVERNMENTAL CONFERENCE**

**With view to the European Council in Florence the Parliament confirmed its positions. In addition, it expressed its regret that the 'initial discussions on institutional matters' were 'marked by a tendency towards preserving the status**

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<sup>1</sup> Oral Question, Docs. B4-1349 and 1350/95.

<sup>2</sup> PE 216.237/fin. Part A, 13.3.1996.

quo'. It stressed that without a 'visible reduction of the democratic deficit of the Union' it would not realistically be possible to go ahead with enlargement.

**(e) RESOLUTION OF 17 JANUARY 1996 ON THE GENERAL OUTLINE FOR A DRAFT REVISION OF THE TREATIES**

With view to the European Council in Dublin on 13 and 14 December 1996 the Irish Presidency had submitted a first outline for a draft revision of the Treaties (see below). With this resolution the Parliament comments on this document. Concerning the democratic nature of the Union it states 'that the Irish Presidency has made a few possible proposals in this regard but, nevertheless, has not adequately taken account of the need to reinforce democratic control at EU level. Its points of critic are as follows:

- “(i) The text proposes extension of the codecision procedure on the basis of objective criteria rather than on a case-by-case basis, but does not draw the conclusion that the proposals to extend codecision to the entire area of standart secondary legislation as put forward by the Commission and the Parliament is the only proposal on the table and should therefore be followed up;
- (ii) the Presidency's text completely fails to tackle the issue of:
- the extension of the assent procedure to all constitutional issues such as reform of the Treaties, Article 235 and own resources, and also to all international agreements;
  - the full attainment of budgetary codecision;
  - an enhanced European Parliament role in the appointment of the President and Members of the Commission;
  - a reinforced European Parliament role in nominations, with assent as regards appointment to the Court of Justice and the Court of Auditors;
  - the reform of the existing complex and insufficiently democratic and transparent system of comitology;
  - the responsibilities of the European Parliament in deliberating on and evaluating policies;"

With certain restrictions, however, the Parliament welcomes the Presidency's proposal to simplify the codecision procedure.

## 2. COMMISSION

### REPORT ON THE OPERATION OF THE TEU<sup>1</sup>

#### Preface

Stresses that '... the Union must act democratically, transparently and in a way people can understand; ...

The Commission is delighted that the Union's democratic legitimacy has been strengthened. ... In addition to democratic control at the level of the Union, we need to find a way to involve national parliaments more directly and visibly ...'

#### Part one:

### DEMOCRACY AND TRANSPARENCY IN THE UNION

... 'Consequently, the Treaty has to be assessed primarily in terms of the concept of democratic legitimacy ...'

With regard to justice and home affairs, the Commission supports greater control by the European Parliament. 'Since questions in the area of justice and home affairs are likely to have a direct effect on individuals' basic rights and public freedoms, they actually warrant a greater degree of parliamentary control ...' (30)

The Commission continues:

... 'Any assessment of the institutional response to the requirement for legitimacy has therefore to be positive. However, there has also to be a reservation concerning the weakness, not to say the absence, of democratic control at Union level in the fields of activity where the intergovernmental process still holds sway'. (39)

... 'The Union has functioned more democratically, mainly because of the enhanced role played by the European Parliament. Its approval of the Commission strengthens the Commission's legitimacy. The new codecision procedure has proved operational and effective ... It contains the principal ingredients of a balanced legislative regime'. (171)

#### (b) COMMISSION OPINION 'REINFORCING POLITICAL UNION AND PREPARING FOR ENLARGEMENT'<sup>2</sup>

In **this statement**, the Commission stresses the importance of creating a people's Europe, which must be made simpler and more democratic. In the area of justice and home affairs, it points out the absence of democratic and judicial review, which it proposes

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<sup>1</sup> SEC(95)731 final, 10.5.1995.

<sup>2</sup> COM (96) 90, 28.2.1996.

should be remedied by making qualified majority voting the rule, giving Parliament a greater role and involving the national parliaments more closely in Union affairs.

**(c) COMMISSION REPORT UNDER ARTICLE 189b(8) OF 3 JULY 1996 ON THE SCOPE OF THE CODECISION PROCEDURE**

In this Report the Commission addresses the question of how codecision's scope of application might be extended in a manner which does not only enhance the European Union's democratic legitimacy but also its efficiency. The Commission believes that extending the scope of codecision goes hand in hand with simplifying the current structure of this decision-making procedure as well as with combining it with qualified-majority voting in the Council of Ministers. Otherwise, it is argued, the risk of legislative procedures being blocked would substantially increase. The Commission goes on to propose the following approach:

- 2. On purely democratic grounds, codecision should be extended to all the Community's legislative activities. But how should this be defined?  
Giving legal definition of a legislative instrument would in practice entail moving towards a hierarchy of norms.  
On the other hand, the Commission considers that the criteria commonly used to define what constitutes a legislative instrument could be used as a guideline; it would have no legal effect and would not be formalized in the Treaty, but it would make it possible to determine which of the various areas in the Treaty should come under codecision and which should not.  
In short, to meet these criteria legislative instruments would have to meet the following description:**
  - be directly based on the Treaty;
  - be binding;
  - determine essential elements of Community action in a given area; and
  - be general in scope.
- 3. There are two considerations which must be borne in mind:**
  - the Union's legislative activities are governed by the respect of subsidiarity, whereby, in the areas where it has competence to act, the Union concentrates on the most essential activities;
  - it is customary for instruments in all areas of activity to "delegate" powers to take implementing measures, which the codecision procedure is not used for.
- 4. The Commission feels that applying the criteria listed in paragraph 2 to each of the Community's areas of activities would enable the codecision procedure to be used for legislation across the board without the need for a general hierarchy of norms to be established in the Treaty.**
- 5. This approach would also bring the Union closer to one of the conference's major objectives - simplifying decision-making procedures - by abolishing**

**the cooperation procedure and thereby reducing the number of procedures to three.'**

**Finally the Commission goes on to define the areas to which codecision would apply following the proposed approach and to which areas it would not apply.**

### **3. COUNCIL**

#### **COUNCIL REPORT ON THE FUNCTIONING OF THE TEU<sup>1</sup>**

##### **A. Democracy and efficiency**

16. The Council notes that 'the changes made by the TEU reflect the desire to reinforce the democratic legitimacy of the institutional system ...

The new provisions introduced by the TEU, especially those on increasing the powers of the European Parliament, sought to establish a firmer basis for the Union's democratic character. The European Parliament's role in this context is an essential one; but democratic legitimacy must be the expression of the Union's institutional system as a whole'. (16)

Further on it states:

'The Council also helps to ensure respect for the democratic functioning of the system, insofar as each of its members is politically responsible to the national parliament before which he answers for the positions adopted at Union level'. (18)

### **4. COURT OF JUSTICE**

#### **REPORT OF THE COURT OF JUSTICE ON CERTAIN ASPECTS OF THE APPLICATION OF THE TEU (May 1995)**

The report of the Court restricts itself to considerations concerning the functioning of the Union at the legal level.

As regards democratization, it is interesting to note that the Court of Justice sees no technical objection to the amendment of Article 173 of the TEU so that the European Parliament might bring actions for annulment without having to establish an interest. Furthermore, the Court does not oppose the granting to the European Parliament of the right to request the opinion of the Court of Justice, pursuant to Article 228(6), on the compatibility of an envisaged international agreement with the TEU.

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<sup>1</sup> 5082/1/95 rev.1(7), 6.4.1995.

The Court doubts, however, whether it would be appropriate to remove to the judicial arena disputes which could be settled at a political level.

## **5. COMMITTEE OF THE REGIONS**

### **OPINION OF THE COMMITTEE OF THE REGIONS ON THE REVISION OF THE MAASTRICHT TREATY<sup>1</sup>**

The Committee of the Regions 'which is a central pillar of democratic legitimacy' is committed to safeguarding and strengthening the principle of subsidiarity.

'Subsidiarity in general ... strengthens democratic legitimacy in as much as it avoids the creation of an excessively centralized European power disconnected from the problems of ordinary citizens; ...'

'Furthermore, the committee ... considers ... that the revision of the Treaty should be seen as an opportunity for deepening Community cooperation in the fields of justice and home affairs ... as well as for developing the concept of European citizenship, by incorporating a list of fundamental citizens' rights' in the Treaty.

## **6. ECONOMIC AND SOCIAL COMMITTEE**

### **THE 1996 IGC AND THE ROLE OF THE ECONOMIC AND SOCIAL COMMITTEE<sup>2</sup>**

According to the opinion of the Economic and Social Committee, the programme for the 1996 IGC should have as its objective:

- 'decision-making close to the citizens ... involving them and allowing them to monitor the implementation of policies ... (5.1)
- 'a more democratic structuring of the existing Institutions, which implies ...:
  - . increased legislative power for the EP through an extension of the codecision procedure;
  - . development of the Commission's role as an executive organ of Community interest by introducing procedures which underpin its democratic legitimacy ...' (5.3);
- 'democratization of the process of economic and monetary union through the wider involvement ... of democratic and social professional representative bodies (EP and EJC respectively) ...' (5.5);

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<sup>1</sup> CdR 89/95 fin, 20.4.1995.

<sup>2</sup> CES 273/95 fin., 26.4.1995.

- '... extending qualified majority voting in social matters' (5.7);
- 'the definition of a legal framework establishing genuine EU citizenship, capable of answering European citizens' needs for identity and democratic participation'. (5.8);
- 'Giving the Community responsibility for justice and home affairs policies which are too important ... to be confined to intergovernmental sphere, without democratic checks ...' (5.9).

## **7. INTERINSTITUTIONAL DECLARATION ON DEMOCRACY, TRANSPARENCY AND SUBSIDIARITY**

The agreements adopted on 25 October 1993 by the Council, Commission and European Parliament are aimed at implementing the Treaty on European Union 'and strengthening the democratic, transparent nature of the EU'.

Amongst other things, they provide for the Council to open some of its debates to the public, the publication of the outcome of debates and the common positions adopted within Council, broader consultations by the Commission, through recourse to Green Papers and White Papers, the publication of its work and legislative programme in the Official Journal, and improving information of the public and contacts between the Commission and individual citizens.

Given that the agreements 'may be added to or amended ... at the initiative of any of the three Institutions', we must regard the declaration as dynamic and evolutionary in nature with a view to the revision of the TEU.

## **8. REFLECTION GROUP ON THE 1996 IGC**

- REFLECTION GROUP'S REPORT<sup>1</sup>

**On 5 December 1995 the Reflection Group adopted its final report. A whole chapter is devoted to the issue of "an efficient and democratic Union".** The Group takes the view that democracy implies greater participation by the people in the Institutions of the Union and a strengthening of the European Parliament and of the role of the national parliaments.

**To that end it argues with regard to the European Parliament that:**

- **it is appropriate to fix a maximum number of seats;**
- **a uniform electoral procedure is established in all Member States;**
- **the EP's right of initiative is broadly sufficient;**

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<sup>1</sup> SN 520/95 (REFLEX 21), 5.12.1995.

- the legislative procedures currently in force should be reduced to co-decision, assent, and consultation; whereas assent applies to all areas where the Council decides with unanimity;
- it is appropriate to improve and simplify the co-decision procedure without changing its nature (it is explicitly stated that one Member opposes extension in principle);
- its role in the appointment of the Commission has to be discussed;
- its powers in combating fraud and in monitoring the executive powers of the institutions should be strengthened;
- its role in pillar II (Common Foreign and Security Policy) cannot be the same as in Community legislation; nevertheless its right to be informed should be better developed in practice;
- in pillar III (Justice and Home Affairs) it should be examined where greater control by the Parliament might be necessary.

According to the report the issue of democratic legitimacy is also important with regard to the reform of other institutional bodies. Related on the Council of Ministers it is pointed out that:

- there is broad agreement that voting under the unanimity rule needs the supervision by national parliaments;
- some members are convinced that the extension of qualified-majority voting would increase the efficiency of the Union only if its decisions were supported by a significant majority of the Union's citizens.

Concerning the Commission the Group considered that 'a suitably constituted college of Commissioners is fundamental aspect of the credibility and legitimacy of the Commission'. Accordingly discussions about the reform of its composition was guided not only by considerations of effectiveness. For example, the option of fixing a Commission with fewer Commissioners than the Union has Member States would have many advantages in terms of visibility and coherence. On the other hand, it would not fulfil the requirement of representing all nationalities.

## **9. PRESIDENCY OF THE EUROPEAN COUNCIL**

- **THE EUROPEAN UNION TODAY AND TOMORROW. ADAPTING THE EUROPEAN UNION FOR THE BENEFIT OF ITS PEOPLES AND PREPARING IT FOR THE FUTURE. A GENERAL OUTLINE FOR A DRAFT REVISION OF THE TREATIES. DUBLIN II.**

With view to the European Council in December 1996, on 5 December 1996 the Irish Presidency of the European Council submitted this general outline for a draft revision of the treaties in order to summarize the results since the beginning of the IGC and to provide a basis for the next phase of negotiations.

The Presidency acknowledges that the institutions of the Union should function as democratically as possible 'so that their representative nature is clearly seen and their legitimacy in the eyes of the public is maintained and reinforced'. This implies that the 'central role of the European Parliament must be recognized and find full expression in the institutional procedures of the Union', mainly by simplifying co-decision and by extending it to new areas. According to the Presidency, the central role of national parliaments should be recognized, too.

In detail the draft text contains *inter alia* the following proposals:

- the nomination of the President of the Commission shall be approved by the Parliament;
- the number of legislation procedures involving the Parliament should be reduced to co-decision, consultation and assent;
- co-decision should be extended in its scope of application, preferably on a basis of certain criteria, for example as suggested by the Commission and the European Parliament
- with view to future enlargement the number of members of the European Parliament should be limited.
- with regard to an extension of qualified-majority voting in the Council of Ministers it is stated that agreement in this field might be depend on agreement to a re-weighting of votes (with the aim of taking into account the size of each Member State);
- concerning the fixing of the number of Members of the Commission it is referred to different options;
- related on the role of national parliaments the report accepts that 'while the scrutiny role of national parliaments in relation to the activities of the Union is primarily a matter for the internal constitutional organization of each Member State, ... improvements should be made at the level of the European Union to help national parliaments to do their job more effectively'. The Presidency suggests to annex a Protocol to the Treaty dealing with this question.

## **B. GOVERNMENTS OF THE MEMBER STATES**

### **1. GERMANY**

In the government declaration made by Chancellor Kohl<sup>1</sup> in November 1994, safeguarding democratic legitimacy was referred to as one of the four objectives of institutional development and of the 1996 IGC.

According to a note from the Foreign Ministry on the initial reflections concerning the positions of the Federal Government dated 24 April 1995, at the 1996 IGC Germany will try to attain as one of its major objectives significant improvements in the field of the

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<sup>1</sup> Bulletin of the Federal Government Press and Information Office No 108, 14 November 1994, pp. 990 and 991.

democratic legitimacy, efficiency and transparency of the European Union. With this in mind, Germany will support greater participation by the European Parliament in the decision-making process, in particular through an extension of the codecision procedure.

**This approach was confirmed by the memorandum 'GERMAN AIMS IN THE INTERGOVERNMENTAL CONFERENCE', submitted on 26 March 1996, as well as with a joint declaration of the Foreign Ministers of Italy and Germany on 15 July 1995, and two joint Franco-German letters of President Jacques Chirac and Chancellor Helmut Kohl to the Presidency of the European Council (on 6 December 1995 and on 9 December 1996).**

**The Franco-German letters also stresses that national parliaments should be involved to a greater extend than hitherto. A provision to that effect should be included in the revised Treaty.**

**With regard to the Commission the joint letter of December 1996 makes clear that Germany and France place more importance on the principle of efficiency than on the principle of democracy. In their opinion the 'future size of the Commission should be geared to its principle tasks and should in any case have fewer members than there are future EU Member States'.**

## **2. AUSTRIA**

**The position of the Austrian government on the democratic nature of the European Union can be obtained from a memorandum issued on 26 March 1996 and titled 'FUNDAMENTAL POSITIONS OF AUSTRIA'. In this document it is argued that democracy in the European Union demands a different approach than within the nation state. Citizens should be directly represented within the European Parliament, but Member States, too, should play a strong role in the legislative process, the small and medium size countries having a comparatively big weight.**

**In order to strengthen the Union's democratic legitimacy the Austrian government demands to simplify the legislative procedure (by reducing them to codecision, assent and consultation, and by simplifying and extending codecision), and to involve national parliaments to a bigger extend by creating cooperative structures between European Parliament and national parliaments on the basis of COSAC<sup>1</sup>.**

**According to Austria, the issue of democratic legitimacy is also connected to the question of extending qualified-majority voting within the Council of Ministers. On a case-by-case basis, the government believes, it should be examined, in which fields it might be necessary to continue with legitimacy through unanimity.**

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<sup>1</sup> **COSAC:Conférence des Organes spécialisés dans les Affaires communautaires, which includes the Committees of European affaires of the national parliaments of the EU Member States as well as six representatives of the European Parliament**

Concerning the composition of the Commission, Austria on grounds of legitimacy demands that each Member State should have at least one Commissioner. It is willing to consider a strengthening of the Parliament's role in the nomination of the President of the Commission.

Concerning the role of the European Parliament in the second and in the third pillar of the Union the memorandum is very vague. It seems as if in these fields Austria were keen to secure a strong role of the national parliaments.

### **3. BELGIUM**

Belgium coordinated its negotiation positions with the Netherlands and Luxembourg in a joint 'BENELUX MEMORANDUM ON THE INTERGOVERNMENTAL CONFERENCE'. It was issued on 8 March 1996 and states:

'The three countries are firm supporters of greater democratic legitimacy in decision-making at European level. They therefore favour extending the scope of the co-decision procedure to most of the legislative areas in which qualified-majority voting applies. That procedure should also be simplified as far as possible and an attempt should be made to reduce the number of procedures to three: opinion, assent and co-decision. The European Parliament should be more closely involved in decision-making for the second and third pillars, on the basis of suitable information, promptly supplied by the Commission and the Council.'

In addition, greater accountability to the European Parliament for Commissioners is demanded. Concerning the composition of the Commission one national of each country is regarded as the minimum.

Finally, regarding qualified-majority voting in the Council of Ministers itself, it is argued that a "population yardstick might be used to make certain that the qualified majority represents a majority of the Union's inhabitants".

### **4. DENMARK**

The governmental position was clarified on 11 December 1995 with a memorandum called 'BASIS FOR NEGOTIATION - OPEN EUROPE: 1996 INTERGOVERNMENTAL CONFERENCE'. This official document emphasizes that one of the main issues to be dealt with in the IGC were the Union's democratic legitimacy. It goes on to argue that the European Parliament should continue to play an important role in the decision-making process as a body responsible for democratic scrutiny. Decision-making procedures should be simplified and reduced so that 'the Parliament exercises more uniform influence in the various spheres of activity without upsetting the balance between the EU Institutions'. With view to enlargement an upper limit of members of the Parliament is considered as necessary.

Concerning the composition of the Commission the Danish government thinks that all Member States should be represented.

Regarding qualified-majority voting in the Council of Ministers, Denmark is in favour of extending its scope of application. This should be directly linked to the population of the Union.

Special importance the Danish government attaches to enhancing the involvement of national parliaments. This was demonstrated by the submission of a specific proposal on this issue in November 1996, which argues that national parliaments should have better access to information on the European Union and its institutions.

## **5. SPAIN**

The Spanish government displayed its negotiation positions with the memorandum 'ELEMENTOS PARA UNA POSICION ESPAÑOLA EN LA CONFERENCEA INTERGUBERNAMENTAL DE 1996', which was issued on 28 March 1996. It is convinced that the IGC should endow the European Union with more democracy, transparency, and efficiency. With regard to the European Parliament proposals are supported, which aim at reducing the number of legislative procedures to co-decision, assent and consultation. In addition, Spain is in favour of simplifying co-decision and to extend its application to all areas which are currently dealt with on the basis of the cooperation procedure. Finally, Parliament's powers related on the fight against fraud should be strengthened.

With regard to national parliaments Spain argues that they exercise powers of control primarily vis-à-vis their national governments. Nevertheless, they should have better access to information about the European Union and its institutions.

Concerning the voting mechanisms in the Council of Ministers the government distinguishes between primary and secondary law. In cases of primary law unanimity should continue; secondary law it should be decided on with qualified-majority, as a general rule with few exceptions. Spain does also argue that the form of majority-voting should be reformed in order to better reflect the different sizes of the Member States.

Regarding the Commission its composition is regarded as a fundamental aspect of its credibility and legitimacy. In considerable detail three different options are mentioned:

- continuing with the present mode (two commissioners for the large countries, one for the small ones);
- fixing a number of Commissioners below the number of Member States; and
- giving each country one Commissioner.

**Spain favours the second option, since this would not only enhance the Commission's coherence and efficiency but also its collegiality and independence.**

**The positions concerning the Parliament were confirmed in September 1996 by a specific Spanish proposal dealing with the co-decision procedure, and on 4 February 1997 by the document 'NOTA A LA ATENCION DEL DR. JOSE GIL ROBLES, PRESIDENTE DEL PARLAMENTO EUROPEO, SOBRE LA POSICION DE ESPANA EN LA CIG EN RELACION CON LOS PODERES Y COMPETENCIAS DEL PARLAMENTO EUROPEO'.**

## **6. FINLAND**

On 14 February 1995, the government submitted to the Finnish Parliament its report on the guidelines concerning Finland's European policy. As regards the Community institutions, it wants to maintain the current system, i.e. that the Council acts on a proposal from the Commission.

With respect to the second and third pillars, Finland wishes to pursue intergovernmental cooperation. However, it is prepared to grant the Union supplementary powers and to support improvements in decision-making procedures, provided that the interests of the smaller countries are respected.

This point of view is confirmed in the '**MEMORANDUM OF THE MINISTRY OF FOREIGN AFFAIRS**' on the opinions of the Finnish Government concerning the 1996 Intergovernmental Conference, which was published on 18 September 1995. Emphasis is laid in the Memorandum on the need to improve democracy in the Union by strengthening the European Parliament and the national parliaments in the procedure for taking positions and by closer collaboration between those institutions. In the view of the Finnish Government, the role of the national parliaments must remain the reference point in the campaign to achieve more democracy.

In a second and final report to parliament on the 1996 IGC titled '**FINLAND'S POINTS OF DEPARTURE AND OBJECTIVES AT THE EUROPEAN UNION'S INTERGOVERNMENTAL CONFERENCE IN 1996**' the Finnish Government devotes a whole chapter to an efficient and democratic Union. In its view, the European Parliament is the only directly elected institution and as such a vital instrument of democracy. The Finnish Government is therefore in favour of strengthening Parliament's role in the legislative process. **On the other hand, however, it is against giving it greater powers in procedures to amend the Treaty. This power should rest exclusively with the Member States.**

**Concerning qualified-majority voting in the Council of Ministers, the report sees the possibility of extending it to the social and environmental fields and to second and third pillar matters.**

With regard to the Commission the Finish government is convinced that 'at least one representative in the Commission increases the the Commission's legitimacy, authority and opportunities for action and enhances citizen's sense of belonging to the Union'.

## **7. FRANCE**

On several occasions, notably with the already mentioned joint Franco-German letters in December 1995 and in December 1996 (see the chapter referring to Germany) the French government expressed its concern for strengthening the democratic basis of the European Union. It is important to point out, however, that France places at least as much importance on enhancing the role of national parliaments as it does with regard to the European Parliament.

For example, in July 1996 it submitted proposals on how the role of national parliaments might be reinforced. By giving national parliaments a greater say, the proposal states, the European Union would come closer to its citizens. According to the government, this is especially the case with policies so far dealt with in the third pillar, that is Home and Justice Affairs. However, the government does not argue for the creation of a new institution. It favours the development of flexible structures based on COSAC.

## **8. GREECE**

On 26 March 1996 the government issued the 'CONTRIBUTION OF GREECE TO THE 1996 INTERGOVERNMENTAL CONFERENCE'. With view to enlargement and the general gap between the European Union and its citizens, the government argues that the IGC should reform the institutions to make them more democratic, transparent and efficient. In detail the government is in favour of strengthening the Parliament's role by:

- reducing the legislative procedures to assent, consultation and codecision;
- applying codecision to all policy areas decided on in the Council of Ministers with qualified-majority voting;
- simplifying the procedure for the adoption of the EU's budget;
- giving it the right to elect the President of the Commission on the basis of a list presented by the Council of Ministers;
- reinforcing its powers with regard to scrutinizing the executive organs of the Union;
- giving it the right to participate as an observateur at intergovernmental conferences; and
- limiting its maximum number of seats.

In addition, Greece is willing to examine proposals for a uniform electoral system for the European Parliament.

**Greece does also argue, that the role of the national parliaments should be strengthened by intensifying the contacts between them and the institutions of the European Union.**

**Concerning the Commission the government is convinced that the election of its President would enhance its democratic legitimacy. In addition it demands that each Member State nominates at least one commissioner.**

**On the question of extending qualified-majority-voting in the Council of Ministers Greece seems to take a rather restrictive position. It highlights that in all areas touching on vital national interests voting on the basis of unanimity should be continued. In addition, the government believes that the current weighting of votes guarantees the balance between the different countries. On the other hand, however, it argues that in all fields decided on by qualified majorities the European Parliament should participate on the basis of the codecision procedure.**

**In Mai 1996 the Greek government demonstrated its interest in a stronger role of the European Parliament by submitting a specific document on this issue. For example it discusses, in which way the legislative and non-legislative powers of the Parliament might be enhanced.**

## **9. IRELAND**

**Ireland outlined its negotiation positions on 28 March 1996 within a document called 'CHALLENGES AND OPPORTUNITIES ABROAD: IRISH WHITE PAPER ON FOREIGN POLICY'. It appears that the government is in favour of a strong European Parliament. On the one hand the extension of the codecision procedure is supported, on the other hand it is stated, that any attempt to undermine the role of the European Parliament would be firmly resisted. Also it is commented on voting in the Council of Ministers. The government is in favour of extending the provision for qualified- majority voting.**

**This approach is confirmed by the Whitebook THE EUROPEAN UNION AND THE NEW EUROPE. IRELAND'S CONTRIBUTION TO THE INTERGOVERNMENTAL CONFERENCE 1996, published in May 1996.**

## **10. ITALY**

**The Italian government continues on its traditionally pro-integrationist path. This becomes clear with several documents issued concerning the 1996 IGC:**

- MEMORANDUM BY THE FOREIGN MINISTER, ANTONIO MARTINO, OF 12 OCTOBER 1994;**
- COMMUNICATION OF 23 FEBRUARY 1995 ON THE GUIDELINES FOR ITALIAN EXTERNAL EXTERNAL POLICY;**

- **COMMUNICATION OF 23 MAY 1995 ON THE IGC AND THE REVISION OF THE TREATY OF MAASTRICHT;**
- **JOINT DECLARATION OF THE FOREIGN MINISTERS OF ITALY AND GERMANY, 15 JULY 1995;**
- **POSITION OF THE ITALIAN GOVERNMENT ON THE INTERGOVERNMENTAL CONFERENCE FOR THE REVISION OF THE TREATIES, ROME, 18 MARCH 1996**

In these documents, the Italian Government comes out in favour of general application of majority voting, on condition that the weighting of votes within the Council is amended. To ensure greater democratic legitimacy, it proposes voting by double majority, of the Member States and of their population.

*Democracy* for the Italian Government, means above all granting greater legislative powers to the European Parliament by simplifying procedures through a hierarchy of acts. Acts of a legislative nature should be adopted in the Council by majority vote and should be the subject of codecision of the European Parliament.

**In addition** better involvement of the national parliaments in Community policy by more frequent contacts and exchanges of information with the European Parliament is envisaged **as well as a more significant role of the European Parliament in the Union's external and security policy. A greater role in Justice and Home Affairs is indirectly advocated, since the government supports the transfer of policies in this field to pillar I.**

**Finally, concerning the composition of the Commission an approach is favoured which fixes the number of Commissioners below the number of Member States.**

## **11. LUXEMBOURG**

**For Luxembourg's negotiation positions see the 'BENELUX MEMORANDUM ON THE INTERGOVERNMENTAL CONFERENCE' referred to in the chapter dealing with Belgium. However, already with the 'AIDE-MEMOIRE DU GOVERNMENT LUXEMBOURGOIS SUR LA CONFERENCE INTERGOUVERNMENTALE DE 1996', issued on 30 June 1995, Luxembourg made clear, that it supports a more integrated, more mutually supportive and more democratic Europe.**

## **12. NETHERLANDS**

**For the dutch negotiation positions see the 'BENELUX MEMORANDUM ON THE INTERGOVERNMENTAL CONFERENCE' referred to in the chapter dealing with Belgium.**

**However, the Dutch position concerning the democratic nature of the Union has been clarified in more than only one document. In 1995 the government issued memorandums:**

- on the enlargement of the Union, possibilities and obstacles (14 November 1994),
- on cooperation in the field of external policy, security and defence (30 March 1995),
- on cooperation in the field of justice and home affairs (23 May 1995), and
- on the institutional reform of the European Union (12 July 1995).

**In March 1996 this collection was completed with a document titled 'BETWEEN MADRID AND TURIN: DUTCH PRIORITIES ON THE EVE OF THE 1996 IGC'.**

**All these documents advocate strengthening the European Parliament's role. In addition the demand is expressed to give national governments greater influence on decisions of the Union and greater scrutiny of their implementation.**

### **13. PORTUGAL**

**In March 1996 the Ministry of Foreign Affairs issued a memorandum titled 'PORTUGAL AND THE INTERTGOVERNMENTAL CONFERENCE FOR THE REVISION OF THE TREATY ON EUROPEAN UNION' . It was produced by the Ministry of Foreign Affairs. Regarding institutional reform it takes a rather restrictive positions. Portugal is opposed to any change in the present system of weighting of votes, which it feels has worked well. Decision-making should be simplified by abolishing the cooperation procedure and rationalizing codecision. The national parliaments should be involved to a greater extent in second and third pillar matters but without disrupting the present institutional balance. The report recommends extending the COSAC system which brings together the national parliaments and the European Parliament. Concerning legitimacy with regards to the Commission the government continues to favour the principle that every member state nominates at least one commissioner.**

### **14. UNITED KINGDOM**

**The United Kingdom clarified its position on the democratic nature with 'A PARTNERSHIP OF NATIONS. THE BRITISH APPROACH TO THE EUROPEAN UNION INTERGOVERNMENTAL CONFERENCE 1996', presented in March 1996. It argues, that not the European Parliament but national parliaments are the main source of the European Union's democratic legitimacy, especially with regard to intergovernmental cooperation in foreign and security policy as well as in home and justice affaires. Accordingly, 'the government does not feel ... that the European Parliaments needs new powers'. 'It was given new rights in the Maastricht Treaty, for example to appopint an Ombudsman, to set up temporary committees of inquiry, and to participate more fully in the legislative process through the codecision procedure. The European Parliament has been slow to use these powers effectively... Conciliation under the codecision procedure ... is not yet operating smoothly. The European Parliament has sometimes used its poweres under this procedure irresponsibly... The Government believes that if the European Parliament is to win public trust and confidence, it will need to demonstrate that it has been using its new powers responsibly.'**

For the British government the issue of democratic legitimacy is also important as regards qualified-majority voting in the Council of Ministers. It argues that by one way or another the voting procedure should take into account the size of the population of each Member State.

#### 15. SWEDEN

In July 1995, SWEDEN submitted an initial 'NOTE ON SWEDEN'S PRINCIPLE INTERESTS WITH A VIEW TO THE 1996 INTERGOVERNMENTAL CONFERENCE'. It stressed Sweden's intention to work for a more democratic, supportive and open Europe. On 30 November 1995 this document was followed by a 'WRITTEN COMMUNICATION OF THE GOVERNMENT ON THE 1996 INTERGOVERNMENTAL CONFERENCE OF THE EUROPEAN UNION'. Here democratic legitimacy is regarded as an important issue, too. However, a rather intergovernmentalist approach is adopted.

According to Sweden, the European Parliament should continue to play an important role in the decision-making procedures of the Union. Whether this role should be strengthened, does not become clear. Explicitly only a strengthening of its competences in controlling the finances of the Union and with regard to policies in the domain of justice and home affairs is supported. Regarding the different procedures of legislation it is only mentioned, that they should be simplified and made more comprehensible for the citizens of the Union. In addition, it is argued that the role of the national parliaments should be fostered.

The document attaches special importance to transparency, including public access to official documents for ordinary citizens, which is at the basis of any democratic control. A more open, more comprehensible and more efficient Union would, the Swedish Government feels, be the precondition for the Union to be more readily accepted by its citizens.

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