

PARLEMENT EUROPEEN



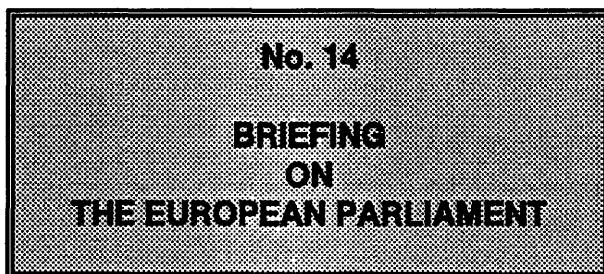
GROUPE DE TRAVAIL DU SECRETARIAT GENERAL

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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
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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
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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
25. The IGC and the effectiveness of the Union
26. Europol
27. The IGC and the Schengen Convention
28. Combatting fraud
29. Energy
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31. Economic and social cohesion
32. European environment policy and the IGC
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
40. Social exclusion and the IGC
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**BRIEFING
ON
THE EUROPEAN PARLIAMENT**

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BRIEFING ON THE EUROPEAN PARLIAMENT

1. SUMMARY

The main institutional subjects related to the European Parliament **under discussion** at the 1996 Intergovernmental Conference **are the following**:

- composition;
- legislative function;
- budgetary function;
- political control function;
- the EP and external action - the CFSP;
- the EP and the field of home affairs and justice;
- relations with the national parliaments.

This briefing will deal with these and other aspects. Please note, however, that some of these subjects (namely, the legislative, budgetary and political control functions and relations with the national parliaments) are specifically covered by other briefings, and will not, therefore, be examined here in detail.

On the subject of the composition of the European Parliament, the general view so far appears to be that the number of MEPs should not exceed 700. There is also a certain consensus on the need to reduce the existing imbalance between distribution of seats and population, via an across-the-board reduction in the number of seats allocated to each Member State accompanied by reservation of a certain number of seats for the smaller Member States (although some of the countries concerned reject such a possibility and propose continuing the status quo). Some degree of agreement is also visible as regards the need to revise the voting systems for the decision-making processes and for certain types of majority vote (e.g. a vote of censure against the Commission).

On the subject of obtaining an extension of the powers of Parliament at the IGC, there is a **certain** degree of agreement (allowing for certain significant exceptions) regarding the desirability of extending the codecision procedure, at least to the areas where majority voting operates in Council. There are also numerous proposals for the simplification of the existing legislative procedures and the reduction of their number to two or three (consultation, codecision, assent).

There are a large number of proposals concerning legislative hierarchy and legislative initiative. On the latter subject, it has even been suggested that Parliament should have the power of initiative in all the areas where qualified majority voting operates in Council, or, even more radically, on equal terms with the Commission.

On the controversial subject of the uniform electoral procedure, it has been proposed that once the procedure has been settled the 1999 elections should be held on a regional basis.

On the subject of control, there are still a small number of proposals concerning control of the Council by Parliament; a far more frequent demand, however, is for increased political power for Parliament to allow it to exercise control over the Commission and the other institutions. In this connection, there are proposals for Parliament to have the power to reject individual commissioners. In addition, some Member States have specifically proposed greater anti-fraud powers for Parliament.

There is also general agreement that Parliament should have greater powers in the areas of the second and third pillars. In both cases, these powers would be linked to an extension, or, indeed, generalization of the right of consultation and information: it has even been suggested that the right of consultation should, in the context of cooperation in the field of justice and home affairs, apply on a prior and mandatory basis.

On the subject of relations between the EP and the national parliaments, there is a broad consensus that links should be established and that the national parliaments should be more closely involved in the Union's affairs.

2. AGENDA FOR THE CONFERENCE

On the matter of institutional changes affecting Parliament, the agenda for the conference for the revision of the Treaty of Maastricht, which will largely consist of various documents and texts of a legal and political nature, implies certain possible reforms. Article 189b(8) of the Treaty on European Union provides for revision of the codecision procedure involving Parliament and the Council; furthermore, in accordance with the decisions of the Brussels European Council (10 and 11 December 1993), the IGC will, apart from examining the legislative role of Parliament and the other matters provided for in the Treaty on European Union, begin considering what measures are necessary to facilitate the work of the institutions and ensure their smooth running. The Council meeting of 29 March 1994 and the Ioannina Agreement committed the Member States to examining the reform of the institutions at the 1996 IGC, and the Corfu European Council (24 and 25 June 1994) agreed on the creation of a 'reflection group' to prepare the IGC, with two MEPs among its members. The Cannes European Council (26 and 27 June 1995) set out a number of priorities for that group, including the need to increase the efficiency, democratic character and transparency of the institutions to enable them to adapt to the requirements of an enlarged Union: the group will also be expected to study *measures to improve the workings of the institutions which do not require amendment of the Treaties and can therefore be implemented at once*. The European Council meeting in Madrid on 15 and 16 December 1995 decided that the Conference should be officially opened in Turin on 29 March 1996, in order to create the necessary political and institutional conditions for bringing the Union into line with today's realities and tomorrow's requirements, particularly with regard to forthcoming enlargement.

The European Council received with great interest the Report by the Reflection Group, chaired by Mr Westendorp, and decided that the Intergovernmental Conference should examine those provisions of the Treaty on European Union, review of which is expressly called for in the Treaty, as well as those questions which it was decided should be discussed by the Conference, both in the Brussels and Corfu European Council Conclusions and in declarations adopted at the time of interinstitutional agreements. The European Council also reaffirms the guidelines laid down at its Cannes meeting. The Intergovernmental Conference will, in general, have to examine the improvements which have to be made to the Treaties to bring the Union into line with today's realities and tomorrow's requirements, in the light of the outcome of the Reflection Group's proceedings.

The European Council also **agreed** that the formal review procedure stipulated in Article N of the Treaty **would** be carried out as quickly as possible so that the Conference can be officially opened in Turin on 29 March 1996.

Finally, the European Council decided that the Conference will meet regularly, in principle once a month, at the level of Foreign Affairs Ministers, who will have responsibility for all proceedings; preparations will be conducted by a working party made up of a representative of each Member States' Minister for Foreign Affairs and of the President of the Commission.

The European Council in Turin on 29 March 1996 opened the Intergovernmental Conference and reiterated the already mentioned issues for negotiation.

The interinstitutional agreements include the interinstitutional declaration on democracy, transparency and subsidiarity of 25 October 1993, the interinstitutional agreement of 29 October 1993 on budgetary discipline and improvement of the budgetary procedure, and the 'modus vivendi' on committology agreed on 20 December 1994 by the European Parliament, the Council and the Commission.

3. POSITIONS OF THE MEMBER STATES



Memorandum on the IGC from the Governments of Belgium, Luxembourg and the Netherlands, 7 March 1996

In this memorandum the Benelux countries argue in favour of their traditional pro integrationist approach on the process of European integration. In their view this process should continue on the basis of close cooperation between states which voluntarily share their sovereignty and have, to this end, transferred certain powers to the common institutions.

On the subject of the European Parliament, the three governments believe that the codecision procedure should be simplified and extended to most of the legislative fields where qualified majority voting applies. They also favour reducing the number of procedures to three (consultation, assent and codecision).

Concerning the Parliament's role in the second and third pillars of the Union (Common Foreign and Security Policy and Justice and Home Affairs), Belgium, Luxembourg and the Netherlands are convinced that the Parliament should be stronger involved within in the decision-making process on the basis of sufficient information provided in due time by the Commission.

Finally the three governments believe, that the parliament's political powers vis-à-vis the Commission should be strengthened. In their view, the Commissioners should be made more responsible to the Parliament.



Open Europe: The 1996 Intergovernmental Conference, Basis for Negotiation, 11 December 1995

In this document, the Danish Government states that the European Parliament should continue to play a major role in the decision-making process and as a body exercising political control. Specifically, the Danish Government could accept an upper limit being set for the number of Members of the European Parliament in an enlarged European Union.

In addition, Denmark is convinced that national parliaments should play a more important part. It suggests stepping up the information flow between the Union institutions and the national parliaments. Legislative proposals of the Commission as well as white and green papers should be forwarded sufficiently early to enable national parliaments to adopt their own positions.

The interest for a stronger role of national parliaments was confirmed by the submission of a specific document on this issue in November 1996.

GERMANY

I. Basic positions of the federal government with regard to the 1996 Intergovernmental Conference

On 21 February 1995 the Foreign Minister, Klaus Kinkel, set out the underlying philosophy behind the federal government's priorities for the 1996 IGC. He took the view that the powers of codecision of the European Parliament must be part of the agenda item on 'increasing efficiency'. Furthermore, **the following documents should be mentioned:**

a) Joint declaration of 15 July 1995 by the German and Italian Foreign Ministers regarding the 1996 Intergovernmental Conference

This declaration was made following the meeting in Monte Argentario, Italy, on 15 July 1995 between the German and Italian Foreign Ministers and includes an undertaking by the two countries to cooperate closely in the preparations for the 1996 Intergovernmental Conference. **It stressed, that full powers of codecision should be granted to the European Parliament for all legislative matters. In addition the legislative procedure should be simplified and streamlined to make it more transparent and bring it closer to citizens.**

In addition, the two governments believe that in the fields of Common Foreign and Security Policy and in Justice and Home Affairs the Parliament should be more strongly involved, in order to enhance efficiency, coherence and democratic legitimacy.

b) "Germany's objectives for the Intergovernmental Conference", 26 March 1996

In this brief document the German government again stresses that the Parliament's consultative role in Justice and Home Affairs should be enhanced.

c) Letter from the President of the French Republic, Jacques CHIRAC, and the Chancellor of the Federal Republic of Germany, Helmut KOHL, 9 December 1996.

(See chapter on France)

II. Basic positions of the German Länder

The conclusions of the Conference of Ministers of European Affairs of 16 February 1995 included the following points:

- the European Parliament must have an equal right of codecision with the Council in all EU decisions where the Council decides by majority vote;

- there should be phased implementation of the principle of electoral equality, with the allocation of a minimum number of seats for small Member States;
- there should be a uniform election procedure for all Member States on a regional basis for the European Parliament elections in 1999;
- in anticipation of any future arrangements, **the results of the IGC should be implemented in cooperation with the European Parliament.**

GREECE

Greece's positions and comments, Memorandum of the Greek Government, 24 January 1996

This document makes clear, that the Greek government is in favour of a considerably strengthened European Parliament. First, it is argued, that its legislative role should be enhanced by extending its powers into certain policy areas dealt with in the second and the third pillars, alongside with strengthening the Commission and the Court of Justice in these areas.

Second, the codecision-procedure should be simplified and applied to all legislative acts (certain exceptions apart), whose adoption requires an absolute majority. Greece is willing to accept the extension of qualified majority voting. However, for certain sensitive areas including constitutional matters, accession of new Member States, and new association agreements, it believes that the principle of unanimity should be retained.

Third, the government could accept a ceiling of 700 MEPs, provided this did not endanger the adequate representation of the smaller Member States.

Finally, Greece is in favour of strengthening the EP's powers of control over the executive bodies.

SPAIN

Elements for a Spanish position at the 1996 Intergovernmental Conference, 28 March 1996

This document in structure, wording and content is largely based on the 5 December 1995 report of the Reflection Group, chaired by Carlos Westendorp, who later became Spain's Foreign Minister.

Concerning institutional reform, Spain believes, that any reform must strengthen the single institutional framework within the Treaty on European Union, independent of its structure.

On the European Parliament Spain would support a ceiling of 700 members, as proposed by the Parliament itself.

Concerning electoral reform, the government wishes to read Art. 138(3) of the Treaty as requiring an uniform procedure to be introduced in all the Member States. It argues in favour of speedy action to this end.

Regarding the Parliament's legislative role, the government first considers its right of initiative and believes it to be sufficient. In addition, the government favours reducing the number of legislative procedures to three, namely codecision, assent and consultation. Codecision should be simplified and improved without altering its general nature, and be extended in scope to the areas currently subject to the cooperation procedure.

On the matter of political control Spain refers to Parliament's role in the appointment of the Commission, considering that the existing approval procedure under Article 158, applied for the first time for the present Commission, represents a satisfactory balance and does not need adaptation. Nevertheless the government is in favour of strengthening the Parliament's control powers vis-à-vis the Commission by enhancing its role in monitoring the implementation of Community acts, and in the field of anti-fraud action.

In matters of Common Foreign and Security Policy the government believes, that the role of the EP can not be the same as in the first pillar. It argues that the existing Treaty provisions could be better put into practice.

Furthermore, Spain is in favour of a general right of consultation of the European Parliament in those matters which, for the time being, remain in the third pillar. Additionally, it argues that several matters should be referred to the institutional framework of the first pillar, in which the Parliament's importance is significantly higher.

Finally it should be noted, that the Spanish government already in March 1995 was well aware that the IGC will see a crucial and heated debate on the various aspects of strengthening the Parliament's powers (see "The 1996 Intergovernmental Conference - Starting-points for a discussion", 2 March 1995").

FRANCE

Memorandum of France' guidelines for the 1996 IGC, published in "Le Figaro", 20 February 1996

In this confidential document the French government takes a rather restrictive position concerning the European Parliament. It believes, that the legislative procedures should be simplified, but without modifying the existing balance between Council and Parliament. It also suggests that an upper limit should be set on the number of MEPs at the same time as the project for a uniform electoral procedure is put into practice.

In addition, France strongly demands an enhanced role of the national governments. It favours creating a body, consisting of their representatives, to be consulted on all matters relating to respect for the principle of subsidiarity, on the grounds that the national parliaments are best equipped to judge on this subject. Such a "High Parliamentary Council", which could, for example, comprise two representatives from each Member State, could be created by institutionalizing the existing COSAC. These ideas were outlined in more detail in a document submitted to the IGC in June 1996.

Letter from the President of the French Republic, Jacques CHIRAC, and the Chancellor of the Federal Republic of Germany, Helmut KOHL, to the Presidency of the European Council, 9 December 1996

With this joint letter the governments of France and Germany again coordinated their negotiation positions as regards the most important issues on the agenda of the IGC.

Concerning the European Parliament the letter states that the present number of legislative procedures in which Parliament participates should be reduced, and the procedures themselves be simplified. In addition, it should be examined how to extend the co-decision procedure to other areas.

In order to improve the EU's democratic legitimacy it is also considered to involve the national parliaments to a greater extend than hitherto, above all in those areas in which national parliaments have up to now played a major role (especially pillar II and III). A provision to that effect should be included in the revised Treaty.

Furthermore it is argued that any reform of the decision-making structure in pillar III has to safeguard proper consultation of the European Parliament, alongside a stronger role for both the Commission and the Court of Justice. As in the case of Spain, the transfer of several policy fields to the first pillar is advocated, which would also indirectly enhance the position of the European Parliament.

IRELAND

External Challenges and Opportunities, White Paper of the Irish Government on Foreign Policy, 26 March 1996

With this document the Irish government makes clear that the democratic character of the Union's institutions should be preserved and, where necessary, enhanced. It is stated that Ireland will oppose any proposals tending to undermine any of the existing institutions in respect of their basic functions under the Treaty.

Ireland will support:

- the numerical reduction and simplification of the legislative procedures;
- the extension of the codecision procedure;
- greater use of qualified majority voting in the Council.

The document does also highlight that any strengthening of the role of the national parliaments should not affect the position of the European Parliament or lead to any further complication of the existing procedures at Union level.

Finally, in several speeches members of the Irish government declared that Ireland would support fixing a maximum number of MEPs.

ITALY

Joint declaration of 15 July 1995 by the German and Italian Foreign Ministers regarding the 1996 Intergovernmental Conference

(See chapter on Germany)

Position of the Italian government on the IGC for the revision of the Treaties, 18 March 1996

In this document the Italian government considers that the IGC should rationalize and consolidate the role of the European Parliament. The EP should more fully participate in CFSP matters as well as in matters of Justice and Home Affairs. Equality between Parliament and Council should be ensured through a hierarchy of acts tying the procedure for adopting acts to their status. Within this hierarchy of acts - which Spain did already propose in the Intergovernmental Conference on Political Union in 1990/1991 - the number of legislative procedures should be

reduced to three, namely assent, consultation and codecision. The assent procedure would be extended to include Treaty revisions. Codecision should be extended to all legislative measures aimed at establishing a general framework on a sectoral and subject-area basis and linked to qualified majority voting in the Council of Ministers. Codecision itself should be streamlined via eliminating superfluous stages and abolishing the possibility of a third reading in Council in the case of disagreement in the Conciliation Committee.

Finally, Italy is in favour of fixing the maximum number of MEPs between 650 and 700, and of setting a deadline for the adoption of a European Union wide uniform electoral procedure.

LUXEMBOURG

Memorandum on the IGC from the Governments of Belgium, Luxembourg and the Netherlands, 7 March 1996

(see chapter on Belgium)

NETHERLANDS

Memorandum on the IGC from the Governments of Belgium, Luxembourg and the Netherlands, 7 March 1996

(see chapter on Belgium)

AUSTRIA

Guidelines proposed by the Austrian government on the probable subjects of the 1996 IGC, June 1995

On the subject of the European Parliament, the Austrian government favours extending Parliament's legislative and supervisory powers, and, to this end, advocates discussion of simplification of the legislative procedures and of commitology.

Certain reservations are expressed concerning the demands (made by Parliament) for Parliament to have the right of initiative vis-à-vis the Commission. Austria nonetheless favours reforming the procedure for investing the Commission, and supports the proposal made by Mr Santer at the last investiture in January 1995.

The Austrian government does not see the number of MEPs as being a priority issue: it considers that Parliament's efficiency depends on its working methods.

In the area of the CEESP, the Austrian position is that, in the present circumstances, parliamentary control in this field should be a matter for the national parliaments. On the other hand, it suggests that there is room for enlarging and systematizing the informational aspects referred to in Article J.7 of the Treaty on European Union.

On the subject of cooperation in the areas of home affairs and justice and the role of the European Parliament, the Austrian government's view is similar to that expressed by it on the roles of the European Parliament and the national parliaments in the area of the CFSP.

Austria's positions of principle on the Intergovernmental Conference, 26 March 1996

With this document Austria makes clear that as regards democracy the existing institutional balance should be preserved. It confirms the position that, in order to enhance the Union's democratic legitimacy and transparency, legislative procedures should be simplified. This should be combined with generally closer cooperation between the Council and Parliament as well as with a closer link between EP and national parliaments on the basis of COSAC.

In addition, the government argues in favour of more intensive action against fraud and of strengthening the Community institutions, instruments and procedures under the third pillar, implying a stronger role of the European Parliament in these matters.



Portugal and the IGC for the revision of the Treaty on European Union, Foreign Ministry, March 1996

On the European Parliament the government feels, that some of the functions conferred on it by the Treaty of Maastricht have not yet been sufficiently considered or put into practice, and that the revision and adjustment of the existing mechanisms should not affect the existing institutional balance.

Portugal is in favour of simplifying the codecision procedure and of extending its application, especially as regards the areas currently governed by the cooperation procedure. In addition, the principle of consultation should be explicitly recognized in those first pillar areas, where it remains optional, and reinforced in the fields of citizens' rights and interests.

In the second and third pillars, according to Portugal, improvements are needed to the application of the system of consultation of the European Parliament.

Concerning the Parliament's powers of control vis-à-vis the Commission the government believes, that they are sufficient. It is willing however, to consider the possibility of having the President of the Commission elected by the European parliament from a list of names submitted by the European Council. It opposes, however, any formula giving the Parliament the option to dismiss individual commissioners.

Finally, Portugal suggests fixing a maximum number of 700 MEPs.



Finland's starting-points and objectives for the 1996 IGC, Report of the Finnish Government to the national Parliament, 27 February 1996

Finland's general approach to European integration in this document is described as developing the Union as an association of independent states.

For the status of the European Parliament that means nevertheless, that the government is in favour of strengthening its legislative role. The government points out, however, that it would reject all proposals entailing greater powers for the EP in the decision-making process concerning modification of the Treaty.

In addition, Finland is convinced, that the national parliaments should have genuine opportunity to influence the Union's actions. The Union institutions should work on the basis of openness and maximum efficiency, using procedures which facilitate, rather than limit, the national parliament's ability to influence the adoption of positions by the Member States.

The view, that a hierarchy of legislative acts should be created, as proposed by Italy, is rejected. Equally, Finland expresses sepsis as regards to a right of initiative of the EP.

In CFSP matters the principle of intergovernmental cooperation is highlighted. The role of the European Parliament should be clarified on the basis of the existing Treaty provisions.

Finally it is stated that the budgetary procedure should be simplified with the introduction of a single stage both in Council and in Parliament.

Memorandum of the Foreign Ministry of 18 September 1995 on the views of the Finnish Government concerning the 1996 Intergovernmental Conference

The tenor of this earlier document is the same. In addition it makes clear that Finland would support limiting the maximum number of MEPs. In this context it emphasises that the number of MEPs from smaller Member States should be higher than that resulting from the application of any method of calculation based exclusively on the population of the various Member States.

Furthermore some willingness is demonstrated to rethink the role of the European Parliament with regard to Justice and Home Affairs.



Government note of 30 November 1995 to the Swedish parliament on the 1996 Intergovernmental Conference

With regard to the European Parliament, the Swedish government states that Sweden must act in such a way as to allow the Parliament to continue to play an important role in the decision-making processes of the European Union. It supports substantial simplification of the many complex procedures whereby Council and Parliament adopt decisions, so as to improve their efficiency and ensure that they are better understood by Union citizens.

With regard to the issue of the European Parliament's right of initiative, the Swedish government echoes the EP's own request that the Commission should exclusively enjoy such a right of initiative.

With regard to a possible strengthening of the EP's role with regard to financial control, the Swedish government believes that this should concern only monitoring and assessing such control, but not to decisions affecting the levels or guidelines for such spending.

After requesting that the role of the national parliaments be reinforced in the decision-making procedure, the Swedish government refers in particular to decisions adopted within the framework of cooperation on justice and home affairs, matters which are of major importance for the fundamental rights of citizens and their own individual safety.

For this reason, the Swedish government wishes to see the IGC used to examine the issue of extending the role of the European Parliament in this field when decisions are being adopted. The Government believes that the EP should have wider access to draft decisions which are to be binding on the Member States, and in this case it should have the option of submitting its own comments within a specific period of time.

UNITED KINGDOM

A Partnership of Nations, UK White paper on the IGC, 12 March 1996

In this document the British government rejects any move towards political union leading, according to the UK, to the inexorably transfer of powers to supranational institutions, the erosion of national parliaments and the gradual creation of a "United States of Europe". It expresses its determination to safeguard the powers and responsibilities of the nation states.

From the British viewpoint, the European Union obtains its democratic legitimacy mainly through the national governments and not the European Parliament. Accordingly the notion of strengthening the European Parliament in order to reduce the democratic deficit of the Union is not shared. National parliaments should remain the core element of the Union's democratic legitimacy, especially with regard to purely intergovernmental cooperation within the sensible fields of common foreign and security policy and home and justice affairs. The European Parliament should not get new powers, but strive for greater public support by developing its role through the responsible exercise of its existing powers, in particular its powers of control over Community spending.

The European Parliament is blamed for having used its powers in an irresponsible manner, in particular with regard to the codecision procedure, which was introduced with the Maastricht Treaty.

It should also be noted that in November 1995 the House of Lords Committee on European Affairs published a report on the IGC in which it said that the EP should be allowed to make more active use of the powers it already possesses, while opposing any extension of those powers (including legislative powers), and explicitly rejecting any extension of legislative co-decision.

4. POSITION OF THE COMMISSION

In the first part of its report of 10 May 1995 on the operation of the Treaty on European Union, the Commission, in the context of discussing institutional means of fulfilling the criterion of greater legitimacy, makes the following points concerning Parliament:

- the Commission notes the significant development of the role of Parliament since the Treaty on European Union has been in force, and sets out explicitly the details of Parliament's direct political functions and its role in the decision-making process;
- with respect to the new powers of control conferred by the TEU, the Commission points out that Parliament has not to date made use of the new control facility of setting up a temporary committee of investigation. It concludes, on the other hand, that the new provisions of the TEU reinforcing Parliament's control over the execution of the budget have been implemented without major problems;
- on the CFSP, the Commission considers that as things stand at present the European Parliament's role is already comparable to that of the national parliaments *vis-à-vis* national foreign policy, but recognizes that the implementation of these provisions has given rise to interpretative divergences and difficulties. In particular, Parliament feels that consultation should precede all important decisions and should be formalized, while the Council's view is that its consultation obligations are fulfilled by its President-in-Office appearing before the relevant committee of Parliament and by the report annexed to the conclusions of the European Council.
- on cooperation in the areas of justice and home affairs, the Commission identifies similar problems of interpretation, but nonetheless feels that the situation is not exactly the same, since issues in these fields can have a direct bearing on the fundamental rights of persons and civil liberties, and therefore call for greater parliamentary control, especially where binding legal instruments are involved;
- on requests for initiatives, the Commission considers that such requests do not constitute a binding obligation on it to submit proposals; it declares, however, that it will take full account of them in line with the terms of the recent code of conduct agreed with Parliament.

In conclusion, the Commission endorses the overall institutional response to the criterion of legitimacy contained in the treaty, but nonetheless expresses its reservations concerning the weakness, if not actual absence, of democratic control in the Union in the areas where the intergovernmental approach remains dominant.

On 6 December 1995 the Commission adopted its official position on the reflection group report. It firmly supports all the general ideas in the report and argues that:

“- the current legislative and administrative decision-making processes need radical simplification. There should be no more than three legislative procedures - codecision in simplified form, which should be the standard procedure, the assent procedure and the simple consultation procedure.”

Finally, on 3 July 1996 the Commission report under Article 189b(8) of the Treaty concerning the scope of the codecision-procedure was adopted. This document argues that extending the scope of a simplified codecision procedure on a

systematic basis would enhance the European Union's democratic legitimacy as well as its efficiency.

5. POSITION OF THE COUNCIL

In its report of 6 April 1995 on the workings of the Treaty on European Union, the Council considered the question of the Union's institutional system. As far as Parliament is concerned, the Council's text makes the following points:

- the Treaty on European Union has strengthened the role of Parliament in two ways: it has reinforced its participation in the legislative process and increased its powers of political control. The Council considers, however, that Parliament has at times interpreted the powers conferred on it by the treaty in a highly generous fashion;
- in general terms, the increase in the number of legislative procedures has made the decision-making process more complicated.

With regard to interinstitutional relations, the Council notes that:

- Parliament has proposed extending the interinstitutional dialogue to new fields (application of Title V (CFSP) and Title VI (cooperation in the fields of justice and home affairs) of the treaty; EMU; social policy; and transparency), although the Council feels this to be unnecessary;
- Parliament has on occasion sought to use its budgetary powers (which no-one wishes to call in question) with a view to influencing the definition of Union policy.

On the subject of the CFSP, the Council considers that the extent of Parliament's involvement in its definition (limited by the TEU to consultation and information) remains a bone of contention between the two institutions, and notes that Parliament favours an interinstitutional agreement which would introduce new provisions additional to those in the treaty. With respect to the financing of the CFSP, the Council's view is that experience has shown that there is an imbalance between Parliament's powers of control and its budgetary powers, and that Parliament's tendency is to use the latter to increase its participation in the CFSP, thus giving rise to numerous conflicts.

With regard to cooperation in the fields of justice and home affairs, the Council notes that here too there is disagreement between it and Parliament over how far Parliament should be involved in this area (also limited, by Title VI of the TEU, to consultation and information), and that, in this case as well, Parliament has called for an interinstitutional agreement which would introduce new provisions additional to those in the treaty. Certain Member States have urged that there should be more parliamentary control under Title VI; in addition, the question of the financing of the implementation of Title VI raises problems similar to those referred to in relation to Parliament and the funding of the CFSP.

6. POSITION OF THE EUROPEAN PARLIAMENT

Parliament's position is summarized in its resolution of 17 May 1995 on the functioning of the Treaty on European Union with a view to the 1996 intergovernmental conference - implementation and development of the Union. This resolution makes the following points:

1. With respect to the CFSP, Parliament considers that democratic control over matters not falling under the first pillar should be exercised both by itself and by the national parliaments, and that it should be consulted whenever the Council adopts a common position or joint action. It also takes the view that the Council should be obliged to provide information on the subjects concerned, and that rules should, accordingly, be drawn up for the confidential treatment of such business.
2. Concerning justice and home affairs, Parliament considers that the powers of the other institutions, its own included, should be reinforced.
3. With a view to clarifying the various fields of competence, Parliament proposes that Article 235 should be retained, but should only be used in the last instance and subject to the assent of Parliament.
4. With the aim of strengthening and democratizing the Union's institutions, and as far as Parliament is concerned, the following proposals are made:
 - there should be no more than 700 MEPs, and there should be a common 'MEP's statute';
 - Parliament's assent should be required for all appointments of members of the Court of Justice, the Court of First Instance, the Court of Auditors and the executive committee of the European System of Central banks;
 - Parliament should have equal rights to the Council in all the Union's areas of legislative and budgetary competence;
 - Parliament's role should be strengthened in all the areas where there is insufficient Community-level control at present, and in particular in the fields covered by the first and second pillars and with regard to EMU;
 - Parliament should have, on a par with the other institutions, the following rights: to request the opinion of the Court of Justice on the compatibility of international agreements with the Treaty; to initiate legal actions (not solely in order to preserve its prerogatives); and to be informed of the requests for preliminary rulings forwarded to the Court and to submit opinions thereon;
 - Parliament should be involved in any decision on its own seat;
 - the Commission should be obliged to respond to Parliament's initiatives under Article 138b(2).

On 17 January 1997, with the Resolution on the general outline for a draft revision of the Treaties, the Parliament commented on the general working document, which was submitted on 5 December 1996 by the Irish Presidency of the European Council in order to summarize the negotiations to date and to provide a comprehensive basis for the next phase of negotiations (see below, chapter "Other Positions"). Concerning the role and the powers of the European Parliament this resolution states:

"38. ... that the Irish Presidency text has made a few positive proposals in this regard but, nevertheless, has not adequately taken account of the need to reinforce democratic control at EU level:

(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 proposal to extend codecision to the entire area of standard secondary legislation as put forward by the Commission and the European Parliament is the only proposal on the table and should therefore be followed up;

(ii) the Presidency's text completely fails to tackle the issues 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;**

39. Welcomes the Presidency's proposal to simplify the codecision procedure, which goes in the direction suggested by the European Parliament; considers, however, that it should be made clearer that, if the Council makes any changes to a text examined by the EP, the latter should always be given a second reading; believes, moreover, that the suggested time limits and the other issues such as the possible reduction in the size of delegations to the Conciliation Committee or an increase in the proportion of permanent members should be discussed jointly by the Council and Parliament with the aim of improving the efficiency of the conciliation procedure;"

On 13 March 1997 the Parliament adopted another "Resolution on the Intergovernmental Conference". In this document it:

“13. Stresses that citizens demand better democratic legitimation and accountability of decisions at European level and hence a simplified, equal right of codecision for Parliament must be extended to the entire scope of normal Community legislation, while decisions of a fundamental nature and international treaties must be subject to Parliament’s assent; at all events, Parliament must discharge its duties, in term of supervision of the executive, commensurate with any representative democratic institution;

(...)

15. Notes with concern that the concepts discussed hitherto in the Conference do not do proper justice to these demands but, on the contrary, in a number of important areas involve the risk of weakening democratic legitimation and control by Parliament.”

Finally, it should be mentioned that, on the subject of following up the IGC, Parliament feels that the guidelines concerning its participation in the negotiations should be defined by the interinstitutional conference. Parliament will be required to give its assent on the outcome of the negotiations; to this end, it has called for the existing Article N of the Treaty to be revised, to ensure that Parliament has the same right as the Commission to submit proposals for revising the Treaty. This would necessitate modification of the Treaty to ensure that any future revisions are approved jointly by Parliament and the Council before being submitted for ratification to the national parliaments.

7. POSITION OF THE OTHER INSTITUTIONS AND BODIES

7.1. OPINION OF THE EUROPEAN COURT OF JUSTICE

The opinion of the Court of Justice of May 1995 on certain aspects of the implementation of the Treaty on European Union concerns only those aspects affecting the Union's legal system. With respect to Parliament, the Court's most interesting comments are the following:

- Parliament has already, on three occasions, used its new power to take out annulment proceedings against acts of the Council, under the third paragraph of Article 173 of the Treaty;
- the Court sees no technical reason for opposing the proposals for amending Article 173 of the Treaty and the related provisions so as to confer on Parliament the right to take out annulment proceedings without having to give a specific justification and for giving Parliament the official right to request the Court to deliver an opinion on a proposed international agreement of the Community, pursuant to Article 228(6) of the Treaty. At all events, the Court doubts whether it is desirable to transfer disputes to the legal sphere where they could be perfectly well resolved in the political sphere by political means;
- the Court supports a longer term of office for its own members rather than the option of renewing their terms, but rejects any reform which would involve individual

candidates having to be heard by the committees of Parliament, on the grounds that it is necessary to preserve the criteria of independence and freedom from bias which are essential for judicial office;

The Court of First Instance, in its contribution of 17 May 1995 with a view to the 1996 IGC, draws the attention of the conference to a number of points, including the following:

- any intervention by Parliament in the procedure for appointing judges should only concern a judge's first term of office, since Parliament is not in a position to monitor the manner in which a judge has carried out his duties;
- any such intervention by Parliament should have the exclusive objective of determining whether the candidates for judicial office fulfil the requisites laid down in the Treaty for the exercise of that office.

7.2. OPINION OF THE COURT OF AUDITORS

The report submitted by the Court of Auditors to the 'reflection group' on the operation of the Treaty on European Union in May 1995 does not contain any specific institutional comments on the European Parliament.

7.3. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

In its report of 26 April 1995 on the IGC and the role of the Economic and Social Committee, that institution took the view that the agenda for the IGC should include the extension of Parliament's legislative responsibilities via the widening of the codecision procedure. Similarly, on the CFSP and cooperation in the field of home affairs and justice, the Committee favoured an enhanced role for the EP, even if neither policy is 'communitarized'.

7.4. OPINION OF THE COMMITTEE OF THE REGIONS

In its report on the revision of the Treaty of Maastricht (20 April 1995), the Committee of the Regions announced that it would begin work in July 1995 on a report on the conditions for a positive dynamic in relation to the EP and the other institutions. It further proposed that its own consultative role should be enhanced, and that the obligation to consult it should also apply to Parliament; and, in addition, that where there is a disagreement with the Committee of the Regions, the institution concerned should inform the committee of the reasons for its position.

8. OTHER POSITIONS

8.1. REFLECTION GROUP'S REPORT OF 5 DECEMBER 1995

The European Parliament

(a) Composition

It seems appropriate to fix a maximum number of seats. A majority accept a maximum of 700 in an enlarged Union, as the European Parliament itself proposes in its report. It has also been suggested by some members that there should be at least enough members to ensure that major political forces of each Member State have the possibility to be represented.

(b) Uniform electoral procedure

It has been recalled by the Group that Article 138(3) provides for the establishment of such a procedure in all Member States. Some members propose that this legal basis should be changed to help achieve this objective and that a final date be established for its application. Others do not consider such amendments necessary.

(c) Legislation

The EP's legislative initiative:

The Group considers that the right of request established in Article 138b is broadly sufficient. Some members nevertheless point out that this Article should require the Commission to reply to the European Parliament's request.

Legislative procedures:

The Group is in favour of reducing the variety of procedures currently in force under the Treaty, and a large majority proposes its reduction to three: **co-decision, assent and consultation**. Some members note that this should not imply a change of the present institutional balance.

Some members propose that **assent** should be applied where the Council decides with unanimity, specially in Treaty changes (article N), own resources, article 235 and Third Countries' agreements.

The Group feels it is appropriate to improve and simplify the **codecision** procedure without changing its nature. A large majority is in favour of extending it. Most would extend it to all legislation adopted by the Council by qualified majority. Another view focus extension to the matters currently dealt with by the cooperation procedure, whereas others suggest a case by case approach.

One member, in principle, opposes any extension.

(d) Budgetary function

In addition to the fairly general wish to **simplify the procedure** (abolition of one of the readings), the proposal made by some members to reduce the lack of consistency between the EP's budget powers with regard to expenditure and those with regard to revenue has already been mentioned. In the case of expenditure, some members propose simplifying the procedure by removing the distinction between **compulsory and non-compulsory expenditure**. Most members, are, however, against removing the CE/NC distinction. Some suggest an intermediate approach for improving the balance of budget powers between the Council and the Parliament which would involve giving the latter some latitude to intervene in CE, perhaps in the form of a percentage.

(e) Political control

As regards the role of the EP in the appointment of the of the Commission, several members see that the current approval procedure of Article 158, applied for the first time to the present Commission, represents a satisfactory balance that should not be changed. Others would prefer the EP to elect the President of the Commission from a list proposed by the European Council. A majority in the Group favours making the Commission more accountable to the European Parliament. Some members propose the possibility of individual motions of censure of Commission members by the Parliament, but others object to this on the grounds that such a possibility would undermine the collegiate nature of the Commission. Some members advocate establishing procedures to improve the accountability of the Commission to the Council.

(f) Executive control

A distinction should be made here between executive powers exercised by the Commission and those exercised by the Member States in implementation of Community law. Most members consider it appropriate to increase the EP's and the Ombudsman's powers in **combatting fraud** and, in general, in monitoring the executive powers of the institutions.

(g) Role of the EP in the sphere of CFS

The majority consider that the role of the **European Parliament** cannot be the same in this area as in Community legislation, since national parliaments do not use the same mechanisms of participation in framing and monitoring foreign policy as in their legislative work or in domestic control. However, some members think that the present Treaty provisions should be better developed in practice, centring on the European Parliament's right to be informed in this respect. Others think it necessary to go further and involve Parliament more closely in determining the broad lines of the CFS and in controlling the Union's external political affairs by means of arrangements in the Treaty ensuring confidentiality.

Several members point out that the EP should not under any circumstances be given powers in this area in which governments conduct their foreign policy without prior

authorization from Parliament, except in cases of extreme gravity. At least one member is against any increase in Parliament' role in this sphere.

(h) Justice and home affairs

For the large majority, the Conference should improve the objectives and the instruments in this area of the Treaty. Many members favour a pragmatic approach in order to identify where there is need of further use of common institutions and criteria (Commission's non-exclusive right of initiative, control by the European Parliament and the Court of Justice, use of the majority rule in some instances, without prejudice to the appropriate use of unanimity in particularly sensitive areas) and where the full use of Community competence is required.

The Group agrees that the national parliaments and the European Institutions should intensify their relations on justice and home affairs. It has been suggested in this connection that COLAC or an ad hoc interparliamentary commission could facilitate the exchange of parliamentary information on the subject. The idea of a High Consultative Council made up of two representatives of each of the national parliamentary was also presented as having a special value for this area.

8.2. IRISH 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. BRUSSELS, 5 DECEMBER 1996

This document states:

“A strong European Parliament is an essential part of a democratic Union. The European Parliament’s powers therefore need to be consolidated as regards both its political and legislative action.”

The text goes on, first, to put forward a draft Treaty text which would strengthen the political role of the EP by providing that it must approve the nomination of the President of the Commission.

Furthermore, in order to enhance the EP’s role as “co-legislator”, the Presidency proposes to reduce the number of legislative procedure to three, namely codecision, consultation and assent, and that the assent procedure should be limited to accession and association agreements. Cooperation procedure should only be applied with regard to EMU.

In addition, the extension of the scope of the codecision procedure on a systematic basis, rather than on a case-by-case basis, is advocated, as well as a streamlining of the codecision procedure itself.

Finally, it is stated that the introduction of a uniform electoral procedure for elections to the EP remains under discussion at the Conference. However, no Treaty amendment is identified.

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