

NOTE

Subject: Summary report on the plenary session
- Brussels, 20 and 21 January 2003

I. OPENING OF THE SESSION

President Giscard D'Estaing opened the plenary session of the Convention by recalling that the Praesidium was working on a first group of articles of the draft Constitutional treaty and hoped to be able shortly to present them as a proposal to the Convention. In addition, an analysis and categorisation of the existing treaty articles, according to whether, and to what extent, they required amending was underway. This should allow the Praesidium to prepare a mandate for the group of legal experts from the three institutions who would begin work on those articles which required only technical modifications, with a view to submitting drafts to the Convention.

- 1. The functioning of the Institutions (doc. CONV 477/03)**
2. The President opened the debate on the functioning of the institutions by recalling the two reasons for addressing the issue: the effect of the increase in number of Member States following the forthcoming enlargement, and the requirement to adapt the institutions to enable them adequately to meet the challenges of new policy objectives such as foreign policy, defence, internal security and justice.

3. One's approach to the institutional issues depended on the nature of the European Union in the future. Should it move gradually towards more federal structures, or should it continue to be based on a mixed system, with a confederal element for those issues still subject to cooperation between Member States, and a federal system for those competences managed at the level of the Union? The Convention must consider:
- whether the respective roles of the Institutions are appropriately defined, and their accountability clear;
 - whether the institutions functioned, and would in future function satisfactorily. Do they deliver in a timely and effective manner?
 - should their structures and method of appointment be modified? If so, how?

Population disparities between Member States made it particularly difficult to find the right balance between the twin demands of equality between citizens and equality between States.

4. The subsequent debate focussed in particular on the functioning of the European Council and Council, although a number of interventions also addressed the issue of the Commission and, to a lesser extent, the Parliament. A small number of speakers also referred to the Court of Justice.
5. Many speakers prefaced their comments on the individual institutions with expressions of support for some basic principles which they considered should underpin the debate. A large number underlined the need to maintain a balance between the powers of the three main institutions. Many called for an equal strengthening of all the institutions to enable them to operate more effectively, and with greater transparency and accountability. A number stressed the importance of ensuring that any new institutional arrangements fully respected the principle of equality between Member States. Some referred also to equality between citizens and the need to continue to respect both principles. Several saw a need to make the institutions more directly relevant to Europe's citizens. There was also a call to maintain the "Community method", which had served the European Union well. A number of members of

the Convention said that they did not see institutional reform as requiring the creation of new institutions. Several speakers called for new arrangements which gave proper recognition to the role of national parliaments. It was suggested in particular that the proposed subsidiarity early warning mechanism should be strengthened.

6. On the European Council, there was general agreement that it should retain its strategic role of providing impetus to the European Union, in particular in the area of external action. Several members of the Convention considered that the Constitutional Treaty should contain a clearer definition of the role and functions of the European Council. A number underlined that its general coordinating role should not lead it to take over those tasks which more properly belonged to sectoral Councils, and that it should in particular avoid as far as possible being used as an appeal chamber for issues unresolved at the level of the Council.
7. Several members of the Convention, supported by a number of others, proposed that the rotating Presidency of the European Council should be replaced by a more permanent full-time President/Chairman, elected (some thought by Qualified Majority) for a period of either five years, or a renewable two and a half year period. The President would fulfil the double function of preparing, chairing and overseeing the follow-up of European Council meetings, and of representing the European Union internationally at the highest level, without prejudice to the competences of the Commission and its President. A large number of speakers either opposed this proposal, or said that it raised a number of serious issues which needed to be clarified. Some considered that the creation of a permanent post would create confusion over the respective roles of the European Council and Commission, or at worst institutionalise rivalry between the two. A number questioned the democratic legitimacy and accountability of such a potentially powerful post; several queried the degree and type of administrative support which would be required; and some saw an opportunity to create a single post combining the Presidency of the European Council and the Commission. Several others, while not rejecting the proposal, called for definition of the tasks a permanent European Council President would undertake (an issue closely linked to the role of the European Council itself); would the post fulfil essentially a managerial function, was it to provide political day-to-day leadership, or was it essentially to ensure continuity of strategic direction?

8. On the Council, a number of speakers spoke in favour of retaining the six-monthly rotating Presidency. They drew attention to the value of the system both in giving all Member States, both large and small, an equal degree of access to the function of Presidency, as well as in providing visibility for the European Union at the national level. It was suggested that retention of the current system could be combined with better multiannual programming in order to provide increased continuity within the system. One speaker suggested that the Presidency's role had become difficult because it had taken over tasks which fell more properly to the Commission.
9. Others considered that the current rotating Presidency had already shown its limitations, and could not operate effectively in an enlarged Union. Various suggestions were made for alternative systems. These included sharing Presidency responsibilities through a 'team' system on a rotating basis, retaining a core rotating Presidency for the European Council/General Affairs Council and COREPER, electing Presidents of individual Council formations, increasing the role of the Council Secretary-General and his staff, providing for chairmanship of the GAC by the President of the Commission, or various combinations of these different proposals. A number of those supporting a change to the current rotating Presidency underlined that any new system should be based on the principle of equality of Member States: others specified the need for any new system to retain an element of rotation.
10. There was broad support for the creation of a legislative Council which would assume overall responsibility for examining legislative proposals and which would meet in public session. The importance of the role of the General Affairs Council in preparing the work of the European Council was also mentioned. There was also widespread support for the creation of a Foreign Affairs Council, chaired by the person responsible for CFSP. A number of speakers considered that this post should become that of European Minister for Foreign Affairs; many saw it taking over the existing functions of the High Representative and the Commissioner responsible for External Relations; and some said that the institutional implications of this proposal should be further addressed.

11. Many considered that the Council could only function effectively in an enlarged Union if the application of Qualified Majority Voting became the rule. For some, this included the field of CFSP. A number considered that the agreement in the Nice Treaty on vote weighting was unwieldy and should be replaced by a system of double majority (majority of Member States and majority of citizens). This would be both simple and durable. It was also suggested that in an enlarged Union greater recourse to reinforced cooperation and constructive abstention would be required.
12. On the Commission, there was broad consensus in favour of preserving, within the institutional triangle, a strong Commission, with its unique collegiate system, acting in complete independence from national influence in order to promote the general interest of the Union.
13. The need for the Commission to have strong democratic legitimacy was widely recognised, with a particular focus on the procedure for choosing the President of the Commission. Many speakers recognised that, as at present, both Heads of State / Government and the European Parliament should be involved in the procedure. However a number argued in addition for establishing a link with the outcome of European Parliament elections; this, in their view, would increase interest in the elections and at the same time reinforce the authority of the Commission.
14. For some of the speakers advocating such an approach, it was sufficient to require the Council to await the outcome of the elections and take account of it in designating a candidate. Many others wanted to go further by suggesting a reversal of the order of intervention of the two institutions: i.e. foreseeing first a vote in the Parliament (the term "election of the President by the Parliament" was used) and subsequent confirmation by the Council of the person so designated. Some Convention members wanted a 3/5 or a 2/3 majority in the Parliament for such a vote in order to keep the Commission and its President above party rivalry. Others supported an absolute majority, arguing that the requirement for higher thresholds would lead to a non-transparent selection process and put the Parliament in a more difficult situation than at present. Several interventions included the suggestion that the Parliament should vote on a limited number of candidates submitted by the Council.

15. Some speakers argued that the President should be elected by an electoral college composed of European and national parliamentarians, or by Union-wide universal direct suffrage. Others recommended sticking to the current designation procedure, warning against a "politicisation" of the Commission. It was suggested in response that the Commission was already a political institution and that having its President elected by a parliamentary majority would not necessarily lead to a college with a party political bias.
16. Several speakers also argued that the Commission's basis of legitimacy would be enhanced if the Council, in addition to the Parliament, had the right to censure the Commission, which would thereby become accountable to both States and peoples.
17. As to the composition of the Commission, many speakers felt that it was appropriate that, as provided for in the Treaty of Nice, the next College should consist of one Commissioner per Member State. This would assist the Commission in managing the integration of the new Member States, and help them to familiarise themselves with Union processes. While certain speakers wished to retain one Commissioner per Member State in the longer term, a number of others took the view that a smaller College might in due course be preferable in the interests of efficiency and independence; a large College reproducing the exact composition of the Council risked being dominated by national interests, and perceived "renationalisation" of the Commission could prejudice acceptance in Member States of the independence and authority of its decisions and proposals. Alternative proposals for a smaller Commission focussed on either an equal rotation amongst Member States of the right to designate a Commissioner, or giving the President-designate of the Commission the right to pick his team – subject to confirmation by the Council – on the basis of merit, taking due account of basic geographical and political balance. More generally, it was argued that the President-designate should have a greater say in the selection of Commissioners.
18. On the Commission's internal functioning, a number of interventions referred to the need for the Commission President to have wide-ranging powers. Points mentioned included a power of policy direction ("Richtlinienkompetenz"), the right to dismiss a Commission member who no longer had the confidence of the President, and a power to (re)allocate portfolios of

individual Commissioners and to structure the College by creating groups of Commissioners headed by Vice Presidents (appointed by him or her), covering large policy areas and taking decisions on behalf of the College. Several speakers argued that such measures would help ensure the efficiency of a large College. Others, however, underlined the importance of safeguarding the principle of collegiality amongst the members of the Commission.

19. It was underlined by many that the basic functions and powers of the Commission should be strengthened, without, however, undermining the roles of the other two institutions. It was mentioned in particular that the Commission should play a full role in policies in the area of freedom, security and justice, that its function of enforcing respect of Union law as well as that of implementing legislation should be reinforced (a possible simplification of the comitology procedures and the introduction of delegated acts was referred to by a number of speakers), and that it should continue to enjoy exclusive right of legislative initiative. Several speakers underlined that the Commission should remain the sole operational administration at Union level.
20. There was broad support for making the European Parliament a full-fledged co-legislator by extending or generalising the codecision procedure in legislation. A number of members also called for full budgetary powers for the EP through the abolition of the distinction between compulsory and non-compulsory expenditure.
21. Several speakers suggested that the Parliament's electoral procedure should be amended in order to bring members of Parliament into closer contact with citizens; the need for smaller constituencies, regional lists and stricter incompatibility rules were mentioned in this context. A few speakers referred to the composition of the Parliament, calling for example for it to be reduced in size.
22. Several members raised the question as to whether to provide for the possibility of dissolving the Parliament, and if so, under what circumstances.

23. A number of speakers referred to the importance, for a Union based on the rule of law, of strengthening the Court of Justice, to help it to maintain the quality of its case law and to cope with the increasing workload resulting both from enlargement and from recommendations put forward by the Convention. Few speakers presented detailed proposals on how to strengthen the Court, although some suggested reforming the procedure for appointing judges, a reinforcement of the staff and resources of the Court (and the Court of First Instance), and simplifying and accelerating the procedures whereby the Court can impose fines on Member States in infringement cases.
24. The President, in summing up the debate, thought it important to avoid complacency. The Convention had been set up because real problems had been identified, including with public opinion, as the low turnout in elections to the European Parliament showed. The Convention would have failed if it preferred the status quo to solutions. There was a need to be bold, and imaginative.
25. A number of principles had emerged from the discussion. The Convention favoured a mixed system, combining both federal and confederal elements. There was consensus for strengthening all the institutions and improving their efficiency, but also for doing so in a way which maintained the institutional balance. Many had emphasised the importance of increased transparency and democratic accountability. There was also strong support for ensuring that equality between Member States was guaranteed.
26. Further work was needed on specific issues. In particular, alternatives to the current system of the rotating Presidency of the Council would need to be looked at, but doubts had been expressed over the suggestion that the European Council move to a more permanent full-time Presidency. Questions had been raised over both the role and selection procedure. It was clear that these would need to be addressed and the role of the European Council properly defined. The idea of creating a legislative Council meeting in public session had received very large support. The implications of this, together with the future role of the General Affairs Council, would need to be looked at. Further reflection was required on the issue of Qualified Majority Voting: in particular what should be basis for any new system?

27. Equally, there needed to be a more detailed look at the future role and tasks of the European Foreign Affairs Minister. On the Commission, many had spoken in support of maintaining one Commissioner for each Member State. Some thought this necessary in the short term, but thought that an alternative, better suited for efficiency, would have to be found in due course. Further work was needed on the different options, as well as on the issue of the procedures for selecting the President of the Commission.
28. The session had clearly shown the need for further reflection and discussion: it had started, not concluded, the debate; and the Praesidium would reflect. Members of the Convention could in the meantime send in written contributions, in particular on those issues which they had not addressed in their interventions. One such, insufficiently discussed, was how to strengthen the European Court of Justice, a question vital to the future functioning of the Union. The President therefore suggested that a small 'cercle de réflexion' should be established to examine questions concerning the functioning of the Court in the context of Enlargement. It could be chaired by a member of the Praesidium, and would report to the Convention. It should be as representative as possible of the Convention as a whole.

2. Question time

29. There were no questions.

II. NEXT MEETING OF THE CONVENTION

30. The Chairman announced that the next meeting of the Convention would take place on the afternoon of Thursday 6 February, and the morning of Friday 7 February. It would be devoted to a discussion on the report from the 'Social Europe' Working Group, and to a debate on regional issues.

Plenary session on 20/21 January 2003

LIST OF SPEAKERS

following order of intervention

1. The functioning of the Institutions (doc. CONV 477/03)

Mr Valéry GISCARD d'ESTAING - President
Mr Gijs DE VRIES - Netherlands (Government)
Mr Andrew DUFF - European Parliament
Mr Hubert HAENEL - France (Parliament)
Ms Sandra KALNIETE - Latvia (Government)
Mr Lamberto DINI - Italy (Parliament)
Mr Antonio VITORINO - Commission
Mr Giuliano AMATO - Vice-President
Mr Peter HAIN - United Kingdom (Government)
Mr Alain LAMASSOURE - European Parliament
Mr Dimitrij RUPEL - Slovenia (Government)
Mr Elmar BROK - European Parliament
Mr Louis MICHEL - Belgium (Government)
Mr Jozef OLEKSY - Poland (Parliament)
Mr Timothy KIRKHOPE - European Parliament
Mr Karel DE GUCHT - Belgium (Parliament)
Mr Tunne KELAM - Estonia (Parliament)
Mr René van der LINDEN - Netherlands (Parliament)
(Blue cards: Einem, Heathcoat-Amory, MacLennan, Costa, Bösch)
Mr Georges KATIFORIS - Greece (Government)
Mr Kimmo KILJUNEN - Finland (Parliament)
Mr Peter ECKSTEIN-KOVACS - Romania (Parliament)
Mr John BRUTON - Ireland (Parliament)
Mr Peter BALÁZS - Hungary (Government)
Mr Proisias DE ROSSA - Ireland (Parliament)
Ms Teija TIILIKAINEN - Finland (Government)
Mr Aloiz PETERLE - Slovenia (Parliament)
Mr Marco FOLLINI - Italy (Parliament)
Ms Danuta HÜBNER - Poland (Government)
Mr Peter SKAARUP - Denmark (Parliament)
Ms Maria Eduarda AZEVEDO - Portugal (Parliament)
Mr Erwin TEUFEL - Germany (Parliament)
Mr Michael ATTALIDES - Cyprus (Government)
Mr Henrik HOLOLEI - Estonia (Government)
Ms Hanja MAIJ-WEGGEN - European Parliament
Mr Henrik DAM KRISTENSEN - Denmark (Parliament)
Mr Dick ROCHE - Ireland (Government)
Mr Johannes VOGGENHUBER - European Parliament
Mr Peter SERRACINO-INGLOTT - Malta (Government)
Mr Reinhard RACK - European Parliament

Mr Puiu HASOTTI - Romania (Parliament)
(*Blue cards: Muscardini, Speroni*)
Mr Jens-Peter BONDE - European Parliament
Mr Jacques SANTER - Luxembourg (Government)
Mr Hannes FARNLEITNER - Austria (Government)
Ms Lena Hjelm-WALLÉN - Sweden (Government)
Mr Guntars KRASTIS - Latvia - Parliament
Mr Manfred DAMMEYER - (Committee of the Regions)
Mr George JACOBS - European Social Partners
Ms Maria BERGER - European Parliament
Mr Algirdas GRICIUS - Lithuania (Parliament)
Mr Rytis MARTIKONIS - Lithuania (Government)
Mr Ernâni LOPES - Portugal (Government)
Mr Ben FAYOT - Luxembourg (Parliament)
Mr Göran LENNMARKER - Sweden (Parliament)
Mr Zekeriya AKCAM - Turkey (Parliament)
(*Blue cards: Carnero, Maij-Weggen*)

Tuesday, 21 January 2003

2. Continuation of the debate on the Functioning of the Institutions (doc. CONV 477/03)

Mr Klaus HÄNSCH - European Parliament
Mr Josep BORRELL FONTELLES - Spain (Parliament)
Ms Gisela STUART - United Kingdom (Parliament)
Mr Henning CHRISTOPHERSEN - Denmark (Government)
Ms Anne VAN LANCKER - European Parliament
Mr Jürgen MEYER - Germany (Parliament)
Mr Michel BARNIER - Commission
Mr Gianfranco FINI - Italy (Government)
Mr Pierre LEQUILLIER - France (Parliament)
Mr Luis MARINHO - European Parliament
Mr Olivier DUHAMEL - European Parliament
Ms Ana PALACIO - Spain (Government)
Mr Sören LEKBERG - Sweden (Parliament)
Mr Joschka FISCHER - Germany (Government)
Mr Dominique de VILLEPIN - France (Government)
Mr Edmund WITTBRODT - Poland (Parliament)
Mr Jan KOHOUT - Czech Rep. (Government)
(*Blue cards: Karins, Hjelm-Wallén, Hain, d'Oliveira Martins, Demetriou*)
Mr Michael FRENDÓ - Malta (Parliament)
Mr David HEATHCOAT-AMORY - United Kingdom (Parliament)
Mr Kemal DERVIS - Turkey (Parliament)
Mr Gabriel CISNEROS - Spain (Parliament)
Mr Ivan KORCOK - Slovak Rep. (Government)
Mr Antonio TAJANI - European Parliament
Mr William ABITBOL - European Parliament
(*Blue cards: Tiilikainen, Tomlinson, Speroni, Rack*)
Ms Marietta GIANNAKOU - Greece (Parliament)
Mr Pat CAREY - Ireland (Parliament)
Mr Esko SEPPÄNEN - European Parliament

Mr Oguz DEMIRALP - Turkey (Government)
Mr Matti VANHANEN - Finland (Parliament)
Mr John GORMLEY - Ireland (Parliament)
(Blue cards: Brok, Duff, Lamassoure, Paciotti)
Ms Cristiana MUSCARDINI - European Parliament
Mr Vytenis ANDRIUKAITIS - Lithuania (Parliament)
Mr Reinhard BÖSCH - Austria (Parliament)
Mr Alberto COSTA - Portugal (Parliament)
(Blue cards: Maij-Weggen,, Lennmarker, Peterle, Voggenhuber, Palacio, Kiljunen)
