

Working Group III

Working document 19

**Working group III « Legal personality »**

**Subject:    Comments of Ms Teija TIILIKAINEN  
to the draft report (WG III – WD 10)**

General comment:

The document in its present shape is skilfully formulated. The working group's position is confirmed very clearly in the key questions included in the mandate of the group concerning the immediate consequences of the conferment of legal personality to the EU. In addition to these, the group's position is given vis-à-vis such political structures which are directly linked with the effective exertion of legal personality (external representation, pillar structure). I think it is appropriate that the group – from the perspective of its own mandate – expresses its position in these questions as they are essential with respect to full use being gained from single legal personality.

In my previous comments (Working document 9) I made detailed comments on the various proposals made by the group and on their formulation. In this context, I comment mainly on the 'CONCLUSIONS' –part of the Working document 10.

1. *The constitutional treaty should contain a new provision at the beginning of the text stipulating that "The Union shall have legal personality".*
  - this general position should be provided with a proposal concerning the arrangement of the legal relationship between the new personality and the old ones in the treaties
  - a provision could be added according to which *the Union supersedes and replaces the EC and the Euratom and takes over all the international obligations adopted by them*
2. *If the Union had...*
  - as this point might lead to a misconception concerning the group proposing a change in the right to issue a mandate to treaty negotiations, one could add a formulation according to which *the amendments proposed by the group do not affect the existing division of powers between EU institutions in the treaty-making process*
3. *It is proposed to amend...*
  - art 23(1) is a better legal basis to be used for national abstention than the current 24 (1) in the case of EU concluding treaties in its own capacity. As the change might evoke some controversy, the advantages of 23(1) should be better articulated in the final report.

4. *The external policy...*

- a better formulation of this point could be:

*From the perspective of an efficient exertion of the single legal personality of the Union arrangements should be made to ensure that the Union expresses a single political position. It is proposed that the responsibilities .....*

5. *When the Union is admitted...*

- no specific comments

6. The appointment by the Union of a single legal person responsible for external relations, under whom the Commission's external offices would fall, would strengthen the development of the Union's external policy

- this formulation is a bit problematic (same applies to the corresponding points 20-21 in WD 10) because it seems to have adopted the same minimal interpretation that lies behind the current system of the Commission's representations (that they are representing the Commission and not the entire EC)
- in the case of the Union's legal personality – and the current extension of its competences – it is justifiable that the Union's legations represent the Union as a whole
- the representations might well fall into the leadership of the High Representative / Commissioner of external relations, but this is a secondary problematic that can be solved as soon as the role of the legations in representing the whole range of EU competences has been confirmed

7. *Articles 41 and 46...*

- I would like to repeat my old comment concerning the range of judicial control in the current II pillar

8. *Consultation of the European Parliament...*

- no specific comments

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