

Working Group VII

Working document 2

## **Working group VII – "External Action"**

**Subject:** Copy of a letter sent by Mr Elmar Brok, member of the Convention, to the President of Working Group VII, Mr Jean-Luc Dehaene

Members of Working Group VII will find hereafter a letter from Mr Brok addressed to Mr Dehaene.

Letter of Mr Elmar Brok, MEP  
to

Mr Jean Luc Dehaene  
Chairman of the WG on External Action  
of the European Convention

23.9.02

Dear Mr Dehaene,

as discussed, I will unfortunately not be able to participate in the first meeting of the Working Group tomorrow, due to the plenary session of the European Parliament in Strassburg. I therefore would like to transmit my written contribution for our discussions regarding the EU External Action.

I refer myself in the following to the report on the progress achieved in the implementation of the common foreign and security policy, due to be adopted in the EP plenary this week and to the informal discussion paper of the EPP Convention Group on an European Constitution.

Only a foreign policy based on the consolidation of rights and freedoms and on the affirmation of the principles of democracy and the rule of law throughout the world, and in particular in all third countries with which the EU maintains special relations via cooperation and association agreements, will enable the Union to overcome threats to peace, stability and freedom

An important precondition for this is that European foreign and security policy should become Community-based.

Since Nice, and with a view to the next Intergovernmental conference scheduled for 2004, the three institutions - the Council, the Commission and Parliament - have pursued their efforts pragmatically to further develop their respective foreign and security policy instruments, but a substantial expansion of intergovernmental bodies in the EU's foreign and security policy management has taken place, particularly through the extension of new security and defence policy structures in the Council Secretariat.

A genuine common foreign and security policy can do as much to mould the identity of the EU and its citizens as the single market and the common currency have done.

But the EU needs to acquire the efficiency and consistency which it found, for instance, in the common trade policy. The question of an institutional reform of foreign and security policy is therefore on the agenda for the European Constitutional Convention.

The task of the Convention will be to propose solutions which neither make foreign policy a purely Community matter, which would be hardly compatible with a military dimension for Europe, nor link it more closely to the national governments, which would mean that the powers of the Member States or the High Representative would be expanded at the expense of the Commission.

The present coexistence of two centres of gravity in European foreign policy, with the High Representative as a spokesman for the common will of the Member States, and the Commission whose role has so far been limited to mobilising common resources and instruments and which can undertake no diplomatic initiatives, is a source of inefficiency, despite the undisputed progress made in the Union's crisis management.

The European Parliament has therefore repeatedly called for the tasks of the High Representative and the Commissioner for External Relations to be merged. In this respect I am in favour of the appointment of a Commissioner for Foreign Relations. He should be Vice President of the Commission, charged by the President of the Commission with the external representation of the Union.

The common foreign and security policy should be allocated sufficient resources from the Community budget, which is not the case at present. In military operations within the framework of ESDP joint costs (for instance, for headquarters – transport, accommodation, equipment and communications facilities) should be borne jointly and also entered in the Community budget. To this end Article 28 TEU should be revised, since a subsidiary budget in the Council can be controlled neither by the national parliaments nor by the European Parliament. This is unacceptable, also from the point of view of democratic controls.

In the decision-making process at Council level, the principle of unanimity must be waived and it must be possible to take decisions by qualified majority. In matters of security and defence policy there should be scope for increased cooperation, so as to allow a coalition of those Member States prepared to carry out military Petersberg operations and capable of doing so.

In the European Parliament transparency and democratic controls must be strengthened. Instead of the Council Presidency being bound by a simple notification and consultation requirement under Article 21, a requirement which it meets more or less as it chooses, it should be answerable in writing on the basis of specific recommendations by Parliament, notably in questions of security and defence policy.

The Council's report on the financial implications of decisions within the framework of the CFSP does not yet go far enough, since it fails to refer to specific positions of the European Parliament.

At least in the long term consideration must be given to overcoming the three pillar structure, if aspects of external and internal security are to be dealt with consistently and efficiently. For example, support measures for police operations are currently dealt with simultaneously in all three pillars, in each case with a different mandate, objective and means of funding.

The informal discussion paper on an European Constitution aims at "translating" the EU Foreign Policy framework into a constitutional text. In the following the provisions regarding external action are presented.

### **General tasks and objectives of the Union**

The Union shall have as its task,  
to create a common foreign and security policy

### **Common foreign and security policy**

The activity of the Union shall include a common foreign and security policy covering all areas of foreign and security policy, including defence policy.

The objectives of the common foreign and security policy shall be:

- to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principle of the United Nations Charter;
- to strengthen the security of the Union in all ways;
- to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders;
- to promote international cooperation;
- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

### **Commissioner for Foreign Relations**

The President shall appoint two Vice-Presidents from among the members of the Commission. The President of the Commission shall, by accord of the Council, charge one of the Vice-Presidents with the external representation of the Union. He shall bear the title “Commissioner for Foreign Relations”.

### **External relations of the Union**

#### External representation of the Union

The Commission represents the Union in its external relations.

It shall be for the Commission to ensure the maintenance of all appropriate relations with the organs of the United Nations and of its specialised agencies.

The Commission shall also maintain such relations as are appropriate with all international organisations.

The Commission takes the decisions adopted under this Title into account. The Commission shall keep the European Parliament and the Council regularly informed regarding the state of the Union’s external relations.

#### Agreements with third states and organisations; Association of the European Parliament

The Commission shall make recommendations to the Council regarding the conclusion of agreements between the Union and one or more states or international organisations; the Council, after consulting the European Parliament, shall authorise the Commission to open the necessary negotiations. The Commission shall conduct these negotiations in consultation with special committees appointed by the Council to assist it in this task and within the framework of such directives as the Council may issue to it.

The Council shall act by a qualified majority, except in the case where the first subparagraph of paragraph 2 provides that the Council should act unanimously.

Subject to the powers vested in the Commission in this field it shall be decided on the signing, which may be accompanied by a decision on provisional application before entry into force, and on the conclusion of the agreements by the Council, acting by a qualified majority on a proposal from the Commission. The Council shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of internal rules and for the association agreements .

By way of derogation the same procedures shall apply for a decision to suspend the application of an agreement, and for the purpose of establishing the positions to be adopted on behalf of the Union in a body set up by an agreement, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement.

The European Parliament shall be immediately and fully informed on any decision under this paragraph concerning the provisional application or the suspension of agreements, or the establishment of the Union position in a body set up by an agreement.

The Council shall conclude agreements, after the assent of the European Parliament has been obtained, when the agreements cover a field for which the codecision procedure is required for the adoption of internal rules.

By way of derogation association agreements, other agreements establishing a specific institutional framework by organising cooperation procedures, agreements having important budgetary implications for the Union and agreements entailing amendments of an act adopted under the codecision procedure shall be concluded after the assent of the majority of the members of the European Parliament has been obtained.

The Council and the European Parliament may, in an urgent situation, agree upon a time-limit for the assent.

When concluding an agreement, the Council may, by way of derogation authorise the Commission to approve modifications on behalf of the Union where the agreement provides for them to be adopted by a simplified procedure or by a body set up by the agreement; it may attach specific conditions to such authorisation.

When the Council envisages concluding an agreement which calls for amendments to this Constitution, the amendments must first be adopted in accordance with the formal amendment procedure.

Agreements concluded under the conditions set out in this Article shall be binding on the institutions of the Union and the Member States.

#### International monetary agreements; Association of the European Parliament and of the ECB

The Council may, acting unanimously on a recommendation from the ECB or from the Commission, and after consulting the ECB in an endeavour to reach a consensus consistent with the objective of price stability, after consulting the European Parliament, in accordance with the procedure for determining the arrangements, conclude formal agreements on an exchange-rate system for the Euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the ECB or from the Commission, and after consulting the ECB in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the Euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment to the Euro central rates.

In the absence of an exchange-rate system in relation to one or more non-Union currencies, the Council, acting by a qualified majority either on recommendation from the Commission and after consulting the ECB or on a recommendation from the ECB, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the ESCB to maintain price stability.

By way of derogation, agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Union with one or more States or international organisations, the Council, acting by a qualified majority on a recommendation from the Commission and after consulting the ECB, shall decide the arrangements for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Union expresses a single position without prejudice to the allocation of powers to the Commission to represent the Union in its external action and the fields of competence of the of the ESCB.

Agreements concluded in accordance with this paragraph shall be binding on the institutions of the Union, on the ECB and on Member States.

The Council shall, on a proposal from the Commission and after consulting the ECB, acting by a qualified majority decide on the position of the Union at international level as regards issues of particular relevance to economic and monetary union without prejudice to the allocation of powers to the Commission to represent the Union in its external action and the fields of competence of the of the ESCB.

#### International activities of the ESCB and the ECB

In the field of international cooperation involving the tasks entrusted to the ESCB, the ECB shall decide how the ESCB shall be represented.

The ECB and, subject to its approval, the national central banks may participate in international monetary institutions within the fields of competence of the ESCB.

The ECB is represented by its President.

The ECB shall keep the Commission, the Council and the European Parliament regularly informed of its activities in the field of international cooperation.

#### International activities of the EIB

In the field of international cooperation involving the tasks entrusted to the EIB, the EIB is represented by its President.

Within its fields of competence the EIB may participate in international institutions.

The EIB shall keep the Commission, the Council and the European Parliament regularly informed of its activities in the field of international cooperation.

#### Association with third States and international organisations

The Union may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.

#### Cooperation with the Council of Europe

The Union shall establish all appropriate forms of cooperation with the Council of Europe.

#### Cooperation with the OECD

The Union shall establish close cooperation with the Organisation for Economic Cooperation and Development, the details of which shall be determined by common accord.

#### Union of the Benelux-States

The provisions of this Constitution shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these unions are not attained by application of this Constitution.


#### Relation to previous treaties of the Member States

The rights and obligations arising from agreements concluded before 1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the provisions of this Constitution.

To the extent that such agreements are not compatible with this Constitution, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.

In applying such agreements Member States shall take into account the fact that the advantages accorded under this Constitution by each Member State form an integral part of the establishment of the Union and are thereby inseparably linked with the creation of common institutions, the conferring of powers upon them and the granting of the same advantage by all the other Member States.

Sincerely yours

  
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