

Working Group VII

Working document 28

Working group VII – "External Action"

Subject: **The comments by Mr Hans Martin Bury to the preliminary draft final report of Working Group VII on External Action (WD 021 - WG VII)**

Members of Working Group VII will find hereafter comments by Mr Hans Martin Bury, German government representative, alternate member of the Convention.

Comments by Mr. Hans Martin Bury on the preliminary draft final report WG VII WD 21:

I. My predecessor Gunter Pleuger introduced a paper on the "double hat" (WD 17: "double hatted" person with the combined functions of High Representative and Commissioner for External Relations while the two offices and the decision-making procedures would remain separate). The idea gained further support by members of the working group and within the Convention. Therefore I would like to suggest to amend the current draft accordingly. In particular I recommend to add the following elements:

26. Please add at the end of the paragraph:

"Members agreed that by thus just strengthening the coordination mechanisms between the two offices, the underlying problems of achieving/arriving at a coherent foreign policy of the EU and of a unified external representation would not be solved."

28. Please redraft the paragraph:

"A third option recommended the exercise of both offices by one "double hatted" person. In this option, the apparatuses of the two offices would remain separate, also the different decision-making procedures for the different competences (Commission vote on first pillar issues, Council decision on CFSP issues) would remain separate. With regard to this option, some members considered that this "double hatted" person with the combined functions of HR and RELEX Commissioner, would be appointed by the Council [after consultation of the President of the Commission and approval by the European Parliament]. He/she would be a full member of the Commission, but at the same time receive a mandate and remain accountable to the Council for issues relating to CFSP. This person could be given the title of "EU Minister of Foreign Affairs" or "EU Foreign Secretary"."

29. Please redraft the paragraph:

"Proponents of "double hatting" underlined that the Council remained the political authority for decisions in CFSP which would be carried out by the "double hat" in close relation with Members States through the Council. Those who were not in favour of "double hatting" believed

that it was not compatible with the principle of collegiality and that the job could not be done by one person. Others, however, considered that **the principle of collegiality was not an issue as the decision-making procedures of the Council and the Commission would remain separate, and that the scope of responsibilities could be dealt with by creating an efficient substructure consisting of the following elements that would allow the double hat to perform his office effectively:**

- **the External Relations Directorate-General of the Commission, which would be answerable to the "double hat" in his or her capacity as External Relations Commissioner. It would remain part of the Commission in terms of organisation;**
- **a consolidated foreign policy unit ("European Foreign Policy Unit"), which should consist of those parts of the Council Secretariat currently responsible for foreign policy (inter alia, Policy Unit and Situation Centre as well as the External Relations Directorate-General) and of civil servants seconded for a certain period from the member states and the Commission;**
- *external representations which report back to the "double hat". To this end, the Commission delegations should be transformed into EU delegations and merged with the branches abroad of the Council Secretariat. The current staff would be extended to include personnel from the foreign policy unit;*
- *two deputies – one for Commission affairs who could represent him or her, including the right to vote in the College in his or her absence (amendment of the Commission's rules of procedure, if necessary), and one in his or her capacity as High Representative who could, in particular, represent the "double hat" as chairman of the PSC, and in exceptional cases also in the General Affairs Council (External Relations). These deputies should be appointed by the "double hat" and approved by the Council (by qualified majority) and by the Commission President;*
- *a joint cabinet which ensures the practical coordination of the two substructures. This cabinet would replace the existing cabinets of the High Representative and of the External Relations Commissioner and also assist the two deputies of the "double hat".*
- *Special Representatives with specific geographic/thematic responsibilities, nominated by the Council,*

38. *Please redraft the first sentence:*

"In addition, the Group saw a possible extension of the use of QMV by the Council when it was presented with an initiative by the ["**double hat**"] which would cover foreign policy and external relations issues (see above). There was a common understanding that initiatives proposed by the ["**double hat**"] would reflect a maximum degree of support by individual Member States.

45. *Due to the amendment to paragraph 29 paragraph 45 could be deleted.*

II. In addition please take note of the following comments/proposals for amendments:

24. *Comment*

The question of reinforcing the office of the High Representative should be discussed in the light of the outcome of the institutional debate.

23. *Please add at the end of the paragraph:*

" Others considered that the European Council in Seville had already taken the appropriate dispositions in this regard, which did not require treaty changes."

36. *Please redraft the last two sentences:*

"Many advocated introducing QMV as a general rule, and considered that the mere existence of decision making by QMV would trigger more consensus within the Council. **Some** members, however, expressed the opinion that foreign policy issues were not adapted to decision making by voting since it would be difficult for a country to find itself in a minority position on an issue in which precisely its national interests were at stake."

39. *Draft proposal for the last sentence:*

"The Group agreed that **effectively** increasing the **current** threshold for constructive abstention would have a positive effect on efficiency of decision making in CFSP."

41. *Please delete the last sentence*

~~"It was further suggested by the Group that the EDF be integrated into the Community budget and thus be subject to the same procedures as other areas of Community financial assistance."~~

42. *Please add to the paragraph:*

"The Group agreed that efficiency in CFSP was closely linked to the issue of adequate resources, both in term of volume and procedures. The current CFSP budget had proved to be insufficient to implement actions that were deemed necessary in support of the EU's foreign policy and that current procedures were too heavy to allow a prompt financing of activities. **Sufficient budgetary flexibility both in terms of volume and procedure was necessary to enable quick and appropriate action by the Union.** There was strong support in the Group to change the current system and to make it more compatible with the EU's needs. The example of financing Special Representatives was mentioned in particular, and it was underlined that appropriate funding for these should be made available from the Community budget."

43. *Please add:*

"The Group felt that the HR should have more say in how the CFSP budget was used **and** that he should be allowed to propose initiatives. **Some proposed** that he should have a certain degree of autonomy in financing certain activities considered necessary for the implementation of his mandate. **Others made clear, however, that any additional flexibility on the side of the HR may not lead to the creation of a separate budget within the Union.** ~~In particular, the Group noted the need to establish an effective start up fund, which would allow the HR to finance on an urgent basis the preparatory steps of crisis management operations.~~ [The Group took note of current procedures in humanitarian aid, where a certain degree of power of decision was conferred to the Director of ECHO/the Commissioner]. The Group further agreed that the budget management activities should remain with the Commission services and that any duplication should be avoided.
