

Working Group VII

Working document 44

Working group VII – "External Action"

Subject: The comments by Mr Alfonso Dastis 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 Alfonso Dastis, Spanish government representative, alternate member of the Convention.

Comments and amendments to the preliminary draft final report organised by sections of the Draft

III. Common interests, principles and objectives

While agreeing with the need to clearly set out the interests, principles and objectives of the EU external action, I see no need to draft a solemn declaration to spell them out in detail. Our goal is to simplify the current multiplicity of texts and to draft a Constitution, we should therefore not start adding new texts, be they legally or merely politically significant. Consequently, I propose

paragraph 9: add the following phrase at the end, “Others argued that a proliferation of Declarations should be avoided and that an article in the Constitution setting out those principles and objectives would be sufficient and more commensurate with the goal of elaborating a clear and concise legal text”

paragraph 13: no reference is made to the Council as the prime forum where the common interests are defined. I suggest that the words “in the Council” be added at the end of the first line of the paragraph.

Annex: As far as the content of the annex is concerned, it should be shortened and converted into an article of the Treaty along the lines of current art.11 TEU; That entails reordering the different indents of its second paragraph, notably bringing forward (g).

Besides, its third paragraph should be redrafted to take into account not only the impact of the external action in the internal policies but also to bear in mind the content and purpose of the internal policies of the Union when conducting its foreign policy. I propose the following: “Some EU internal policies have external aspects, when considering such aspects, the Union will have in mind the above objectives. Conversely, The Union will have in mind the objectives of its internal policies when defining and conducting its external relations”

IV. Competences

The last phrase of paragraph 15 seems misplaced in a paragraph that deals with the obligations of member states towards CFSP. In my view, it would fit better in paragraph 16, which deals with competences of the Union and that is at present somewhat “poor”. The phrase would have to be amended to circumscribe it to CFSP.

V. Coherence and Efficiency of Action

This section is in general well balanced and reflects accurately the diversity of views expressed in the working group, in particular when dealing with structures. However, that balance would be lost if some of the amendments proposed by colleagues were included.

As far as instruments and decision making are concerned, I propose the following amendments:

- **Paragraph 33:** add “The importance of such an instrument was nevertheless stressed as a means to ensure an integrated approach in the External Action of the Union and to make sure that, once a common strategy had been defined, all instruments of action, whatever their nature (commercial, humanitarian, migratory etc) are used in a manner consistent with that strategy.
- **Paragraph 36:** Add at the end “However, it was suggested that this concern could be met by providing for an emergency break that would enable a Member State to invoke a national interest to prevent a vote and refer the decision to the European Council”
- **Paragraph 39:** Add “Enhanced cooperation should be possible in all areas of CFSP including Defence”
- **Paragraph 40** should be more precisely drafted to make clear that not all aspects of commercial policy are of the exclusive competence of the EC/EU

- **Paragraph 41:** Add to the sentence in brackets concerning the EDF “in connection with a revision of the instruments of Development policy and of a rationalisation of the use of the funds devoted to it”

VI. International agreements

In the case of cross-pillar mixity, one should strive to have always a single agreement, therefore we should delete from **Paragraph 44** the words “the Group noted that one could resort either to the conclusion of two different agreements or to the conclusion of a single agreement. In this last case”.

VII. Services and External Representation

Paragraph 47 should start with the words “some members”.

Alfonso Dastis

Spanish Government alternate representative.
