

Working Group VII

Working document 60

Working group VII – "External Action"

Subject: The comments by Mr Gerhard Tusek to the revised draft final report of Working Group VII on External Action (WG VII – WD 21 REV 3)

Members of Working Group VII will find hereafter comments by Mr Gerhard Tusek, Austrian government representative, alternate member of the Convention.

**Comments by Mr. Gerhard TUSEK on the revised draft final report (WD 21 REV 3) of
Working Group VII – “External Action”**

Part A Recommendations:

Para 5

- have a direct mandate from, and be accountable to, the European Council for issues relating to CFSP. He/she would implement this mandate working under the guidance of the Council. In his/her capacity as HR, he/she would have the formal, but not exclusive, right of initiative.
Either delete the following sentence or at least amend it as follows: When he/she exercised his/her right of initiative on CFSP, the Commission will abstain from taking a ~~competing~~ ~~conflicting~~ initiative. His/her initiative on CFSP would not be subject to prior approval by the College of Commissioners. Decisions on CFSP matters would continue to be taken in the Council according to relevant procedures. He/she would not have the right to vote in the Council;

Para 6

6. Enhancing coherence and efficiency in external action within each institution

The Working Group considered that in order to ensure the coherence and efficiency of EU external action, the functioning of each institution should be considered. A ~~large-consensus~~ great majority of members recommended that emerged in favour of:

- a specific External Action Council should be established, formally distinct from the General Affairs formation; this would not exclude that Member States could decide to be represented by the same Minister in the two formations. A significant number of members (...)

Para 8 b)

b) Decision-making in CFSP

- The Working Group underlines that, in order to avoid CFSP inertia and encourage a pro-active CFSP, maximum use should be made of existing provisions for the use of QMV, and of provisions allowing for some form of flexibility, such as constructive abstention.
- In addition, the Working Group recommends that a new provision be inserted in the Treaty, which would provide for the possibility of the European Council agreeing by unanimity to extend the use of QMV in the field of CFSP;
- ~~Some~~ A large number of members consider that "joint initiatives" should be approved by QMV.

Part B: Detailed Report of Discussions

Para 25

25. With regard to the functioning of the Council of Ministers, which is entrusted with the implementation of the orientations and general guidelines set by the European Council, the Group welcomed the decision by the Seville European Council to create a General Affairs and External Relations Council formation responsible for issues related to EU external action. ~~The Group~~ A great majority of members considered that it would be useful to go further and formally separate the external action dimension from the general affairs dimension in two separate Council formations, which did not exclude that Member States could be represented by the same Minister in both.

Para 26

26. A significant number of members expressed the view that the External Action Formation of the General Affairs and External Relations Council ~~Council~~ should be chaired by the person holding the function of HR, who would no longer be charged with the function of Secretary General of the Council. Other members, while agreeing to de-link the functions of the HR from those of Secretary General of the Council, had doubts about him/her chairing Council meetings. They considered that this specific task would be difficult to reconcile with other tasks entrusted to him/her, and that it would represent too great a (...)

Para 34

34. Proponents of this option recognised that for decisions and actions in CFSP a close link was required with Member States through the Council. They therefore considered that the procedures for matters falling under CFSP on the one hand and Community issues on the other hand should remain distinct. The "European External Representative" would in his/her capacity of HR have the formal, but not exclusive, right of initiative in the Council. Either delete the following sentence or at least amend it as follows:- When he/she exercised his/her right of initiative on CFSP, the Commission should abstain from taking a ~~competing-conflicting~~ initiative. His/her initiatives on CFSP would not be subject to prior approval by the College of Commissioners. Decisions on CFSP matters would continue to be taken in the Council, following procedures established for that policy area (see below). He/she would not have the right to vote in the Council. With regard to issues falling under the competence of the Community, the "European External Representative" would in his/her capacity of RELEX Commissioner put forward proposals to the College and fully participate in decisions of the College. Decisions within the College would follow the regular procedures in place (majority voting). The "European External Representative" would ensure the external representation of the Union, replacing the current Troika.

Para 44

44. The Group pointed out that voting procedures, and subsequently the use of QMV, had been established for policy areas based on legislation and harmonisation of laws. ~~CFSP was not a policy area that advanced by legislation, and was thus less adapted to the use of QMV.~~ However, the Group agreed that QMV, as an instrument of last resort to de-block a stalemate, could have a positive effect on consensus building within the Council. It was pointed out in this respect that even in Community policy areas, the Council very rarely proceeded to a vote. In addition, the Group confirmed that the current Treaty already provided for the use of QMV in CFSP, in the framework of common strategies and for decisions implementing joint actions and common positions, although these possibilities had not been used in practice in the framework of common strategies.

Para 49

49. ~~Several~~ A majority of members could support the use of QMV by the Council when it was presented with this type of joint initiative. There was a common understanding that such joint initiatives were likely to reflect a common EU interest and would benefit from a maximum degree of support by individual Member States. One member indicated that extending the use of QMV to this type of proposals would only be acceptable if joint initiatives were presented by a HR, whose functions would not be combined with those of RELEX Commissioner, and by the Commission.