

Working Group VII

Working document 64

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

**Subject:**      **The comments by Mr Bobby McDonagh 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 Bobby McDonagh, representative of the Irish Government, alternate member of the Convention.

Mr Jean Luc Dehaene  
Vice President  
Convention on the Future of Europe

12 December 2002

Dear Jean-Luc,

Re: **Comments on the revised draft final report (WD 21 - Rev 3)**

Thank you for the revised version of the Working Group report circulated by the Convention Secretariat. I think it is a well-drafted summary of the discussions in the External Action Working Group and will provide a useful basis for further discussion by the Convention Plenary.

There is a great deal in the report which I support, as I have made this clear in my comments to the Group. Accordingly, and in keeping with your request at the end of our last meeting on 4 December for brief written comments, I would ask that the Secretariat reflect on the following key points in finalising the report:

Recommendation 6 (and paragraph 26)

At the last meeting of the Group on 3-4 December a large number of speakers stated their opposition to the proposal that the External Relations Council should be chaired by the person holding the function of the High Representative. On this basis, the statement that ‘a significant number of members were in favour of the person holding the function of the HR chairing the External Action Council’ is misleading. This should be amended to reflect the balance of views between those in favour and, equally, those opposed. Recommendation 6 should be amended to state that ‘a large number were in favour...’ and ‘a large number were opposed.’

A number of Group members who opposed the suggestion that the person holding the function of the High Representative should chair the External Relations Council did so on the basis that the democratic accountability of the actions of the HR is best guaranteed by the Member States continuing to chair the Council. I provided language on this issue to the Secretariat and would like to see this point reflected at paragraph 26.

#### Recommendation 8

The statement, at indent (c), that there was ‘a large consensus’ in favour of the use of QMV in all areas of commercial policy is misleading. It will be recalled that a large number of speakers intervened to express the view that QMV should not apply in a range of areas and that this variety of views should be reflected in the report. In doing so they argued that the existing division of competences between the Union and the Member States should remain unaltered. For these reasons I propose that indent (c) be amended to insert the following text at the end: ‘subject to a common accord for areas where unanimity is required for internal rules or the Treaty does not provide harmonizing provisions. Some members noted that some external commitments requested by trading partners might require internal implementation measures going beyond the existing competences of the Community and that these should not automatically be subject to QMV.’ Paragraph 52 should also be amended accordingly.

For similar reasons, I would propose that Recommendation 4 (first indent) should be amended to read as follows: ‘the Treaty should indicate that the Union is competent, to the extent recognised by the established jurisprudence of the ECJ, to conclude agreements dealing with issues falling under its internal competences’

#### Recommendation 12

In the Group I drew members’ attention to the need, when describing arrangements for the negotiation of mixed competency agreements, to provide for matters currently under the third pillar where it may not be appropriate for the person holding the function of the High Representative or the Commission to be charged with the conduct of negotiations. This view was shared by a number of other Group members, and you agreed that the revised version of the report would reflect this point. I would ask that this section be reworded accordingly. This could be achieved by replacing ‘i.e.’ with ‘e.g.’ so that the

possibility for the Council to determine that negotiations be conducted by someone other than the Commission and/or the person holding the function of High Representative would not be excluded. The same comment applies to paragraph 63.

### Recommendation 13

There has been a wide-ranging discussion in the Group on the question of Union membership of, and representation in, international organisations and a number of views have been presented. The balance of these views is reflected in the main body of the report. It is welcome that the Union would succeed to the present Community observer status in a number of international organisations. This is quite distinct from the complex question of whether the Union should become a full member of all international organisations in its own right. As currently drafted, I do not believe that the recommendations reflect the state of opinion in the Group.

Indent 1: While it may be correct that some members of the Group wished the Union to be admitted to membership of international organisations, an equal number felt that this would be problematic both in practical terms, because it would conflict with the rights and privileges of the Member States, and because it might not necessarily enhance the influence of the Union or the functioning of the international organisations. The main body of the report, at paragraph 66, recognises this difference of opinion and states that ‘several members’ advocated full membership of international organisations, while others were opposed. There is, therefore, no basis for the statement in Recommendation 13 or paragraph 66 that ‘the Group recommends that the Union should work for changes in statutes of international organisations to allow for membership by the Union’. This should be deleted.

The statement in paragraph 66 that such membership would contribute to global governance also raises questions as it is debatable whether the functioning of international organisations would be enhanced by admitting regional organisations to membership.

Indent 2: The Group agreed that, to the extent possible, a single spokesperson should be responsible for the external representation of the Union. Notwithstanding this, at paragraph 65 the report records the views put forward by a large number of members that there are occasions on which the influence of the Union may be greater if a single message is enunciated by a number of speakers, or where the different

competences of the Member States and the Union necessitate multiple representation. There is, therefore, no basis for the contradictory statement that ‘the Group recommends that when there is a position of the Union, the Union should have a single representation in international fora’. Equally, representation in an international organisation cannot be determined on a position by position basis, as this formulation would appear to indicate.

I would suggest that the first and second indents of Recommendation 13 should be significantly revised as, at present, they do not reflect the balance of opinion within the Group and should make clear that any proposals in this area must be without prejudice to Member States’ competences as subjects of international law, as recognised at paragraph 65. This Section should also reflect in a more prominent manner the suggestion put forward by a number of Group members, including myself, that the coordination of Member States’ positions in international organisations could be enhanced, including through the introduction of a forward-looking element. This proposal was contained in the previous version of the report but has been removed.

Indent 3: The issue of single representation in financial institutions is both complex and sensitive. On the question of a single Eurozone representation in the international financial organisations, the statement that ‘the Group expresses support’ is misleading. It would be more accurate to state that ‘a large majority’ supports this option. A number of members, including myself, are in favour of increased coordination within existing arrangements for a variety of reasons and would like to see this Section amended to reflect the opposing view.

#### Principles and Objectives - development cooperation

When the Group discussed the reference to development cooperation in the Principles and Objectives text, a great many members stressed the importance of poverty eradication as the primary objective of the Community development cooperation programme. You will recall that the original reference to poverty reduction was changed to poverty eradication following these interventions. Whilst recognising that there are other objectives, such as good governance and respect for human rights, there was a clear understanding in the Group that these were secondary to the aim of poverty eradication, as enunciated in the joint Commission - Council Declaration of November 2000. For this reason, I would propose that objective (d) should be slightly reworded to read ‘to foster the sustainable economic and social

development of developing countries, with the primary aim of the eradication of poverty'. This formulation is without prejudice to the other objectives of the development cooperation programme, whilst not implying any diminution in the primary objective which might be understood from the reference to 'among others'. In this context I would also point out that 'sustainable development' reads better than 'durable development'.

A great deal of effort and hard work has been put into the External Action Working Group by the members of the Group, the Secretariat and, not least, by you as Chairman. It is important that we produce a document which will provide the best possible basis for a fruitful consideration of these complex and sensitive issues by the Convention Plenary. For this reason I am sure you will recognise the necessity to arrive at a final report which reflects, to the greatest extent possible, the balance of opinions within the Group on the different issues and which, accordingly, can command the support of all members of the Group.

With my best wishes,

Bobby McDonagh  
Irish Government Alternate Representative

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