

CONV 106/02

WGI 3

NOTE

from :	Secretariat
to :	Working Group I on the Principle of Subsidiarity
Subject :	Summary of the meeting on 17 June 2002

1. Working Group I on the Principle of Subsidiarity held its second meeting on 17 June to discuss the application of the principle of subsidiarity (see CONV 90/02). The meeting was chaired by Mr Méndez de Vigo, a member of the Praesidium.
2. All the members of the Convention stated their commitment to compliance with the principles of subsidiarity and proportionality as set out in the Treaties and the Protocol annexed to the Amsterdam Treaty. They stressed the need to ensure compliance and discussed how best this could be achieved.

The members of the Convention considered that in certain cases the principles of subsidiarity and proportionality had not been adequately observed. Several speakers, however, said that the number of such cases had been inflated. Estimates were advanced putting the figure of European legislation that could be contested on those grounds at less than 5%, and that figure was falling. However, the citizen often perceived the situation differently, and felt that European legislation was too intrusive. For at least one member of the Convention, failure to comply with the principle of subsidiarity stemmed from the lack of a clear allocation of competence. However, many members expressed unease at the idea of establishing a list of competencies.

3. The members of the Group proposed and discussed various ideas for improving application of the principle of subsidiarity. Most felt that the national parliaments should be closely involved in applying the principles of subsidiarity and proportionality. Several called for the creation of a body (of whatever name) that would include representatives of the national parliaments among its members and would intervene at some stage in the procedure for the adoption of European texts. Several members of the Convention rejected the idea of legal monitoring of the principle of subsidiarity and argued instead for review by elected persons, who were more likely to know what citizens wanted. That would be carried out by a simple, non-bureaucratic body meeting about six times a year. There was no need to create a second chamber or a new institution.

Views were divided on the possibility of extending the terms of reference of the Conference of European Affairs Committees (COSAC) to include monitoring of subsidiarity. Several thought there was little to be gained from it. There were proposals to appoint a "Mr or Ms Subsidiarity" within the Commission, responsible for ensuring compliance with the principle of subsidiarity, or to make it obligatory for the Commission to attach a "subsidiarity sheet" to all legislative proposals. The possibility of representatives of the national parliaments joining Member States' delegations was raised, as was that of their participation in meetings of conciliation committees between the Council and the European Parliament.

4. At the Group's invitation, Mr Michel Petite, Director-General of the Commission Legal Service, explained how in practice the Commission complied with and monitored application of the principles of subsidiarity and proportionality. After the years of intense legislative activity due to introduction of the internal market, the Commission had gradually adjusted and reduced the number of legislative proposals. In any case, it was usually older texts which might be regarded as questionable in terms of subsidiarity and which attracted criticism from the European citizen. Currently, the Commission complied strictly with the obligations laid down in the Amsterdam Protocol and conducted intense internal and external consultations before drafting any proposals for legislation. There was frequently animated discussion within the Commission on implementation of the principle of subsidiarity, as there were so many ways in which it could be interpreted. The Commission representative also stressed the

link between the choice of legal instrument, whether or not it was binding, and compliance with the principle of subsidiarity. He said that the Commission was frequently under pressure from various sources to propose new legislation. Legislation adopted by the institutions also included measures requested by Member States or the European Parliament.

Finally, Mr Petite said that the Court of Justice had only rarely been asked to give a ruling on the application of the principle of subsidiarity and it had always acted with caution when doing so, taking the view that the principle was essentially political and its review function was essentially formal.

5. Mr Nickel, Director-General of the European Parliament's Directorate-General for Committees and Delegations, noted that the Parliament did not have much to do with application of the principle of subsidiarity, as when the Parliament came to intervene in the legislative procedure, the main examination by the Commission or the Council had already taken place. It was important that it should not be sidelined in the course of the discussions or when a conciliation committee was involved. Mr Nickel pointed out that subsidiarity had only rarely been invoked before the Court in cases to which the Parliament had been a party. He went on to suggest how involvement of the national parliaments in the Community decision-making process might be enhanced.
6. Mr Jos Chabert, Minister and former President and member of the Committee of the Regions, presented his point of view on the application of the principle of subsidiarity in relations between the decentralised bodies and the Member States. He also described how the Belgian institutions operated and said that the way the Cour d'arbitrage operated between federated entities could be a source of inspiration.
7. The Chairman brought the meeting to a close, announcing that the next meeting of the Group would be at 14.30 on 25 June.

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