

CONV 347/02

WG V 12

**NOTE**

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from :	Secretariat
to :	Working Group V "Complementary competences"
Subject :	<b>Summary of the meeting on 7 October 2002</b>

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The first part of the meeting was given over to trying to determine which of the Union's competences could be classed in the category of complementary competences. The Group examined WD 29.

A broad consensus emerged regarding the inclusion in the list of the following: employment, education, vocational training, culture, trans-European networks and industry. A clear majority favoured excluding customs cooperation and development cooperation from the list, as it was generally thought that these should be regarded as shared competences.

Opinions were divided regarding:

- research (which some thought should be classed among the shared competences because of the size of its overall budget, while the majority did not regard financial allocations as constituting one of the criteria to be taken into account by the Working Group in defining complementary competences);

- public health (some pointed out that two of the three cases mentioned in Article 152 allowed the Community to act through harmonisation of national legislation; for others, those two cases were exceptions to the general rule set by the third case: incentive measures, ruling out harmonisation);
- consumer protection (for some the reference to Article 95 which appears in Article 153 makes this a shared competence; others thought that measures adopted on the basis of Article 95 were adopted in the framework of the internal market, not consumer protection, which remained a complementary competence).

The possibility of writing the open method of coordination into the Treaty was also discussed. For a number of speakers, this question concerned instruments for action, not competences, and thus fell outside the Working Group's mandate. The Chairman said a comment to this effect would be included in the final report.

A large majority of members considered that the Working Group's mandate did not authorise it to propose either rewriting legal bases or adding new competences or removing existing ones. The Chairman stated that the Working Group could pass on suggestions made in this regard to the competent bodies of the Convention.

A large number of members of the Group wanted an Article inserted in the Treaty concerning public administration and good governance.

The second part of the meeting was given over to examining the draft report submitted by the Chairman (WD 30). The Group studied the various sections of the document.

With regard to the denomination "complementary competences", views were divided: some supported the term "assisting measures" (*mesures d'assistance*) proposed by the Chairman, while others argued in favour of expressions such as "complementary measures" or "complementary actions" (*mesures complémentaires* or *actions complémentaires*) or even "supporting measures" (*mesures d'appui*).

Section 3 of the document was in general well received. Some voiced doubts concerning the proposal for a possible rewriting of the preambular clause of the TEC referring to "an ever closer Union".

Section 4 received general support, but some members were concerned at the references it contained to two distinct treaties, and asked for assurances regarding revision procedures. In their opinion, the current legal bases should appear in a treaty subject to the same rules of revision as the constitutional treaty, which would contain "the fundamental delimitation" of competences.

With regard to Section 5, opinions were divided on the penultimate indent of the recommendations. Some expressed fears about the rigidity of the sentence "Union legislation (regulations and directives) may not be adopted under assisting measures" and proposed, among other things, the addition of "except in the areas laid down in the Treaty". Others pointed out that this sentence prejudged the definition of instruments, which is a matter for the Working Group on Simplification.

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The Group decided to hold an extraordinary meeting so as to complete its examination of the document before its last meeting on 30 October.

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