

NOTE

from:	Secretariat
to:	Working Group X "Freedom, Security and Justice"
Subject:	Summary of the meeting held on 8 November 2002

The fifth meeting of the Group was held on 8 November 2002 (afternoon) under the chairmanship of Mr. John Bruton, member of the Praesidium. The list of participants is joined in the annex.

The Group had an extensive discussion on Working Document 5 submitted by the Chairman setting out possible topics and elements for the Group's final report.

From that discussion emerged *inter alia* the following general trends:

- The perspective of abolishing the current pillar structure and of bringing the area of freedom, security and justice under a common legal framework was welcomed by a vast majority of speakers. It was accepted that this would not exclude specific procedural rules for certain aspects covered presently by the "Third pillar", but several Members asked for a careful examination of the need of such rules and for keeping them to a minimum.
- In the area of asylum, a series of speakers supported the suggestions made in the paper to redraft Article 63 TEC, to move to co-decision and qualified majority voting and to enshrine a general principle of burden sharing, which would apply to asylum but also to immigration and border-control policies.

- In the area of immigration, it was mentioned that the ambition expressed in the current Treaty as regards the scope of action was broadly the right one, but the question of moving to qualified majority voting and co-decision was asked, particularly in relation to the fight against illegal immigration.
- Several members mentioned the need for a legal basis allowing the progressive establishment of an integrated system of control of the Union's external borders.
- It was widely recognised that the legal instruments of the current "Third pillar" need reform. There was broad support in favour of abolishing the instrument of Conventions and of replacing Framework Decisions and Decisions (as defined in Article 34 TUE) by regulations and directives (or their successors).
- There was a strong call for a clearer identification of the scope of Union legislation in the field of approximation of criminal laws. Notably, the suggestion to enshrine certain criteria, spelling out more concretely subsidiarity in this area, met with broad support. Certain members also considered that the Treaty should mention a number of specific types or areas of crime for possible approximation of laws, whereas others were sceptical about that suggestion.
- A broad orientation emerged in favour of enshrining the principle of mutual recognition of judicial decisions in criminal matters in the Treaty; as was mentioned by several speakers, common rules or minimal standards on certain elements of procedure (adopted by QMV) would be needed as a corollary to that principle. Common rules on the taking and admissibility of evidence were frequently mentioned.
- A vast majority of speakers recognised the need to move away from the rule of unanimity in the area of cooperation in criminal matters; these members called, with various nuances in detail, for an extension of qualified majority voting and co-decision, which was in tendency considered easier in the area of judicial cooperation and of procedural law.
- Several speakers suggested to give, in the area of the current Third Pillar, a right of initiative to a group of Member States, in addition to the Commission's right of initiative.

- A general orientation emerged in favour of making the general rules on jurisdiction of the European Court of Justice applicable to the area of Justice and Home affairs. One member suggested however the need of a limited exclusion of jurisdiction as currently made in Article 35 § 5 TEU.
- Several members spoke in favour of a further development of Europol's powers; this could according to some be done on a basis of a shorter and more general legal base which should however not be open-ended.
- A number of speakers argued in favour of opening the perspective of setting up a European Prosecutor's office (which according to one proposal could be organised collegially), one member however expressing hesitations about that idea.
- The suggestion to strengthen operational cooperation within the Council found support. A series of speakers did not however favoured the idea of a "high representative" for Justice and Home Affairs at political level.
- The proposition that national parliaments could continue to have a role in matters of criminal law found support. One member spoke in this context of the need to examine possible safeguards preserving that role.

The Chairman concluded the meeting indicating that he would, on the basis of the working document and the Group's discussion, prepare a first draft of the Group's final report, which would be discussed at the meeting on 22 November 2002. He also indicated that the Group's last meeting would in principle be held on 27 November 2002 but that a further meeting would be convened on 28th November 2002, if necessary for the adoption of the final report.

**List of members of the Working Group who attended
the meeting on 8 November 2002**

John BRUTON, Chairman, member of the Praesidium

de BRUIJN Thom

BURY Hans-Martin

CAREY Pat

DASTIS Alfonso

FLOCH Jacques

GRABOWSKA Genowefa

HAENEL Hubert

HEATHCOAT AMORY David

LEKBERG Sören

LOPÉZ GARRIDO Diego

MEYER Jürgen

NAGY Marie

PACIOTTI Elena

PELTOMAKI Antti

VAN LANCKER Anne

VASSILIOU Androula

VITORINO Antonio