

NOTE

**Subject: Summary report on the plenary session
- Brussels, 20 December 2002¹**

I. OPENING OF THE SESSION

1. Presentation by the President of the work programme for 2003

1. President Giscard D'Estaing opened the plenary session of the Convention by welcoming the outcome of the Copenhagen European Council on enlargement. He invited the Convention to join him in congratulating the ten countries with which negotiations have now been completed.
2. The President recalled the considerable work which lay ahead of the Convention from the beginning of 2003 if the deadline set by the Copenhagen European Council for the completion of the Convention's work is to be met. The January session of the Convention would be devoted to a first discussion on the functioning of the Institutions, based on an issues paper which would be circulated by the Praesidium. The first of the two February sessions would discuss the report of the "Social Europe" Working Group, and could also include a discussion on the regional dimension. At the same time, the Praesidium was embarking on the preparation of draft treaty articles, drawing on the discussions in the plenary and on the

¹ The verbatim record of the plenary session may be found on the following website:
<http://european-convention.eu.int>

reports of the various working groups. The first set of articles (Titles I, II and III) were already under preparation, and should be ready to be presented to the Convention at the January plenary, with a view to discussion in February. The second set (Titles V, VII and IX) would be presented in February, and the third set (Titles IV, VI, VIII and X) would be presented in March/April. This would allow the Convention to have a complete draft of the first part of the treaty by Easter; Part III (General and Final Provisions) would also be circulated in April.

3. At the same time, work would begin on the second part of the treaty. The Praesidium intended to circulate to the Convention by the end of January an analysis of existing treaty articles, identifying those which would be replaced by new articles in part I of the new treaty, those which would need to be replaced by new articles in part II (e.g. the current CFSP and JHA provisions), and those which would require only some technical amendment (in order to take into account the new provisions in Part I.) The Praesidium would prepare those draft articles for part II which required substantial amendment. For those articles requiring only technical amendment, it envisaged that the Convention secretariat would work with a group of experts drawn from the legal services of the three institutions.
4. The procedures for handling draft articles would depend on the results of the plenary discussions. If they were broadly accepted in plenary, members of the Convention would be invited to submit subsequently in writing any points of detail which they wished to be taken into account. If there were differences over substance, then a discussion group, with a specific mandate and a tight deadline, could be established. The Praesidium wanted to ensure that every member of the Convention was as fully involved as possible in the new and decisive phase of the Convention's work, and considered that these proposals on working methods were the best guarantee of the Convention reaching as large a consensus as possible before the summer.

2. External Action

- **Debate on the report by Working Group VII chaired by Mr Dehaene (CONV 459/02)**

i. Presentation of the report by Mr Dehaene

5. Vice President Dehaene, Chairman of Working Group VII, presented his report (CONV 459/02). He pointed to the fact that the starting point of the work of the Group had been a common desire to ensure greater coherence and efficiency in EU external action and outlined some of the main recommendations. The Group proposed that the principles and objectives of EU external action be defined in the Treaty (a text to this effect had been prepared), and that these be translated into specific strategic objectives by the European Council. In relation to competences, it was suggested that the Treaty make explicit the competence of the Union to conclude external agreements covering issues falling under its internal competence. The Group had explored ways in which the arrangements within and between institutions could be strengthened to increase coherence and efficiency of external action. Several options for enhancing coordination between the High Representative and the External Relations Commissioner had been discussed and a large orientation had emerged in favour of exercise of the two functions by one person, who would be a member of the Commission but would have a separate mandate from, and remain accountable to, the Council for CFSP. With the aim of enhancing efficiency in decision making, the Group agreed that current provisions for the use of QMV in CFSP should be used better, and recommended that the Treaty contain the possibility for the European Council to decide by unanimity to extend the use on QMV in future. There was a large trend, but not a consensus, in favour of extending QMV to all areas of commercial policy. Further recommendations related to enhancing coherence in the external representation of the Union, to policy on development cooperation, and to the role of the European Parliament.

ii Plenary debate

6. The members of the Convention broadly welcomed the work carried out by the external action Working Group, and in particular its effort to bridge the gaps between different positions and to define common ground on the issues in the mandate. Members of the Convention acknowledged the importance of increasing coherence and improving efficiency, which were recurrent themes in interventions made at the Plenary. All agreed that the Union had much to gain from acting collectively on the international scene, and that it should make coherent and efficient use of all the instruments at its disposal. The central question in the debate was what arrangements, both in terms of Treaty change and reform of working methods, would help the Union to become a stronger global player, capable of defending its interests and promoting its values. Some members however observed that the real question to be addressed was not institutional arrangements within the EU but political will and commitment to reach common positions on major political issues.
7. The following issues were raised.

Principles and objectives

8. General support was expressed for the Working Group recommendation on defining clearly in the Treaty the underlying principles and general objectives of EU external action. There was also broad support for the text proposed by the Working Group defining these "principles and objectives". Some members however regretted that they did not refer to the European Charter of Fundamental Rights. Some welcomed the fact that the principles and objectives indicated that development policy should have as its primary aim the eradication of poverty, in particular in low income countries, while others were concerned that such a reference could limit the range of action of EU development policy.

Link between coherence and efficiency and structures within institutions

9. The link between the objective of increasing coherence and efficiency in external action and the organisation of, and structures within, institutions was widely recognised. A large number of members expressed support for splitting the General Affairs and External Relations Council into two separate formations, thereby establishing a distinct Council formation for “External action”. Several members were of the opinion that this Council should be chaired by the person holding the function of High Representative, whilst a number expressed doubts over the compatibility between the responsibilities of the HR and the task of chairing the Council, in particular if a single person were to combine the functions of HR and Relex Commissioner.
10. The recommendation to have a focal point within the Commission for all areas of external relations under its responsibility received broad support; several speakers were in favour of this role being entrusted to a Vice-president of the Commission.
11. The importance of avoiding duplication and increasing coherence and efficiency at the level of services was underlined and many expressed support for the establishment of a single external action service. Several members said they were in favour of the creation of an EU diplomatic service and a diplomatic academy, while others argued that national structures could not be replaced, and preferred improved cooperation between the existing structures within Member States.

Link between coherence and efficiency and instruments and decision-making procedures

12. There was a consensus on the need to make better use of existing possibilities for decision by qualified majority voting in CFSP as well as for provisions allowing for some degree of flexibility, such as constructive abstention. All agreed on the usefulness of including in the Treaty a provision that would give the European Council the possibility in future of deciding by unanimity to extend the use of QMV. Some wanted to go further, by now including an extension of QMV in the new treaty in order to facilitate efficient decision making in an enlarged Union. They argued that the existence of the possibility of recourse to QMV itself contributed to the forging of a consensus in the Council. Some underlined that it would not be acceptable for a Member State to find itself in a minority on a matter where it had vital interests at stake, and therefore favoured a safeguard clause to prevent such situations.

13. Proposals to extend QMV to all areas of commercial policy, including services and intellectual property, met with very wide support. However some underlined that this should be without prejudice to harmonisation in internal policy areas. Some cautioned against an extension of QMV in this field, as they were concerned about the implications for the division of competences in internal policy areas.
14. Several speakers underlined the need to ensure coherence between development cooperation and other aspects of external action, as well as the external aspects of internal policies. Some stressed the importance of confirming the poverty focus of EU development programmes. A number of speakers also underlined the need to ensure better coordination between policy making at the European level, and development policies and mobilisation of resources at the national level.
15. Several members expressed support for the proposal to include in the Treaty a provision for “joint initiatives”, which would combine different aspects of EU external action and thereby encourage a coherent approach.

The link between the capacity to act promptly in CFSP and the availability of financial means

16. The importance of the Union being able to translate its decisions into concrete action, and therefore of ensuring that adequate means were allocated to the CFSP part of the EU budget was underlined. Several members of the Convention supported the suggestion that the person holding the function of HR should have the authority to mobilise rapidly the necessary financial means in order to react promptly to developments on the ground.

Role of the European Parliament

17. Many members thought the role of the European Parliament in EU external action should be enhanced, with a greater flow of information from the other institutions, a larger role in the negotiation and conclusion of international agreements (assent procedure for agreements having financial implications for the EU budget, or dealing with matters decided internally by codecision), and regular debates on CFSP issues with the person holding the function of HR.

External Representation

18. Most speakers underlined the importance of clarity in external representation of the Union, and agreed that arrangements for external representation should be such as to contribute to the Union's capacity to influence international developments. For a considerable number of speakers this meant that the Union should seek formal status, possibly full membership, in relevant specialised organisations. Some added that this should be without prejudice to the status of Member States in these organisations. A number of speakers indicated that the implication of Eurozone representation in IFT's required further examination. Some members considered that delivering a single message was more important than having a single spokesperson or single representation. There was a general agreement that coordination in international organisations and conferences should be improved.

Relations between institutions and actors

19. Members of the Convention agreed with the group's assessment on the need to look at the roles of the HR for CFSP and Commissioner responsible for Relex when examining how to ensure better coherence between foreign policy decisions on the one hand, and the deployment of instruments in the field of external relations on the other hand.
20. Several speakers considered that both functions should be merged into the Commission. Some of them questioned the option set out in the recommendations of the Group, which provided for the exercise of both functions by one person ("double hatting"): others could accept it as an interim step. Several other speakers preferred this option and considered that it had the advantage of respecting the specific arrangements for different policy areas, whilst at the same time ensuring overall coherence.

21. A number of members considered that both functions should remain distinct and separate, whilst recommending practical measures to enhance cooperation and improve coherence between the two policy areas. The role of the Council in foreign policy was central and the specific relationship of the HR with Governments and Foreign Ministers in particular should be preserved. In addition, ESDP and military capabilities were an important tool to back up foreign policy and responsibilities in defence matters could not be conferred on the Commission. The feasibility of the "double hat" option, the implications that it might have for the nature and functioning of the college of Commissioners, and the difficulty that one person would experience in being answerable to two authorities were stressed. Some members thought that it would not be desirable for a "double hat" or "External Representative" to chair the External Action Council: others thought it more important, in terms of coherence, for the HR to chair the Council than for one person to combine the functions of HR and Relex Commissioner.
22. One member recommended creating the post of EU foreign minister, who would work under the authority of the President of the European Council, and would exercise the role of the current HR with competences on external relations as well.
23. A considerable number of speakers considered that the issue of the roles of the HR and Relex Commissioner would have to be discussed further in the context of the wider institutional debate.

iii Concluding remarks

24. Vice President Dehaene underlined that the Group had conducted its work with the aim of enhancing mutual understanding and bringing closer together the different points of view which existed on a number of issues. The members of the Group had shared the objective of identifying common ground which would allow the Union to take steps towards more effective and coherent action. He noted that a number of recommendations of the Group had received wide support from the Plenary.

25. In reply to comments made, he specified that the use of QMV in CFSP should be regarded as an important tool to help reaching consensus, that Union membership in international organisations would not affect the status of Member States in those organisations, and that the proposals for an EU diplomatic service and academy were complementary to, and not intended to replace, those of Member States. Finally, he confirmed that the option of one person exercising the functions of HR and Relex Commissioner, as reflected in the recommendations of the report, had been presented in order to strike a balance between, on the one hand, the need to maintain the distinct arrangements between policy making in CFSP and other aspects of external relations, and, on the other hand, the need to enhance coherence across the full range of EU external action.
26. Vice President Dehaene noted that the role of HR and the responsibilities of the Commission in external action, as well as specific questions concerning "double hatting", would continue to be discussed in the framework of the wider institutional debate.

Defence

- **Debate on the report by Working Group VIII chaired by Mr Barnier (CONV 461/02)**

i. Presentation of the report by Mr Barnier

27. Mr Barnier, Chairman of Working Group VIII, presented his report (CONV 461/02). He underlined that the first part of the report was designed to be descriptive; this was important if the subsequent recommendations were to be seen in context. The nature of defence had placed a particular obligation on the group to draw up recommendations which were both realistic and credible. Different members of the group had approached the subject from different perspectives. Nevertheless, the second part of the report contained a number of recommendations which had received the broad support of the group; where different views had been expressed, the report made this quite clear. The very different capacities, backgrounds and ambitions of the Member States, reflected in the contributions from the

group's members, had highlighted the need for flexibility. A key part of the report was therefore the section which put forward proposals on developing specific forms of closer cooperation between those Member States wishing to develop further certain aspects of ESDP. Mr Barnier welcomed the recent agreement on permanent arrangements between the Union and NATO, which opened the way for the Union to run its own operations in FYROM and Bosnia. He set out the main recommendations of the group.

ii. **Plenary debate**

28. In discussion there was widespread support for the results of the group's work, with many speakers fully endorsing the recommendations in the report. Several speakers highlighted the importance of the reference in the report to the overall objectives of ESDP, and in particular the fact that the group's recommendations were not designed to turn the Union into a military alliance. A few speakers underlined the importance of maintaining ESDP as a part of the Union's CFSP; for some this meant that the constitutional treaty should not have a separate chapter on defence. One speaker could not endorse the report, considering that issues of defence and security were a matter for individual Member States and for NATO. Another speaker regretted any further moves to develop ESDP, wishing instead to see a demilitarisation of the Union.
29. The report's recommendations on updating the Petersberg tasks were supported by the vast majority of speakers. One speaker sought reassurance that the addition of 'conflict prevention' would not allow the Union to take pre-emptive military action. There was also broad support for the proposals put forward for ensuring greater coherence and efficiency in carrying out crisis management operations. Several specifically welcomed the recommendation to strengthen the role of the High Representative in crisis management operations; some stressed (as the report made clear) that the High Representative should operate under the authority of the Council, and in close and permanent contact with the PSC and that any new arrangements should respect the integrity of the military command.

30. The suggestion to set up a fund to finance the preparatory phases of crisis management operations met with large support. One speaker underlined the importance of finding a solution to the issue of financing common costs for the military aspects of crisis management operations.
31. A number of speakers welcomed the recommendations aimed at facilitating flexibility in decision-making. Others however were concerned that any arrangements designed to encourage flexibility could be divisive. It was suggested in particular that such arrangements should draw on existing Union institutions. Several speakers supported the proposal to establish a form of closer cooperation (along the lines of the Euro-zone) for those Member States wishing to do so. Some speakers emphasised the importance of fixing criteria for participation, but one insisted that such criteria should be designed to avoid excluding those Member States with more limited military resources. A number of speakers supported the extension of enhanced cooperation to ESDP. Some however were more cautious, calling for further reflection. One speaker insisted in particular that tasks already provided for under the treaty (e.g. Petersberg missions) should remain subject to full EU approval.
32. There was widespread support for the introduction in the treaty of a solidarity clause which would provide for the mobilisation of all the EU instruments (including military means and ESDP structures, but also judicial and police cooperation, civil protection, border control, etc) in order to assist Member States deal with terrorist attacks within the territory of the Union, protecting the civilian population and democratic institutions. Some attached importance to respecting the parameters for the application of such a clause as set out in the group's report.
33. A number of speakers wished to go further by extending the scope of such a clause, and therefore expressed support for the idea of a 'solidarity and common security clause', which would not be limited to the terrorist threat. Several considered that the future treaty should include a collective defence clause, possibly as a protocol open to those Member States

wishing to sign up to it. For some this would enable the residual WEU defence obligations under Article V of the Brussels Treaty to be brought within the EU. Several speakers expressed firm opposition to any inclusion of collective defence in the EU. One member could consider bringing in a protocol the commitment of Article V of the WEU Treaty, provided that it was complemented by the provisions of Article IV of the same Treaty.

34. The proposal to create pools of specialised civilian or military civil protection units was welcomed. One speaker sought confirmation that these could be drawn on in the event of natural disasters.
35. There was unanimous support for the recommendation to establish a European Armaments and Strategic Research Agency. Several speakers considered that this should be combined with greater market openness in the defence sector, leading eventually to the establishment of an internal market. One called for a revision of existing Article 296 in order to achieve this. Several speakers underlined the importance of adequate capabilities for a credible ESDP, and therefore welcomed the group's recommendations for a capabilities evaluation mechanism. It was emphasised in particular that measurement of output in this area was more important than input. There was also broad support for the recommendation to create a Council of Defence ministers.
36. On institutional structures, a considerable number of speakers supported the recommendation that the High Representative should continue to be responsible for ESDP. Several speakers underlined the importance of adequate parliamentary control in the area of ESDP. Some considered that this was essentially a matter for national parliaments (it was suggested that the group report should be drawn to the attention of national parliaments). A few speakers however considered that there should be a greater role for the European Parliament, even extending to the need for EP approval before launching an operation. Questions were raised over the future of the WEU Parliamentary Assembly in the event that the remaining WEU commitments were transferred to the EU: some suggested that its role should be assumed by the EP.

iii Conclusions

37. Mr Barnier welcomed the very positive reception which the group's report had received by the Convention. On several issues there had been almost complete support for the group's recommendations. In conclusion:
- a) there was consensus on the proposal for updating the Petersberg tasks and on the proposals to improve coherence and efficiency in crisis management.
 - b) there had been very wide support from the Convention for the solidarity clause. This would have to be carefully drafted in the new treaty in order to be clear on the scope and range of instruments available.
 - c) the proposal for an armaments/capabilities agency had been endorsed.
 - d) there had been strong support for the High Representative to continue to be responsible for ESDP. Future discussions on the issue of the institutional arrangements within the area of external action generally (following on from the debate on the report from group VII) would need to take this into account.
 - e) consensus had not been reached on the suggestions aimed at providing for flexibility both in the area of crisis management and in the area of collective defence. However, the strong call of a number of members of the Convention to go further had been noted. The Praesidium would need to reflect on the articulation between possible forms of closer cooperation and the scope of defence policy in which all EU members would be involved and the necessary political solidarity of all.
 - f) there had also been a strong call for adequate parliamentary control, to be exercised primarily through national parliaments.

3. Question time

38. There were no questions.

II. NEXT MEETING OF THE CONVENTION

39. The Chairman announced that the next meeting of the Convention would take place on the afternoon of Monday 20 January, and the morning of Tuesday 21 January. It would be devoted to the issue of the functioning of the institutions.

Plenary session on 20 December 2002

LIST OF SPEAKERS

following order of intervention

External Action - Defence

Debate on the report of Group VII chaired by Mr Dehaene (CONV 459/02)

Debate on the report of Group VIII chaired by M. Barnier (CONV 461/02)

Mr Alain LAMASSOURE - European Parliament

Mr René van der LINDEN - Netherlands (Parliament)

Mr Peter HAIN - United Kingdom (Government)

Mr Louis MICHEL - Belgium (Government)

Mr Antonio VITORINO – Commission

Mr Paraskevas AVGERINOS - Greece (Parliament)

Ms Teija TIILIKAINEN - Finland (Government)

Mr Andrew DUFF - European Parliament

Mr Frans TIMMERMANS - Netherlands (Parliament)

Mr Lamberto DINI - Italy (Parliament)

Mr Kimmo KILJUNEN - Finland (Parliament)

Mr Hubert HAENEL - France (Parliament)

Ms Lena HJELM-WALLEN - Sweden (Government)

Ms Marta FOGLER - Poland (Parliament)

(Blue cards: Kiljunen, Serracino-Inglott, Hain, MacLennan, Kelemen)

Mr Henning CHRISTOPHERSEN - Denmark (Government)

Mr Valdo SPINI - Italy (Parliament)

Mr. John CUSHNAHAN - European Parliament

Mr Michael ATTALIDES - Cyprus (Government)

Mr Pierre LEQUILLER - France (Parliament)

Mr Dick ROCHE - Ireland (Government)

Mr Elmar BROK - European Parliament

Mr Gijs de VRIES - Netherlands (Government)

Mr Klaus HÄNSCH - European Parliament

Mr Carlos CARNERO - European Parliament
Mr Peter SKAARUP - Denmark (Parliament)
Mr Rytis MARTIKONIS - Lithuania (Government)
Mr Ivan KORCOK - Slovak Rep. (Government)
Mr John BRUTON - Ireland (Parliament)
Ms Linda McAVAN - European Parliament
Mr Ernâni LOPES - Portugal (Government)
Mr Josep BORRELL - Spain (Parliament)
Mr. Gianfranco FINI - Italy (Government)
Mr Ben FAYOT - Luxembourg (Parliament)
Mr Henrik HOLOLEI - Estonia (Government)
(Blue cards: Hain, MacCormick)
Mr Alberto COSTA - Portugal (Parliament)
Ms Piia-Noora KAUPPI - European Parliament
Mr Alfonso DASTIS - Spain (Government)
Mr Henrik Dam KRISTENSEN - Denmark (Parliament)
Mr Dominique de VILLEPIN - France (Government)
Ms Hanja MAIJ-WEGGEN - European Parliament
Mr. Adrian SEVERIN - Romania (Parliament)
Ms Maria Eduarda AZVEDO - Portugal (Parliament)
Mr Aloiz PETERLE - Slovenia (Parliament)
Ms Sylvia-Yvonne KAUFMANN - European Parliament
Mr Jan FIGEL - Slovak Rep. (Parliament)
Mr Ysar YAKIS - Turkey (Government)
Mr Pronsias DE ROSSA - Ireland (Parliament)
Mr Peter SERRACINO-INGLOTT - Malta (Government)
(Blue cards: Fayot, Hain, van Eekelen, MacCormick)
Mr Joschka FISCHER - Germany (Government)
Mr Edmund WITTBRODT - Poland (Parliament)
Ms Irena BELOHORSKÁ - Slovak rep. (Parliament)
(Blue card: Kiljunen)
Ms Pervenche BERÈS - European Parliament
Mr Georges KATIFORIS - Greece (Government)
Mr Jacques SANTER - Luxembourg (Government)

Ms Teresa ALMEIDA GARRETT - European Parliament

Mr Jürgen MEYER - Germany (Parliament)

Mr István SZENT-IVANYI - Hungary (Parliament)

Mr William ABITBOL - European Parliament

Ms Gisela STUART - United Kingdom (Parliament)

Mr Sören LEKBERG - Sweden (Parliament)

Mr Alejandro MUÑOZ ALONSO - Spain (Parliament)

Ms Riitta KORHONEN - Finland (Parliament)

Mr Liviu MAIOR - Romania (Parliament)

Mr Hennes FARNLEITNER - Austria (Government)

Ms Cristiana MUSCARDINI - Italy (Parliament)

Mr Rihards PIKS - Latvia (Parliament)

Mr Jan KOHOUT - Czech Rep. (Government)

Mr Göran LENNMARKER - Sweden (Parliament)

Mr Kemal DERVIS - Turkey (Parliament)

(Blue cards: Spini, Kiljunen, Dini)

Mr Joschka FISCHER - Germany (Government)
