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CONTRIB 219

COVER NOTE

from Secretariat

to The Convention

**Subject : Contribution by Mr Andrew Duff and Mr Lamberto Dini, members of the
Convention: "A Proposal for a Unified Presidency"**

The Secretary-General of the Convention has received the attached contribution from Mr Andrew Duff and Mr Lamberto Dini, members of the Convention.

Contribution by Mr Andrew Duff and Mr Lamberto Dini, Members of the Convention

A PROPOSAL FOR A UNIFIED PRESIDENCY

The Convention is united on the need for stronger leadership of the European Union. Yet the most difficult decision it faces concerns the designation of executive authority in the future constitution. Who should run the Union?

As is well known, **the Council and the Commission share executive power in the Union**. It will continue to be shared in the future Union. The success of the partnership between the two institutions lies at the heart of the good governance of the Union.

The new constitution, therefore, must not entrench competition between the Council and Commission, still less accentuate it, but rather settle on **a more harmonious division of labour**.¹ There needs to be better synergy between the Council and Commission across the policy spectrum and throughout the system, from the level of the presidency through to the implementation of law and the application of decisions.²

Over the decades, the precise share-out of executive functions between the two institutions has been fairly haphazard. As the scope of competence has widened, support for real integration - the 'Community method' - has fluctuated. The Convention now has the chance **to rationalise the way power is exercised, to write it down clearly and to improve the efficacy of the Union all round**.

Many members of the Convention wish to separate out more clearly the Union's law making from its executive functions. Most members of the Convention want **full transparency of the legislative process**.

Likewise, almost everyone wants the Union to show a more distinct profile to the rest of the world and to its own citizens. The idea of **a double-hatted 'Secretary of the Union'**, whose job would incorporate those of the existing High Representative and the Commissioner for External Relations, is gaining ground. But there remain misgivings about how it will be possible for him or her to relate at one and the same time to two different presidents, of the Commission and the Council.

As far as the Council itself is concerned, the Convention agrees on **the need for stability and consistency as well as coherence between the different formations**. However, many have warned against certain formulae for the Council presidency that might divide the larger from the smaller member states. Most seem sceptical about the viability of 'cohabitation' between two presidents at EU level. There is strong opposition to the suggestion that an executive president should be created from outside the European Council with powers to supervise the Commission.

As far as the Commission is concerned, a large majority in the Convention wants **more democratic accountability alongside an enhanced capacity to act** at home and abroad. It is largely agreed that the power of the Commission President should be strengthened.

¹ We have expressed reservations about whether earlier contributions to the Convention - notably from the Commission (CONV 448/02) and from MM. De Villepin and Fischer (CONV 489/03) - have achieved a genuine synthesis of views or merely an uneasy juxtaposition.

² For a proposal for the distribution of implementing powers between the Commission and Council, see CONV 423/02.

Guidance, programming and delivery

The main role of the **EUROPEAN COUNCIL** is to give political impetus and direction to the Union. This is a function of government. If the European Council is to bring coherent leadership to the whole system, it must be thoroughly grounded in the constitution and able to draw on all the executive resources of the Union, be they in the Commission or the Council. Following the same logic as the Secretary of the Union, there should also be **one President of the Union who would chair both the Commission and the European Council**. He or she will be primarily responsible for delivering the decisions of the heads of government and for running the Commission.

In order to stabilise the work of the institutions, the European Council should decide upon (and annually refresh) a **multi-annual policy strategy** on a proposal of the Commission and after having consulted the European Parliament. Heads of government should also engage their national parliaments in a debate on the strategic direction of the European Council. The current six monthly presidential programmes would be suppressed, with immediate advantages for focus, continuity and scrutiny. Within the context of the policy strategy the Commission would continue to publish its **annual legislative programme**.

The European Council should also be permitted to assume, from time to time, the law-making role of the Council of ministers. In that case it must abide by the rules of the legislature, and be chaired by the head of government of the president-in-office.

Method of appointment

The integrated **PRESIDENT OF THE UNION** needs the dual legitimation of Council and Parliament to be appointed and sustained in office. In case of a rival candidature, election should be by a qualified majority (Option B).

OPTION A

The European Council, acting by QMV and following the results of the European Parliamentary elections, proposes the President. The proposal is confirmed or rejected by the Parliament acting by a simple majority.

OPTION B

Following the European Parliamentary elections, member states nominate a number of candidates. An electoral college is formed of an equal number of European and national parliamentarians. The candidate securing a majority of the members of the college is elected.

The President of the Union could be sacked on the proposal of either the European Council or the European Parliament if confirmed by the other.

The President nominates the members of the Commission subject to confirmation as a college by both the European Council and Parliament.

Separation of executive and legislative functions

It is also vital to **distinguish very clearly between the Union's government and legislative functions** at the level of the Council of ministers. The Council and COREPER should meet in two separate formations, as follows:-

<p>1. The LAW COUNCIL is where all legislation is debated and enacted in accordance with the hierarchy of acts as laid down in the constitution.</p> <p>It will work in various formations according to subject matter, and may meet at the level of the European Council.</p> <p>It meets in public and a verbatim record of its proceedings is published.</p> <p>It acts normally by qualified majority vote and in specified cases by enhanced qualified majority - and in all cases by codecision with the European Parliament.</p> <p>The Commission maintains the exclusive right of legislative initiative.</p> <p>The role of the President of the Law Council is similar to that of the President of the European Parliament - namely, to apply the rules of procedure, to be the spokesman of the house in relation to the other institutions, to represent the house in legal, financial and administrative matters, and to carry out protocol duties.</p> <p>In these circumstances, the Presidency of the Law Council could well continue to rotate according to the existing six-month procedure.</p> <p>In its legislative role, COREPER will continue to be chaired by the Permanent Representative of the government presiding the Law Council, as would Council working groups.</p>	<p>2. The EXECUTIVE COUNCIL has four formations: (i) General Affairs, (ii) Foreign, Security and Defence, (iii) Economic, Social and Financial Affairs, (iv) Justice and Home Affairs.</p> <p>It meets in private, takes decisions and issues communiqués.</p> <p>It acts normally by consensus except where the constitution otherwise provides.</p> <p>The Commission shares the right to make proposals with that of the member states in all fields save that of security and defence.</p> <p>The role of the presidency of the Executive Councils is to guide the discussion, to help broker agreement and to be the main spokesman in domestic and international fora. Its Presidents should also be answerable before the European Parliament.</p> <p>The President of the Union should chair the General Affairs Council.</p> <p>The Secretary of the Union, a Vice-President of the Commission, should chair the Foreign, Security and Defence Council.</p> <p>The Vice-Presidents of the Commission responsible for the respective portfolios should chair the other two executive Councils.</p> <p>When acting in executive mode, COREPER should be chaired by a representative of the President of the Union (possibly the Secretary-General of the Commission).¹</p>
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This proposal is intended to respect the single institutional framework, consolidate parliamentary democracy, simplify the system of government and strengthen the leadership of the European Union.

¹ The Secretary of the Union will also chair the Political and Security Committee, as Mr Solana does now, and the Foreign, Security and Defence Council will continue to appoint the chairman of the EU Military Committee for a period of three years. The chair of the Economic and Financial Committee will continue to be appointed from amongst its number for a period of two years.