

CONV 591/03

CONTRIB 264

COVER NOTE

From	Secretariat
To	Convention
Subject :	Contribution by Mrs Ana Palacio and Mr. Peter Hain, members of the Convention: "The Union institutions"

The Secretary-General of the Convention has received the contribution annexed hereto from Mrs. Ana Palacio and Mr. Peter Hain, members of the Convention.

THE UNION INSTITUTIONS

The starting point for the UK and Spain, in voicing their opinions on the Union's future institutional framework, is the maintenance of the basic balance of the "institutional triangle" (namely, the Council, the Commission and the European Parliament) and the preservation of the essential characteristics of the present "Community method". It must be made clear that these conditions or requirements are incompatible with a classical division of powers similar to that existing in Member States.

The UK and Spain support a strong and independent Commission. We want to extend its power of initiative, particularly, in the area of Justice and Home Affairs and in proposing the multiannual strategic agenda to be adopted by the European Council. We want to strengthen its powers to ensure strict compliance with the *acquis* (Guardian of the Treaties) by speeding up the process for addressing the question of Member States who are in breach of the law. We should explore the scope for recognising in the Treaty a category of "delegated acts" for implementing framework laws. The open method of co-ordination should also be included in the Treaty whilst preserving its flexibility. The Commission must also be an agile and dynamic body: the UK and Spain therefore support the efforts to reform its operation. Lastly we must strengthen the role of the Commission President, preserving his/her independence and democratic accountability. The UK and Spain believe he or she should be appointed by a qualified majority in the European Council and subsequently approved by the European Parliament. We are ready to consider other methods of appointment, but they must respect the key principles of democratic accountability and independence from political interference.

The European Parliament, as the body which is directly elected by the citizens of Europe, must be developed further. Its powers have been successively expanded coinciding with each reform of the Treaties. The future Constitutional Treaty cannot and shall not be an exception in this respect. The UK and Spain, as has been indicated, reiterate its wish of further extending the European Parliament powers concerning:

- (a) application of the co-decision procedure and qualified majority voting in the Council into some new areas;
- (b) improved oversight of implementing legislation via a "call back" mechanism for "delegated acts";
- (c) assessing the impact of new EU legislation;
- (d) holding the Commission to account;
- (e) involvement in planning and implementing the European Council's strategic agenda.

We are also open to improving the way the EU's budget is set through more effective decision making between Council and Parliament. It is right that the European Parliament's voice should be heard in all annual decisions on EU spending.

The UK and Spain want the powers of the European Parliament and the Commission to be strengthened in these ways in the future Treaty, but, if nothing is done to improve the Council's work structures, this would upset the institutional balance currently in existence and would render the efficient working of the present Community method impossible since the Council would be slow to reach decisions and ineffective in contributing to the EU's impact globally.

The European Council must fully play the role the current Treaty of the Union confers upon it when it lays down, in Article 4, that the European Council shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof. This mandate of the European Council requires, in our opinion, the strengthening of the figure of its Chair, within the new Union.

This is why we propose that the Chair of the European Council should be a full-time post, to be appointed for a period to be significantly longer than the current six months (for four years or for the mandate of two presidential teams, see below, which comes to be the same thing). His/her system of appointment should ensure the respect of the principle of equality amongst Member States.

The essential functions of the Chair, so appointed, would be to prepare and preside over European Council meetings, to ensure the follow-up of decisions adopted there (for which purpose he or she could also chair the General Affairs Council of Ministers), to give added profile to the external representation of the EU (without prejudice of the High Representative's work or the Commission's competencies) and to inform the European Parliament about the European Council's work.

The Council of Ministers, so frequently played down, must preserve the role assigned to it by the Treaties: namely, to be the Community institution where Member States express their opinion, defend their interests and reach common positions to be subsequently submitted to and negotiated with the Commission and the European Parliament. The system of six-month rotating Presidencies must, nevertheless, be modified.

The UK and Spain propose its substitution by one possible model in which a team of Member States will hold a collective Presidency during a two-year period. The share out of posts or "portfolios" within each presidential team could be fixed in advance (i.e., each member of a four member team chairs two Council formations for six months, so that over the two years they chair all the different Councils) or agreed by consensus of the members thereof. This system is compatible with recourse to certain "Institutional Presidencies": that of the Chair of the European Council in the General Affairs composition of the Council, as already indicated, and that of the High representative in External Relations. The idea would be for each presidential period to coincide with the duration of one of the multiannual strategic programmes whose establishment was agreed at the Seville European Council.

Without reforming the system of Presidencies, in a Union with 25 or more Members, the Council would be unable to continue being an active element of the institutional triangle, becoming, rather, only “reactive”. One of the Presidency of the Council’s essential powers would be severely curtailed: namely, the Presidency’s possibility of submitting compromise formulae; in a Union with 25 Member States, with the number of dossiers to be handled continuously on the increase, the drawing up of compromise proposals would require a time and dedication incompatible with a change in the Council’s Presidency every six months.

Within the Council, the UK and Spain also propose the strengthening of the figure of the High representative. He/she would become a real Minister of Foreign Affairs/External Representative of the Union who, *inter alia*, should chair the meetings of the Council of Ministers for External Relations and participate at the Commission’s meetings where proposals concerning Union’s external action are to be discussed. He/she should also have at his/her own disposal a formal right of initiative for common foreign and security policy matters.

As far as the role of national Parliaments is concerned, the UK and Spain concur with the basic conclusion reached by the Convention: that national legislative chambers must participate actively in the European Union’s work mainly and above all via an effective control of their respective national Governments’ actions. Not all national Parliaments exploit the possibilities that already exist. We also support new powers for national Parliaments to monitor Commission proposals on subsidiarity grounds.

The proposal to set up an European Congress, in which representatives of both the European Parliament and national Parliaments are to take part, is, in this context, worth considering if a useful role for it is agreed. It could meet in principle once a year and could be entrusted with debating the European Council’s guidelines and the Commission’s work programme. In any event, it should be an informal political body, not a new Institution, entitled to adopt resolutions or recommendations only.

Reform of the Union’s institutional architecture would be incomplete if we did not consider the institution which guarantees that the Union’s law is respected: the European Court of Justice. In this context, we propose a more effective division of labour between the Court of Justice of the European Communities, the Court of First Instance and the judicial panels foreseen in the Treaty of Nice. The Court of First Instance and the judicial panels could shoulder the main burden of work and allow the Court of Justice to handle only the most important cases. The Courts names could change to reflect these roles. Besides that, the Treaty of Nice should be amended as far as the creation of the said judicial panels is concerned. The new Treaty should make provision for the possibility of creating new judicial panels by the Council acting by qualified majority on a proposal from the Commission. We also support a more effective screening process of judges with clearer criteria for nominations and some system to ensure the suitability of nominees, while fully respecting the sovereign right of Member States to present their candidates. Finally, the enforcement of EC law could be enhanced by streamlining the arrangements for fining Member States who fail to comply with a judgement of the Court.