

THE SECRETARIAT

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COVER NOTE

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Subject : "Proposal concerning Institutional Reform"

The Secretary General of the Convention has received the attached contribution from Prof. Peter Serracino-Inglott, Member of the Convention and Mr. John Inguanez, Alternate Member of the Convention.

CONV 680/03

EUROPEAN CONVENTION

PROPOSALS CONCERNING INSTITUTIONAL REFORM

BASIC FEATURES

The European Union's *raison d'être* continues to be the well-being of its citizens; it is ultimately what Europeans think and feel that matters, and it is strengthening the communication link with citizens which lies at the very heart of this Convention's remit. This would permit the Union's work to reflect more accurately the aspirations, concerns, and ambitions of Europeans going about their daily lives. In this context, the institutional proposals emanating from the Convention must necessarily respect two fundamental prerequisites – firstly, they must enable the European Union to retain, and preferably enhance, its dynamism in view of its impending expansion; secondly, they must simultaneously serve to propagate, notably vis-a-vis new Member States, the sense of belongingness to a unique way of doing things. Despite evident complexities and shortcomings, this methodology has hitherto afforded all Member States without distinction a full participatory role in mapping out the Union's evolution since its inception. It is with due regard to these underlying considerations that the representatives of the Government of Malta submit preliminary views on the future institutional set-up.

THE COUNCIL

Method of operation - the Maltese Government very much agrees with the recommendation put forward by Working Group IV that the Council should meet in open session when exercising its legislative function. In this context, the designation of a Council formation entrusted specifically with the task of considering legislative texts seems especially beneficial in terms of enhancing transparency and openness. It is also felt that, given the current state of affairs, the separation of the General Affairs and External Relations Council into two distinct formations deserves active appraisal by the Convention as to the implications involved.

Presidency - clearly, the main issue at stake as far as the Council is concerned relates to the conduct of its Presidency. The Maltese Government is keeping an open mind as to the various possible options and proposals. Having said this, it affirms its keen support for the concept of

reconciling the rotation element so instrumental in instilling a sense of ownership to the EU project throughout the administrations of each and every Member State, with the need to ensure greater consistency across the spectrum of Council formations, especially with regard to enhancing the capability to perform credibly on the external front. The most important advantage associated with the rotating Presidency is the intensive learning process to which a Member State is inevitably exposed, especially as far as its civil service is concerned. Evidently, this benefit does not accrue when the Presidency of the Council is assumed by a personality acting in his individual capacity rather than in representation of a Member State.

The Maltese Government believes that it would be advisable to adopt a holistic approach, one that examines how the Council Presidency at the various levels is to be reformed paying special attention to the interface and linkages between them, and keeping firmly in sight what each level can best achieve. Moreover, reform of the Council Presidency must be dealt with as an integral component of the general institutional debate, with due regard to the functions and tasks of each institution, and ultimately to the preservation of the institutional balance.

The Maltese Government is inclined towards an arrangement that would in the final analysis:

- a) maintain rotation of the Presidency of the European Council to enable each and every member state to assume a steering role at the highest political level;
- b) create an institutional arrangement for the Presidency of the General Affairs and External Relations Council, in which a leading role is attributed to the person assuming the merged role of High Representative for CFSP and Commissioner for External Relations. To all intents and purposes, the person appointed to this position would be fulfilling the role of EU Foreign Minister, providing a consistent and reliable interlocutor on the external front.

Since it also appears functionally desirable to formally create two separate Councils, the Presidency of the General Affairs component could be held by the same Member State assuming the European Council Presidency. However, one may also consider attributing this role to the Secretary General of the Council, on the clear understanding that the Presidency of the European Council will continue to be held by rotation.

- c) for specialised councils, either i) maintain rotation through a system of team Presidencies; or ii) elect a member of each specialised council to serve as president for a longer period than six months.

In summary: rotation of the European Council, a mixed rotation / long-term “institutionalised” arrangement for the coordinating chain (General Affairs and External Relations) should this Council be separated, and team presidencies / election on the basis of specialisation for the other sectoral councils. Taken together, these three elements may, at the end of the day, very well provide balanced ingredients for an optimal combination while preserving the institutional balance.

Extension of qualified-majority voting - the Maltese Government appreciates that this method of decision-making should become the general rule. However, it also maintains that unanimity should be retained for certain vital matters (such as taxation, the budget and defence), in particular where national sensitivities come into play. Unanimity would also be required to amend the Constitutional Treaty itself.

THE COMMISSION

Initiative - it is of crucial importance that the Commission’s right of initiative emerges undiminished as a safeguard to the Union’s general interest. The Maltese Government agrees that national parliaments should be afforded a consultative role in the control of subsidiarity in Commission proposals. It also considers that in the event of a substantial number of national parliaments raising an objection to a proposal on the basis of subsidiarity considerations, the Commission should re-evaluate its proposal, while still retaining its prerogative to decide whether to maintain, modify or withdraw it.

Composition - in parallel, the Commission’s composition must continue to respect the principle of total equality between all Member States. This implies that any reduction in numbers should clearly be based on the principle of equal rotation, preferably governed by a cycle agreed to in advance, as is currently the case with the Council Presidency.

Election of the Commission President – the Maltese Government appreciates proposals intended to secure an enhanced role for the European Parliament in an effort to generate an appreciable level of popular support. Consistent with such proposals, and in an attempt to minimise the possibility of unduly politicising the election process, the Maltese Government favours a system whereby the Commission President would be elected on the basis of nominations to an electoral college composed of an equal number of MEPs and national parliamentarians, the latter being appointed on the basis of equal representation of Member States' parliaments. While nominations to the electoral college can be made in a number of ways, two options would involve:

- i) the European Council presenting *two or more nominees* selected by consensus between the Member States; or
- ii) groups of *not less than five Member States* presenting a common candidate.

The additional participation by national parliamentarians in the election of the Commission President should prove conducive to achieving a substantial degree of rapprochement between citizens and the European institutional level.

EUROPEAN PARLIAMENT

Composition - while the composition of the European Parliament should necessarily continue to be based on a system of degressive proportionality, it is also the Maltese Government's firm belief that a minimum threshold in the allocation of seats must be established, irrespective of a Member State's size, and in full cognisance of each nation state's identity and sovereignty. Taking the Nice arrangement as a point of reference, the lower limit would be fixed at six seats. This threshold is moreover essential in view of the urgent need to strengthen the links between European parliamentarians and their national counterparts aimed at bridging the gap between European citizens and the institutions. For this co-operation to be meaningful, the number of MEPs cannot and should not be lower than a pre-established threshold.

Co-decision - the Maltese Government is in favour of extending the co-decision procedure to those areas where the Council decides by qualified majority. Some simplification of this procedure does however seem desirable, especially in relation to shortening the present time-frames, and to setting a maximum enactment period covering the entire procedure.

NATIONAL PARLIAMENTS

The Maltese Government supports the consultation mechanism already referred to whereby national parliaments exercise *ex ante* control on the principle of subsidiarity. Taking the involvement of national parliaments one step further, the Maltese Government would also be in favour of extending to national parliaments the possibility to channel recommendations on the substance of proposed legislation to the European Parliament on a case-by-case basis through national parliamentary representatives nominated to this end. This presupposes the existence of some kind of networking system between the variously structured national parliaments and the European Parliament, in such a way that recommendations may be transmitted to the European Parliament on behalf of a predetermined number of national parliamentarians when they believe that an attempt to influence the European Parliament's deliberations is advisable. It would be up to the European Parliament to gauge the recommendations and to factor them into its own position on the proposed legislation. This will be *without prejudice to the European Parliament's decision-making autonomy*, and would establish a basis for national parliaments to provide added value to the European Parliament's assessment of legislative proposals. It must be underlined that such a mechanism would not imply the creation of a new institution.
