

CONV 714/03

CONTRIB 316

COVER NOTE

from :	Secretariat
to :	The Convention
Subject :	Contribution presented by Mr Peter Hain, member of the Convention: - “Institutional Reform of the European Court of Auditors”

The Secretary General of the Convention has received the attached contribution from
Mr Peter Hain, member of the Convention.

CONVENTION PAPER BY THE UK:**INSTITUTIONAL REFORM OF THE EUROPEAN COURT OF AUDITORS****Summary**

1. This paper proposes reforming the European Court of Auditors (ECA) to make it a more effective institution. The current structure is not designed for operational or management convenience, nor does it maximise efficiency. The current operational and management constraints will become more acute with the accession of around 10 new Members. Therefore it is proposed:

- to replace the large Court with a Governing Committee, made up of a representative from each Member State to elect the President, provide strategic direction and agree the annual business plan; and
- to set up a nine member executive Board of Auditors General, made up from Member States, strictly rotated on the basis of equality, with a President at its head.

Revisions to proposed Article 22 of the Constitution are attached, along with proposed changes to the current Article 247.

Background

2. The ECA is responsible for auditing all the revenue and expenditure of the Community and is required under the Treaty to provide the European Parliament and Council annually with a Statement of Assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

3. The ECA's current structure of one member from each Member State was introduced when only 9 countries were represented. At Nice the principle was laid down that there should be one Member from each Member State. So, as there is no chance of changing the Treaty to reform the Court's structure before enlargement, there will probably be 25 members of the Court: such a prospect risks making the ECA unwieldy and ineffective. In the run up to the Nice IGC, the ECA proposed it adopt a system of Chambers, which would group the auditors more formally into sub-colleges, but unfortunately this would not improve efficiency.

4. The ECA is organised and functions in accordance with the principle of collective responsibility. The current fifteen Members of the Court are appointed for a renewable term of six years by the Council, acting by QMV after consulting the European Parliament.

5. The ECA's audit functions are carried out by Audit Groups which divide up the various auditing sectors amongst the Members in each Group. Inevitably with 15 equal Members, the work has to be subdivided sufficiently to give each Member a role (see diagram at Annex A for current breakdown of responsibility). Taking into account all categories of staff (both permanent and temporary posts), the Court's establishment is approximately 550 people.

Problems with the current system

6. The collegiate system can work well for some institutions but, as bodies grow, a clearer line of responsibility and authority becomes essential to ensure effective management. Moreover as the ECA is responsible for auditing EU monies spent within Member States, it is important that it represents knowledge of the different accounting and audit frameworks within those Member States. But with 25 Members, management difficulties will increase, making it harder to ensure consistency of approach across the Court, potentially taking the edge off any criticism. It will also become even harder to allocate tasks among Board members, as each tries to get a high profile portfolio.

7. In terms of resource allocation the Court is already fairly top-heavy, with 75 of the Court's 550 staff working in cabinets. A further 10 Court members will increase this to 125 staff in cabinets – almost a quarter of the current complement. If we want the Court to maximise its effectiveness, then its structure should be built on business/ operational priorities.

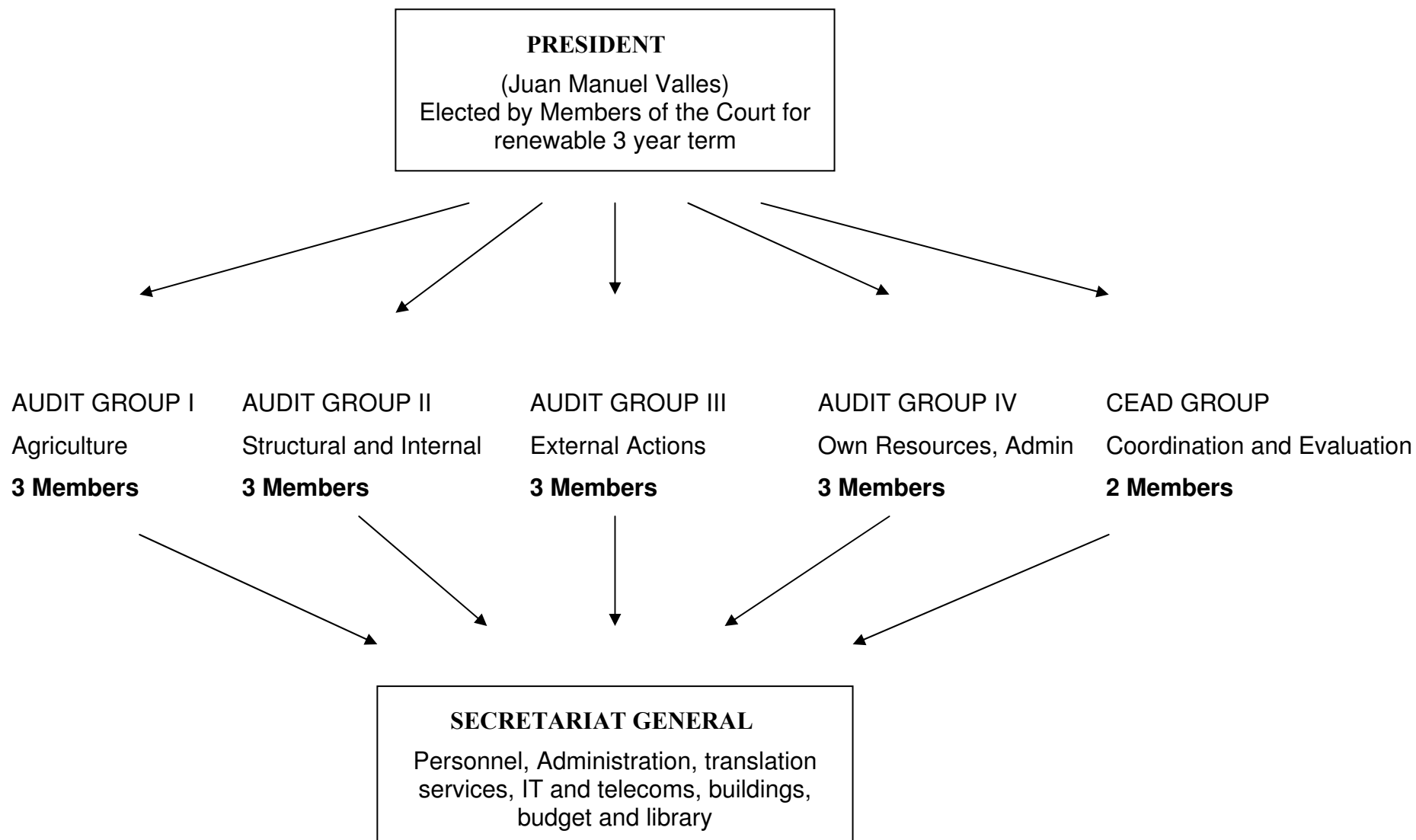
Proposals for reform

8. A reformed ECA needs to satisfy the professional need for expertise, including detailed knowledge of all the different audit systems in the EU Member States, with an acceptable degree of representation. Fair and equal representation remains essential not least because the ECA will be auditing expenditure programmes across all Member States.

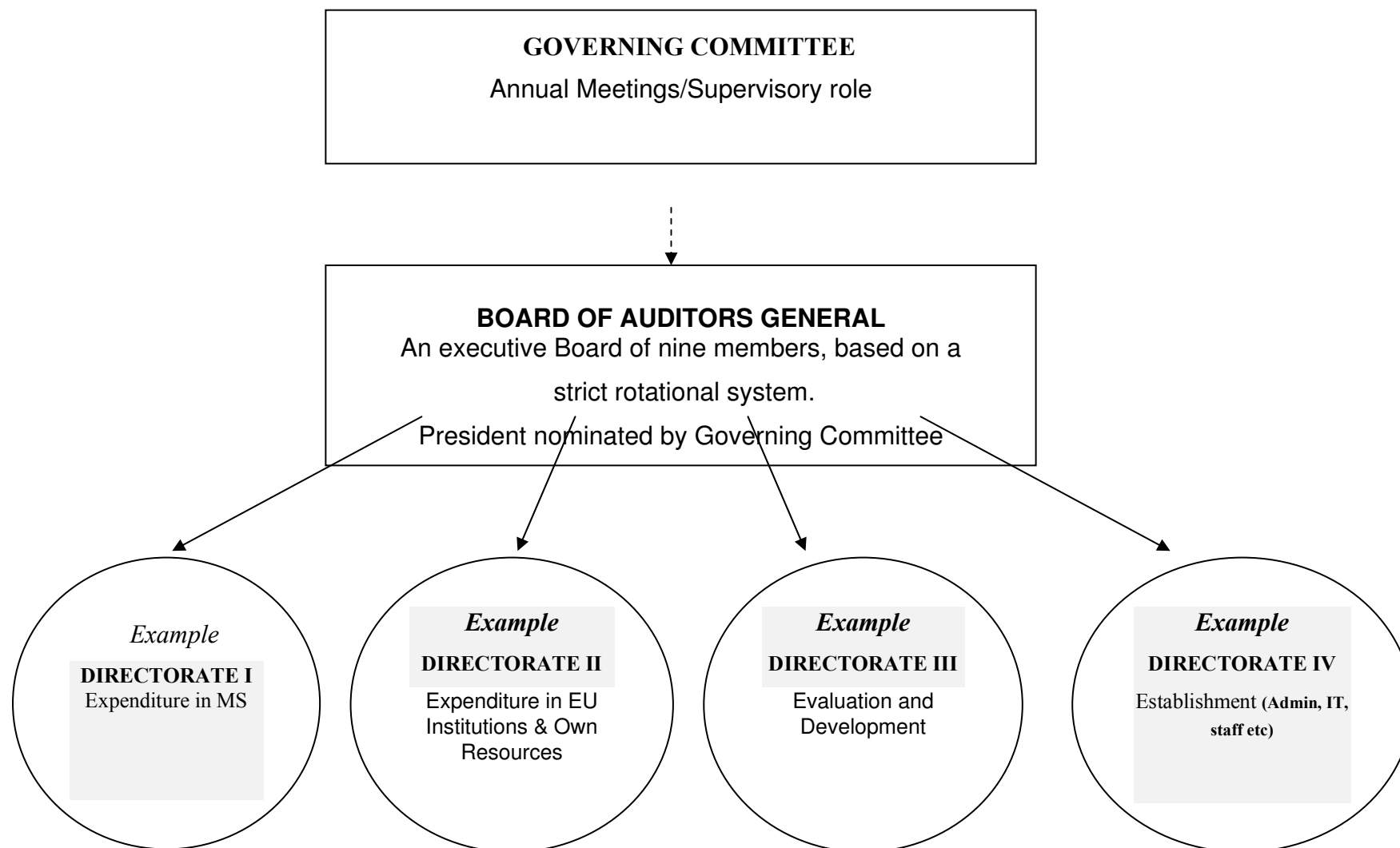
9. The solution could lie in separating the statutory audit functions under the Treaty from a representative governance role (see Annex A ii). A fully representative Governing Committee could be set up to provide overall strategic direction and supervise the statutory audit functions which would be carried out by a smaller Board of Auditors General. The Governing Committee would be responsible for approving the appointment of the President of the Board (the Chairman of the Governing Committee would need to be agreed by the Council), and approving the annual business plan and activity report and would act by QMV. The Governing Committee could be made up of representatives of all the Member States, appointed by common accord. They could expect to attend annual business meetings and, as appropriate, extraordinary meetings (called by the Board of Auditors General or a pre-determined quota of Member States). The Governing Committee might be drawn from the heads, deputy heads or former senior members of the national audit authorities of the Member States and therefore have relevant management perspectives to offer.

10. Under this arrangement, a smaller (nine member) Board of Auditors General could report to the Governing Committee. The Board of Auditors General would be responsible for managing and prioritising work flows and for the ECA's day to day audit work, including producing the annual reports, special reports, the statutory Statement of Assurance, and for proposing the ECA's annual business objectives and staffing plans. The Board of Auditors General would be organised on a system of strict rotation (which the Council should decide, by QMV) and on the basis of full equality between Member States. Members of the Board would be appointed for non-renewable six year terms after consultation with the European Parliament.

1. ANNEX A : I) EXISTING STRUCTURE



ii) Proposed Structure



UK PROPOSED AMENDMENTS TO ECA ARTICLES

1. Title IV of Part I of the Constitution

Article 22

Paragraph 1

The [European Union] Audit Office shall carry out the audit.

Paragraph 2

[No change.]

Paragraph 3

The Audit Office shall be managed and directed by a Board of Auditors General, consisting of nine members appointed by the Council for a term of six years, and supervised by a Governing Committee of representatives of the Member States. Members of the Board shall be chosen from among persons who belong or have belonged to external audit bodies or who are especially qualified for the office. In the performance of their duties they shall be completely independent."

2. Current Treaty

New article 246

The European Union Audit Office shall carry out the audit.

New article 247

1. The European Union Audit Office shall have legal personality. It shall be managed and directed by a Board of Auditors General and supervised by a Governing Committee.
2. The Governing Committee shall consist of one representative nominated by each Member State. The Committee shall be responsible for the appointment of the President of the Board of Auditors General and the approval of the Office's annual business plan and annual activity report. The Committee shall act by qualified majority.
3. The Board of Auditors General shall consist of nine (9) members, appointed by the Council for a term of six years and drawn from the Member States on a rotational basis decided by the Council. For these purposes the Council shall act by a qualified majority, after consulting the European Parliament. The Governing Committee shall appoint one member to be President of the Board of Auditors General for a term of

three years.

4. The Board shall be responsible for the business of the Office, in accordance with Article 248, under the authority of the President. It shall also be responsible for preparation of the annual business plan and annual activity report for the approval of the Governing Committee, and for the appointment of senior officials.

5. Members of the Board of Auditors General shall be chosen from among persons who belong or have belonged to external audit bodies or who are especially qualified for the office. They shall be completely independent in the performance of their duties; they shall neither seek nor take instructions from any Government or any other body. They shall refrain from any action incompatible with their duties.

6. The Members of the Board of Auditors General may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regard the acceptance, after they have ceased to hold office, of certain appointments or benefits.

7. Apart from normal replacement, or death, the duties of a Member of the Board of Auditors General shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 8. The vacancy thus caused shall be filled for the remainder of the Member's term of office by the Council.

Save in the case of compulsory retirement, Members of the Board of Auditors General shall remain in office until they have been replaced.

8. A Member of the Board of Auditors General may be deprived of his office and his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Board of Auditors General, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

9. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and members of the Board of Auditors General and any allowances paid to members of the Governing Committee.

10. The provisions of the Protocol on the privileges and immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to Members of the Board of Auditors General.

New article 248

[replace Court of Auditors with European Union Audit Office]