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BEGELEIDENDE NOTA

van: het secretariaat

aan: de Conventie

Betreft: **Bijdrage van de heren Lamberto DINI, Andrew DUFF en Pierre LEQUILLER, leden van de Conventie**

"Voor één enkel voorzitterschap, tijdelijk, van de Europese Raad en de Commissie"

De secretaris-generaal van de Conventie heeft van de heren Lamberto DINI, Andrew DUFF en Pierre LEQUILLER, leden van de Conventie, de bijdrage ontvangen die in bijlage dezes staat.

CONTRIBUTION TO THE CONVENTION BY
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For a single presidency, over time, of the European Council and the Commission

Within the Convention, every one agrees on the necessity of strengthening the European executive branch, and of giving it more visibility, an increased "leadership" role and a reinforced legitimacy.

However, at this stage, it seems that the debate within the Convention, or around it, is steering away from open research on the best institutional expression of shared objectives and tends to transform itself into a struggle for power or for defending ideological *biases*.

We still believe that it is possible to provide answers on the issues of the presidencies of the Council bodies - European Council and Council of Ministers - by easing the concerns for stability and for raising new questions on institutional equilibrium - between institutions or member States (and thus raising new questions on the role of the Commission and on allowing for rotation) - and meeting the objectives of coherence and increased visibility.

In view of the proposals made by the Praesidium on 24 April, of the debate of the plenary session of 15 May, and of searching for a solution that is both ambitious and liable to be supported by a large majority, it seems to us that we must first:

- Agree on several elements bearing on the Council proposed by the Praesidium, which represent important advances, and notably: the creation of a distinct Legislative Council, the presidency of the Foreign Affairs Council held by the Minister of Foreign Affairs of the Union, and the principle of dual majority when making a decision within the Council.

- Distinguish clearly the issue of the European Council presidency from that of the Council of Ministers, as planned in the Praesidium's proposals.

Criticism of the Praesidium's proposal for a stable presidency of the European Council may be set out briefly in the following points:

– Risks of incoherence between the President of the European Council and the President of the Commission, whose areas of responsibilities both fall within the scope of the Executive branch and which could overlap (specifically: preparation of the European Council's decisions and follow-up on these decisions, and representation of the Union internally and at an international level). The co-ordination between the two heads of the Executive may prove to be difficult and even lead to a certain amount of competition.

– Risks of complexity and of poor visibility in respect of public opinion and at an the international level.

– The possible perspective of a new administration around a president having functions that are partially redundant with those of the Commission.

– The responsibility of the President of the European Council involving only the Council, while excluding the European Parliament.

The major advantage of the proposal made by the Praesidium - the stability of the European Council presidency - is not really contested, but has not really been debated either. This strong argument is clouded by the objections raised further on by the proposal.

At this stage, and as it stands now, the proposal of the Praesidium in regards to the presidency does not seem to be able to establish the required consensus among the Convention. It is thus necessary to think of a solution, or a variant, that can achieve the objectives set and obtain the support of the Convention.

In this spirit, and while deferring to the existing institutional equilibrium, we propose establishing, over time, a presidency of the Union that combines the functions of the President of the European Council - as they are described in the Praesidium's proposal (in Article 16.2) - and those of the President of the Commission (as planned in Article 18.2). This logic of coherence, which has motivated the proposal for a Minister of Foreign Affairs to combine the current functions of High Representative and Commissioner in charge of Exterior Relations, also supports the notion of a single presidency.

The attached appendix proposes the wording that could be inserted into the body of the Constitution (additional Article 16.3) and *whose implementation would be postponed until a specific date*. In fact, the majority of the members of the Convention may deem that the political conditions for combining the European Executive powers are not suitable at this time and that it may be best, at this stage, to maintain the duality of the Executive branch. If such is the case, the single presidency must come into effect *over time*. This is why we propose a period of two European Parliament terms, unless the European Council decides unanimously on an early unification. Inversely, not going to the single presidency within the time planned remains possible if

the European Council decides otherwise by a super-qualified majority (five sixths of the member states representing two thirds of the Union's population).

The system would provide for the President to be elected for a two and a half year term. He would be nominated by the European Council and approved by an electoral college made up of representatives of the European Parliament and national parliaments. This nomination procedure would confer on the President the power, the independence and the legitimacy necessary for representing the Union (an alternative option would consist of giving the sole role of approving the nomination of the President to the European Parliament).

The President would have the role of "Chairman", of facilitating decisions, for the European Council. At his level, he would represent the Union both internally and at an international level. The president would be responsible for the Commission as planned in the Praesidium's document.

The President, the embodiment of both the unity of the Union and of its composite nature, based on the dual sovereignty of the people of the States, must have the trust of the Council and that of the European Parliament. This is why we propose that his mandate could be terminated by a joint decision of the European Council (by a two-thirds majority of its members, representing at least two-thirds of the Union's population) and of the European Parliament (by a majority vote of its members).

At no time should the proposal for a single presidency lead to establishing a presidential-type power, or a "super president". In fact, this president would not have true decision-making powers in the name of the Union. Decisions will continue to be taken in a *collegial manner* within the Council and the Commission, in compliance with the rules of the Union. Moreover, as Europe does not have the vocation of being a Super State, the executive power will continue to rest primarily in the hands of the States.

The hypothesis of a single presidency for the Union would not disrupt either the meaning or the equilibrium of institutions. This in no way involves questioning the distribution of roles, which must remain the basic rule governing institutions, and particularly in the legislative area: the Commission proposes, the Council and the Parliament decide. The institution of a single president will not change any of this. It is important to note that we are here, in regards to the role of the President of the Union, not in a legislative area but in an *executive one*: representation of the Union, leading foreign policy, the presidency of the European Council, implementing its decisions (and it is because the field of community executive powers - of operational ones - has been greatly expanded since Maastricht that we desperately need a stable and understandable presidency capable of providing community "leadership"). The Commission already participates widely in the executive power at a Union level under the current system and already plays a driving role (implementation of the Council's decisions, elaboration of execution measures within the

framework of comitology - under the presidency of the Commission -, and managing exterior relations jointly with the Council).

The presidency is thus not a revolution but an important step in the effectiveness of the Union at the service of common interest. Neither inter-governmental nor supra national, the single presidency arises from a communal inspiration at the confluence of the dual nature of the Union.

In order to strengthen the involvement of member States in organising the institutional life of the Union, it would be preferable for the European Council to be held successively in each of the States, according to a principle of changeover.

Moreover, the solution of a compromise must be understood within a framework of an *overall equilibrium* that integrates the legitimate concerns of everyone. This is why the solutions implemented *for the presidency of the Council of Ministers* should clearly take into consideration the necessary distinction between the legislative and executive activities of the Council and integrate the system of rotation (and notably for the Legislative Council) while ensuring the necessary elements of continuity and co-ordination and enhancing a proper synergy among the Council and the Commission.

Furthermore, we propose to choose the principle according to *which a multi-annual work programme is prepared by the Commission*, debated by the "General Affairs" Council and adopted by the European Council. It is in fact essential, over and above the increased stability of the presidencies, to provide a strategic framework to the Union allowing it to organise its action and its priorities effectively.

Please draw up Article 16.3 as follows (new article):

Article 16.3: The President of the Union

1 - The Union presidency shall be established at the end of two terms of the European Parliament after the Constitution of the Union has come into effect. The European Council may decide, acting unanimously, to establish the single presidency at an earlier date. Furthermore, the European Council may decide not to establish the single presidency on the planned date by a majority decision of five sixths of the member States representing at least two thirds of the Union's population.

2 - In order to proceed with the nomination of the President of the Union, a parliamentary electoral college shall be constituted following the elections of the European Parliament, comprised of representatives of the European Parliament and national parliaments. It shall be chaired by the President of the European Parliament. The total of the members of this college shall not exceed seven hundred.

The European Council, acting by qualified majority, and taking into account the elections of the European Parliament, proposes a candidate for the office of President of the Union to the electoral college. The electoral college shall elect the President by majority vote of its members. If this candidate does not obtain a majority, the European Council proposes a new candidate to the Electoral College within one month and in accordance with the same procedure.

The term of the President of the Union may be terminated by joint decision of the European Council, issuing a ruling by a two-thirds majority vote of its members representing at least two thirds of the Union's population, and the European Parliament, issuing a ruling by majority vote of its members. The initiative for the procedure rests both with the European Council and the European Parliament.

3 - The President of the Union presides over and leads the works of the European Council and ensures their preparation and continuity. The President strives to facilitate cohesion and consensus among the European Council. Following each meeting of the European Council, the President presents a report to the European Parliament.

4 - The President of the Union ensures external representation at his level.

5 - The President of the Union presides over the European Commission. He defines the directions within the framework of which the European Commission carries out its missions.
