

The IGC: a Challenge for Europe

March 1996

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Networking Scotland in Europe

SCOTLAND EUROPA ★

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Paper No. 5
March 1996

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A Challenge for Europe**

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THE SCOTLAND EUROPA CENTRE PAPERS

The Scotland Europa Centre Papers are a series of occasional papers which have two objectives:

- to make a Scottish contribution to key issues that will affect the development of the European Union;

- to promote a wider understanding of European issues in Scotland.

The Scotland Europa Centre Papers are intended to provide a forum for interested parties in Scotland and other European countries and regions to promote ideas and perspectives on issues that are of importance to the development of Scotland and the EU. The papers will be given wide circulation. Contributions to the series are invited.

The views expressed in the Scotland Europa Centre Papers are those of the authors and do not necessarily represent the views of Scotland Europa or its members and partners.

We would be very pleased to have your views on any of the ideas raised in the papers or for you to arrange to receive further papers in the series. Please contact:

AN INTRODUCTION TO THE SCOTLAND EUROPA CENTRE, BRUSSELS

The Scotland Europa Centre works as an umbrella organisation promoting Scottish interests with the institutions of the European Union. It was opened in May 1992. Eight separate and independent Scottish organisations share the premises. It has become well-known as the Scottish centre in Brussels and aims to create a higher profile and coherent image for Scotland as a whole across the EU institutions.

As well as representing Scottish interests to the EU, the organisations within the Scotland Europa Centre share two other aims. Firstly we wish to contribute to the development of the EU by sharing our experiences of how its policies have operated in the diversity of situations in Scotland. We aim to do this by developing a regular, open dialogue with the European Commission, European Parliament, the Committee of the Regions, the Economic and Social Committee, other regional offices and others, across a range of issues. We believe that exchanges of this type are fundamental to determining the best policies for the future of the EU.

Secondly we hope to stimulate interest in and awareness of the EU and its policies amongst Scottish companies, institutions, local government and people. We aim to do this by building upon the established information service we provide to our member organisations in Scotland to stimulate thinking about the role of Scotland in Europe.

The IGC - A Challenge For Europe

**Fraser Cameron;
DG I, European Commission**

Introduction

The Intergovernmental Conference (IGC) which opens in Turin at the end of March has a daunting agenda - no less than charting the future institutional structure for an enlarged European Union (EU) and agreeing on the powers which the EU should have to meet the internal and external challenges facing Europe.

The IGC is a child of the Maastricht Treaty on European Union (TEU) which was negotiated in 1991 but did not enter into force until November 1993 due to ratification difficulties, principally in Britain and Denmark. The member states of the EU could not agree on several important issues in 1991 and hence decided to hold another conference in 1996 to review the operation of the Treaty.

The TEU was the second major revision of the treaties establishing the European Community in 1957. The Single European Act (1987) provided for considerable extension of the use of qualified majority voting (partly in order to speed up the completion of the Single Market), for increased powers for the European Parliament (EP) and codified cooperation in foreign policy by establishing procedures for European Political Cooperation (EPC).

The TEU (1991) agreed the strict criteria for economic and monetary union (EMU) and established a timetable for the introduction of the single currency (now to be called the Euro). Other new points to emerge from Maastricht were the introduction of separate intergovernmental "pillars" to handle foreign and security policy, and justice and home affairs ; the introduction of a European citizenship ; and increased powers for the European Parliament (EP).

But not all countries signed up for every part of the Maastricht Treaty. Britain and Denmark obtained an opt out as regards participation in the single currency which is scheduled to be introduced in 1999. Another opt out obtained by Britain related to the Social Chapter. Following the narrow rejection of the Maastricht Treaty in a referendum in Denmark in May 1992, the Danish government subsequently negotiated a number of other opt outs from the Treaty in order to secure ratification in a second referendum in June 1993. The discontent manifested by the Danish voters, and subsequently by many French citizens in their referendum, revealed a considerable gulf between the ruling elites in Europe and the citizen in the street.

The 1996 IGC will thus have to respond to two major challenges. The first, stemming from the discontent manifested during the TEU ratification process, is to make the EU more relevant to citizens in Europe. This implies agreement on the need for more

democracy, more transparency, more subsidiarity, more flexibility, more coherence and more clarity in the operation of the EU. The second challenge is preparing the EU for enlargement to the East. There are more than a dozen countries which have applied for EU membership and adapting the Union to cope with such a large number of member states will not be an easy task.

The IGC is only one of several important challenges for Europe as it approaches the millennium. The introduction of a single currency in 1999 remains a highly controversial issue in some countries. The re-negotiation of the EU's financial arrangements will also be necessary before 1999. These issues will not be on the agenda of the IGC but they will be very much part of the political context in which the negotiations are pursued.

The Political Parameters

Many people, particularly in states that were not founder members of the EU, forget that the EU was established in the early 1950s primarily for political reasons. The Founding Fathers of the EU were motivated by the desire to seek a new pattern of relations between European states. In an attempt to move away from the traditional balance of power concept, they sought to establish a system of linkages which would promote integration in political, economic, social and cultural spheres. A good example of the latter was the creation of the Franco-German youth exchange programme which played a major role in the reconciliation between two states which had fought each other three times in seventy years.

The EU was a unique experiment in that it provided for a mix of the traditional inter-governmental approach to decision-making with a new community or supra-national approach which allowed for decisions in some areas to be taken by majority vote. Some of the Founding Fathers had the vision of an eventual United States of Europe but over the years fewer and fewer politicians have espoused such an aim.

The political organisation of the EU is *sui generis*; it has no equivalent. The EU has extensive powers of its own, its own budgetary resources, its own exclusive competences, and its own law, which is binding on its member states. Its four main institutions (Council, Commission, Parliament and Court) interact in a highly complex but efficient manner. The complexity is due to constant negotiations, which are based on the original treaties and the TEU, and which require compromises by the member states if progress is to be made. The member states are the decisive factor in the European construction and it is fanciful to suggest that they are likely to disappear in some European government. The EU is far from having the means or resources to form a European government. Its budget (84 billion ECU) is a mere 1.25% of the Union's GDP, and the largest part of the budget is administered by the member states. Its staff is less than 20,000, which is roughly equivalent to those employed by a small to medium local authority.

Therefore, the EU is, and will probably remain, almost entirely dependent on its member states and on their legislative, executive, administrative and judicial authorities for applying and controlling the rules it adopts. Whether this Europe becomes a federal Europe depends very much on the definition of federal. In Britain the word federal seems

to have become associated with centralising tendencies, whilst in much of the rest of Europe the basic federal principle is defined as "as much unity as necessary, as much diversity as possible". Federalism is actually synonymous with subsidiarity because it implies a system whereby decisions are taken at the lowest possible level. But given the absence of an agreed definition of federalism it is perhaps best to avoid use of the word in the IGC debate.

Another emotive word is sovereignty. European integration does not mean that the nation state will disappear. But it does require a re-think of the concept of national sovereignty and some minimal agreement on the operation of the principle of subsidiarity. In an increasingly inter-dependent world the very idea that a nation state can deal alone with all problems is untenable. The financial markets are transnational, security issues are transnational, environmental issues are transnational and crime is increasingly transnational.

It is equally an illusion that the most efficient way to deal with these problems on the international level is by the inter-governmental method. The record of operating pillars II and III of the TEU is hardly a recommendation for this approach. If the Union were to rely on this type of cooperation, then it would inevitably suffer the impotence of institutions such as the OECD, OSCE and Council of Europe which are organised on an inter-governmental basis. The Single Market is a good example of how member states agreed the legislative framework for the 1992 programme by working within a supranational framework, ie using majority voting to reach decisions. There can be little doubt that an enlarged Union would be paralysed unless there was a significant extension of majority voting to other areas.

The IGC Agenda

When the leaders of the EU decided at Maastricht in 1991 to hold an IGC in 1996 it was with a rather limited agenda in mind. But in the past year, and specifically under the pressures of the most recent and potential future enlargement of the EU to include perhaps 25-30 member states, the agenda has been stretched considerably. At this stage, the only point of agreement is the starting date for the IGC. No one can predict how long it will last because there remain fundamental differences of opinion between some key member states as to the desirability and necessity of making significant reforms to the structure and operation of the EU.

Some parts of the IGC agenda were already clear as a result of failure to agree on several issues at Maastricht. In the TEU, there is reference to a possible revision of Titles V (Common Foreign and Security Policy) and VI (Interior and Justice) as well as new areas of community competence (art B) ; defence (art J4) ; extension of the field of co-decision (art 189B) ; hierarchy of norms ; and the possible inclusion of civil nuclear protection, energy and tourism within community competence.

The Corfu European Council in June 1994 decided to establish a Reflection Group, to begin work in June 1995, with a broad mandate to consider IGC issues. The Corfu European Council also made a direct link between the next enlargement and the IGC when

it stated that "the institutional conditions for ensuring the proper functioning of the Union must be created at the 1996 IGC, which for that reason must take place before accession negotiations begin" with countries of central and eastern Europe.

The Reflection Group was further instructed to prepare options on some of the most sensitive issues including "the weighting of votes in Council, the threshold for qualified majority decisions, the number of members of the Commission and any other measure deemed necessary to facilitate the work of the institutions and guarantee their effective operation in the perspective of enlargement". It is also worth emphasising that the European Council specifically singled out the Mediterranean "mini states", Cyprus and Malta, as being involved in the next enlargement, a decision which reinforces the institutional dimension of the IGC.

The question of institutional reform was raised in early 1992 in connection with the prospect of enlargement to a number of EFTA countries. But the Danish "no" in the referendum of May 1992 effectively killed the prospect of institutional reform for the EFTA candidates even though there was an attempt by the UK government to raise certain institutional issues in the spring of 1994 prior to the conclusion of the negotiations with Austria, Sweden and Finland.

Enlargement

Even before the EU has had time to digest the three new member states, Austria, Sweden and Finland, attention is focussing on the next enlargement. As regards central and eastern Europe, there are ten applications for membership of the EU. The Swiss and Turkish applications remain on the table as well as the previously mentioned applications from Cyprus and Malta. An EU with perhaps 25-30 member states thus looms on the not too distant horizon.

It is impossible to give an answer to the oft mooted question as to when the east Europeans will be ready for membership because no one can predict the speed and future course of political and economic reforms in those countries. At present there are several governments in the region with ex-communist participation which in some cases has led to a slowing of the reform process. For its part, the EU has adopted a "pre-accession strategy" designed to assist the east European states meet the requirements for membership, notably through adopting measures outlined in the Commission White Book concerning participation in the Internal Market. The Madrid European Council requested the Commission to begin preparing the necessary opinions on the applicants which should be ready as soon as possible after the conclusion of the IGC.

It seems inevitable that lengthy transition periods will be required for at least some of the central and east European states. But there will also be some adjustments necessary on the EU side including adaptation of the CAP and the Structural Funds. The criteria for membership, however, are reasonably clear and include stability of democratic institutions, a functioning market economy able to compete in the Union, acceptance of the *acquis communautaire* (that is all the EU legislation to date) and acceptance of the future aims of the Union, including EMU.

As mentioned above, European leaders added to this list the question of institutional reform. But before turning to this issue it perhaps worth addressing the perennial question of Europe's frontier. There would appear to be little advantage in trying to define the border of the European Union at this stage. To the north, west and south there is no problem. To the east the geographic border of Europe lies at the Ural mountains but the Urals are not even an internal border of the Russian Federation. It is difficult to imagine Russia ever joining the European Union because amongst many reasons, in geographical size alone it is several times bigger than all current members of the Union taken together. The future orientation of Ukraine is less certain but it too is suffering major economic problems which would seem to preclude any prospect of membership of the Union in the foreseeable future. In former Yugoslavia, only Slovenia so far has managed to make a clean break from its past. Others may follow which demonstrates the impossibility of drawing hard and fast lines now as to who should or should not be considered as future members of the Union.

The Debate on Europe

The prospect of a considerably enlarged EU in the not too distant future has sparked off a vigorous debate on the future shape of Europe. The debate was opened with the publication in September 1994 of the controversial German (Schauble/Lamers) paper calling for a hard-core Europe. This proposal brought a swift response from John Major, in a speech at Leiden, in the Netherlands, asserting the need for some "variable geometry". The contrast in style (and substance), particularly between the German paper and Major's speech is striking.

The German paper draws attention to the critical juncture in European integration created by the collapse of the Soviet Union, the necessity of bringing some eastern European countries into the European Union and of building a stable economic and security framework to cover both those which will, in time, join the Union and those - most crucially Russia - which will remain outside. The Union's response, the paper argues, will show whether it is able and willing to become the main pillar of a continental order, alongside a democratised and once again stable Russia, and in alliance with the USA. The paper goes on to state that because of its position, its size and its close relations with France, Germany bears a special responsibility to promote an integrated wider European order. If Europe were to drift apart Germany would once again find itself caught in the middle. Germany thus needs an integrated Europe to reassure its partners in the West and East that it has no plans to seek a *Sonderweg*.

In stark contrast, the Major speech focuses less on the international and historical dimensions and more on the permanence of the nation state and the need for a maximum of flexibility. Given the diversity of opinion on the issues amongst UK politicians, there is considerable doubt in other member states as to whether the UK will be in a position to make any compromises in the IGC prior to the general election (which must be held before May 1997).

The debate on Europe is already beginning to display some contours and a number of key questions have been raised. First, what vision do governments have of Europe ? There is a world of difference between the idea of a closely integrated European Union speaking with one voice on major issues and a loose free trade area. As mentioned above, the vision of a United States of Europe was once part of the manifesto of the German Christian Democrats but it has since been dropped. It is perhaps still held by some starry-eyed idealists but it is highly doubtful whether Europe will ever develop into a Union akin to the American model. More practical questions relate to the degree of integration and which policy areas should be dealt with at the European level and which at national or regional level.

Second, how to organise an enlarged Union of 20 or even 30 members on the basis of democracy, fairness, transparency and efficiency ? Apart from the institutional aspects the EU needs to respond to the very obvious fears of ordinary people expressed during the Maastricht debate of a European Union not properly subject to democratic accountability, centralist in nature and with very opaque decision-making structures. Further integration of Europe will be in jeopardy if these issues are not resolved.

The same can be said for fairness and efficiency. States join the Union because it gives them added value. It increases their influence and provides a greater opportunity to achieve their policy aims or, to put it another way, it increases their real sovereignty. But if member states consider that they no longer receive any real benefit from the Union, perhaps because of paralysis of decision-making in an enlarged Union, or that the voting system has become seriously inequitable, then some members might ask why bother to stay in the club.

Third, is it right that as Helmut Kohl asked in a recent speech in Belgium, that the slowest ship should hold up the rest of the convoy ? Or should those that are ready, willing and able to push ahead at a faster pace not be allowed to do so ? This is at the heart of the debate on a multi-speed Europe, sometimes called variable geometry - but which should not be confused with Europe à la carte (ie picking and choosing what policy areas to join). Europe à la carte is rather like the mystery game "Murder à la carte" in which someone always gets killed. In the case of Europe the à la carte approach would almost certainly mean the death of the Union.

A Multi-Speed Europe

As a way out of the dilemma between widening and deepening there have been calls, notably in the Schauble/Lamers paper, for a multi-speed Europe. To some extent such a Europe already exists. The UK has an opt out on the Social Chapter and EMU. Denmark and the neutral states - Austria, Sweden, Finland and Ireland - on defence. Not all countries have signed up for the Schengen Agreement which deals with immigration procedures. Indeed the underlying assumption behind the move towards economic and monetary union which was agreed at Maastricht is that not all member states will be able to join in the first wave. Such divergence is of course likely to increase as the Union enlarges and is probably unavoidable.

Thus the principle of a multi-speed Europe has already been agreed. The majority view in the Union is that all members should move ahead together wherever possible but if a smaller group wish to push ahead towards closer integration then they should be allowed to do so. There was perhaps a misunderstanding about this issue in the German paper. It did not propose a closed hard core but rather one open to others wishing to commit themselves to closer integration. A few years ago some member states were competing for opt outs. Now, to judge from those wishing to join the hard core, the competition is for opt-ins.

The difficulty of a multi-speed Europe lies in the institutional framework for such an Europe. The current institutions are based on all members participating in all policy areas (*pace* the one or two known opt-outs). If this opt out system were to expand and there were varying circles of members the institutional problems would be horrendous. For example there might be a six-strong hard core accepting all policies; nine accepting most but not all; twelve accepting half; sixteen accepting a quarter; and so on. It would be a nightmare to operate and clearly further thought has to be given as to how such a multi-speed Europe would operate in practice.

Other rather more controversial proposals have been proposed including the idea that future constitutional amendments to the Union's treaty base should enter into force when four-fifths of the EU's population and member states have ratified (to avoid another Denmark) ; that there should be provision for a member state to leave the Union and even provision for a member state to be suspended and ultimately expelled. The reasoning is that the EU is based on the rule of law and if there are member states who blatantly refuse to implement or comply with EU law then there should be some stricter sanction than a mere fine.

The Views of the Institutions

In its report to the Reflection Group in May 1995, the Commission stated that there were two major challenges facing the EU. First, to make the Union the business of every citizen. The Maastricht debate had shown how sceptical large sections of public opinion were with the rather elitist decision-making taking place behind closed doors. The Union had to be more open, more democratic and more relevant to its citizens. Second, the Union had to prepare the ground for enlargement to the east, without endangering the achievements of the past forty years. In other words there had to be deepening and widening in order that the Union could continue to act effectively, consistently and in solidarity.

Amongst the changes proposed by the Commission were :

- simplifying EP procedures from the present twenty to three (assent, co-decision and consultation)
- putting greater emphasis on subsidiarity

- introducing greater democratic involvement through the EP and national parliaments
- allowing more use of majority voting
- making the CFSP more effective by dropping the unanimity rule

The report of the European Parliament was also pragmatic in approach emphasising the need to make the Union's operations more comprehensible to citizens, to ensure that the Union concentrated on the major issues and problems of the day, and to ensure a solid preparation of enlargement.

More specifically the EP report called for a simplification of treaty procedures, for a strengthening of citizen's rights, for an extension of qualified majority voting, for the maintenance of the balance between the institutions, albeit with a modest increase in the EP's powers.

These two reports, plus a rather bland report from the Council, were generally well received and provided a useful basis for the work of the Reflection Group.

The Reflection Group

The Reflection Group, which comprised government representatives from all fifteen member states, was chaired by the Spanish Government Minister for European Affairs, Mr Westendorp. The Group's report, endorsed at the Madrid European Council in December 1995, exposed the substantial differences between the member states as regards the future course of European integration. It was no surprise that on a number of major issues the UK was isolated. A minimum consensus was reached, however, on a number of general principles, including the need to make the EU's decision-making more efficient, to bring the Union closer to its citizens, to strengthen its ability to act on the world stage, and to enable it to tackle new internal challenges, such as organised crime and illegal immigration.

The report calls for the maintenance of the *acquis communautaire* but recognises there may need to be scope for some flexibility, albeit of a temporary nature. The idea of *Europe à la carte* is rejected. Equally the report draws attention to the need for a wide public debate in order to ensure a transparent IGC and public support for treaty changes. The report concentrates on three main areas :

- the citizen and the Union
- external policy
- achieving an effective and democratic Union

The Report insists that the Union must become more relevant to its citizens and proposes an extension of citizen's rights including the consolidation of existing rights (freedom to move to and work in other EU countries, the right to vote in local and European elections, etc.) plus the establishment of new rights including freedom of information, racial and

sexual equality. These proposals were supported by a majority in the group as were proposals to incorporate the European Convention of Human Rights and/or to introduce a Bill of Rights for all citizens.

Another broad area of consensus was the need for greater transparency in Union proceedings. This was held to cover the question of subsidiarity, the simplification and clarification of the working of the institutions and the need for better publicity, information and consultation methods. There was a consensus that the treaties should be simplified and made comprehensible to the average citizen.

As regards the aim of consolidating the Union as "an area of freedom and security", the report talks of the weaknesses in cooperation in the areas of justice and home affairs. More attention should be devoted to dealing with the concerns of citizens including combatting illegal immigration, organised crime, drug trafficking and terrorism, all of which had an international dimension. Some members of the group wished to see all member states accept the Schengen Agreement, dealing with control of frontiers, and incorporate this agreement into a revised treaty. A majority also considered that the present treaty powers (Title VI) were either inadequate or gave rise to confusion between the different pillars.

The report was also critical of the Union's performance in external affairs. Several members of the group pointed to the problems of trying to operate an external policy partly under the community approach (economic, trade and development issues) and partly under the inter-governmental method (diplomatic action). The Common Foreign and Security Policy (CFSP) inaugurated at Maastricht had not led to an increased EU profile in international affairs nor to really decisive action as witness the EU's performance in the Bosnia crisis.

A number of proposals were made to improve the CFSP including the establishment of a planning and analysis capacity, a shift to majority voting for non-military decisions, and the creation of a figurehead post for CFSP. Needless to say not all these ideas were accepted nor was there a meeting of minds on how to move forward in the defence sphere. Some members of the group advocated incorporation of the Western European Union (WEU) into the EU, others were prepared to accept that some specific tasks (peacekeeping, humanitarian aid, etc) could be taken over by the Union, and others advocated maintenance of the status quo i.e. keeping the WEU and EU as separate organisations.

Turning to the institutions, a majority of the group considered that the single institutional framework should be retained as should the balance between the institutions. The dominant position of the European Council should be reinforced. The Commission should retain its monopoly of initiative whilst the European Parliament's involvement in the legislative process should be simplified by using just three procedures ; consultation, co-decision and assent.

One area of extreme delicacy is the weighting of votes in the Council. Some representatives of the larger member states argued that it would increase legitimacy if the voting system in the Council, where all major decisions are taken, were reformed to allow

more for population size. For example, the present system allocates 10 votes to Germany (80 million) and 2 votes to Luxembourg (300,000) - a ratio of 5 to 1 when the population ratio is more than 200 to 1. The accession of further extremely small states, such as Malta and Cyprus, or the three Baltic States, would accentuate this problem. On the present system these five states, with a combined population of less than 5 million, would have the same voting strength as the UK which has more than ten times the population.

The group also recognised that, as a response to enlargement, there would have to be changes in the working methods of the Council if the system was not to grind to a halt.

As regards the European Parliament there was a majority in favour of a fixed ceiling of around 700 MEPs and again some argued in favour of allocating seats more in accordance with population. There was some support for increased powers for the EP but the UK representative was firmly against any such move. There was, however, a greater consensus on the need to simplify the many, confusing procedures under which the EP is involved in legislation. But there was little agreement on how to improve relations between the EP and national parliaments. Some argued that the division of powers between the European and national parliaments was not a zero-sum game. There was plenty of useful work for both to do in terms of setting the European debate, controlling Ministers and the Commission and exercising their respective budgetary powers.

Turning to the Commission, there was general agreement that the IGC should examine the appointment process and the number of commissioners. Amongst the proposals put forward were involving the EP at the nomination stage: perhaps drawing up a short-list from names proposed by member states and then voting on the candidates. This would be far more open and democratic than the current system.

The group was split on the question as to whether all member states needed to be represented in the Commission. With regard to enlargement there was a majority in favour of reducing the number of Commissioners. But the question is how to do it ? Some advocated a rotation system whereby the larger member states would always have a Commissioner and the smaller member states would rotate their Commissioners. Another proposal was to de-nationalise the Commission. In other words introducing a system of nominating or even electing, perhaps just 12-15 commissioners, again from lists drawn up by the EP following consultations with member states. (Ultimately there is a logical argument for the President of the Commission to be elected directly by the citizens of the Union. This could be done in parallel with the elections to the EP. The advantage of such a system is that it would be quite transparent and at a stroke it would eliminate the democratic deficit. Perhaps for those reasons it is unlikely that such a system will be introduced for a long time !)

European Security

The report stated that end of the Cold War had dramatically changed the strategic situation of the European Union. The Soviet threat had disappeared. The US was concentrating on domestic issues. In these changed circumstances it was clear that Europe would have to take on more responsibility for its own security. With 380 million people, with a combined GNP ahead of the US, with the largest single market in the world, as the most important player in international trade, as the main source of development assistance and humanitarian aid to the third world, the European Union simply could not avoid taking increased responsibility in world affairs.

The mechanism to promote this increased responsibility was the Common Foreign and Security Policy (CFSP) but as this policy area was set up outside the Community framework, ie on inter-governmental lines, it has been the subject of disputes over competence which have reduced its effectiveness. One result was that some member states established smaller groupings to deal with particular problems eg the creation of the Contact Group to deal with Bosnia. Another was the failure of the Union to develop a strategic approach to major foreign and security policy issues.

Title V of the TEU was of course a compromise between the "Europeans" and the "Atlanticists", between those advocating a communautaire approach and those preferring the inter-governmental method. It is perhaps worth recalling the principal points agreed under Title V. On the positive side the TEU abolished the old EPC restriction about discussing the military aspects of security. The CFSP was to be all embracing. There was provision for Joint Actions, a legal commitment for all member states, acting by unanimity, to pursue a certain policy. There was also provision for "common positions" and indeed provision for majority voting in the implementation of agreed policies.

As the TEU had only been in force for two years, some members of the group felt it was premature to make a definitive judgement on CFSP. A majority, however, considered that CFSP had proved to be little improvement on EPC. Member states had shown a lack of political will to make effective use of CFSP. Despite the single institutional framework (article C) the new inter-governmental arrangements had not led to a more coherent approach to external affairs. (Political dialogue partners find the institutional arrangements bizarre. For example, in some transatlantic discussions, the US Secretary of State sits alone on one side of the table. On the other side are fifteen Foreign Ministers, a Commissioner and a representative from the Council CFSP Secretariat !)

Some members of the group pointed to serious structural flaws and criticised the continuous adherence to the principle of unanimity. There was also no central planning capacity and disputes over financing arrangements. As a result CFSP had come under criticism for doing too little, too late. Its first Joint Actions (monitoring elections in Russia and S Africa) were modest in the extreme. The Stability Pact, which tried to resolve some minority issues in central Europe, was a more solid action but it hardly provided the EU with a major international profile.

Amongst the proposals for change put forward by the group were :

- the need to establish a planning and analysis capacity at the Union level which would be tasked with identifying vital common interests, assessing priorities, and preparing alternative courses of action

- the need to ensure better coordination of external relations, either by appointing a Mr CFSP or by working more closely with the Commission

- the need for more efficient decision-making including a change to the right of veto, perhaps on the model "consensus minus one". At the very least member states should live up to the existing treaty commitment which states that "to the extent possible, member states will avoid preventing a unanimous decision where a qualified majority exists in favour of that decision".

- the need for more visible and credible representation. The outside world is confused as to who speaks for the Union in CFSP.

Finally the report considered the highly sensitive area of defence policy and in the absence of a consensus outlined the options for improving cooperation between member states.

The Commission Report for the IGC

At the end of February the Commission published its report for the IGC, concentrating on three main areas :

a) A People's Europe

The Commission stated that the European model of society - which is built on a collection of common values (democracy, open economy, solidarity, cohesion) amongst which feature the access of citizens to services of general benefit or public services - must be confirmed and made more explicit.

Human rights

- secure Union accession to the European Convention on Human Rights or alternatively make direct reference in the Treaty to the rights protected by the Convention;
- make provision in the Treaty for a ban on discrimination of any kind, notably in relation to equal opportunities for women and men, going beyond the current equal-pay provisions, and outlaw racism and xenophobia.

A Union based on the rule of law

- give the Commission the means to enforce Community law, in particular in relation to the internal market;
- strengthen the role of the Court of Justice, particularly as regards compliance with its judgments;
- establish the legal basis for combating fraud against the Union's financial interests.

The social dimension

Ensuring a common base of social rights for all Union citizens chiefly means:

- integrating the Social Protocol into the Treaty;
- spelling out certain provisions for cooperation between Member States on matters such as combating poverty and exclusion;
- involving more closely those sections of civil society that can develop initiatives and new forms of solidarity.

Employment

Employment is a matter of common interest. Specific provisions on employment must be written into the Treaty to:

- establish the conditions for a common strategy for employment;
- stimulate cooperation between all interested parties;
- consolidate arrangements for multilateral surveillance of Member States' multiannual programmes;
- take account of employment in all Community policies.

Sustainable development

The Treaty should be strengthened with provisions for:

- the citizen's right to a healthy environment and duty to preserve it;
- integration of the environment into other Community policies.

b) Establishing an area of freedom and security

Remedying the shortcomings of Title VI of the Treaty (cooperation in the fields of justice and home affairs).

This will require the following objectives to be set:

- the establishment of common rules on the entry, residence and status of nationals from non-member countries in the Union;
- the effective mutual recognition of judgments by national courts;
- the adoption of measures to combat all forms of crime and fraud;
- stimulation of effective cooperation between public administrations of the Member States.

Adjusting instruments and methods

- replacement of unanimity by qualified majority voting as a general rule;
- closer involvement of the European Parliament;
- extension of the Commission's power of initiative in all the fields concerned;
- providing the Union with more effective legal instruments than the common position, joint action or international agreements;
- decisions to be subject to review by the Court of Justice;
- simplification of the Council's present working structures;
- transfer of justice and home affairs to the Community framework, with the exception of judicial cooperation in criminal matters and police cooperation;
- incorporation of the content of the Schengen Agreement in the Treaty.

Making the Union more open and democratic

- push forward the application of the subsidiarity principle;
- closer involvement of national parliaments in Union business by giving them timely access to all the information they need;
- simplification and consolidation of the Treaties as far as is possible.

Simplifying and democratizing Union decision-making

- only three types of decision-making procedure: decisions adopted on Parliament's opinion, those adopted with its assent, and the codecision procedure involving Parliament and the Council;
- simplification of the budgetary procedure arrangements and consolidation of all that has been achieved with the interinstitutional agreements;
- simplification of the codecision procedure, notably by setting time limits for first readings, by dropping the announcement of the intention to reject a proposal at the second reading stage, and by dropping the third reading;
- all acts of a legislative nature to be subject to the codecision procedure and the cooperation procedure to be abandoned;
- "constitutional" matters (Treaty amendments, own resources) to be subject to Parliament's assent; this procedure should not, however, be applicable to legislative decisions or to Community action programmes;
- clarification of the scope of the assent procedure as regards international agreements;
- review and simplification of procedures for implementing measures.

c) A Clear Identity on the World Scene

More effective Community external action

- clarification of Community powers to reflect the increasingly important role played by services, intellectual property and direct foreign investment in the world economy;
- introduction of explicit provisions to ensure that the Union can speak with one voice in international organizations and thus defend all the relevant interests more effectively.
- firmer basis for the common foreign and security policy
- establishment of a "joint analysis unit" made up of experts from the Member States and the Commission with the Western European Union also contributing;
- incorporation of a permanent political committee in Brussels into the Council's existing machinery for preparing decisions;
- clarification of the concepts of "common position" and "joint action";
- qualified majority voting to be the norm for taking decisions under the common foreign and security policy. Specific rules must be laid down for military matters;
- possibility of Union action by a limited number of Member States when the others do not oppose it though they need not participate, provided the Union's common interest is duly represented;
- primary responsibility for implementation to lie jointly with the Council presidency and the Commission, although certain tasks could be assigned to specifically designated persons;

- inclusion of expenditure on the common foreign and security policy in the Community budget, unless an express decision is taken to the contrary.
- A European identity for security and defence

A real common foreign and security policy has to extend to common defence.

This will mean:

- writing into the Treaty the possibility of Union commitments to missions aimed at restoring or keeping the peace ("Petersberg" missions);
- reinforcing the Union's security capability by providing for Defence Ministers to play an appropriate role in the Council;
- reviewing the role of Western European Union with a view to incorporating it into the Union;
- closer integration of the armaments industry within the general Treaty rules, closer cooperation, including the establishment of an armaments agency, and a consistent approach to foreign trade.

The institutions for an enlarged Europe

The Commission proposed :

The European Parliament

- acceptance of Parliament's own proposal that membership be limited to 700;
- establishment of an electoral procedure which ensures that members are as representative as possible.

The Council

- Examination of ways of extending the scope of the presidency's powers of action and the order of rotation of the six-monthly terms of office;
- maintenance of the existing balance either by adapting the weighting of votes or introducing a new system which makes reference both to a majority of the Member States and a majority of the Union's population;
- no raising of the normal threshold for a qualified majority which has been set at around 71% since the inception of the Community.

The Commission

- guarantees for its right of initiative, its executive powers and its function as guardian of the Treaties;
- designation of its President by the European Council and approval by the European Parliament. The President must play an important role in the choice of Commission Members, to assure collegiality. Members of the Commission must be designated by way of common agreement between the President of the Commission and the respective governments of the Member States;
- reduction in the number of Members to one per Member State. The Commission is conscious of the fact that its composition and its structure will have to be reviewed above a certain number of Member States. The IGC must foresee a suitable procedure for this.

The Court of Justice

- solution to the problems, identified by the Court, posed by the number of judges after enlargement;
- extend the duration of the mandate for the members of the Court and foresee that this mandate is not renewable (position suggested by the Court).

The Commission also suggested that:

- majority voting to become the general rule;
- possibility of "super qualified" majority voting in particularly sensitive fields;
- possibility of amending Treaty provisions, other than those of a "constitutional" nature, by a procedure that imposes fewer constraints than at present.

The Commission firmly rejected any idea of a "Europe à-la-carte", but the European Union must allow for forms of closer cooperation or integration between some of its Members with due respect for the following principles:

- compatibility with the objectives of the Union;
- consistency with the institutional framework of the Union;
- opportunity for other States to join at any time if they are willing and able;
- safeguarding of the single market and the policies accompanying it.

Conclusion

The Commission report and that of the Reflection Group provide a solid base for the IGC and it will now be up to Foreign Ministers (meeting monthly) and their special representatives (meeting weekly) to take things forward in the IGC which starts under the Italian Presidency and continues under the Irish Presidency in the second half of 1996. But there is a huge gap between the positions of some of the major players. The British have suggested that the 1996 IGC will be akin to a 5,000 mile car service inspection whereas some influential German politicians are calling for a complete overhaul and possibly a new engine.

As far as the major issues outlined above are concerned the prospects at present for reaching agreement can only be described as bleak. But then the prospects in 1985 of all member states signing up to the Single Act, the most radical treaty change since the Treaty of Rome, were also rather bleak. The history of the EU demonstrates that hard decisions are usually only taken at the last minute and when there is a major challenge. No one can dispute that the 1996 IGC will be the major challenge for the future of Europe.

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