

Medlemmerne af Folketingets Europaudvalg  
og deres stedfortrædere

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CIG 79/04

PRESID 21

NOTE

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from: Presidency  
dated: 10 June 2004  
to: Delegations

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Subject: **IGC 2003**  
**0 Presidency proposal following the Ministerial meeting on**  
**24 May 2004**

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1. Delegations will find attached a revised set of draft texts which were previously submitted to Ministers as document CIG 76/04. The Presidency has as far as possible taken into account the further comments made by Ministers at their meetings on 17-18 May and 24 May, and has added in this document some additional points on which there now appears to be broad consensus. These texts also include a series of purely technical/legal adjustments which appear in shaded characters. In addition, all modifications of texts compared to texts in doc. CIG 50/03 are in bold.
2. The Presidency considers that this document represents a fair balance between the different views of delegations. However, it submits the document in advance of the Ministerial meeting on 14 June in order to ensure that no fundamental problems remain, and to avoid further discussion on these issues at the meeting of the IGC at the level of Heads of State or Government on 17/18 June.
3. Delegations' attention is drawn to the fact that in certain cases, such as the Part III articles on the Commission, further adjustments might be required as a direct consequence of the outcome of the discussions on the remaining issues.

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**THE UNION'S VALUES  
RIGHTS OF PERSONS BELONGING TO  
MINORITIES  
EQUALITY BETWEEN WOMEN AND MEN**

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**Article I-2**

The Union is founded on the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights, **including the rights of persons belonging to minorities**. These values are common to the Member States in a society **in which** pluralism, **non-discrimination**, tolerance, justice, solidarity and **equality between women and men prevail**.

In all the activities referred to in this Part, the Union shall aim to eliminate inequalities, and to promote equality, between men and women.

**Declaration for incorporation in the Final Act  
re Article III-2**

**The Conference agrees that, in its general efforts to eliminate inequalities between men and women, the Union shall will aim in its different policies to combat all kinds of domestic violence. The Member States should take all necessary measures to prevent and punish these criminal acts and to support and protect the victims.**

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**ANNEX 2**

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**THE OBJECTIVES OF THE UNION**

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**Article I-3 (3)**

3. The Union shall work for sustainable development of Europe based on balanced economic growth and **price stability** a highly competitive social market economy, highly competitive and aiming at full employment and social progress, and with a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

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**EQUALITY OF MEMBER STATES  
BEFORE THE CONSTITUTION**

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**Article I-5**

1. **The Union shall respect the equality of Member States before the Constitution as well as their** national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including those for ensuring the territorial integrity of the State, and for maintaining law and order and to safeguarding internal security.

2. Following Pursuant to the principle of loyal cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Constitution.

The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations flowing from the Constitution or resulting from the acts of the institutions of the Union Institutions' acts.

The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.

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**PRIMACY OF UNION LAW**

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**Declaration for incorporation in the Final Act  
re Article I-5a**

**The Conference notes that the provisions of Article I-5a reflect existing Court of Justice case law.**

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**PRINCIPLE OF PARTICIPATORY DEMOCRACY**

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**Article I-46 (4)**

4. Not less than one million citizens coming from a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Constitution. A European law shall determine the provisions for the procedures and conditions required for such a citizens' initiative, **including the minimum number of Member States from which they must come.**

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**THE CONFIGURATIONS FORMATIONS OF THE  
COUNCIL OF MINISTERS**

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**Article I-23**

1. The Council shall meet in different configurations formations.
2. The General Affairs Council shall ensure consistency in the work of the different Council configurations formations. It shall prepare and ensure ~~the~~ follow-up to meetings ~~with the President of the European Council and~~ the Commission.
3. The Foreign Affairs Council shall elaborate flesh out the Union's external action on the basis of strategic guidelines laid down by the European Council and ~~the Union's~~ action ~~is~~ consistent.
4. The European Council shall adopt ~~by a qualified majority~~ a European decision ~~the list of other Council~~ configurations formations.
5. **The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.**
6. The Presidency of Council configurations formations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, **in accordance with the conditions established by a European decision of the European Council. The European Council shall act by a qualified majority.**

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**DRAFT DECISION OF THE EUROPEAN COUNCIL ON THE  
EXERCISE OF THE PRESIDENCY OF THE COUNCIL OF MINISTERS**

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**Article 1**

**The Presidency of the Council, with the exception of the Foreign Affairs configuration formation, shall be held by pre-established groups of three Member States for a period of 18 months. The groups shall be made up on a basis of equal rotation among the Member States, taking into account their diversity and geographical balance within the Union.**

**Each member of the group shall in turn chair for a six-month period all configurations formations of the Council, with the exception of the Foreign Affairs configuration formation. The other members of the group shall assist the Chair in all its responsibilities on the basis of a common programme. Members of the team may decide alternative arrangements among themselves.**

**Article 2**

**The Committee of Permanent Representatives shall be chaired by a representative of the member of the group chairing the General Affairs Council.**

**The Chair of the Political and Security Committee shall be held by a representative of the Union Minister for Foreign Affairs.**

**The chair of the preparatory bodies of the Council configurations formations referred to in Article 1 shall fall to the member of the group chairing the related configuration formation, unless decided otherwise in accordance with the procedure laid down in Article 4.**

**Article 3**

**The General Affairs Council shall ensure consistency and continuity in the work of the different Council configurations formations in the framework of multiannual programmes in cooperation with the Commission. The Member States holding the Presidency shall take all necessary measures for the organisation and smooth operation of the Council's work, with the assistance of**

**the General Secretariat of the Council.**

#### **Article 4**

**The Council shall, by a qualified majority,<sup>2</sup> adopt a European decision establishing the measures for the implementation of this decision.**

#### **Declaration for incorporation in the Final Act concerning the European Council decision on the exercise of the Presidency of the Council of Ministers**

**The Conference declares that the European Council should begin preparing the European decision establishing the procedures for implementing the decision on the exercise of the Presidency of the Council of Ministers as soon as the Treaty establishing a the Constitution for Europe is signed and should give its political approval within six months.**

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## TECHNICAL ADAPTATIONS TO PROVISIONS OF PART III ON THE EUROPEAN COMMISSION

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### Article III-243

If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and only by open vote.

If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the Members of the European Parliament, **the Members of the Commission shall resign as a body and the Union Minister for Foreign Affairs shall resign from the Commission. They shall remain in office and** continue to deal with current business until **they are** replaced in accordance with Articles I-25 and I-26. In this case, the term of office of the **Members of the Commission** appointed to replace **them** shall expire on the date on which the term of office of **the Members of the Commission** obliged to resign **as a body** would have expired.

### Subsection 4

#### The European Commission

### Article III-250

The Members of the Commission shall be appointed for a period of five years, subject, if need be, to Articles III-243, III-252 and III-253.<sup>3</sup>

### Article III-251

**The Members of the Commission** shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks.

**The Members of the Commission** may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a 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 regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council, acting by a simple majority, or

the Commission, rule that the person concerned be, according to the circumstances, either compulsorily retired in accordance with Article III-253 or deprived of his or her right to a pension or other benefits in its stead.

Article III-252

1. Apart from normal replacement, or death, the duties of a **Member of the Commission** shall end when he or she resigns or is compulsorily retired.

2. A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the **Member's** term of office by a new **Member of the same nationality** appointed by the **Council, with the agreement of the** President of the Commission, **after consulting the European Parliament and** in accordance with **the criteria set out in Article I-26(6), first subparagraph.**

**The Council may, acting unanimously on a proposal of the President of the Commission, decide that such a vacancy needs not to be filled, in particular when the remainder of the Member's term of office is short.**

3. In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his or her term of office, in accordance with Article I-26.

4. **In the event of resignation, compulsory retirement or death, the Union Minister for Foreign Affairs shall be replaced for the remainder of his or her term of office, in accordance with Article I-27.**

5. In the case of the resignation of all the Members of the Commission, they shall remain in office and continue to deal with current business until they have been replaced, for the remainder of their term of office, in accordance with Articles I-25 and I-26.

#### **Article III-253**

If any **Member of the Commission** no longer fulfils the conditions required for the performance of his or her duties or if he or she has been guilty of serious misconduct, the Court of Justice may, on application by the Council, acting by a simple majority, or by the Commission, compulsorily retire him or her.

#### **Article III-254**

**Without prejudice to Article I-27(4)**, the responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President, in accordance with Article I-26(3). The President may reshuffle the allocation of those responsibilities during the Commission's term of office. **The Members of the Commission** shall carry out the duties devolved upon them by the President under his or her authority.

#### **Article III-255**

~~The~~ **its Members** shall act by a majority of . The Rules of Procedure shall determine the quorum.

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### **TRANSITIONAL PROVISIONS**

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**Provisions to be inserted in the Protocol on the transitional provisions relating to the institutions and bodies of the Union**

#### **TITLE 3**

**Provisions concerning the Commission, including the Union Minister for**

**Article 4**  
**Provisions concerning the Commission**

**The Members of the Commission in office on the date of entry into force of the Treaty establishing a Constitution for Europe shall remain in office until the end of their term of office. However, on the day of the appointment of the Union Minister for Foreign Affairs, the term of office of the Member having the same nationality as the Union Minister for Foreign Affairs shall end.**

**TITLE 4**  
**Provisions concerning the Secretary-General of the Council, High Representative for the common foreign and security policy and the Deputy Secretary-General of the Council**

**Article 5**

**The terms of office of the Secretary-General of the Council, High Representative for the common foreign and security policy and the Deputy Secretary-General of the Council shall end on the date of entry into force of the Treaty establishing a Constitution for Europe. The Council shall appoint a Secretary-General in conformity with Article III-247(2) of the Constitution**

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**ANNEX 10**

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Article I-27

1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the Union Minister for Foreign Affairs. The European Council may end his or her term of office tenure by the same procedure.

2. The Union Minister for Foreign Affairs shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common **security and defence policy**.

**3. The Union Minister for Foreign Affairs shall preside over the Foreign Affairs Council for Foreign Affairs.**

4. The Union Minister for Foreign Affairs shall be one of the Vice-Presidents of the **Commission**. **He or she shall ensure the consistency of the Union's external action.** He or **she shall be responsible within the Commission for responsibilities** falling to it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the Union Minister for Foreign Affairs shall be bound **by Commission procedures to the extent that this is consistent with the provisions of** the above paragraphs 2 and 3.

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**Declaration for incorporation in the Final Act  
re Article III-197**

The Conference declares that, as soon as the Treaty establishing a Constitution for Europe is signed, the Secretary-General of the Council, High Representative for the common foreign and security policy, the Commission and the Member States, should begin preparatory work on the European External Action Service

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ANNEX 12

**PROCEDURES FOR APPOINTING THE PRESIDENT OF THE COMMISSION, THE  
PRESIDENT OF THE EUROPEAN COUNCIL AND  
THE UNION MI**

**Declaration for incorporation in the Final Act  
re Article I-26**

The Conference considers that, in accordance with the provisions under the terms of the Constitution, the European Parliament and the European Council are jointly responsible hold joint responsibility for the smooth running of the process leading to the election of the President of the European Commission. Prior to the decision of the European Council, representatives of the European Parliament and of the European Council will thus conduct the necessary consultations in the framework deemed the most appropriate. In accordance with Article I-26(1), these consultations will focus on the backgrounds of the candidates for President the Presidency of the Commission, taking account of the elections to the European Parliament, in accordance. The arrangements for such consultations may be determined in due course by mutual agreement between the European Parliament and the European Council.

**Declaration for incorporation in the Final Act**

re Articles I-21, I-26 and I-27

In choosing the persons called upon to hold the offices of President of the European Council, President of the Commission and Union Minister for Foreign Affairs due account is to be taken of the need to respect the geographical and demographic diversity of the Union and its Member States.

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**BUDGET PROCEDURE**

Article III-310

European laws shall establish the Union's annual budget in accordance with the following provisions:

1. Each institution shall, before 1st July, draw up **estimates of its expenditure for the following financial year**. The Commission shall consolidate these estimates in a draft budget which may contain different estimates.

The draft budget shall contain an estimate of revenue and an estimate of expenditure.

The Commission shall submit to the Council proposals containing the draft budget for the year preceding that in which the budget is to be implemented.

The Commission may amend the draft budget during the procedure until such time as the Conciliation Committee, referred to in paragraph 5 below, is convened.

3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1st October of the year preceding that in which the budget is to be implemented. The Council of Ministers shall inform the European Parliament fully of the reasons which led it to adopt its position.

4. If, within forty-two days of such communication, **the European Parliament:**

**(a) approves the position of the Council, the European law establishing the budget shall be adopted;**

**(b) has not taken a decision, the European law establishing the budget shall be deemed to have been adopted;**

**(c) adopts amendments by a majority of its members, the amended draft shall be forwarded to the Council and to the Commission. The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the draft being forwarded the Council informs the**

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5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council.

The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

6. If, within the twenty-one days referred to in paragraph 5, **the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.**

**7. If, within the period of fourteen days referred to in paragraph 6:**

**(a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the European law establishing the budget shall be deemed to be definitively adopted in accordance with the joint text, or**

**(b) the European Parliament, acting by a majority of its members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission, or**

**(c) the European Parliament, acting by a majority of its members, rejects the joint text while the Council approves it, a new draft budget shall be**

submitted by the Commission, or

- (d) the European Parliament approves the joint text whilst the Council rejects it, the Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4 (c). Where a Parliament amendment is not confirmed, the position agreed in the Conciliation committee on the budget heading which is the subject of the amendment shall be retained. The European law establishing the budget shall be deemed to be definitively adopted on this basis.

8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.