

NOTE

from: The Presidency
Date: 2 October 2003

*Subject: IGC 2003
- The Council Presidency*

General

1. The Presidency has now received replies from all delegations to the questionnaire which it circulated on the subject of the Council. These have proved very useful in assisting the Presidency to carry out an assessment of the subject with a view to taking forward the debate. The following is a summary of the responses from delegations on the three main issues.

I Legislative Function

2. On the issue of the Council's legislative function, the responses to the questionnaire show overwhelming support for:
 - separating out the Council's public legislative function within each Council formation, rather than concentrating it in one single formation;
 - defining the legislative function as encompassing all laws and framework laws.

II The Formations of the Council

3. On the subject of Council formations, almost all delegations are in favour of:
 - establishing the number of Council formations by a decision of the European Council, to be agreed as part of the outcome of the Conference;
 - limiting the number of formations in line with the conclusions of the European Council meeting in Seville.
4. There are differences of view over how the European Council should decide on this. Similar numbers propose either unanimity or qualified majority. Very few suggest simple majority.

III The Presidency of the Council

Timing

5. Almost all delegations have confirmed that they would like the basic principles and modus operandi of the Council Presidency to be part of the outcome of the Conference, although not set out in the treaty text itself. A small number would however like to have at least the basic elements included in the treaty.

Different models of the Presidency

6. The responses to the questionnaire on the Council Presidency fall into three broad categories:
- maintenance of the six-monthly Presidency rotation system (either in its current form or, as some suggest, in a "team" format designed to ensure effective coordination between a group of successive Presidencies);
 - Presidency by election within each Council formation;
 - 'Team' Presidency system by which the chairmanship of individual Council formations is shared out amongst a group of Member States within a set period.

These options are not necessarily exclusive. Some delegations have for example suggested including some element of elected Presidency within an overall team framework. The first two options have very limited backing, whereas a large majority of delegations either support, or are open to, the idea of a 'Team' Presidency. Many of these delegations underline the importance of ensuring that any 'team' system provide for equality of access by all Member States, as well as guarantee adequate coordination.

Variants of the 'Team' Presidency

7. Delegations have proposed a variety of options on the duration of the 'Team' Presidency, as well as on the numbers of Member States within each team. These details can only be settled once the model of the 'Team' Presidency has been decided. Amongst those delegations who support a 'Team' Presidency, some have suggested a particular model. Others have not. The models which have been put forward fall into two main categories:
- a) each Member State making up the 'Team' chairs a set number of Council formations for the entire period of the team;
 - b) each Member State making up the 'Team' chairs a set number of Council formations which rotate on a six-monthly basis, which means that over the full period of the team, each team member ends up chairing every formation.

It does appear that the first category of models has greater support than the second one, bearing in mind that not all delegations have clearly taken position at this stage.

The special case of the General Affairs Council

8. Some consider that the General Affairs Council should be included in the team arrangements on the same basis as the other Council formations. Many however propose that specific arrangements should apply. Some consider for example that, whatever the general rule, the GAC should be chaired by each Member of the team on a six-monthly basis. Others consider that it deserves a more permanent presidency (such as by the President of the European Council).
9. Most delegations consider that giving the Presidency of the General Affairs Council and COREPER to the same Member State would be an important factor in ensuring proper coordination (see below).

The special case of the Foreign Affairs Council

10. A large number of delegations consider that Foreign Affairs Council should not form part of the 'team' Presidency and endorse the proposal from the Convention that it should be chaired by the Union Foreign Affairs Minister. A few delegations are however opposed to a permanent Presidency of the FAC, and consider that, whatever the Presidency system, the FAC should be treated on the same basis as the other Council formations.

Coordination

11. Many delegations attach importance to ensuring that the 'Team' Presidency is accompanied by adequate provisions for effective coordination. A large majority consider in particular that committees and working parties subordinate to a particular Council should automatically be chaired by the Member State holding the Presidency of the Council in question, thereby assuring an effective vertical channel of communication. A small number consider that the chairmanship of these subordinate bodies should be attributed on a separate basis from the Council. Some delegations, whilst supporting the need for vertical structures, do not exclude that, in a number of specific cases, the Presidency of committees and working parties could be assured by the General Secretariat of the Council.
12. Many delegations also support the idea of an informal structure for coordination between the different Member States making up a 'Team' Presidency (possibly with the participation of the President of the Commission and the President of the European Council). A small number are opposed to this. Some underline that coordination is, in any case, primarily the role of the General Affairs Council.

IV. Orientations of the Presidency

13. In this framework, the Presidency proposes to go along the following path:

As for the Council's legislative function:

- separating out the Council's public legislative function within each Council formation, rather than concentrating it in one single formation;
- defining the legislative function as encompassing all laws and framework laws.

As for the Council formations:

- establishing their number, taking into account the conclusions of the European Council meeting in Seville, by a qualified majority decision of the European Council, which shall not be part of the Constitutional Treaty, but will be adopted at the same time.

As for the Presidency of the Councils:

- Moving forward a two years Team Presidency system of four or five member States. The basic criteria for the formation of the teams are to be an integral part of the Constitution, while the teams will be fixed by an unanimous decision of the European Council at an appropriately early stage before the entry into force of the Constitution. The basic criteria should be: parity, equal rotation, political and geographical balance and diversity of member States. According to the Presidency, each Member making up the Team should chair a set number of Council formations for the entire period of the Team. The other possibility (i.e. an equal rotation of members States on a fixed basis in the framework of the team) is actually a kind of a rotation system and should be avoided. The allocation of the different Council formations within the Team should be left to the discretion of the Member States in the Team.
- Member States are split on the Presidency of the FAC by the FM. But the majority is in favour. The Presidency believes the Convention text should be kept.
- The coordination would be assured by the GAC, whose Presidency entails the Presidency of Coreper I and II.
- The Presidency of a particular Council entails the Presidency of the related working groups and committees.
- In the framework of the multi-annual programme, informal coordination meetings between the different member States of the Team, with the participation of the President of the Commission and the President of the European Council, should not be ruled out.