Amendment of the Treaty on European Union: convening an intergovernmental conference under art. N of the TUE

1996/2013(COS) - 28/02/1996 - Document attached to the procedure

OBJECTIVE: presentation of the Commission's opinion on reinforcing political union and preparing for enlargement of the Community. The opinion is in three parts dealing with the following areas: . a people's Europe, . the CFSP, . the reform of the institutions. SUBSTANCE: - A People's Europe: according to the opinion there is a need to: (A) promote the European social model, including fundamental rights recognized by all and a commitment to mutual support between the Member States. In particular: . accession by the EU as such to the Convention on Human Rights and the inclusion in the Treaty of provisions prohibiting all discrimination, in particular with regard to equality of men and women (quite apart from pay) and condemnation of racism and xenophobia, . a stronger role for the Court of Justice, particularly as regards compliance with its judgments, . the social protocol must be integrated into the Treaty and the provisions concerning the fight against marginalization and poverty should be made more specific, . specific provisions on employment should be written into the Treaty (conditions for a common strategy for employment, stimulating cooperation between the interested parties, taking employment into account in all Community policies, stepping up the exchange of information and experience); (B) establishment of an area of freedom and security: the shortcomings of the Treaty in the field of justice and home affairs must be remedied by: . setting clear objectives, namely: - applying and reinforcing the principle of freedom of movement and residence, - 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, - combatting all forms of crime; . providing it with the appropriate instruments and methods, i.e.: - in principle, replacing unanimity by qualified majority voting, provision for increased participation by the European Parliament and the Commission's power of initiative 'in all the fields concerned'; - provision of 'more effective' legal instruments than the 'joint action' or international agreements, - decisions subject to review by the Court of Justice, - simplification of the Council's working methods. According to the opinion this will require the transfer of the areas under the third pillar to the Community framework, with the exception of judicial cooperation in criminal matters and police cooperation. This transfer is needed particularly with regard to crossing borders, immigration policy, policy on nationals from non-member countries and asylum. Following this logic, the content of the Schengen Agreement should be incorporated in the Treaty. (C) simplifying and democratizing Europe, which means in particular that national parliaments must be more closely involved in Union affairs and must have timely access to all the information they need from the institutions and bodies of the Union and from their governments. The framework of the principle of subsidiarity which is already used must be defined better. This simplification involves the following: - reduction of the decision-making procedures to three: decisions adopted on Parliament's opinion, the assent procedure and the codecision procedure, - wider application of the codecision procedure (the Commission will present a report to the Council on extending the scope of the procedure) to all acts of a legislative nature and in any case to all areas currently coming under the cooperation procedure. The codecision procedure would in any event be more effective if time-limits for first readings were set for Parliament and the Council and if the announcement of the intention to reject a proposal at the second-reading stage and the third reading were dropped, - clarification of the scope of Parliament's assent, which should be required for areas such as Treaty amendments and own resources, - reduction of the number of implementing procedures, keeping three types of committee and procedures (the advisory committee, the management committee and the legislation committee) and dropping the variants. - a clear identity on the world scene: the opinion considers that the IGC should have 'a clear and simple aim: to empower the Union to act rather than react, the better to defend the interests of its people'. In particular there is a need for: (A) greater consistency in foreign policy: the Union should present a united front and as the current treaty does not ensure this

consistency the Presidency and the Commission should work in tandem, ensuring that the two institutions responsible for the Union's foreign policy cooperate effectively; (B) more effective Community action by: . clarification of trade policy to take account of the radical changes in the structure of the world economy in which services, intellectual property and direct foreign investment play an increasingly important role (the Commission's powers in these areas are poorly defined, leading to needless proocedural wrangles), . inclusion in the Treaty of specific provisions on the functioning of the EU in international bodies, in order to ensure that it speaks with one voice, . ensuring effective coordination between the Member States' policies and those of the EU in fields where responsibility is shared such as development, transport and the environment; (C) a firmer basis for the common foreign and security policy, requiring: . better preparation of decisions, through a 'joint analysis unit' composed of experts from the Member States and the Commission, possibly with a contribution from the WEU. A permanent political committee should also be incorporated into the Council's machinery for preparing decisions; . the use as a general rule of qualified majority voting for the CFSP: the decisions would imply the political and financial solidarity of the members as they would be taken on behalf of the EU. However, if decisions concern military action or if they affect the essential and clearly defined interests of a Member State there would not be a qualified majority vote; . primary responsibility for implementation to lie with the Council Presidency and the Commission: consideration must be given to how to strengthen the Presidency, supported by the Council secretariat, which should not, however, prevent certain tasks being allocated to persons designated on an ad hoc basis; (D) a European identity for security and defence: a proper CFSP has to 'extend to common defence', even if NATO remains at the centre of the defence arrangements. The IGC should: . identify the missions aimed at restoring or keeping peace (and incorporating at least these in the Treaty) and defence, . create an institutional framework enabling the EU to deal with security and defence problems, . decide that security missions could be carried out in the name of the EU, by the Member States or by joint structures, . review the role of the WEU with a view to incorporating it into the Union and its role in the implementation of EU decisions and actions. The opinion stresses the need for strengthening the industrial base on which the security and defence of the EU are based and, with regard to armaments, greater effectiveness in procurement (through the establishment of an agency) and a consistent approach to foreign trade. - institutions for the enlarged Europe: the opinion notes that the next enlargement raises its own specific institutional questions and considers that the IGC should: (A) adapt the institutions: . the European Parliament must continue to represent the less populated countries as well as possible but the number of members must be limited (the EP itself has set a limit of 700 members), which also means that the electoral base of each Member will exceed one million electors in the most highly populated Member States and this will make the establishment of a common electoral procedure even more necessary (as is laid down in the Treaty), . the Council: - the half-yearly rotation of the Presidency should be maintained, despite its inconveniencies (in a 27 member EU each state would hold the Presidency every 14 years), - after enlargement the weighting of votes in the Council would have to be adjusted, either by introducing a new system which makes reference both to a majority of the Member States and of the population (the current weighting reflects a bias, accepted by all, in favour of the less populated states, but as the candidate countries have relatively small populations, the current system would increase the relative weight of the smaller states), - no adaptation should have the effect of making decision-making more complicated and the normal threshold for a qualified majority (around 71%) should not be raised in any circumstances; . the Commission: - the role of the President should be strengthened and the President should play a decisive role in the choice of the Commission's Members. He should be able to ensure collegiality throughout his mandate and have greater powers in the internal organization of the college, - the number of Commissioners should be reduced to one per Member State, chosen by the President on a proposal from the Member States but above a certain number of states, the number of Commissioners chosen must be able to be less than the number of Member States, . the Court of Justice: the problem of numbers must be dealt with (there is the prospect of having some sixty judges at the Court of Justice and the Court of First Instance), (B) adherence to unanimity should be renounced, as in an enlarged Europe this would lead to paralysis. . in particularly sensitive fields the decision should be taken by 'super-qualified' majority voting, . as far as the Treaty is concerned, if it can be amended only by unanimity there is a risk that it could be left stagnating in the state in which the 1996 IGC left it. The Treaty contains provisions of various types, some of which are certainly of a genuinely fundamental nature (preamble,

fundamental principles, objectives of the Union, operation of the institutions) while others are not (Union policies). In future it should be possible to amend at least provisions that are not of a constitutional nature by a procedure which imposes fewer constraints than the current one, . organized flexibility, as the Union must not for ever be bound to advance at the speed of its slowest members. The deepening of the Union has already taken place on the basis of organized flexibility (e.g. EMU). But the Commission rejects any idea of a 'pick and choose' Europe. The solution, if Europe is to be able to continue to deepen, will be to facilitate greater coordination or integration between certain Member States, in a framework guaranteeing the unity of the Union, the principles being: - the coordination must be compatible with the objectives of the Union and must further them, - the single market and the policies accompanying it should be safeguarded as a whole (in practice greater coordination would thus be limited to certain aspects of economic policy, the CFSP, defence or internal security), - the progress made should always be open to other States.