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**THE PRIORITIES AND STRATEGY FOR THE REFORM
OF THE MAASTRICHT TREATY**

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The revision of the Treaty on the European Union by the intergovernmental conference (IGC) of 1996 will take place in a rather different environment in comparison with the 1985 Conference on the Single European Act and the 1991 IGC on the Maastricht Treaty. Both launched overriding policy objectives (Single Market, Economic and Monetary Union, Political Union) with institutional and procedural reforms. A "vision" was combined with a complex package deal.

Today, although new external and internal challenges were already present in 1991, they have recently gained a new dimension. At present, decreasing public support for the European integration process, lack of both democracy and efficiency, and new external challenges all call for a review of the general aims of European integration and changes in the functioning of the Union. In addition, in 1995 we miss so far a package deal which could mobilise the support of citizens and states. Beyond the necessary institutional improvements we need in fact a clarification on the degree of acceptance of the third phase of Emu, the new budget, the future place of Weu inside the Union, the enlargement and, as a consequence, the reforms of main common policies.

It is therefore widely accepted that the intergovernmental conference must be put in a proper political context: as a necessary step towards a reinforced European Union "fit" for its paneuropean vocation. It has in fact to deal with four major challenges.

- The first is the model of the intergovernmental conference itself. Contrary to what happened in 1991, the IGC should not be considered a classic, diplomatic, "secret" negotiation. For one thing, national governments and European institutions need to establish a dialogue with European citizens and take into account their main concerns. For another, the negotiation process should be more public so that the European public can more easily follow discussions and not simply be confronted with the final outcome.

- Secondly, the conference must provide new ways of dealing with the internal problems now facing the Union: a) the enduring economic crisis creating severe social problems as a result of high unemployment; b) the democratic deficit and the increased gap between citizens, their governments and the European Union; c) the institutional crisis. These problems contribute to a growing feeling of disappointment affecting public opinion in all the Member States.

- Thirdly, enlargement of the European Union should be considered a political objective in itself. After the fall of the Berlin Wall liberty, peace and stability are being pursued all over Europe. Those who seek stability, security and equity should be helped to realise that the integration process is the right answer. It is important therefore that a political response be given to requests for full membership in the European Union, especially requests from eastern

countries.

- Finally, the IGC must provide the Union with the proper instruments for the new political, economic and security environment in the whole of Europe and throughout the world. The Union's role on the new international stage involves assuming responsibility for shaping a new international order which is no longer mere economic power, especially if we want to create peace in the immediate eastern and mediterranean neighbourhood. To be a major international actor, economic, political and even military means are required. The war in former Yugoslavia is a clear example of the new type of crisis the European Union will have to be prepared to handle and is also a measure of its shortcomings.

If present challenges at home and abroad are to be faced, an overall institutional reform is needed which reconciles the demands of democracy, efficiency and effectiveness.

The next revision conference will hardly solve the broad range of issues at stake but it is hoped that it will be a step in a continuing reform process that will mark the years ahead. Nevertheless, however limited the reform of the Treaty may be, the way reform is approached will probably determine the future direction of the EU and shape its institutional character. In view of the conference for the revision of the Maastricht Treaty, setting down some long-term criteria is as important as making specific suggestions for modifying the Treaty.

The vital need for public support

Regaining citizens' support for European integration is probably the most important challenge now facing the Union and the Member States. In fact, decline of public support for the Treaty in particular and for the concept of integration in general has been the most striking and unexpected aspect of Maastricht.

It was not just the first Danish referendum and the feeble backing the French referendum received that caused concern but also the general shift away from what was once a widespread favourable attitude towards European integration. We are witnessing not so much a lack of support for the creation of a supranational Europe as a Europe-wide disagreement over the methods chosen to achieve integration. Political leaders, both national and European, should accept this challenge for strong national and European leadership is needed.

Before 1992 European issues were a mystery and a rather complex matter but the march towards integration was considered inevitable and was therefore never contested. The ratification process of the Maastricht Treaty, along with the economic crisis, has generated a sense of uneasiness and has given rise to the development of anti-European movements. Furthermore, the debate that followed the Maastricht Treaty contributed to the spreading of information about what European integration would mean and about the powers of EU institutions would have.

EU citizens now want to know more about European methods and about decision-making mechanisms and are increasingly interested in discussing these questions. The more active participation of citizens raises an important question: - How can the European

system be more transparent and accountable, how can we improve its representative character?

From the debates on the Maastricht Treaty there has also emerged a feeling that European integration should be publicly legitimised. Once the Treaty has been revised the need for legitimation will probably lead to several national referenda particularly in countries with a tradition and the legal provisions for the use of direct democracy but probably in others as well. The use of referenda is not necessarily the most suitable way for the public to participate in the European integration process. First of all citizens have a right to participate in a process and not just the right to be consulted after agreements between governments have been concluded. On the other hand, there still seems to be no such thing as European public opinion but rather 15 national public opinions. National referendum results will therefore be influenced by the national environments at a given time. Only in some specific questions are there opinion trends that cut across the national dimension.

In that sense the idea of a European referendum, only indirectly influenced by domestic political scenarios could be an important step for the public legitimation of the European integration process.

Adapting the Maastricht Treaty

The '96 IGC should not be considered a kind of Maastricht II concentrating exclusively on piecemeal amendments. On the other hand, it should not be a totally new start. Preserving the *acquis communautaire* is indispensable to guarantee the continuity and the very nature of the European process. However, the present European system certainly needs to be more rational, more democratic and more efficient.

Rationalising the system

- First of all the number of different procedures needs to be reduced. Procedures inside EU bodies need to be more transparent and the risk of blockages, diminished. The present system, which is rather too complex, creates difficulties regarding both the efficiency and overall understanding of the functioning of the Union and accountability of its actions.

- Secondly, the Charter of the European Union needs to be simplified to make it more legible and accessible to the citizens. From 1951, with the foundation of the European Coal and Steel Community until the recent Accession Act and Treaty admitting the three EFTA members in 1994 a great number of treaties were signed but parts of them lost their utility and in many cases their legal value. Obsolete provisions should therefore be deleted and the Treaties stripped of detailed regulations of a secondary nature.

- Thirdly, if European norms were reclassified in constitutional, legislative and regulatory acts, establishing a new set of priorities, a considerable step forward towards rationalisation would be achieved. This would contribute to a clearer relationship between the respective branches of power and institutions within the Union on one hand and the Member States and institutions on the other.

- A fourth step in rationalising the system would be to introduce a strict decision-making linkage among the three pillars. At present inconsistency badly affects decision-making credibility. It is necessary to accelerate the drive towards the communitarisation of institutional procedures in the second and third pillars and to introduce voting by qualified majority as a normal rule. This principle should be consistently applied to policies of the three pillars.

Democratising the system

With the completion of the internal market and plans for full economic union, inevitably common legislation will have to gradually limit the room for manoeuvre and the autonomous decision-making power of Member States. As a result, the Union will have to become increasingly accountable to its citizens. This raises some questions such as the legitimacy deficit of the European Union at the citizens' level and the need to increase awareness of belonging to Europe.

- With regard to democratic deficit, that is, the low level of legitimacy of the present decision-making process, the powers of control and co-legislation of the European Parliament should be increased. In other words, the co-decision procedure should become the rule in major decision-making, at least for community affairs.

- Reinforcing the powers of the European Parliament requires also the implementation of article 138.3, i.e. a uniform electoral procedure in all Member States.

- At the same time more active participation of National Parliaments is also desirable. The involvement of the National Parliaments - national governments to which the actors within the Council are accountable - does not necessarily lead to renationalisation: as representatives of the people, expressing their will, National Parliaments which are more involved in EU affairs can be viewed as a positive step in enhancing the Union's credibility in the eyes of national public opinions. The key should be "Europeanising" National Parliaments instead of renationalising European policies. Special attention should therefore be paid to enhancing contacts between National Parliaments and the European Parliament and the participation of national MPs in national delegations to the Council could also be envisaged.

- The democratisation of the European Union is also closely tied to European citizenship and a clearer linkage between European electoral representation and the protection of individual interests at EU level is therefore required, as well as the extension of the powers of the Court of Justice in guaranteeing citizens' rights.

Making the system efficient

- Greater efficiency is required in the institutional system of the European Union - both in internal and external affairs - with the first concern being the Union's ability to govern. To streamline the decision-making procedure qualified majority voting should be extended to all social and economic legislation and the second and third pillars.

- The second problem is the relationship between integration and subsidiarity which requires the adoption of mechanisms to provide clear decisions about the appropriate level for the new

and old competencies. This clarification could not be achieved, for the time being, through the drafting of clear-cut lists of national and EU competencies. In the Union, as in modern federalism, competencies are often exercised following the model of co-operative federalism, i.e. complementary actions of the central institutions and the component parts of the system. The clarification of competencies which is needed in order to create fair relations between the European Parliament and National Parliament and to avoid competition over the legitimacy gap could be achieved through the recourse to the subsidiarity principle.

- The third question is the preservation of a suitable balance among Member States in EU institutions - a key element in democratisation. The European Union has an imperfect bicameral system. Citizens are directly represented in the European Parliament and indirectly in the Council through their governments but the Council is not a typical second chamber since the Member States have different voting strengths. Since any drastic change in the voting strength of the small Member States would unbalance representation and might lead to the formation of a kind of *directoire* of the major countries, as a reaction to the fear of being outvoted by a large number of smaller countries, changes in the Council's voting system should be carefully pondered decisions and should always be accompanied by the reinforcement of the European Parliament. Proposals like the double majority (votes and population) are not necessarily a suitable solution since they tend to introduce the concept of the direct representation of citizens into the Council, thus duplicating the functions of the European Parliament .

The future of the integration process

The 1991 IGC must complete the process initiated by the Maastricht Treaty. The Treaty on European Union established the basis for economic and monetary union and has made some progress as regards political union. The new European and international political and security environment however, requires a stronger political union. With the Union's present and future profile in mind, the IGC must provide the Union with new guidelines for integration.

Balancing the system: towards a Political Union

Shifting emphasis from economic to political matters, giving priority to the reinforcement of pillars II and III is one of the great challenges of the Union. A pre-condition for achieving the greater rationalisation, democratisation and governing ability mentioned above, is a strong political will to realign the process of European integration, concentrating on foreign policy, security and defence, bringing politics into the forefront again. At the same time, it must be borne in mind that the economic and monetary union has in itself a considerable political component. Therefore, its correct functioning requires a full political union.

Differentiated Integration: a key concept for the European Union

The real issue behind the scenes will be differentiation and how to apply it to the present institutional framework. Even before enlargement, the challenges facing the Union and the

difficulties of the Fifteen are having in shaping an efficient common global approach to match them show an urgent need to envisage new ways to achieve deeper integration. The basic question is how long can the integration process be kept hostage of minimum consensus - how long can Member States that are ready and willing to go ahead be prevented from doing so? The only answer is differentiation.

Differentiation must always be analyzed in connection with the basic question: what kind of Europe do we want to shape? If we want to preserve the basic principles of the European process of integration, if we want to preserve solidarity and equality among the Member States, differentiation should only be a possibility for those policies which cannot, for very specific reasons, be shared by all Member States. In this sense therefore the only reason for differentiation should be the interest of the European Union. At the present stage of integration only two fields seem to require this kind of instrument: the third stage of the EMU - the framework of which was established in the Maastricht Treaty - and defence policy.

Some countries have constitutional constraints in the defence field and/or a strong tradition of neutrality. This is a real problem which cannot be disregarded as it was during negotiations for enlargement to the three latest newcomers. In the present stage there are no conditions which oblige those countries to give up their neutrality or nonalignment policies. However, this situation cannot on one hand be an obstacle to the other Member States that are willing to proceed further. On the other, it is important these countries be aware that in the long term they must be fully integrated into the Union policies and involved in a common defence policy and common defence.

A precondition: a common institutional framework

Differentiation can be pursued in two ways: differentiation within the Treaty or differentiation outside the EU (but making it compatible with the EU).

The first solution appears the most appropriate for our purposes. A consistent homogeneous institutional basis for all present and future members should be the "common institutional platform". Although a fairly complex institutional system involving a large number of actors at different levels will continue to be unavoidable, a common homogeneous institutional basis will be a necessary precondition for any institutional improvement.

In fact, many accept the idea that at the stage it is at today, European integration has to continue to go forward, and that those countries "willing and able" to take further steps should not be prevented by others from doing so. The problem is how to form a group that wants to move forward. One criterion should be to give priority to Member States that are "willing" to participate in new forms of closer integration. Another should be to assign full advantages and competencies inside the group to countries that are "able". Others that are "willing" but are not "able" might be part of the group without however having full rights to participation in decision-making (e.g. partial voting power inside the Council), during a transitional period;

A common institutional framework also means that all Member States may participate in the overall definition of the Union's interests. The common defence policy must be defined in accordance with the EU's overall interests, commonly agreed upon. On the other hand,

countries which are neither willing nor able to proceed should nevertheless express their solidarity with the others clearly. Since countries taking a neutral stand are not able to subscribe to a common defence policy and common defence, the revised Treaty should at least include a solidarity clause committing those countries to the long-term objective of fully participating in common defence.

Nor should differentiation be a source of discrimination against countries that are unwilling or unable to participate in the core group: that is why a homogeneous institutional basis is necessary. In particular, while Member States not participating should not be allowed to vote on policies within an area of restriction at the Council level, voting restrictions would not apply either to the Commission or to the European Parliament since these are institutions in which Member States are not represented as such.

If differentiation is to be applied in a common institutional framework the possibility of transferring the three-stage EMU model to the defence field in order to allow certain countries to proceed more quickly should be examined. As already mentioned, priority should be given to those Member States "willing" to share sovereignty in all fields and "able" to implement the necessary requirements. This would be similar in some ways to what happened with the signing of the Maastricht Treaty and with the "political" acceptance of the "three stages" in the EMU model by a large number of countries even though some were probably unable to meet the necessary requirements by the established deadline. The IGC should therefore set some targets and establish a set of criteria necessary for full participation of Member States in a further stage of integration.

Differentiation as described above would not then create a sort of ranking of countries based merely on economic performance which would jeopardise the basic principles of European integration. Nor should differentiation be considered the lesser evil but rather a positive step taken by countries willing to go a lap further along the road towards a united Europe. Undoubtedly it would be much better if all Member States (present and future) were ready to move with greater speed to integration and political union but since this is not the case it is important to ensure that countries that are neither able nor willing to proceed do not have the power of veto over the others.

Introducing this kind of differentiation raises a fundamental question not dealt with in the Treaty: how and on what grounds can a state withdraw from the Union? The Treaty should envisage this possibility but only in the case of a qualitative and irreversible change within the Union.

In the absence of an agreement on differentiation with a common institutional framework, one option might be a kind of refoundation, i.e. the creation of a new set of integration institutions outside the Union's framework. In such a scenario the Union itself could regress to the framework of a single market or even to a simple free trade area because the main opposition is to political union. The refoundation might be considered as a last resort in case of failure of IGC; therefore it must be clear that such an option could also be a source of greater disintegration.

Conclusion

The immensity of the challenges facing the Union, the feeble public and political conditions present in various Member States and the number of issues to be dealt with by the IGC are elements that may combine to undermine the success of the IGC. Even if the conference proves incapable of defining clearly the Union's structure and goals, it must nevertheless pave the way to building an efficient, democratic and legitimised Union able to handle the competencies vital for the Member States and their people. In this sense the IGC must clearly demonstrate that Member States are willing to work towards a more profound integration and it must therefore create the political and institutional conditions required to achieve this end. The IGC should thus make the EU "fit" for further widening and constructing a new peaceful European architecture. As has been said, setting up long-term criteria is as important as making specific modifications to the Treaty's provisions. With this in mind, the following priorities should be considered:

- It must reaffirm the commitment of all Member States to building a strong European Union, especially a political union. Even if some states are not able to fully subscribe to that goal now they should be expected to commit themselves in the long term. It is important that differences and bargaining plays be set aside and that a clear message be sent out by the Member States to all European citizens so that they are fully aware of the path their representatives have chosen. Such a statement would also be a clear message to countries applying for membership.
- The IGC should not be considered a classic diplomatic negotiation. European citizens must know what their representatives are discussing. National parliaments and the European Parliament should be kept informed of the developments of the IGC. The outcome of the conference must not come as a complete surprise either to European citizens or to their representatives, both at the national and European level.
- It must democratise the European decision-making system. Political union cannot be built except on a democratic basis as Member States and European Institutions must realise. The institutional reform of the Union must combine legitimacy, efficiency and effectiveness.
- To improve the Union's capacity to act, qualified majority voting should be the normal procedure in both the second and third pillars. The key should be "communitarising" cooperation in domestic and judicial affairs. The IGC will probably not reach an agreement as far as strict "communitarisation" of the third pillar is concerned or on the use of majority voting on the CFSP, but these objectives should be contained in the Treaty.
- The IGC should consider the inclusion of differentiation in the European Union as a way of allowing countries that are "willing and able" to move forward to integration to do so. Differentiation should not however be a sort of Europe a la carte. It should be enshrined in the Treaty only for those common policies that some countries are unable to subscribe to in the short, but not long, term.
- The inclusion of differentiation in the Treaty of European Union should follow the model of the Economic and Monetary Union. Every member country must be committed to the ultimate goals of the European Union and even those that cannot fully subscribe to some policies must

at least assure their solidarity with the others who do. Differentiation should therefore be pursued within the common institutional framework of the European Union.

All these objectives should be enshrined in the Treaty, even if their implementation will require time. If the IGC does not succeed in reaching an agreement over common objective however, the future of the European Union may be jeopardised.

The challenges facing the Union cannot be left to the mercy of minor agreements on the Presidencies, the number of Commissioners or the working languages. Important as they are, these questions can only be solved once a clear definition of the future of the European Union has been fully agreed upon. Modifications to the Treaty arising out of the main issues raised in this report are to be made.

Therefore, in practical terms, the IGC will be judged on how successful it is at the introduction of some few important measures like:

- Extending the co-decision procedure to all Community affairs;
- Extending majority voting procedures in the three pillars;
- Maintaining the present competencies of the Commission;
- Extending the role of the Court of Justice to the third pillar;
- Keeping a strict linkage between CFSP and common defence policy.