

## Commission Opinion, Reinforcing political union and preparing for enlargement (28 February 1996)

**Caption:** On 28 February 1996, with a view to the Intergovernmental Conference (IGC) on the reform of the Treaty on European Union scheduled to be held on 29 March 1996 in Turin, the European Commission publishes its priorities for strengthening political union in the European Union and for making preparations for the forthcoming enlargement.

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## Commission Opinion, *Reinforcing political union and preparing for enlargement*

1. The Intergovernmental Conference is the first stage in a busy timetable, which moreover depends on the Conference for its success: within the next four years, Europe has to have set up a single currency (by 1 January 1999), decided on its guidelines for defence, and particularly the future of WEU, established the Union's new financial framework, and adjusted its policies with a view to enlargement.

2. Since 1993 the Member States have adopted and given effect to a Treaty on European Union which derived from a broad, twofold aspiration:

- a determination to extract all the positive effects of the internal market by adding to it a single currency and convergence between the Member States' economic policies;
- a realization of the need to give the Union a genuine political dimension, so that it could make a more effective collective response to its internal requirements and, at the same time, be a forceful presence in the international arena.

These two aspirations are linked: a single currency, as a major integrating factor for those operating in the economy at large and for individual citizens, calls for a strong political and social identity.

3. The Treaty on European Union provided for a new Intergovernmental Conference to be held in 1996, to consolidate and strengthen the still-emerging Union.

For this purpose, in the first half of 1995 the Union institutions drew up a diagnosis of the functioning of the Treaty on European Union, in which their views converged on many points. The Reflection Group sums it up in a single sentence: the Union does not have the means necessary to achieve its ambitions.

In the Commission's view, this shortfall alone is argument enough for a substantial overhaul of the institutions.

4. The need to adapt the Treaty does not end there, however. In a way which inspires enthusiasm, history gives us an opportunity to bring the peoples of the continent together in an expanded Union.

The principle of enlargement is accepted. Two aspects of it stand out:

- it is no longer some far off prospect; the 1996 Intergovernmental Conference is probably the last and only opportunity all 15 Member States will have to reflect together about how the Union is to function in a wider framework;
- because of its scope and its diversity, this enlargement will be different from previous ones: an extended Europe is bound to be more heterogeneous and therefore more complex.

As the number of Union members increases, it creates a risk of the Union being watered down. As one Head of State put it, we have to avoid the situation where, as the last applicant country arrives, it joins something which no longer exists. Enlargement must be undertaken with safeguards for the achievements of forty years of European integration. These achievements are the basis of the Union's solidarity with the new Member States.

5. That is why the European Union cannot commit itself to this round of enlargement without making sure that changes, sometimes far reaching ones, are first made in the ways and means of its operation.

Similarly, the commitments undertaken in the Treaty on European Union must be fully respected, most particularly the establishment of economic and monetary union and comprising a single currency on the date fixed.

6. The forthcoming Conference will be a crucial one: the deepening and widening of the Union are intertwined. The Commission expects of the Intergovernmental Conference that it strengthen the Union so as to prepare enlargement around a clear political project. The Union must therefore:

- be closer to its citizens;
- make its presence felt in the world;
- adopt an institutional system which will work in an expanded Europe.

Subject to these conditions, the Commission is in favour of holding the Intergovernmental Conference.

## **I - A people's Europe**

7. Ordinary people must feel actively involved. The concept of European citizenship enshrined in the Treaty on European Union complements national citizenship.

This concept of citizenship has many aspects; it should be developed further:

- it is based on a European social model which guarantees that fundamental rights are recognized by all, and whose members are committed to mutual support;
- it provides for freedom of movement and establishment, to be enjoyed with a proper level of security;
- finally, it implies that Europe must be understandable for the individual; successive amendments to the Treaties have made European integration increasingly complex; it must be made simpler and more democratic.

### **1. Promoting the European social model**

8. Europe is built on a set of values shared by all its societies, and combines the characteristics of democracy - human rights and institutions based on the rule of law - with those of an open economy underpinned by market forces, internal solidarity and cohesion. These values include the access for all members of society to universal services or to services of general benefit, thus contributing to solidarity and equal treatment.

The European model finds expression in the Treaty on European Union, through general objectives such as a high level of employment or sustainable development, through specific policies, and through measures aimed at fostering the social dialogue.

As we enter a new political era, support for this model should be strengthened and made more explicit.

### **Human rights**

9. The Member States of the Union are defenders of human rights: all of them are party to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Union itself abides by the Convention in the decisions and action it takes.

However, the Union should signal its espousal of these values even more clearly, either directly in the Treaty or in signing the Convention itself. As the Union grows and diversifies, such a step becomes all the more necessary. An opinion on this matter is expected from the Court of Justice.

The Conference should also incorporate in the Treaty provisions banning discrimination of any kind - particularly on the basis of sex, thereby extending the provisions on equal pay - and condemning racism and xenophobia.

## **A Union based on the rule of law**

10. To consolidate the rule of law as the basis of the Union, the proper implementation and enforcement of Community law has to be assured, a task which falls primarily to the national authorities. This will be even more vital in an enlarged Community encompassing a wide diversity of national legal and administrative systems.

The Commission therefore believes that:

- the means available to it to enforce Community law should be made more effective, notably as regards the internal market;
- there should be a stronger role for the Court of Justice, particularly as regards compliance with its judgments.

11. Fraud against the Community's financial interests must be combated effectively. This cannot be done without a firm commitment by the Member States as well as the institutions.

The Commission proposes that the Union give itself an appropriate legal basis.

## **The social dimension**

12. Each Member State strives to secure social goals for all its people, through government policies or legislation - with the participation of trade unions, employers and civil society in general - in the context of an open economy.

The Member States, industry, trade unions and employers are those mainly concerned, but the Union should also take part in pursuing these goals. Ordinary people must be able to see that the Union is helping to ensure that they can exercise certain fundamental social rights.

The social dimension should be one of the central themes at the Conference. Above all there has to be a common base of social rights for all Union citizens. The Commission believes that to achieve this, the Social Protocol must be integrated into the Treaty, and clearer provisions laid down concerning cooperation between Member States on matters of social policy, such as the fight against marginalization or against poverty. Better ways must also be found of involving those sections of civil society capable of developing initiatives and new forms of solidarity.

## **Employment**

13. Unemployment is undermining the foundations of our societies, affecting nearly 20 million people, many of them young. While not overlooking the role of appropriate macroeconomic policies, cutting unemployment depends mainly on those directly involved in the economy.

In its 1993 White Paper on growth, competitiveness and employment, the Commission proposed a series of measures aimed at mobilizing all sections of society. This strategy is still relevant today: growth, competitiveness, and employment go hand in hand. Only a competitive economy can create lasting jobs.

Structured and coherent action by the Union has to contribute to restoring a high level of employment, which is already a Treaty objective.

To this end, the Commission proposes that specific provisions on employment be written into the Treaty. They would be grounded in experience accumulated by the Community and treat employment as a matter of common interest; they would aim at:

- establishing the conditions for a common strategy for employment;
- stimulating cooperation between the interested parties;
- consolidating the arrangements for multilateral surveillance of Member States' multiannual programmes;
- taking employment into account in all Community policies.

## **Sustainable development**

14. An environment benefiting from a high level of protection is one of the major concerns of citizens in the Union.

The Commission considers that the provisions of the Treaty directed at sustainable development and at a healthy environment should be reinforced in two ways:

- the right to a healthy environment, and the duty to ensure it, should be included in those provisions of the Treaty affecting the citizen;
- the environment should be specifically incorporated into the other policies of the Union.

## **2. Establishing an area of freedom and security**

15. The principle of the free movement of persons in the Union is enshrined in the Treaty. Yet its translation into practice is still subject to major restrictions:

- it is not fully applied across the whole Union;
- some Member States have had to resort to an ad hoc Agreement (the Schengen Agreement) to achieve progress in this field; this does not, however, offer the same guarantees as Community law.

For freedom of movement to be applied in practice, solutions must also be found to complex problems such as asylum and immigration, crime, drugs and terrorism. These problems have become international in scale; none of them stops at national borders.

Hitherto, the Union has been tackling these problems with outdated methods and resources.

The Commission proposes that the shortcomings of the Treaty in the fields of justice and home affairs - notably its ineffectiveness and the absence of democratic and judicial review - be remedied by setting clear objectives and providing for appropriate instruments and methods.

16. The general objective is to apply and reinforce the principle of freedom of movement and residence, already enshrined in the Treaty, in a context of ensuring security for all.

The specific objectives should cover four main themes:

- 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;
- the stimulation of effective cooperation between government departments of the Member States.

17. In addition, the following instruments and methods should be adopted:

### **Decision-making**

The unanimity rule generally applied at present either paralyses the Council or reduces decisions to the lowest common denominator. The Commission believes it should as a general rule be replaced by qualified majority voting.

Parliament must be more closely involved, especially in fields which can affect the individual rights of citizens.

Finally, the Commission should have the power of initiative in all the fields concerned.

### **Legal instruments**

The legal status of the joint action and the common position is obscure, while the entry into force of traditional international agreements may be delayed or uncertain: neither technique is suitable. The Union must have more effective legal instruments in this field.

### **Review by the Court**

Decisions taken should be subject to review by the Court of Justice, if only to guarantee the uniform interpretation of texts.

### **Working methods**

The present working structures in the Council operate at several levels and are ineffective. They should be simplified.

18. The Commission believes that the best way of attaining all these objectives would be to transfer justice and home affairs to the Community framework, with the exception of judicial cooperation in criminal matters and police cooperation. The transfer of jurisdiction is particularly necessary in the fields most closely associated with the movement of individuals, such as rules on crossing borders, fighting drugs, immigration, policy on nationals from non member countries, and asylum.

Following the same logic, the content of the Schengen Agreement should be incorporated in the Treaty.

## **3. Simplifying and democratizing Europe**

19. What the Union does has to be understandable: democracy depends on this. Openness is thus a commitment incumbent on all the institutions: the Union's activities must be accessible and comprehensible, so that those affected are in a position to obtain all the information they require.

The role played by the European Parliament is obviously crucial, and must be developed.

Openness on the one hand and democratic overview on the other will only be fully assured if national parliaments are more closely involved in Union affairs. This means they must have timely access to all the information they need, from the various institutions and bodies of the Union, and from their governments.

Europe must do less, so as to do it better. It has already made a start by giving effect to the subsidiarity principle enshrined in the Treaty. The Member States and the institutions must continue to advance along this road. This is the only way Europe will find the most effective level - Community, national or regional - at which to act.

Simplifying Europe means above all reviewing the institutional arrangements. The aim must therefore be to:

- simplify and consolidate the Treaties; and
- simplify the decision-making process and make it more democratic.

### **1. Simplifying and consolidating the Treaties**

20. As years have gone by the Treaties establishing the Union and the Communities have grown progressively more complex and progressively less understandable.

The existence of a dozen or so treaties and other basic texts, with a combined total of more than 700 articles - some fundamental, some technical - and the survival of a plethora of obsolete provisions make the European Union's primary legislation singularly inaccessible.

Moreover, the coexistence of three legally separate Communities and of a Union encompassing them all but not enjoying its own legal personality does not make for easy public understanding of the European integration process.

And the whole edifice is all the more complicated as a result of the methods of intergovernmental cooperation, applied to foreign policy and to justice and home affairs.

The task of simplifying and consolidating the Treaties should be pursued to the utmost extent.

### **2. Simplifying and democratizing decision-making**

21. The proliferation and complexity of both legislative and implementation procedures have made the Union's decision-making system unwieldy and opaque. The provisions governing budgetary procedure seriously need simplifying and the accumulated set of interinstitutional agreements should be consolidated.

It is vital for openness and democracy that the Intergovernmental Conference should put order into this system, and simplify it.

22. The Commission has four remedies to propose:

#### **Decision-making procedures**

There should be three types only - decisions adopted on Parliament's opinion, those adopted with its assent, and the codecision procedure involving Parliament and the Council.

#### **The codecision procedure**

The procedure should be applied more widely, and also made more simple. It constitutes a great step forward in the maturing of Parliament's legislative function. The Commission, acting in accordance with the Treaty, will present the Council with a report on extending the scope of the procedure.

The Commission's view is that the procedure has - by and large - worked well. But it could be quicker and more effective if it were simplified, notably by determining 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.

As for the scope of the codecision procedure, the Commission's view is that it should apply to the adoption of all acts of a legislative nature. This would entail clarification of what actually constitutes a legislative instrument. The codecision procedure should in any event be adopted for all decisions currently taken by the cooperation procedure, which should be abolished.

## **The assent procedure**

The scope of this procedure should be amplified and clarified. Parliament's assent should always be required for decisions on "constitutional" matters (Treaty amendments, own resources).

The procedure should not, on the other hand, be applicable to legislative decisions or for Community action programmes, where codecision should be the norm.

The scope of assent procedure as regards international agreements should be clarified; the role played by national parliaments could serve as inspiration here.

## **Implementing measures**

The provisions governing implementing measures are complex and opaque.

Decision-making procedures for implementing measures need to be changed to reflect the roles of the institutions more fully. This means that the Commission must exercise fully its function as the executive body, subject to review by the legislative authority. And the role of Parliament needs to be taken into account where the basic instrument has been enacted by codecision. Here, there should be a procedure whereby Parliament or the Council can object to a draft measure proposed by the Commission; in this case it would then be adopted by the codecision procedure itself.

In addition, the number of implementing procedures needs to be reduced, so as to avoid the frequent and sterile debates between the institutions about the procedures to be followed, and so as to reflect better the nature of the decisions to be taken. The Commission's proposal is that there should be at most three types of committee and procedure - the advisory committee, the management committee and the legislation committee - and that all the variants be dropped.

## **II. A clear identity on the world scene**

23. The Treaty on European Union calls on the Union to "assert its identity on the international scene". In practice, however, the additional influence that the Member States were to have achieved by acting together has eluded them. Their efforts have often been poorly focused and are liable to be even more so after enlargement.

The Conference 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 some areas, such as trade policy, economic assistance, development aid and humanitarian action, there is already a coherent single policy towards the outside world, though to varying degrees. Other areas, such as the common foreign and security policy, are still at an early stage in their development.

The prime objectives of the Conference should therefore be as follows:

- to bring together the various strands comprising foreign relations into a single effective whole, with structures and procedures designed to enhance consistency and continuity;
- to improve the common foreign and security policy at all stages of its operation;
- to establish a proper European identity with regard to security and defence, as an integral part of the common foreign and security policy.

### **1. Greater consistency in foreign policy**

24. The Union must be able to present a united front. Its foreign policy as a whole will not be effective until

there is proper coordination between its various components, for which responsibility is shared among different institutions.

The Treaty already requires the Council and the Commission to pursue a consistent foreign policy. But this has not happened under the Treaty as it stands, and the institutions' duties in this respect should be reinforced.

The Council Presidency and the Commission should ensure effective cooperation between the two institutions which are responsible for various aspects of foreign policy. This would considerably enhance the continuity and efficacy of the Union's foreign policy.

## **2. More effective Community action**

There are three areas which need to be examined.

### **Trade policy**

25. The Treaty should be updated 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. These developments are reflected in the increased responsibilities given to the World Trade Organization.

The Community's powers in these areas are poorly defined, leading to needless procedural wrangles. This detracts from the Community's ability to defend the interests of the Member States and their businesses.

The Commission believes that the common commercial policy should be clarified accordingly.

### **The Union's role in international organizations**

26. Under the present Treaty, the Union is ill-equipped to conduct negotiations in international organizations and take part in their activities, as it is increasingly called upon to do. Difficulties arise when responsibility for the various aspects is split between the Community and the individual Member States. Attempts to coordinate the Member States' positions are made more complicated and, as a result, less successful; the Union's negotiating position is weakened in many cases.

The Commission considers that the Treaty should include provisions explicitly designed to enable the Union to speak with one voice and thus defend all the relevant interests more effectively.

### **Coordination between Member States' policies and that of the Community**

27. Generally speaking, in fields where responsibility is shared, such as development, transport and the environment, the Member States' policies should be better integrated - by means of appropriate mechanisms - with that of the Community.

## **3. A firmer basis for the common foreign and security policy**

28. It needs first of all to be emphasized that the common foreign and security policy cannot develop without real political resolve on the part of the Member States, together with clearly defined objectives.

The Presidency and the Commission should together ensure the visibility of the common foreign and security policy. In any event, this requires a series of improvements, from the preparation of decisions through to their adoption and implementation. During the whole process, it is vital that the Presidency-Commission tandem operate coherently and efficiently. Within this overall context, the Commission, for its part, will strengthen its internal organization with this in mind. The Conference should consider ways and means of strengthening the Presidency, with support from the Council Secretariat.

### **Preparation of decisions**

29. The quality of analysis on which decisions are based must be improved. It is also important that all Member States share the same analysis.

To this end, a "joint analysis unit" should be set up, composed of experts from the Member States and the Commission. It would be a joint service, possibly with a contribution from the Western European Union. Its analyses would be useful for the Presidency and the Commission when drawing up and making more consistent their proposals. The location of this unit is less important.

The formulation of foreign policy would be facilitated by the incorporation of a permanent Political Committee into the Council's existing machinery for preparing decisions in Brussels.

### **Adoption of decisions**

30. The Treaty introduced the concepts of "common position" and "joint action" in connection with the common foreign and security policy. In practice, the distinction between these two instruments has become blurred, and a source of contention.

The Commission considers that clarification of their respective functions is necessary.

31. The need for unanimity makes decision-making difficult, regardless of which instrument is used.

The Commission takes the view that qualified-majority voting should be the norm for the common foreign and security policy. Specific rules would apply for decisions involving military matters.

There are also times when some, but not all, of the Member States wish to take action on a specific matter. It should be possible for such initiatives to have the status of Union measures, as long as they are not against the general interests of the Union, and provided that the latter is duly represented.

### **Implementation of decisions**

32. Representing the Union abroad and implementing its decisions involves many diverse tasks, because of the role of Member States and the various elements of foreign policy. The only constant is the single institutional framework: whatever the field, whether it be a matter for the Community or for intergovernmental cooperation, the decisions are taken by the Council.

Primary responsibility for implementation should lie with the Presidency and the Commission. But this clearly should not prevent certain tasks being allocated to specific personalities designated on an ad hoc basis.

33. The current procedure for common foreign and security policy decisions involving expenditure is both opaque and inefficient; separate negotiations have to be held for each decision.

The Commission proposes that expenditure incurred in implementing the common foreign and security policy be included in the Community budget, unless an express decision to the contrary is taken.

## **4. A European identity for security and defence**

34. The Union's foreign policy suffers from its inability to project credible military force. Events in recent years have made this abundantly clear. A genuine European identity in the security and defence field is indispensable. It requires clear political will on the part of Member States.

NATO remains at the centre of Europe's defence arrangements, and a European pillar should be developed

in it. In this context, the WEU plays a key role as already set out in the Treaty. As matters stand, Member States do not however have the same defence commitments in relation to NATO and the WEU.

The Commission believes that a proper common foreign and security policy has to extend to common defence.

35. Accordingly, the Conference should:

- allow Union commitments to missions aimed at restoring or keeping peace to be written into the Treaty ("Petersberg" missions);
- reinforce the Union's security capability by providing for Defence Ministers to play an appropriate role in the Council;
- review the role of the Western European Union with a view to incorporating it into the Union according to a settled timetable.

In this context, the Commission would recall that the security and defence of the Union are dependent on the existence of a solid industrial base performing credibly. This requires better integration of the armaments industry into the general Treaty rules, greater solidarity and cooperation including the establishment of an armaments agency, and a consistent approach to foreign trade.

### **III - Institutions for the enlarged Europe**

36. The aim of the proposals set out above is to facilitate both the internal and the external development of the European Union. They are at all events indispensable since they are intended to endow Europe with the means of achieving its ends. They are also the prerequisites for a successful enlargement.

37. This enlargement also raises its own specific questions.

The Commission considers that the Conference will have to address three issues:

- the institutional implications of the increased number of Member States;
- the need to eschew unanimous voting;
- the incorporation of a system of flexibility, enabling the Union to move ahead without being held back by its slowest members.

#### **1. Adapting the institutions**

38. The substantial increase in the number of Member States of the Union will have repercussions on the operation of the institutions. No one doubts that the difficulty of working together will increase with the number of participants: more languages, longer and less interactive meetings. There will be a host of practical problems and they cannot be ignored.

However, enlargement will also have genuine consequences for the institutions which makes it all the more important to maintain the overall balance between them.

#### **The European Parliament**

39. The number of seats assigned to each Member State in the European Parliament has so far allowed a balance to be struck between demographic reality on the one hand, and its compensation by an over-representation of the less populated Member States on the other. This has ensured that the main political groupings in all the Member States can be represented.

This principle should be maintained in an enlarged Union. However, to prevent the European Parliament from becoming disproportionately large, there will have to be a limit on the number of its members, however many Member States there are in the Union.

Parliament has itself proposed limiting its membership to 700. The Commission agrees. One effect of this reduction is that the electoral base of each member of Parliament will rise, to over a million in the most highly populated Member States. The Commission considers that this further intensifies the need for a common electoral procedure so as to ensure, as is moreover laid down in the Treaty, that the members are as representative as possible.

### **The Council**

40. The increase in the number of Member States will also make itself felt in the Council, in three main respects.

It is true that the existing half-yearly rotation of the Presidency means that Member States will occupy the Presidency less frequently. But the Commission sees the Presidency as a service and a task which each Member State assumes on behalf of the Union, and which helps to engender public support for Europe in the State concerned. The Conference should however examine various ways of extending the scope of the Presidency's powers of action, and the order of rotation of the half-yearly periods.

The weighting of votes between the Member States: qualified majority voting is an essential mechanism for decision-making by the Council. The weighting of the Member States' votes is a corollary, introduced as a compromise between Member States equal in law, but of different demographic sizes. Thus, the current weighting of votes reflects a generally accepted bias towards the less-populated States of the Union.

However, it is also a fact that almost all the countries concerned by enlargement have relatively small populations. Thus by retaining the current weighting, the relative weight of the smaller States would be increased.

The Commission therefore considers that in order to maintain the existing balance, there is justification, when enlargement comes, for either adapting the weighting of votes or introducing a new system which makes a reference both to a majority of the Member States and a majority of the Union's population.

The threshold for a qualified majority: enlargement is bound to make decision-making more complicated. The Commission therefore considers that no adaptation should have the effect of making decision-making more difficult. The normal threshold for a qualified majority, which has been set at around 71% since the inception of the Community, should therefore not be raised in any circumstances.

There is also a perceived need to restore to the General Affairs Council its role of coordination and arbitration in the various areas covered by the Treaty.

### **The Commission**

41. The prospect of a substantial increase in the number of Member States engenders a need to preserve the legitimacy, the collective responsibility and the effectiveness of an institution whose vocation is the completely impartial representation of the general interest.

This means first of all securing its right of initiative, its executive powers, and its function as guardian of the Treaties.

The Commission considers that its President should be designated by the European Council and approved by Parliament. The President should play a decisive part in the choice of the Commission's Members, the better

to ensure collegiality. In this regard, its Members should be designated by common agreement between the President and the respective governments of the Member States.

42. The Commission takes the view that, in the context of enlargement, the number of its Members should be reduced to one per Member State.

The Commission is aware that its composition and structure will have to be reexamined, above a certain number of Member States. The Conference should fix an appropriate procedure for doing this.

### **The Court of Justice**

43. The Court of Justice will also be confronted with the problem of numbers. The prospect of seeing some 60 judges at the Court of Justice and the Court of First Instance is a good ground for examining the consequences.

In its report to the Reflection Group, the Court stressed how important it is for all the various national legal systems to be represented. However, it also pointed out that "any significant increase in the number of Judges might mean that the plenary session of the Court would cross the invisible boundary between a collegiate court and a deliberative assembly. Moreover, as the great majority of cases would be heard by chambers, this increase could pose a threat to the consistency of the case-law".

The Commission similarly agrees with the Court when it indicates that the judges' term of office could be extended, while becoming non renewable. Such a reform would reinforce even more firmly the judges' independence.

### **2. Making majority voting the general rule**

44. In an enlarged Union, adherence to unanimity would often result in stalemate. Indeed, the difficulty of arriving at unanimous agreement rises exponentially as the number of members increases.

The Commission accordingly proposes that qualified majority voting become the general rule.

Two additional observations are then warranted:

Unanimity need not necessarily be replaced by qualified majority voting as defined at present. In particularly sensitive fields, decisions could be taken by "super qualified" majority voting, for example.

What holds true for Community legislation also holds true for the Treaty itself and amendments to it: if in future the Treaty could, as at present, be amended only by unanimity, it would be in danger of stagnating in the State in which the 1996 Conference left it, making future progress in the direction of European integration an unlikely prospect.

In this respect, it should be borne in mind that the Treaties currently contain provisions of various types, some of which certainly are of a genuinely fundamental nature (preamble, fundamental principles, objectives of the Union, operation of the institutions) while others are not (Union policies). The consolidation of the Treaties referred to earlier should make it possible to establish a clear distinction between these two types of provision.

The Commission considers that 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 one currently in force.

### **3. Organizing flexibility**

45. The European Union must not be for ever bound to advance at the speed of its slowest members.

This is even more true in an enlarged Community.

The Union has long practised certain forms of flexibility. Exceptions or exemptions, normally of a limited and temporary nature, are provided for in Community law. No one doubts that in the context of the accession of new Member States recourse will be had to this practice, until such time as they come to participate fully in all the common policies.

The Commission observes that, already, organized flexibility is the route sometimes to be followed for deepening the Union, as the example of economic and monetary union shows.

On the other hand, the Commission firmly rejects any idea of a "pick-and-choose Europe" (e.g. the Social Protocol) which flies in the face of the common European project and the links and bonds which it engenders.

46. The Commission takes the view, however, that the European Union must make it possible to have forms of cooperation or integration between those of its members wishing to progress faster and further in the attainment of the Treaty's objectives. This should be envisaged only after exhaustion of all other possible forms of action involving all the Member States under the Treaty.

The requisite flexibility will have to be guided by the following principles, so as to guarantee the unity of the Union:

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

The Commission, subject to review by the Court, will have to ensure that the principles set out above are respected.

## **Conclusion**

47. What the Commission would like to see is an Intergovernmental Conference with real ambitions. It is the opportunity for a genuine debate on Europe, on what Europe is about, on what course it is to take in the years ahead, and on everyone's role in this Europe. This debate must be opened up at once, in order to give the negotiators their bearings. At the ratification stage it will be too late.

In this debate the Commission intends to state some simple truths. First of all, the obvious - but sometimes forgotten - fact that the most striking success of the European venture has been the peace and prosperity it has generated. This incomparable heritage must now be developed, and extended to the other countries of a continent that has been divided for too long.

Second, there is the usefulness of the Community method. This novel approach - based on unprecedented institutions, the rule of law, and solidarity - has made Europe what it is today. But while the values must be preserved, the methods must at the same time be adapted to the new context: the shift to a more genuinely political Union and a Union soon to be made up of more than the current 15 members. This is what underlies the reforms advocated by the Commission.

Finally, there is the overriding requirement of political will. Setting clear objectives and providing the necessary tools is a sine qua non. The Union must equip itself with the means to match its ambitions. But none of this will lead anywhere unless it is founded on real political will. It is obvious that the problem of unemployment will not be resolved simply by inserting a chapter on employment in the Treaty. Just as it

will take more than a form of words to create a foreign policy. But anchoring provisions in the Treaty means that the problems have to be tackled by acting together.

Recognizing the difficulties does not mean giving in to them. The Conference should be the occasion to mobilize energy and resolve; to convey a message of confidence and determination to the people of Europe and the rest of the world. To demonstrate that the Union has clear objectives and the instruments to achieve them; that Europe - united in its diversity - is prepared to uphold and develop its model of society and to make growth and competitiveness work for a social and a cultural ideal; that Europe, by harnessing the strength of its institutions and the efforts of its Member States, will assume its responsibilities in the global arena. To make clear that Europe, far from being an aggregate of self-interest, is the sum of all the wealth of this continent.