

Memorandum from the Benelux, A balanced institutional framework for an enlarged, more effective and more transparent Union (4 December 2002)

Caption: On 4 December 2002, Louis Michel, Belgian Foreign Minister, Gijs de Vries, Netherlands Foreign Minister, and Jacques Santer, Luxembourg Member of the European Parliament — all three representatives of the Heads of State or Government of their country at the European Convention — send a memorandum to Valéry Giscard d'Estaing, President of the Convention, in which the Benelux countries call for a reform of the Community institutions.

Source: Memorandum of the Benelux : "A balanced institutional framework for an enlarged, more effective and more transparent Union". [ON-LINE]. [s.l.]: European Commission, [26.07.2005]. Available on http://europa.eu.int/constitution/futurum/documents/press/oth041202_en.htm.

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Memorandum from the Benelux, *A balanced institutional framework for an enlarged, more effective and more transparent Union (4 December 2002)*

The European Union is more than a union of states. It is also an ever-closer Union increasing the solidarity between the peoples of Europe. The next enlargement is proof of its vitality and attraction.

This memorandum formulates concrete proposals of the Benelux concerning the institutional architecture of the Union. This architecture has to be effective and democratic. It must allow the Union to realize its goals.

An enlarged Union must adapt itself so as to safeguard its dynamic and its capacity for action. At the same time, such an adaptation is needed to live up to the expectations of the European citizens in terms of legitimacy and transparency. The Convention is presently examining the means to attain this goal.

The Union must have strong common institutions, must favour and extend the Community method and must strengthen those institutional elements which can best further the common interest.

The Benelux does not favour the creation of new institutions. The challenge must be to make the existing institutions more effective and not to make the institutional architecture more complex.

Strengthening the institution, which guarantees the common interest: the Commission.

The Commission is the institution that guarantees the common interest. It is the engine of the European integration. This function will be even more important in an enlarged Union with more numerous and more diverse states. Therefore the Commission needs to be reinforced as follows :

- A Commission President elected by the European Parliament according to a procedure to be determined and by a three-fifth-majority vote of its members. Then the Council, in its composition of heads of state and government, will pronounce itself by statuting with qualified majority.
- A strong Commission and, in accordance with the Nice decisions, eventually reduced in numbers. A Commission guaranteeing the equality of all member states in both its operation as its composition, based on the principle of equal rotation.
- A Commission responsible before the two institutions involved in its appointment and subject to dismissal through censure by one of those institutions.
- A Commission mandated with the exclusive right of initiative in legislative matters.
- A Commission operating as a college.

Improving the legislative functions.

The Union's legislative operations should be carried out using the Community method under the following conditions :

- Exclusive right of initiative for the Commission. Council and European Parliament can invite the Commission to introduce a legislative proposal. If the Commission chooses not to respond to the invitation, it needs to motivate its decision.
- Extension, in legislative matters, of qualified majority voting.
- Extension of the Community method to include legislation concerning the fight against crime.
- Full application of the Community method to legislation concerning asylum, migration and judicial cooperation in civil matters.
- Publicity of the legislative meetings of the Council.

The European Parliament needs to confirm itself, together with the Council in its legislative role, as a real legislative body:

- Extension of the co-decision procedure in legislative matters.
- Decision-making powers, together with the Council, in the full spectrum of expenditure. Abolition of the

distinction between compulsory and non-compulsory expenditure, in order to guarantee the equality of the two bodies, which have budget authority on all expenditure. Inclusion in the treaty of the notion of long-term financial perspectives, which should be respected in the yearly budgetary process.

- The financing of the Union should be guaranteed through a stable, just and autonomous system, defined by the common institutions.

Improving the executive functions.

The executive operation should be exercised as follows :

- Responsibility of the Commission to monitor the enforcement of Community law, under the judicial control of the Court.
- Responsibility of the Commission for adopting regulatory measures in the application of legislation. European Parliament and Council may define the conditions for this in the underlying legislative act.
- The member states remain responsible for the enforcement and the means of action of the coordinated policies, but should act in function of the goals, the principles and in certain cases the common indicators approved by Council, on recommendation or proposal by the Commission.
- Closer coordination of economic policies within the framework of the Broad Economic Policy Guidelines (BEPG), in order to guarantee macro-economic stability, growth and employment, social progress and sustainable development. The BEPG must be fixed on a multi-annual basis in order to enhance their effectiveness.
- Strengthening the role of the Commission in monitoring the Stability and Growth Pact.
- Extension of the community decision making mechanism inside Council to include the definition and follow-up of economic policy within the Euro zone, in which only those states which are members of this zone can participate. This mechanism should get be carried on through the external representation of the Euro zone, in order to guarantee unity, cohesion and continuity.

Strengthening the European Council's role of providing impetus.

The strategic role of the European Council needs to be confirmed:

- The European Council provides the necessary impetus for the development of the Union and defines the general policy guidelines.
- The European Council approves the Union's multi-annual programme on the basis of a Commission proposal.
- The European Council, at which the High Representative/ Commissioner for External Relations participates, provides the impetus and policy direction required for the Union's actions in the field of the CFSP.
- All members of the European Council as a whole will exercise this role of political orientation.

Reforming the Council Presidency

The Benelux is of the opinion that the system of the Council Presidency must be reformed in order to guarantee the effectiveness and the continuity of Council's activities in an enlarged Union. The status quo is no longer a viable option.

At the same time, we must safeguard the principle of equal treatment of all member states, just as the balance between the institutions of the Union.

The Benelux is of the opinion that the proposal of President of the European Council, appointed outside the circle of its members and for a long period, does not come up to these conditions.

In determining the Council Presidency, the role of the Member States must be respected.

The Benelux favours a distinction between the legislative and executive functions within the European

Union's institutions.

To this end, the Commission must surely chair the General Affairs Council and the External relations Council. Thus, the President of the Commission must chair the General Affairs Council and the High Representative/ Commissioner for External Relations must chair the External Relations Council.

Furthermore, the Benelux favours maintaining rotation on the level of the European Council and specialised councils. The Benelux will in any case never accept a President elected from outside Council.

Engaging the national parliaments without opposing national and European sovereignty

The most urgent thing to do is to strengthen the possibilities of the parliaments of the member states to exercise control over their representatives in Council :

- The Commission forwards its legislative proposals to the parliaments of the member states.
- The Commission forwards its legislative programme to the parliaments of the member states.
- Better exchange of information through a strengthened COSAC.

The Convention, through which the national parliaments are engaged on a broad basis in the process of revising the treaty, should be extended to any future amendments to the constitutional treaty.

The Benelux rejects the creation of a Congress of the peoples of Europe. This can only increase the institutional complexity of the Union, and will not create any added value with regard to the present situation.

Regarding the creation of a consultation mechanism that involves the national parliaments in an ex ante control of the principle of subsidiarity, the Benelux is of the opinion that this mechanism should at least live up to the following conditions:

- The Commission must have the liberty, after re-examination and through a motivated advice, to maintain, modify or withdraw its proposal.
- No right for the national parliaments to turn to the Court a posteriori. The parliaments should exercise their right of control on their representatives in Council and not by means of judicial proceedings.

A coherent institutional framework guaranteeing an effective EU external policy

The capability of the Union to influence international events is dependent on the cohesion between its internal and external policies, on a common will shared by the institutions and the member states, on the availability of adequate means and on the coherence in voicing the position of the Union:

- The roles of High Representative for the CFSP and Commissioner for External Relations should be performed by a single person (known as “double hatting”), who enjoys the status of Commission Vice President, but operating in the field of CFSP and CESDP under the authority of Council. The High Representative/Commissioner for External Relations is nominated by qualified majority by the Council in its composition of Heads of State and Government and in accordance with the President of the Commission. He exercises his competences in accordance with the community procedures or in accordance with the procedures, which apply specifically for the CFSP in function of the field of action concerned. He is discharged of his role as Council Secretary General. He is responsible for the external representation of all issues relating to CFSP or CESDP.
- The Commission performs external representation for all other policies of the Union, as is already the case at the WTO.

Even before the Constitutional Treaty enters into force, the High Representative should be able to participate in the meetings of the Commission. The analysis and policy planning unit, which is already at his disposal, should be reinforced during this period and become a common service for him and the Commission.

After the coming into force of the new treaty, the High Representative must have the right of initiative in the field of CFSP and should be able to refer to the services of the Commission, which for questions related to the CFSP could be reinforced by experts from the member states.

The Benelux countries invite current and future member states, which share this vision of the future of the European Union to support the proposals outlined in this memorandum.