

Basic principles of Austria's position for the IGC on institutional matters (10 February 2000)

Caption: On 10 February 2000, the Austrian Permanent Representation sends the basic principles of the position adopted by the Austrian Federal Government for the Intergovernmental Conference on institutional matters to Javier Solana, Secretary-General of the Council/High Representative for the Common Foreign and Security Policy.

Source: Conference of the Representatives of the Governments of the Member States Letter – Basic principles of Austria's position, CONFER 4712/00. Brussels: 15.02.2000. 9 p.

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**CONFERENCE
OF THE REPRESENTATIVES OF THE
GOVERNMENTS
OF THE MEMBER STATES**

Brussels, 15 February 2000 (17.02)

CONFER 4712/00

LIMITE

LETTER

from : Austrian Permanent Representation, signed by H.E. Mr Gregor WOSCHNAGG
dated : 10 February 2000
to : Mr Javier SOLANA, Secretary-General/High Representative
Subject : Basic principles of Austria's position

Sir,

Please find enclosed the basic principles of the position on institutional matters adopted by the Austrian Federal Government for the Intergovernmental Conference. I should be grateful if you would circulate this paper as a conference document.

(Complimentary close).

(s.) Gregor WOSCHNAGG
(Ambassador)

ANNEX

**INTERGOVERNMENTAL CONFERENCE
ON INSTITUTIONAL MATTERS**

BASIC PRINCIPLES OF AUSTRIA'S POSITION

Basic points concerning the Intergovernmental Conference

In the next few years the enlargement of the European Union to include the countries of Central and Eastern Europe, Cyprus and Malta will present the Union with one of the greatest challenges it has ever faced. With the conclusions of the Helsinki European Council the enlargement process entered a new phase. In February 2000 the 15-member European Union will begin accession negotiations with a total of 12 countries. As the Union comes close to doubling its membership in the years ahead, and becomes increasingly heterogeneous, it must take steps to secure its ability to act and to function in the future.

Following the successful completion of the Agenda 2000 negotiations, the European Union now needs to create the institutional conditions for carrying through enlargement successfully as well. Reform of the composition and functioning of the Union's institutions is essential. All Member States must now bring to bear the necessary political will to ensure that in future the Community institutions can continue to function and the Union to take effective action.

These were already the considerations behind the programme for the 1996 Intergovernmental Conference, which brought major progress in the field of institutional reform, including an extension of co-decision with the European Parliament, a streamlined and trimmed-down legislative process, a stronger Commission President and an enhanced Committee of the Regions. And yet the negotiations that led to the Treaty of Amsterdam failed to produce agreement on central institutional issues. Now that the European Union is to be made ready for enlargement, the need to resolve these issues is all the more pressing.

At the Amsterdam European Council in June 1997 it was therefore decided that the institutional matters left unresolved at the 1996 Intergovernmental Conference would be discussed again prior to enlargement. The "Protocol on the institutions with the prospect of enlargement of the European Union" appended to the Treaty of Amsterdam draws a distinction between enlargement involving up to five new Member States and enlargement bringing the membership to over twenty. Whereas the former involves only reform of the composition of the Commission and the weighting of votes in the Council, the latter triggers a comprehensive review of the composition and functioning of the institutions.

Such is the momentum of the enlargement process that Austria, like the majority of Member States, believes that events have overtaken the distinction made in the Protocol. If it is to prepare properly for enlargement the Union must proceed now, at the forthcoming Intergovernmental Conference, with a broad-based and far-reaching review of institutional questions.

Working on the basis of the conclusions of its meetings in Vienna and Cologne, the European Council acknowledged this fact at its Helsinki meeting on 10 and 11 December 1999 and decided that the Intergovernmental Conference would examine the following institutional questions:

- the size and composition of the Commission,
- the weighting of votes in the Council,
- the possible extension of qualified majority voting in the Council, as well as
- other necessary amendments to the Treaties arising as regards the European institutions in connection with the above issues and in implementing the Treaty of Amsterdam.

While this falls short of being the full, detailed list of topics for the Intergovernmental Conference, Austria considers it important that all four of these areas receive equal attention and be suitably discussed in the negotiations. Austria also attaches great importance to the fact that the Portuguese Presidency may propose additional issues to be taken on the agenda of the Conference. As in the past, Austria will continue to press for substantial reforms.

Austria does not see this as incompatible with the limited timeframe that the European Council has set for the negotiations. The Conference is meant to have finished work and reached agreement on the necessary amendments to the Treaties by December 2000. Once national ratification procedures have been completed the Union should then be in a position to start admitting new Member States from the end of 2002, as soon as they have demonstrated their ability to meet the obligations of a Member State and the negotiating process has been successfully concluded.

In line with the position of the Federal Government at the 1996 Intergovernmental Conference, Austria will be guided by the following considerations in the forthcoming negotiations:

- Efficient and transparent institutions and meaningful decision-making processes in the EU make for greater confidence and involvement in the Union and its institutions on the part of the citizen.
- Because of its concern for the Union to be capable of action and able to assume its responsibility for stability throughout Europe, Austria is in favour of consolidating the institutional structure of the European Union and will accordingly oppose any weakening of the current degree of integration. The most important aim of the forthcoming Intergovernmental Conference is to create the conditions for the EU institutions to remain operational and efficient in an enlarged Union.
- On the issue of taking account of population size, Austria's interests naturally coincide with those of the smaller and medium-sized Member States. The way the institutional setup of the European Union enables these countries to share in decision-making and to look after their own interests is for Austria a vital feature of European integration.

- The forthcoming Intergovernmental Conference should concentrate on its essential task of preparing the Union's institutions for enlargement. Community policies do not enter into the negotiations. The work on a European security and defence policy and on the Charter of Fundamental Rights of the Union running concurrently with the Intergovernmental Conference might require Treaty amendments that could be dealt with by the Intergovernmental Conference at a later date.

1. Size and composition of the Commission

As one of the smaller Member States, Austria has a special interest in seeing the Commission remain a strong and independent institution. The Commission must be able to continue, effectively and with maximum objectivity, to perform its three main functions of defending the common interest, exercising sole right of legislative initiative and monitoring compliance with Community law. The decisive role played by the Commission as the "engine" of European integration will expand much further with enlargement of the Union.

In view of the importance of the Commission in the integration process, Austria regards the right of every Member State to appoint at least one member of the Commission as vital. For Austria, this right to nominate a member is fundamental to the credibility and legitimacy of the Commission, which must be able to ensure overall consistency of its proposals and take different interests and concerns into account.

For the forthcoming Intergovernmental Conference a solution along the lines of the "Protocol on the institutions with the prospect of enlargement of the European Union" appended to the Treaty of Amsterdam could be found. The Protocol stipulates that, under certain circumstances, the five largest Member States (Germany, France, United Kingdom, Italy and Spain) could forego their right to nominate a second Commissioner.

While the increasing interconnection of policy areas makes it perfectly sensible in certain cases to ask certain members to perform special coordinating functions, Austria rejects the idea of "junior Commissioners". The collegiate nature of the Commission and the equal status of all its members, each with a seat and a vote in the college, must be preserved.

Ultimately it is not the size of the Commission that determines its capacity to act. Even a Commission with over 20 members can work efficiently. More to the point are administrative reforms, such as reorganisation of departments, reform of personnel management and financial control. But these reforms, which the Commission has already put in hand, will probably not be discussed at the Intergovernmental Conference, as they require no amendments to the Treaties.

2. Weighting of votes in the Council

As with every previous enlargement, the accession of Austria, Sweden and Finland prompted only an arithmetical adjustment to the weighting of votes in the Council. In allotting votes the population of the new Member States and the balance between larger and smaller States was taken in to account. The threshold required for a qualified majority remained unchanged at just over 71% of all the votes. Since, apart from Poland and Romania, all the States whose accession is now being or soon to be negotiated fall into the category of smaller EU Member States, a further shift in the weighting to their advantage can be expected. In these circumstances, a number of Member States believe that the weighting of votes in the Council needs to be adjusted.

Here too Austria's starting point is the "Protocol on the institutions with the prospect of enlargement of the European Union". That is to say, if the five largest Member States forego their right to nominate a second Commissioner, Austria is prepared to consider an adjustment of the weighting of Council votes.

Austria's agreement will, however, be withheld if the new system would result in too great a shift of influence away from the smaller States. All that can be considered is a modest adjustment such that the relative strength of these States in the EU decision-making process is not eroded.

Any adjustment to the weighting of votes should, however, be based on objective, verifiable criteria that the European public can easily grasp. It is important, too, that the Intergovernmental Conference find a lasting solution that does not have to be renegotiated at every stage in the enlargement process. Any new model of vote weighting should in any case come into force only at the time of enlargement.

Austria will measure any proposed system by this yardstick. A model must be found that strikes a balance between (proportionally) over-representation of smaller Member States in the decision-making process - the integration aspect - and consideration of population size - the democratic aspect.

At present a qualified majority can only be formed by States that represent at least 60% or so of the Union's population. Austria thinks that precautions could be taken to ensure that in an enlarged Union the majority of the population cannot be outvoted by the minority.

The voting rules should not, however, be amended at the expense of efficient decision-making. The present qualified majority threshold (71.6% of the vote) should not therefore be increased or the blocking minority reduced.

3. Extension of qualified majority voting in the Council

The impending reform of the institutions serves the primary purpose of guaranteeing the ability of the EU Institutions to function and the efficiency of the decision-making process in an enlarged Union. In those areas in which unanimity is required, an increase in the number of Member States also means an increase in the risk of blockages. This would mean a significant loss of operating ability for the Union. Moreover, experience shows that the mere possibility of majority decisions results in greater receptivity to consensus and compromise, making for a more dynamic decision-making process. Accordingly a vote is actually taken only rarely in practice, as most decisions are taken by consensus. In the end, the increasing tendency to bypass the unanimity requirement and the move to qualified majority decisions also reduces the risk of inappropriate linkages when decisions are taken.

From this point of view Austria is in principle positive with regard to an extension of majority decisions and will thus continue the pro-integration stance which it had already adopted at the last Intergovernmental Conference. The outcome of the Intergovernmental Conference on the Amsterdam Treaty was unsatisfactory on this point. There are still a considerable number of provisions in the Treaties requiring unanimous decisions. As at the last Intergovernmental Conference Austria's opinion is that the provisions of the Treaty still calling for unanimity must be restricted to a minimum with a view to enlargement. Progress in this matter is for Austria a central requirement for successful institutional reform.

As regards the areas in which the unanimity rule is to continue to apply, clear and objective criteria are needed. Consideration in this connection might be given to legislative acts of a constitutional character, legislative acts requiring national ratification, derogations from the internal market and the own-resources decisions. In addition, we feel that unanimity is necessary in certain particularly sensitive areas such as water resources, regional planning, land use and choice of energy sources, as well as in other areas still to be specified.

4. Further topics for the Intergovernmental Conference

It is the aim of the Intergovernmental Conference to prepare the Union for the coming enlargement and ensure that the bodies of the EU will continue to be able to function efficiently in the future. Given the size of the enlargement programme, the Intergovernmental Conference will however only be able to fulfil these tasks if a wide-ranging approach to institutional reform is adopted. Limiting the list of topics for the Intergovernmental Conference merely to those matters which could not be

resolved in Amsterdam, i.e. the composition of the Commission, weighting of votes in the Council and extension of majority voting, would certainly not be adequate to meet this challenge and would in all probability mean that further institutional reforms would be necessary before enlargement.

Austria has therefore from the outset favoured a practical approach to reform, and one as broad as possible, which would enable an adequate response to be made to the current pressure for reform. In the Austrian view, the question of the scope of the mandate for the Intergovernmental Conference is of decisive importance for the successful conclusion of the reform process. It should not be forgotten in this connection that the overall outcome of the reform must be acceptable and comprehensible to the European public. Furthermore, a comprehensive approach to reform also offers an increased margin of manoeuvre for the negotiations.

According to the conclusions of the Helsinki European Council, the Intergovernmental Conference will also examine further necessary amendments to the Treaty "arising as regards the European institutions in connection with the above issues and in implementing the Treaty of Amsterdam". The Portuguese Presidency will report to the European Council on the progress achieved in the Conference and where appropriate propose further items for the Conference's agenda.

In Austria's view, the following topics should in any case be included in the negotiations:

- Individual responsibility of members of the Commission:
Following the inter-institutional crisis which ended with the resignation of the entire Commission in March 1999, some important gaps in the Treaties have become apparent, concerning in particular the individual responsibility of the members of the Commission. This entire area must accordingly be discussed within the framework of the Intergovernmental Conference. One option in this connection might be the insertion in the Treaty of the right of the President of the European Commission to dismiss individual members of the Commission.
- Co-decision with the European Parliament:
The European Parliament has been considerably strengthened by the Treaty of Amsterdam and today to a great extent assumes the role of a co-legislator of the Community. Building on the progress achieved in Amsterdam, the issue now is the refinement and consolidation of its powers. In connection, therefore, with the extension of majority decision-taking in the Council contemplated in the context of the Intergovernmental Conference, the question arises of the possibility of coordination with the European Parliament in such decisions. For these, Austria believes that it should be a matter of principle, in those areas where the transition is made to a qualified majority, to apply the codecision procedure. In matters relating to economic and monetary union, the cooperation procedure now existing only in that area could be partly substituted by the codecision procedure.
- The European Court of Justice:

The central position of the European Court of Justice in ensuring justice in the interpretation and application of Community law is in the Austrian view an essential guarantee of the success of European integration. Austria has accordingly welcomed the strengthening of the Court's position under the Treaty of Amsterdam, which has increased its responsibilities inter alia in the areas of migration, asylum and visa matters. The extension of the jurisdiction of the European Court of Justice by the Treaty of Amsterdam does however lead to an increasing burden of work which is likely to rise still further with the coming enlargement. For this reason the proposals put forward in a discussion paper by the European Court of Justice should be examined in detail in the Intergovernmental Conference. Austria considers it vital in this context that reform of the European Court of Justice should under no circumstances lead to a weakening of existing legal protection within the Union.

– Arrangements concerning the number of members and allocation of seats in the EU Institutions:

With a view to the accession of new Member States, the number of members and/or the allocation of seats to Member States in the EU Institutions might perhaps be given consideration in the Intergovernmental Conference. With regard to the European Parliament, for which an upper limit of 700 members was laid down in the Treaty of Amsterdam, the question arises of the formula for allocating the number of representatives among the individual Member States.

Apart from these areas, Austria's position is in principle open with regard to any other approaches to institutional reform. In fact, the discussions parallel to the Intergovernmental Conference concerning the European security and defence policy and the Charter of Fundamental Rights might also ultimately require amendments to the Treaty. The Intergovernmental Conference should therefore maintain an open position on that possibility also.