

Benelux memorandum on the IGC (7 March 1996)

Caption: This letter reproduces the memorandum sent on 7 March 1996 by the Prime Ministers and Foreign Ministers of the Benelux countries to Lamberto Dini, Italian Prime Minister and Chairman of the Intergovernmental Conference. Following the meeting of their representatives on 6 March 1996 in The Hague, the three states express their hopes with regard to future institutional reforms.

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CONFERENCE
OF THE REPRESENTATIVES OF THE GOVERNMENTS
OF THE MEMBER STATES

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LIMITE

TRANSLATION OF LETTER

from : Benelux, signed by Mr L.J. HANRATH, Deputy Permanent Representative of
the Netherlands

dated: 8 March 1996

to ~~Mr Jürgen TRUMPF, Secretary-General of the Council of the European Union~~

Subject: Benelux memorandum on the Intergovernmental Conference

Sir,

I am pleased to enclose a letter of 7 March 1996 from Prime Ministers J.L. Dehaene, W. Kok and J.C. Juncker and Foreign Ministers E. Derijcke, H. Van Mierlo and J. Poos, following the summit meeting between Belgium, the Netherlands and Luxembourg held yesterday in The Hague, together with the memorandum agreed on at that summit in preparation for the Intergovernmental Conference.

(Complimentary close).

(s.) L.J. HANRATH

Enclosures

ANNEX I

The Prime Minister and the Minister for Foreign Affairs of the Kingdom of Belgium

The Prime Minister and the Minister for Foreign Affairs of the Grand Duchy of Luxembourg

The Prime Minister and the Minister for Foreign Affairs of the Kingdom of the Netherlands

Brussels, Luxembourg, The Hague, 7 March 1996

Sir,

On 29 March 1996 you will be hosting the European Council meeting in Turin, signalling the start of the Intergovernmental Conference for the revision of the Maastricht Treaty.

Besides the task of successfully completing that Conference, the European Union will be faced over the years ahead by a number of important decisions and major challenges. These concern not only the move to the third stage of economic and monetary union but also the Structural Funds, the common agricultural policy and the system of financing, as well as the accession of further countries.

Even though these issues are very closely linked, if the Conference is to be a success they need to be tackled as far as possible separately. This means above all that the IGC should be completed well before decisions are taken on EMU. It also means, though, that the IGC will have to bring about reforms enabling the other challenges faced by the Union to be met.

Belgium, the Netherlands and Luxembourg, whose Prime Ministers and Ministers for Foreign Affairs have met today in The Hague, have set out in the attached memorandum their thoughts regarding the reforms to be decided on at the IGC, thoughts which reflect their Community aspirations.

Mr Lamberto Dini
Prime Minister of the Italian Republic
President of the European Council

For it is our belief that only the Community approach, which has ensured the success of European integration, will in future be able to strike a balance between the interests of the Union and those of each of its Member States. That approach provides the best guarantee of the European Union's ability to continue to conduct policy effectively. Its hallmarks are the Commission acting as a driving force, majority decision-making, democratic accountability at European level and legal safeguards, for Member States and their citizens alike, with the Court of Justice as their watchdog.

We stand by the principle that European integration is a process in which all Member States participate in full. That is why it is important for each Member State to contribute to the greatest possible extent to the furtherance of that process. Nevertheless it must be possible, at a time when – for whatever reason – one or other of the Member States is not yet in a position to do so, for the others to go further in European integration. In this connection, arrangements such as those set out in the memorandum need to be followed. We thus share the views stated by Chancellor Helmut Kohl and President Jacques Chirac on this point in their letter of 6 December 1996 to the Spanish Prime Minister, Felipe González.

Lastly, we warmly welcome the opinion delivered by the Commission on 28 February 1996 with regard to the IGC, which will most certainly provide a positive input to its proceedings.

We have also sent this message to our colleagues in the European Council and to the President of the European Parliament.

(Complimentary close).

Jean-Luc Dehaene

Wim Kok

Jean-Claude Juncker

Erik Derijcke

Hans Van Mierlo

Jacques Poos

ANNEX II**Memorandum from Belgium, the Netherlands and Luxembourg
in preparation for the IGC**Introduction

European integration has played a crucial part in establishing peace, prosperity and well-being in Europe. The Governments of Belgium, the Netherlands and Luxembourg are firmly resolved to make sure that there is no going back on those achievements. They therefore consider it essential for the European integration process to continue along the path successfully followed up to now, of close cooperation between States voluntarily sharing their sovereignty, which have accordingly transferred powers to common institutions.

Europe has seen far-reaching changes since 1989. The need to continue the integration process still remains. Given its duty to contribute to security and stability in Europe, the European Union will also have to expand. If an enlarged European Union, which will be more varied in composition, is in future to take its place and the place expected of it in the world, there will be a need, in addition to *deepening* and *broadening*, to allow for *differentiation*.

It is in that firm belief that the three Governments will be taking part in the IGC and are putting to their European Union partners the proposals set out below.

1. The general approach and objectives of the Intergovernmental Conference*Deepening*

The three countries reaffirm their belief that the IGC must concentrate on increasing European integration, i.e. on strengthening the Union's operation in the fields of the internal market, foreign policy and cooperation on justice and home affairs. Such further integration,

which will also have to cover employment, will help create a climate of confidence, thus smoothing the way ahead to the third stage of EMU. EMU itself, though, is not on the agenda for the IGC.

Broadening

Deepening is also necessary with a view to broadening. The success of the IGC and the implementation of EMU should result in a stronger European Union, providing a more solid basis on which to take in new members. The countries in line for membership would have nothing to gain from joining a Union left weak and unable to act.

Differentiation

Differentiation within integration has always been practised ever since the Community began, EMU being the most recent instance of it. The three countries by no means reject a differentiated approach, which in an enlarged Union is likely to be inevitable, provided it does not give rise to the Union's disintegration. *An à la carte*

Europe is unacceptable. Differentiation must therefore satisfy certain criteria:

- any differentiated integration must be compatible with the objectives of the Treaty on European Union, as endorsed by all Member States;
- it must be used as a last resort and allow suitable opportunities for those countries not taking part to join in at a later stage;
- the *acquis communautaire* and the proper working of the internal market must not be placed in jeopardy;
- the single institutional framework must be upheld;
- in applying the criteria and arrangements for differentiation, the Commission must play a leading role.

2. Building on Union policies

2.1. Fundamental rights

The European Union, its Member States and its institutions must safeguard human rights. A Member State of the Union should not be allowed to get away with human rights violations; the Treaty should make provision for penalties possibly going as far as suspension of

some membership rights.

An explicit reference to protection of human rights and fundamental freedoms for Europe's citizens, to basic social rights and to equality of men and women and the combating of racism and xenophobia should be included in the Treaty.

2.2. Equality of languages and cultural diversity

The principle of equality as between Community languages must be upheld.

The development of common policies should respect and foster cultural diversity within the Union.

2.3. Community policy

The revision of the Maastricht Treaty must first ensure that the *acquis communautaire* is upheld and promote its development. Without the move to the third stage of EMU in accordance with the criteria and the timetable laid down in the Treaty being affected, the following are priority objectives:

- completing and strengthening the internal market;
- firmer action on behalf of employment, a major concern for Europe's citizens.

The internal market

In order to strengthen the internal market, it will be necessary to develop some flanking policies.

The prime need is to have a common social core for all Union citizens. For this purpose, it is essential to begin by incorporating the content of the Social Protocol into the Treaty so that it applies to all Member States.

With regard to environmental protection, in order to contribute to the sustainable development to which people are entitled, the Treaty provisions will have to be clarified so

that environmental policy is better integrated with other Community policies.

Lastly, where this proves necessary for the proper operation of the internal market, it will be necessary to work on aspects of fiscal harmonization.

Employment

Since this is primarily a national responsibility, the supporting role played by the EU in promoting employment needs to be spelt out in the Treaty. Under the present Treaty, the Union already contributes to establishing a favourable environment for job creation. However, the Union can make a greater contribution to improving Europe's worldwide competitiveness, while upholding our socio-economic achievements. New Treaty provisions on employment should be directed at the objectives set out below.

In order for their action to be mutually reinforcing, bearing in mind the extra contribution made by a concerted policy, Member States' employment policies should be coordinated, in particular by means of recommendations put forward annually by the Commission for approval by the Council.

Particular attention should be paid here to:

- measures improving the operation of the labour market and mobility;
- training measures;
- obstacles holding back the effect of growth on employment;
- measures with a bearing on labour costs;
- measures to facilitate access to the labour market for the disadvantaged.

While remaining within the current rules on budgetary discipline, the Community should more extensively allocate existing financial resources to job-creating investment in the Member States, in particular where such investment will bring transnational benefits.

An Employment Committee should be set up to monitor employment issues and issue opinions on the subject.

A European employment promotion strategy will be more productive once management and labour are able, at European level too, to make an active contribution and shoulder their responsibilities. This role is already explicitly recognized in the Social Protocol referred to earlier, which is all the more reason to include that Protocol in the Union Treaty.

2.4. The Union's foreign policy

Policy consistency

What is lacking is unity in the Union's external action. The three countries attach great importance to consistency in the Union's external action as a whole, bearing in mind the single institutional framework.

In order to secure greater unity in the Union's external representation, they would point to the need for a stronger role for the Commission. At the same time, the rules on respective activities and relations between the Commission and the Council need to be redrawn.

Common foreign and security policy (CFSP)

If the European Union is to conduct a credible foreign and defence policy within its own continent and worldwide, it will be necessary to strengthen the CFSP. This is because there is at present an obvious weakness both in *policy-making* and *decision-making* and in the *implementation* of the CFSP.

CFSP policy-making

The framing of a genuine foreign policy capable of anticipating events and taking the initiative requires suitable instruments. These are needed on three levels:

- the Commission, which already has a right of initiative, should use it to the full;
- an analysis and planning unit should be set up, with the close involvement of Member States and the Commission and also possibly the WEU Secretariat. This will enable Member States to exchange and assess information more effectively. As a result of such

pooling of information, the ability to devise and establish common policy objectives in preparation for joint action will be improved. The unit could be headed by a senior official, appointed by the Council with the Commission's agreement. The unit could issue opinions for the Council and the Commission;

–in the CFSP field, the European Union needs to be able to act swiftly on an ongoing basis. There is therefore a need to improve Member States' ability to coordinate in Brussels between meetings of the Political Committee by setting up a standing group, to work within existing structures preparing for Council meetings.

CFSP decision-making process

The need for unanimity often paralyses the decision-making process. Alternative arrangements making allowance for important national interests should be considered, for instance:

- a less-than-full consensus or a super-qualified majority;
- qualified-majority decision-making for some CFSP areas to be determined;
- qualified-majority decision-making where proposals originate from the Commission.

CFSP implementation

Putting into practice the Union's decisions requires the pooling of the human and material resources available to the Union and the Member States. This task should be entrusted to the Commission or the Presidency, as appropriate:

- the Commission should implement joint action to be carried out on the ground or closely bound up with first-pillar activities;
- the Council and the Commission could designate special representatives to implement specific CFSP decisions, reporting to the Council on their assignments;

–the Presidency, in cooperation with an expanded CFSP secretariat, or even the Commission and such special representatives, should give effect to decisions basically requiring representations to be made, positions to be stated and diplomatic negotiations and political dialogue to be engaged in.

Improved implementation also requires that financing from the Community budget become the rule. Allowance should be made in this respect for the specific nature of the CFSP. Agreements between the Council and the European Parliament should make possible flexible budget management.

2.5. Defence: WEU/EU

Full advantage should be taken of the opportunity provided by the IGC to flesh out the European Union's defence identity. A brief to do so is already given in the Maastricht Treaty. Interaction between foreign, security and defence policy makes it necessary to develop a Union defence policy. This is a must for effective, credible external action. The WEU contribution to the IGC provides an excellent basis for negotiations at the IGC.

Foreign, security and defence policy cannot be properly integrated until the WEU is brought into the EU's second pillar. The WEU should be incorporated into the EU by stages. The 1996 IGC can decide on the principle and set a timetable for full incorporation.

Until such time as the European Union and the WEU are merged, the three countries are in favour of swift development of very close institutional relations between the two Unions so that the Council of the EU can instruct the WEU to implement the military implications of CFSP decisions taken by the Council.

In the three countries' view, the second pillar of the Maastricht Treaty should in future include the Petersberg tasks and collective defence, on the understanding that implementation of the latter will continue to be based on the Atlantic Alliance, with which the Community will have to build up special links in the defence field.

A strong Atlantic Alliance and a continued US military presence in Europe are crucial for a common security and defence policy. At the same time, the European pillar of NATO needs to be strengthened by means of a more clearly identified European contribution to security and defence within Europe and outside it. In this connection, rapid development of the plan for combined joint task forces (CJTF) within NATO is essential for the implementation of European joint action with military implications. Such joint action must be carried out in a complementary manner that is transparent as regards the other allies.

The commitment of armed forces remains a national responsibility. The decision-making procedures to be worked out by the IGC must be such that no country can be obliged to take part in a military operation. Nor should those countries not wishing to take part be able to prevent other countries from doing so, or stand in the way of the financial solidarity required by joint action.

Lastly, the three countries believe that the time has come to step up European cooperation with regard to the arms industry.

2.6. Cooperation on justice and home affairs

The shortcomings observed for the CFSP are also plain to see in cooperation under the third pillar. It is precisely this field that calls for more dynamic action by the Union. Up to now, free movement of people has yet to be achieved. The elimination of internal frontiers makes it necessary to adopt measures on immigration and asylum, as well as in jointly combating organized crime. When it comes to greater security at home, there are public expectations which Member States can to a large extent meet only by acting together within the Union.

The inadequate progress of cooperation is due in particular to the institutional structure of this pillar. The IGC provides an opportunity for a thorough overhaul of that structure, both by transferring areas of action to the first pillar and by strengthening the third pillar itself.

The advantages of the Community method, with effective decision-making, binding decisions, democratic accountability and judicial review, are plain to see. The first need is to identify those areas of action under the third pillar which would be more in place under the first pillar. This applies to areas bound up with freedom of movement and immigration policy, i.e. more specifically asylum and visa matters. In these areas, the Union should be assigned clear objectives and a precise timetable for them to be achieved.

For a number of other areas, in particular in criminal justice and police matters, such as combating crime and drug trafficking, the third pillar provides a framework for cooperation for the time being, provided that adequate steps are taken to make cooperation more effective. For this purpose, the three countries propose the improvements set out below.

Preparing for decisions

The Council and the Commission should agree on multiannual work programmes and arrange who is to submit proposals and when. This also means that the Commission should share in the right of initiative for all third-pillar areas. The European Parliament should be entitled to be consulted on any legislative proposal, on similar lines to the consultation procedure for the first pillar. Under procedures to be determined by each Member State, national parliaments should be involved in timely fashion before decisions are taken in the Council.

Decision-making

It needs to be made clear to what extent the decisions taken are binding. The idea of a Directive, as available for the first pillar, may serve as an example here.

Consideration should be given to areas in which decisions may be taken by a qualified majority or under a *consensus-minus* arrangement.

Implementation

Given the nature of cooperation, primary responsibility for implementation lies with the Member States. This makes it all the more important to ensure uniform interpretation of the rules. The only way to achieve that is to confer jurisdiction on the Court of Justice of the European Communities for the purpose, on similar lines to the preliminary ruling procedure under the EC Treaty, which has fully proved its worth for the unity of Community law.

Schengen

Schengen cooperation should be incorporated into the Treaty on European Union. What has been achieved with Schengen should be maintained and built upon by way of the Union institutions, with all the advantages that this entails.

3. Institutional issues

There is a need to make the Union's decision-making process and running more effective, especially with enlargement in prospect. Greater effectiveness also calls for democratic accountability.

Subsidiarity and transparency

The three countries attach considerable importance to greater use of the principle of subsidiarity, which will have to be applied under an appropriate procedure, without this necessarily involving amendment of the Treaty itself. Application of the principle of subsidiarity cannot, however, result in the dismantling of the *acquis communautaire*, but must serve to establish clearly when Union action is necessary and why.

They are also in favour of greater involvement of Member States' parliaments in Union affairs, with each Member State being left to put the principle into practice in accordance with its own constitutional arrangements.

Realizing the importance of greater transparency for the trust placed in the Union by Europe's citizens, the three countries wish to increase transparency, particularly as regards:

–citizens' right of access to information;

- greater public openness in the Council's deliberations where it is acting in a legislative capacity;
- simplification of the Treaties to make them more reader-friendly;
- improvement of the standard of Community legislation.

The Commission

The Commission has a key role to play in a united Europe. Without losing sight of national interests, it stands up for the general interest of the Union. It acts as the driving force behind the Union.

The three countries are keen to consolidate the Commission's role and strengthen its powers. The Commission should retain its exclusive right of initiative for the first pillar and be given greater executive prerogatives. It should also have a greater role for the second and third pillars.

The strengthening of its role concomitantly requires greater political accountability for the Commission and its Members to the European Parliament. It is also desirable to increase budgetary accountability, in particular by improving the position of the European Court of Auditors.

The Commission should comprise one national of each country. The IGC should strive for ways of continuing to ensure an effective Commission after the Union is enlarged.

The European Parliament

The three countries are firm supporters of greater democratic legitimacy in decision-making at European level. They therefore favour extending the scope of the co-decision procedure to most of the legislative areas in which qualified-majority voting applies. That procedure should also be simplified as far as possible and an attempt made to reduce the number of procedures to three: opinion, assent and co-decision. The European Parliament should be more closely involved in decision-making for the second and third pillars, on the basis of suitable information, promptly supplied by the Commission and the Council. The importance of greater accountability to the European Parliament for Commissioners has already been discussed.

The Council

The Council's effectiveness and working methods are in need of improvement.

The three Governments accordingly argue for the use of qualified-majority voting to be expanded. In an enlarged Union, the qualified majority should remain at around 70% of votes. A population yardstick could be used to make certain that the qualified majority represents a majority of the Union's inhabitants.

The three countries are in favour of improvements in the operation of the present rotating Presidency system in order to increase continuity: the proposals mentioned earlier to strengthen the Union's foreign policy, better preparation and coordination between successive Presidencies and a greater role for the Troika, particularly as regards political dialogue.

The Court

The Court of Justice upholds the law and thus plays a key role in the process of European integration.

The Court's jurisdiction should not be curtailed. It should be extended to JHA cooperation.

The Court of Auditors

As part of efforts to combat fraud and protect the Community's financial interests, the Court of Auditors should be given an increased role, working in collaboration with national audit offices.