

Reply from Spain to the questionnaire from the Presidency (15 October 2003)

Caption: The reply from Spain, dated 15 October 2003, to the questionnaire on the legislative function, the formations of the Council and the Presidency of the Council of Ministers, submitted by the Presidency on 19 September.

Source: CIG 2003 / Délégation espagnole, Note de la délégation espagnole – Réponse de l’Espagne au questionnaire sur la fonction législative, les formations du Conseil et la présidence du Conseil des ministres (doc. CIG 9/03), CIG 17/03 DELEG 8, Bruxelles, 15.10.03, <http://www.consilium.europa.eu/igcpdf/fr/03/cg00/cg00017.fr03.pdf>.

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URL: http://www.cvce.eu/obj/reply_from_spain_to_the_questionnaire_from_the_presidency_15_october_2003-en-445cb4ba-9cf0-49dc-bc78-4f46ee95297c.html

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**CONFÉRENCE
DES REPRÉSENTANTS
DES GOUVERNEMENTS
DES ÉTATS MEMBRES**

**Bruxelles, le 15 octobre 2003 (21.10)
(OR. en)**

CIG 17/03

DELEG 8

NOTE

de: la délégation espagnole

Objet: ***CIG 2003***
- Réponse de l'Espagne au questionnaire sur la fonction législative, les formations du Conseil et la présidence du Conseil des ministres (doc. CIG 9/03)

Les délégations trouveront en annexe la réponse de la délégation espagnole au questionnaire sur la fonction législative, les formations du Conseil et la présidence du Conseil des ministres (voir doc. CIG 9/03).

ANNEXE**I. THE LEGISLATIVE FUNCTION**

1. Should exercise of the legislative function be conferred on a single Council formation
or
should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?

Each Council formation should meet in public whenever it legislates (including debates and not only the final stage and vote). In order to facilitate this, Council agendas would have to differentiate clearly legislative items from others and regroup the former.

2. Should the public legislative part be concerned only with laws and framework laws adopted under the normal legislative procedure (i.e. joint adoption by the European Parliament and the Council)

or

with all laws and framework laws?

The public legislative part should cover as a rule all laws and framework laws.

II. THE FORMATIONS OF THE COUNCIL

3. Should the European Council's decision on the list of Council formations – as envisaged by the Convention – be taken **unanimously** as stipulated in the draft Convention? by a **qualified majority**? or by a **simple majority**? Should the list be confined to a small number of formations in line with the decision taken in Seville?

Unanimity is a bad solution since it would increase the possibility of internal quarrels within Governments. A simple majority could make changes too easy. Therefore, a qualified majority seems the right answer.

Caveat: Any acceptance by Spain of any qualified majority at the IGC is made on the assumption that the Union keeps the current definition of qualified majority as provided for in the Treaty of Nice.

The list should follow the Seville precedent.

III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

4. Should other Council formations apart from the Foreign Affairs Council have a **fixed Presidency** (i.e. not applying the rotation system provided for in Article 23(4))?
which formations?
of what duration?
using what procedure (election by the members of the Council formation concerned)?

Spain does not favour a system of fixed (that is to say, basically elected) Presidencies at the Council of Ministers.

5. Should there be a **Team Presidency** system for the Council formations that continue to use the rotation system?

Yes. Spain clearly supports such a system.

6. If it is decided to opt for a **Team Presidency** system

- (a) how many Member States should there be in the "team"? three? four? five?

We think that four / five members per team is the right figure. Not all teams need to have exactly the same number of members, taking into consideration that the number of Member States is not always perfectly divisible by a given figure and that the number of Member States will fluctuate in the future.

- (b) what should be the duration of its term? a year? 18 months? longer?

Two years. We should try to avoid in any case cutting a budgetary year up in two.

- (c) should the **composition** of the teams be fixed in advance or left open on the basis of criteria to be determined, with due regard for the principle of **equal rotation** (which would take into account political and geographical balance and the diversity of Member States as defined in Article 23(4) of the draft Convention)?

Composition of the teams should be fixed in advance, by unanimity, including a rearrangement once a whole "tour" has been completed. The teams would be revised when there were new accessions.

Composition would have to take into account political and geographical balance as well as the diversity of Member States.

- (d) should the **allocation** of the different Council formations within the team be fixed in advance or left to the discretion of the Member States in the team?

It should be left to the discretion of the Member States in the team, where agreement would require, of course, consensus. But Spain would not oppose a system of allocation fixed in advance (i. e., similar to the one presented by Peter Hain at the Convention)

7. Given the need for increased **coordination** under a Team Presidency system, should a "**chain of command**" be maintained, at least partially, with the Member State chairing the General Affairs Council also chairing Coreper [I and II]?

It could be but, in that case and in order to avoid too much power being concentrated into one hand, that "chain of command" should rotate among the members of the team (i. e., every six months).

8. Should committees/ working parties subordinated to a particular Council automatically be chaired by the Member State holding the Presidency of the Council in question (**vertical structure**)?

It sounds reasonable.

9. By the same token, if the Foreign Affairs Minister chaired the Foreign Affairs Council, should the PSC and other external relations working parties be chaired by a representative of the Foreign Affairs Minister?

It depends on the status finally agreed for the MFA of the Union. Spain would oppose that the PSC and other Council working parties were chaired by Commission officials.

10. In order to achieve greater coherence in the Council's proceedings, should there be an **informal structure for coordination** between the representatives of the Member States holding the Presidency, in which the President of the European Council, the President of the Commission and the Minister for Foreign Affairs could participate?

Yes.

11. Should the detailed arrangements for the rotation of the Presidency of the Council be the **subject of a decision to be taken unanimously** by the European Council?

Yes.

If so:

- should it be adopted at the same time as the Treaty establishing the Constitution?

Preferably, yes.

- could it be adopted later if the **essential elements of the future arrangements** were agreed at the same time as the Treaty establishing the Constitution?

This might also be acceptable, but it could prove difficult to agree on what are the essential elements.