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Preparing the EU and Its Institutions for Enlargement

Rapporteur

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POLICY
PAPER

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Policy Paper

99/7



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EUROPEAN UNIVERSITY INSTITUTE, FLORENCE

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**Report of the Working Group
on the Eastern Enlargement of the European Union**

Chairman: Horst Günter KRENZLER

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Policy Papers, RSC No. 99/7

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Printed in Italy in December 1999
European University Institute
Badia Fiesolana
I-50016 San Domenico di Fiesole (FI)
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Preparing the EU and Its Institutions for Enlargement*

Report of the Working Group on the Eastward Enlargement of the European Union

Chairman: Horst Günter KRENZLER

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* This report is based on a background paper written for the Working Group on Eastern Enlargement by Wolfgang Wessels. The report does not necessarily reflect the individual views of participants within the Working Group. Responsibility for the publication of this report lies with Horst Günter Krenzler.

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(Florence, 12-13 May 1999)

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Introduction

The debate between “wideners” and “deepeners” - so evident in the early 1990s - has softened, and for some time now, it has been acknowledged that widening (enlargement) and deepening (or at least reform) are not alternative choices for the development of the European Union. Enlargement is a political imperative - there will be no turning back from the decision to embrace the Central and East European countries (CEECs) - but so is institutional reform. An enlarged EU will not function unless institutions and decision-making procedures are changed. Reform is necessary to prevent paralysis in an enlarged Union.

The two agendas - deepening and widening - are, however, imbalanced. On the one hand, widening is proceeding, albeit slowly. Membership talks have opened with six applicant states, and will be opened with others in the year 2000. On the other hand, the Union has been less successful at deepening, in terms of institutional reform. The Union *has* launched the final stage of Economic and Monetary Union with the introduction of the single currency in January 1999. EMU is a remarkable achievement, and could indeed lead to further deepening. Furthermore, the Union is now engaged in discussions on deepening integration in the defence sector. But preparing the EU's institutions for enlargement has lagged much further behind. Institutional reform was one of the main objectives of the 1996-97 intergovernmental conference (IGC), yet the resulting Amsterdam Treaty was very disappointing in that respect. At the Amsterdam summit in June 1997, three member states - France, Belgium, and Italy - issued a unilateral declaration indicating that the strengthening of the institutions should be a prerequisite for concluding the first accession negotiations and that any significant enlargement would require the extension of qualified majority voting. But after Amsterdam, the pressure for reform dissipated.

By mid-1999, in the wake of the resignation of the Commission, this reluctance to confront the challenge of institutional reform had diminished. The June 1999 European Council in Cologne agreed that an IGC should be held in 2000 mainly to address three reforms left unresolved at Amsterdam:

- 1) size and composition of the Commission;
- 2) weighting of votes in the Council (re-weighting, introduction of a dual majority and threshold for qualified-majority decision-making);
- 3) possible extension of qualified-majority voting in the Council.

The Cologne European Council did, however, leave the door open for further modifications: “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, could also be discussed.”¹ But many member states do not want to open up the IGC agenda; there is a strong preference for a “short, sharp deal.”²

This unambitious approach has been criticised by the new European Parliament, the new European Commission President, Romano Prodi, and outside observers.³ The European Commission has declared its preference for a fundamental reform which will “stabilise the Community’s institutional system on a lasting basis.”⁴ There is growing pressure to enlarge the agenda of the IGC to include other reforms. Debate thus continues over how the Union should be reformed to prepare for and function after enlargement.

In May 1999, the European University Institute’s Working Group on the Eastward Enlargement of the European Union met to discuss the ways in which the EU and its institutions could be reformed, in light of enlargement. Its discussion thus forms part of the much larger debate on institutional reform and the future of an enlarged Union. The Working Group’s session was based on a background paper by Professor Wolfgang Wessels on “Institutional Strategies for Enlargement: Improving the Learning Capacity of EU Institutions.” This report highlights some of the key issues discussed in the course of the meeting but also takes into account developments between May and November 1999.

Progress of the Negotiations

Nikolaus van der Pas, of the European Commission’s Accession Negotiating Task Force, opened the meeting with a report on first experiences in negotiating with the applicant countries. He pointed to several tensions that have arisen or could arise between the negotiating parties. The first is the obvious clash between the political imperative for EU enlargement - shared by both sides - and more practical concerns, most notably the financial costs of enlargement for both sides. Focus on these costs could derail enlargement. It is well known that fundamental reforms of Community policies, most notably the Common Agricultural Policy and the structural funds, must be undertaken, at some, and even considerable, cost to current member states. Otherwise, these policies in an enlarged Union would be prohibitively expensive. Approval of a revised *Agenda 2000* package at the Berlin European Council meeting in March 1999 is a step in the direction of policy reform - though this proved to be highly contentious, and has since been criticised as inadequate. The cost of policy reform is still a potential spoiler in enlargement talks.

Seen from the perspective of the CEECs, however, policy reforms mean that once they accede to the Union, the CEECs will receive lower transfers than they might otherwise have expected, at the same time as they must make painful adjustments to participate in the single European market.

Another tension arises from the possibility that the negotiations could proceed more quickly than the capacity of the Central and East European applicants to implement the *acquis communautaire*. Although it is not clear when the negotiations will be closed, they could still end relatively quickly. In this case, the EU member states will have to trust that the applicant countries will indeed implement the *acquis*, but this could be difficult and might affect their approval of the accession agreements. There could thus be a “logjam” in the accession process even after the negotiations have been successfully concluded. One should therefore consider how the pace of the negotiations could be brought into line with the progressive implementation of the *acquis* by the applicant countries.

A third and final tension derives from external circumstances. The war in Kosovo has prompted policy-makers to re-consider the EU’s relations with Bulgaria and Romania. At the Helsinki European Council in December 1999, the EU will most likely be able to open negotiations with Malta, Latvia, Lithuania and Slovakia. But can one then leave out Bulgaria and Romania as the only two “pre-ins”? Isolating the two countries in such an unstable region is increasingly considered unwise, and Bulgaria and Romania might have to be included in the new wave of negotiations. The effects of leaving the “pre-ins” out of the first wave has been discussed by the Working Group before, in May 1997.⁵ Enlargement in waves will have economic, political and security implications for those CEECs left out of the first wave. The gap between the economies of those countries in the first wave and those left out will widen. The excluded states could feel isolated and marginalised, which could have destabilising effects on their political systems and ultimately on European security. Given the difficulties that Bulgaria and Romania have faced as a result of war in south-eastern Europe, further economic and political marginalisation should be avoided.

On the issue of institutional reform, the EU should consider including the applicants in the reform process: a minimal reform agenda could be tackled before enlargement, leaving major reforms until afterwards. These considerations were further discussed in the course of the Working Group meeting.

Reform: How Much?

The underlying assumption that institutional reform in the light of enlargement is indeed needed was accepted by all of the members of the Working Group. They agreed that institutional reform would be necessary for an enlarged EU to function efficiently and legitimately. Discussion centred on what reform should entail, and which reforms are particularly necessary.

To spur that discussion, Wolfgang Wessels's paper noted several options for reform that have been put forward by various observers and policy-makers. These can be grouped into four broad clusters:

- 1) The EU could adapt its institutions and procedures based on the Amsterdam Treaty; an additional inter-governmental conference to revise the treaty would not be necessary. "Tinkering at the edges," using several articles of the Amsterdam Treaty, would permit more efficiency without the need for treaty reform.
- 2) The dominant view in the wider policy debate favours the "fast track" option. A short intergovernmental conference would be called to deal with three "left-overs" from Amsterdam:
 - the extension of qualified majority voting in all three pillars;
 - alteration of the weighting of votes of member states or the institution of a double majority voting system; and
 - a reduction in the number of Commissioners.

Member states could not reach agreement on these three reforms at Amsterdam because they are interlinked: extending the use of qualified majority voting raises the issue of the weighting of votes. There is an imbalance in voting power between the small and large member states: the small member states currently have more voting power than the large member states, taking into account their relative population size (see table below). That the larger member states have two Commissioners does not compensate for this imbalance, when the fact of the matter is that decisions are taken by the Council, not the Commission. Power lies with the Council. Hence extension of QMV in the Council is controversial particularly for the larger member states.

The issue is even more sensitive in the context of enlargement, given that almost all of the applicant countries are very small states (with the exception of Poland and Romania), as well as relatively poorer states. It has been estimated that enlargement of the EU to all ten CEECs currently in the membership queue

will increase the EU's population by 29.2 percent and add only 3.5 percent to its GDP.⁶ If votes were distributed in line with the current weights, then the small member states could exercise considerable voting power; furthermore, the poorer member states of the EU would also be able to form a qualified majority (*provided* they vote together), which could result in endless wrangles over the budget.

Balance of Power between the EU Member States

	% share of EU population	Votes in Council	% of total vote	Number of Commissioners	MEPs
Austria	2.16	4	4.54	1	21
Belgium	2.72	5	5.68	1	25
Denmark	1.41	3	3.41	1	16
Finland	1.37	3	3.41	1	16
France	15.63	10	11.36	2	87
Germany	21.96	10	11.36	2	99
Greece	2.81	5	5.68	1	25
Ireland	0.97	3	3.41	1	15
Italy	15.39	10	11.36	2	87
Luxembourg	0.11	2	2.27	1	6
Netherlands	4.16	5	5.68	1	31
Portugal	2.66	5	5.68	1	25
Spain	10.53	8	9.09	2	64
Sweden	2.37	5	5.68	1	22
United Kingdom	15.75	10	11.36	2	87

Sources: *European Voice*, 2-8 September 1999, *The Economist*, 30 January 1999.

The issues of QMV and the weighting of votes are thus controversial, and could not be fully resolved at Amsterdam. A protocol to the Amsterdam Treaty states that when the next enlargement of the Union enters into force, the larger member states will give up one of their Commissioners, provided that by that date, the weighting of the votes in the Council has been readjusted (either by re-weighting the votes or by dual majority) in a way that compensates the larger member states. However, if the first wave of enlargement includes more than five countries (bringing the EU's total number of member states to over 20), then this compromise would have to be reconsidered, through a comprehensive review of the treaties. And, as noted above, it is very likely that the first wave of enlargement will include more than five countries - or that in any event, EU membership will soon top 20 member states. Thus one could argue that the time is now ripe to start this comprehensive review of the treaties.

- 3) The third cluster of reform options includes proposals for a European “constitution.” Some of these are what Wessels terms “soft,” in that they would involve adding a charter for human rights to the current treaty set-up, or extending the provisions on subsidiarity. Others are “hard,” in that they would entail drawing up a new federal constitution to replace the present treaty.
- 4) The last proposal is that of improving the current model by radically overhauling the present treaty, to improve the efficiency and parliamentary legitimacy of the Union. The Commission would be slimmed down and denationalised, majority voting (and re-weighting of votes) would be greatly extended, and the European Parliament and European Court of Justice would be granted further powers.

Wessels favoured an open-ended process of reform, which would enable the institutions to learn and adapt to new circumstances. He argued that it would be fruitless to try to set a “finalité politique” in a radically revised treaty or a new constitution - there is little chance that the member states would be able to agree on the final objective of the Union (and Union itself remains a vague concept precisely because of this lack of agreement). Instead, reform should permit EU actors to pursue “incremental institutional engineering.” Ideally, for Wessels, the “eternal” aspects of the Union’s “constitution” should be identified, and kept separate from the process of reform of its institutions and decision-making procedures.

The Working Group generally agreed that an open-ended reform process would have to be envisaged. It also was receptive to the idea of declaring the eternal principles of the EU in a more “permanent” treaty, which would only be revised by a formal inter-governmental conference; decision-making procedures and the functioning of the institutions could be revised periodically in a less formal process. Similar proposals have been made by other observers (see below).

There was also general, but not unanimous, agreement within the Working Group that the fast-track proposals should be dealt with by the Union before enlargement. “Tinkering at the edges” could not be an option in the light of enlargement. But it was noted that the member states could find it quite difficult to reach agreement on the three “Amsterdam leftovers”: the fast-track might not be fast and easy in practice. One suggestion receiving some support was to widen the remit of the intergovernmental conference beyond the three key issues, so that it would be easier to construct package deals (trade-offs among the member states) and reach an agreement on reform.

Since the Working Group met in May 1999, the EU has made progress on some of the options listed above. The need to tackle the three Amsterdam leftovers does seem to be widely accepted. In June 1999, as already noted, the Cologne European Council decided that an intergovernmental conference will meet - and conclude - in 2000, and will deal principally with three reforms: size and composition of the Commission; weighting of votes in the Council; and possible extension of qualified majority voting. Furthermore, the Cologne European Council agreed that the fundamental rights of EU citizens should be consolidated into a Charter. The Charter is due to be produced by December 2000, although the procedure for drafting it has yet to be decided.

As also indicated above, there is growing pressure for enlarging the scope of the IGC. Momentum is building due to recent developments, including the launching of the single currency and the debates about an EU defence dimension. Dissatisfaction with the subsidiarity and flexibility provisions is growing – and these two principles are particularly necessary in the light of enlargement. There is also a strong possibility that the first wave of enlargement will include a large number of countries, more than the five envisaged at the time the Amsterdam Protocol on institutions was agreed. The prospect of a much larger first wave creates considerable pressure for reform.

The new president of the European Parliament, Nicole Fontaine, has warned that Parliament will not be satisfied with a minimalist approach to institutional reform, and the EP's largest political group, the European People's Party, favours fundamental revision of the treaty, as does the Liberal Group. Several member states have come out against curtailing reform, when the momentum for change is growing particularly as a result of the upheavals in the European Commission.

Upon entering office, new Commission President Romano Prodi set up a high-level group to prepare a report on the issues that could be added to the agenda of the IGC. The group, composed of former Belgian Prime Minister Jean-Luc Dehaene, former German President Richard von Weizsacker, and former British Trade Minister Lord David Simon, reported on its recommendations in October 1999.

The “three wise men” argued that “an effort at comprehensive reform should be undertaken right now.”⁷ This would entail additional reforms, related to the three Amsterdam leftovers: strengthening the authority of the Commission President and clarifying the individual responsibility of Commissioners; extending the EP's co-decision-making power as qualified majority voting is extended; and a possible re-organisation of the role of the

Council presidency. Furthermore, the high-level group recommended that the IGC consider the question of the EU's external representation (especially in the context of trade in services, intellectual property, and international monetary matters), the simplification of the Amsterdam Treaty clauses on flexibility and the institutional arrangements needed to develop the European Union defence dimension. They also, significantly, proposed that the present treaty texts be divided into two separate parts. The first part, the basic treaty, "would only include the aims, principles and general policy orientations, citizen's rights and the institutional framework." Amending the basic treaty would require unanimous agreement, and ratification by each member state. The second part "would include the other clauses of the present treaties, including those which concern specific policies." The Council acting either unanimously or by a super qualified majority could modify these clauses, with the European Parliament's assent.⁸

The Commission has indicated that it favours a closer study of the reorganisation of the treaties along these lines.⁹ As noted above, the Working Group was also receptive to reorganising the treaties. It should be noted, however, that this proposal does face opposition: the UK in particular opposes restructuring the treaties.¹⁰

There have, however, been warnings about the dangers of adding more items to the IGC agenda, and several Working Group participants reiterated these. It could open the way for inclusion of innumerable issues of importance to only one or a few of the member states. The IGC could find that debate is bogged down in discussions, for example, about limiting the free movement of football players. The revised treaty would thus once again be filled with a plethora of detailed, yet fairly insignificant aims and commitments. The Working Group was unanimous in its desire that such an outcome be avoided. The IGC agenda would need to be kept under strict control to ensure the exclusion of peripheral issues.

The majority of the Working Group thus agreed that at least the fast-track reforms are needed in the short term and that an open-ended process should be established in the long term (e.g., through the restructuring of the treaties). Some members of the Group thought that due to the likelihood that more than five new member states would join in the first wave, the next IGC is the last chance for a more fundamental reform. The Working Group then discussed more specific reforms with respect to the EU institutions, decision-making procedures, and treaty principles.

The Council

There was general agreement that the use of *qualified majority voting* (QMV) within the Council of Ministers would have to be increased. The extension of QMV should also cover decision-making in the two “inter-governmental” pillars, the Common Foreign and Security Policy, and Justice and Home Affairs.

This would be easier with a re-weighting of votes. As it stands now, the smaller member states have weighted votes that are disproportionately large in relation to their population size. The protocol to the Amsterdam Treaty on institutional reform makes it clear that a re-weighting of the votes in favour of the larger member states will have to accompany reform of the Commission, in terms of limiting its membership to one Commissioner per member state. But it may also be possible to leave the weights as they are, and introduce the concept of a *double majority*: proposals would require not only a majority or given percentage of weighted votes, but also approval by votes representing a majority or given percentage of the EU’s population. In this way, a proposal supported by states representing the vast majority of the EU’s population would be more certain of approval. The Working Group generally supported the use of double majority.

It should be noted that introducing a system of double-majority voting is a move towards a more federal system. The European Union is formally based on the principle that the member states are equal, although the system of qualified majority voting already moves away from that, in an attempt to balance large and small states. Enlargement and institutional reform raise the issue of whether the EU should establish an equivalent of the US Senate – where the individual states are equally represented – in addition to a House of Representatives – where each representative is elected by roughly the same number of people. Setting up a double-majority voting system serves a similar purpose – both states and people are represented. As such, this could have implications for state sovereignty. It signals that population size matters as much as – if not more than – statehood. Small states might understandably object. Such a development also raises interesting questions about the future of EU enlargement: how would this change the eventual acceptance of both large states, such as Poland or Turkey, and smaller states, such as Albania? In the case of the eventual accession of large states, the internal balance would most definitely tilt towards large states – though the current large states might not relish this. The small states could find it increasingly difficult to influence decision-making unless they could band together to do so. But the potential for a counter-coalition of small states could reduce the willingness to accept the

accession of other smaller states.¹¹ Population size could thus be a complicating factor in future enlargement decisions.

The Working Group did not discuss at great length the issue of the organisational structure of the Council, but this is also an area for possible reform, as the Council structure needs simplification and rationalisation. The General Affairs Council/Council of Foreign Ministers has increasingly dealt with a large variety of topics, from a strategy to stabilise south-eastern Europe to the imposition of anti-dumping duties on steel imports from certain third countries. It has lost its coordinating role. It is perhaps for this reason that key decisions have increasingly been taken at a higher level, the European Council.

Council reform is currently being investigated, as evident in Secretary-General Jurgen Trunpf's report (the Trunpf/Piris report).¹² The report proposed further study of a number of reforms, none of which, however, would require amendment of the treaties. These include modifying the frequency and format of European Council meetings, splitting the General Affairs Council to better provide for horizontal coordination, dissolving or combining some of the specialist Councils, rationalising COREPER's organisation, and improving the operation of the presidency.

The Friends of Europe group has also suggested simplifying the Council's structure.¹³ The European Council would meet quarterly to provide the EU with political direction, and could exercise a formal legislative role. A Foreign Affairs Council could focus only on foreign, security and defence issues, thus freeing the foreign ministers from having to consider such a wide variety of issues. The Economic and Financial (Ecofin) Council could focus only on economic and financial matters, while a new General Council, composed of senior ministers of European affairs, would deal with all issues requiring legislation, and would ensure coordination. A Justice and Home Affairs Council would be needed as long as the JHA pillar remains intact. The General Council would be prepared by ministerial committees for separate topics, which would thus replace the separate sectoral Councils (such as the one on agriculture). The separate ministerial committees could select their own chairpersons, who could serve for longer than six months; the rotating Council presidency would thus be able to focus its energy on the four Councils.

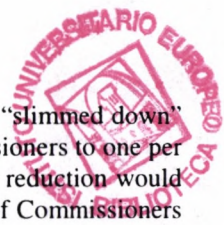
Prodi's high-level group briefly considered reform of the Council, in particular by clarifying the distinction between its legislative and executive roles.¹⁴ The perceived need to simplify the Council's structure is shared by many observers, including several Working Group members.

The Commission

The Working Group agreed that the Commission needed to be “slimmed down” in the interests of efficiency. Reducing the number of Commissioners to one per member state is a short-term solution, but eventually a further reduction would need to be considered, in light of enlargement. If the number of Commissioners is not reduced to fewer than one per member state, then enlargement to the 12 states currently in the membership queue would result in a Commission of 27. The distribution of portfolios is problematic enough with 20 Commissioners, whose responsibilities seem rather thin in comparison with others. Setting up a system of junior Commissioners, or of rotating posts, is one possible solution to this problem, but the size of the college of the Commission remains a subject for debate. The upcoming IGC may find that reforming the Commission is one Amsterdam leftover that will be difficult to clear up.

Yet the Commission as a whole is not such a large bureaucracy, and is relatively under-staffed in several key fields. If the Commission is over-worked, then it cannot provide the creative role that the Community’s founders originally – and appropriately – attributed to it. An interesting suggestion to try to reduce the Commission’s workload was advanced during the Working Group’s discussion. In the spirit of subsidiarity, administrative and executive functions could be devolved to national bodies, under the control of the Commission. This could free the Commission to concentrate on providing the EU with “vision” - proposing legislation and general policy direction. The counter-point was made, however, that a devolution of functions could overburden the administrations of the Central and East European states: particularly in the initial period following their accession to the Union, the CEECs would lack the necessary administrative capacity to take over Commission functions.

The devolution of some Commission functions is already being addressed by the EU institutions. In April 1999, the Commission adopted a White Paper proposing a fundamental reform of the implementation of the Community’s competition rules (Articles 81 and 82 of the EC Treaty, formerly Articles 85 and 86). The Commission suggested that national competition authorities could take many decisions themselves, provided they were consistent (and the Commission would be able to intervene to ensure this). Authorisation of concerted agreements could be given by national authorities, for example, rather than the Commission. This is seen to be especially important because the need for Commission approval of such agreements in an enlarged Union would considerably increase its workload.



The Commission's proposals have been greeted with some skepticism. Members of the European Parliament (MEPs) in particular, but also national administrations (such as Germany's) and business circles, have expressed the concern that they would weaken competition policy and diminish legal certainty and consistency. Furthermore, this could lead to further renationalisation of Community policy.¹⁵ These concerns are sure to arise again with respect to a broader devolution of Commission responsibilities; ensuring the equal application of the *acquis* would then be a challenge, particularly in an enlarged EU.

The European Parliament

The Working Group agreed that the European Parliament is an important source of democratic legitimacy for the EU. But as the EP's powers have increased greatly in the last two treaty reform processes, there is less scope for serious reform of the EP. And the extension of QMV would in any case strengthen the EP even further because it would gain additional co-decision rights. Wessels's paper suggests that the EP should be able to dismiss the Commission by an absolute majority of votes (rather than two-thirds as at present). Furthermore, the Commission President should be able to call for a vote of confidence in connection with voting on major acts; if the EP did not achieve the required majority, it would be dissolved, and the newly elected parliament would co-elect a new Commission.

The overall size of the EP could, however, pose a problem in the context of enlargement. Article 137 as revised by the Amsterdam Treaty sets a ceiling for the number of MEPs: the maximum size of the Parliament will be 700 MEPs. The ceiling on the overall number of MEPs means that the national distribution of European parliamentary seats must be reconsidered. Small member states will probably have to accept a number of seats that more accurately reflects their population size than is currently the case (they are over-represented in the EP). This means that once again, small member states (old and new) will be asked to give up "power" that they previously exercised (or could have expected to exercise).

The Working Group also acknowledged that the EP was not the only possible source of democratic legitimacy; legitimacy could be strengthened through the participation of civil society in existing or new fora. One possibility would be to add a second chamber composed of national parliamentarians. Inclusion of national parliamentarians in the decision-making process could, however, complicate and slow down that process, unless the role of national parliamentarians was purely a consultative one. Furthermore, a second chamber

composed of national parliamentarians could threaten governments, as it would diminish their monopoly on decision-making in the Council. For all these reasons, the idea was rejected by the Working Group.

Another possibility raised during the Working Group's discussion would be to establish a "deliberative" forum alongside the decision-making machinery. This forum could consist of experts, interest groups, and NGOs, whose composition could change depending on the topic at hand. It could help to both legitimise decision-making and improve it, by increasing expert input into the process.

It is not clear, however, how an additional deliberative forum would differ from the current Economic and Social Committee (ESC), which brings together 222 representatives of workers, employers, professional, environmental and consumer organisations (among others). ESC meets ten times a year in plenary session, and more often in smaller sections, and advises the Commission and Council on social and economic issues. Consultation is already mandatory in several policy areas, although the Commission and Council rarely pay very much attention to ESC reports - partly because the quality of the reports varies widely. Its role could be boosted, but this would depend on Commission and Council willingness to take the ESC more into account, as well as on the ESC's willingness to undertake internal reforms.

In addition, since the Maastricht Treaty entered into force, the Committee of the Regions has involved regional and local bodies in the consultation process. The Committee of the Regions advises the Commission and the Council on policy issues such as cohesion, transport, education, and environment. It consists of 222 elected representatives of regional and local bodies. Like the ESC, the Committee of the Regions has suffered from marginalisation, which is also partly its own doing, due to internal political squabbling. Another more important problem is that there are vast differences in the powers and competences of local and regional bodies across the Union. Increasing its powers – or even paying much attention to it – could be viewed as an increase in regionalism, which may not be accepted by some member states. It might also be viewed as a competitor by the European Parliament.

In any event, bodies including a wider representation of civil society are already in place. Instead of creating new fora to strengthen democratic legitimacy, these institutions could be reformed and the consultation process with them improved.

Principles

In addition to the possible institutional reforms mentioned above, the Working Group discussed key principles of the EU's way of operating, notably flexibility and self-reform. The Amsterdam Treaty's provisions on "enhanced cooperation" (flexibility) were widely acknowledged by Working Group members to be too complicated. Several participants warned that unwieldy provisions for flexibility were even "dangerous," because they might actually encourage member states to cooperate more closely *outside* the Union framework. The Working Group agreed that the procedures needed to be simplified, so that they allowed genuine "flexibility."¹⁶ The provisions for enhanced cooperation in the CFSP pillar in particular need to be simplified. The Central and East European countries are concerned, however, that use of flexibility could end up excluding them from the integration process. But as long as it is made clear that all willing and able member states can participate in closer cooperation, this should not be a serious problem.

With respect to self-reform, Wessels's background paper urged that the Union consider ways of creating institutions that can "learn." Each institution should be able to reflect collectively on the way it operates. In addition, a "permanent reflection process" should be created: a permanent committee formed by the EP and the Council, with Commission representation, should report every two years on the operation of the EU treaty. The Working Group also agreed that self-reform should be fostered.

Role of the CEECs in the Reform Process

The final issue tackled by the Working Group was that of the timing of the reform process. The CEECs are in general quite supportive of reform, but fear that the process of enlargement could slow down if the reform agenda dominates the Union for too long. Several CEECs have argued that they must be able to give their views on proposed reforms and even that fundamental reform should be undertaken only after they have joined the Union. Yet three EU member states, Belgium, France and Italy, attached a declaration to the Amsterdam Treaty stating that further reform must *precede* enlargement.

There was general agreement among the members of the Working Group that some reforms are indeed needed *before* the first applicant countries accede to the Union. There was some discussion as to whether the CEECs should be given much input into the next IGC. Some of the CEECs have asked to be present as "observers," while others are content to have an "exchange of views" on the IGC. It was pointed out at the Working Group meeting that the CEECs

could merely create enemies unnecessarily if they were to have much of a voice at the IGC. They risk offending Euro-skeptics if they appear to be too enthusiastic for reform, or offending Euro-federalists if they do not - all before they have acceded to the Union. It could be politic to remain outside and above the inter-EU squabbling - especially when their accession remains to be signed, sealed and delivered.

But it should be pointed out that the reforms currently on the agenda will affect most of the CEECs, as well as Cyprus and Malta – because they are small member states. Denying them a voice in the discussions could build up resentment. Therefore some involvement would be necessary.

The Working Group was generally agreed that the CEECs must be able to participate in *fundamental* reform discussions. Should the next IGC tackle issues well beyond the Amsterdam leftovers, the CEECs just might have to be included in the discussions - in some way or another.

The Working Group also noted that if fundamental reform is to wait for the accession of the first wave of CEECs, this still leaves unresolved the inclusion of the *pre-ins* in reform discussions. Why should they have less of a say in the reform process than the *ins*? Yet the first wave of enlargement will most likely include six - and possibly even nine or ten - new member states. Fundamental reform in such a large EU may be obligatory (see the Amsterdam Protocol, for example) - it cannot wait until all of the current applicant states have joined.

Conclusion

To sum up, the Working Group acknowledged that clearing up the Amsterdam leftovers is a necessary but difficult first challenge, and will not suffice in the medium-term, or even in the short-term. Modifying the voting system (extending QMV and introducing double-majority) and reducing the number of Commissioners in and of itself will not enable an enlarged EU to function, particularly because the first wave of enlargement could bring in so many new member states. Consideration must be given to more fundamental reforms: the Council structure should be revised (to allow the General Affairs Council to concentrate on fewer but more significant issues); some Commission functions could be devolved to national authorities; the role of institutions involving a wide section of civil society could be strengthened; and the subsidiarity and flexibility provisions of the treaties must be made easier to use. Those parts of the treaties that are “eternal” (including provisions on fundamental rights of EU citizens) should be kept separate from other provisions covering the nitty-gritty

details of the different EC policies and the functioning of institutions: these could thus be modified frequently, as required, which would also encourage the institutions to reform themselves. Where the CEECs come in to the reform discussions is tricky: some openness to their views could prevent the build-up of resentment later, but how many CEECs should be included in reform discussions - and at what stage - are still contentious issues.

Notes:

¹ Presidency Conclusions, Cologne European Council, 3-4 June 1999, point 53.

² See Simon Taylor, "Prodi Heads for Clash Over IGC," *European Voice*, 2-8 September 1999.

³ Groups calling for institutional reform include: the Friends of Europe (which consists of senior politicians, Members of the European Parliament, and EU experts), and the think tanks, the Centre for European Policy Studies, the European Policy Centre, and the Trans-European Policy Studies Association. See also Martti Ahtisaari, et al., *Should the EU Be Redesigned?* (Brussels: The Philip Morris Institute for Public Policy Research, January 1999).

⁴ European Commission, "Adapting the Institutions to Make a Success of Enlargement," Contribution by the European Commission to Preparations for the Inter-Governmental Conference on Institutional Issues, Brussels, 11 November 1999, p. 4.

⁵ See Horst Gunter Krenzler, "The EU and Central-East Europe: The Implications of Enlargement in Stages: Report of the First Meeting of the Working Group on the Eastern Enlargement of the European Union" (Rapporteurs: Susan Senior Nello and Karen E. Smith), Robert Schuman Centre Policy Paper no. 97/2 (Florence: European University Institute, 1997). The background paper for the working group was subsequently published as well; see Susan Senior Nello and Karen E. Smith, "The Consequences of Eastern Enlargement of the European Union in Stages," Robert Schuman Centre Working Paper no. 97/51 (Florence: European University Institute, 1997).

⁶ See Table 11 in *Ibid.*, Senior Nello and Smith, "The Consequences of Eastern Enlargement".

⁷ Richard von Weizsacker, Jean-Luc Dehaene, and David Simon, "The Institutional Implications of Enlargement: Report to the European Commission," Brussels, 18 October 1999, p. 3.

⁸ *Ibid.*, p. 12.

⁹ *Op. cit.*, European Commission, "Adapting the Institutions," pp. 8-9.

¹⁰ See "Minister Keith Vaz Criticises Wise Men's Suggestions on Flexibility and Separation of Treaty into Two Parts," *Agence Europe*, 4 November 1999.

¹¹ The role of small states in the EU has been the subject of increasing attention. See, for example, "Between Autonomy and Influence - Small States and the European Union," Proceedings from the ARENA Conference, 1998 (Oslo: Advanced Research on the Europeanisation of the Nation-State, 1998).

¹² "Operation of the Council with an Enlarged Union in Prospect," Report by the Working Party set up by the Secretary-General of the Council ("rumpf/Piris Report"), Brussels, 10 March 1999.

¹³ Friends of Europe, *Report on EU Institutional Reform* (Brussels, June 1999).

¹⁴ *Op. cit.*, Von Weizsacker, Dehaene, and Simon, p. 9.

¹⁵ These views were recently aired during a European Parliament hearing on the Commission's White Paper. See *Agence Europe*, 23 September 1999.

¹⁶ In the last few years, "flexibility" has been explored in numerous articles. See, among others: Alexander Stubb, "The 1996 Intergovernmental Conference and the Management of Flexible Integration," *Journal of European Public Policy*, 1/1997, and Geoffrey Edwards and Eric Phillipart, "Flexibility and the Treaty of Amsterdam: Europe's New Byzantium," CELS Occasional Papers no. 3 (Cambridge: Centre for European Legal Studies, 1997).



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