

Towards the IGC: Approaching Turin

Research Paper 96/41

19 March 1996



The Government has published its White Paper "A Partnership of Nations" on the Intergovernmental Conference which opens in Turin on 29 March. This paper will consider IGC procedures, some recent contributions to the IGC debate and reactions to the British White Paper in other EU member states.

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Introduction

The Government has now published its White Paper on the forthcoming Inter-Governmental Conference (Cm 3181). An Intergovernmental Conference or IGC is a special meeting of representatives of the governments of the member states which is convened to consider amendments to the Treaties. Under Article N of the Treaty (formerly Article 236) any member state or the Commission may submit to the Council proposals for amending the Treaties. The IGC is convened by the Council of Ministers after consulting the European Parliament and "where appropriate" the Commission. Amendments are concluded by "common accord" and only come into force after ratification by all member states "in accordance with their respective constitutional requirements". With reference to any new Treaty which emerges from the forthcoming IGC, the White Paper confirms that "In the UK, Parliament must give its agreement before the Government can ratify the Treaty".¹

Since 1957 there have been six IGCs to revise the Treaties. These have resulted in the Merger Treaty of 1965, the 1970 and 1975 Treaties on the budgetary powers of the European Parliament, the Single European Act (SEA) of 1986 and the Treaty on European Union (TEU) in 1992, which was the result of parallel Conferences on economic and monetary union and political union. The 1996 IGC differs from the earlier ones in that the decision to convene it was incorporated in the TEU in Article N(2).

I Timetable

The IGC to review the Treaty on European Union opens in Turin on 29 March but has no end-date. The last IGC continued over a period of a year, but there is no way of predicting how long this one will last. According to the White Paper, it is "widely expected to run into 1997".²

The IGC will begin under the Italian presidency (see Section VI) and continue under the Irish presidency from July until the end of 1996. If it is still in progress, it will then proceed and possibly end under the guidance of the Netherlands which takes over the presidency in January 1997. A new Treaty might again be agreed and signed in Maastricht, giving credence to some (the German press in particular) who have dubbed this Conference "Maastricht II". If this is not the case, the Conference would continue under the Luxembourg presidency.

¹ Cm 3181, 1995-96, p.9

² para.16

II Agenda

The agenda for the IGC has already been partly determined by the TEU and partly by subsequent decisions of the EU institutions and the conclusions of the Reflection Group.³ However, it will not be limited to the areas already stipulated and it is conceivable that it will change as the IGC progresses. As the Select Committee on European Legislation concluded, even once the Conference is underway, "the vagaries of negotiation may bring new items forward".⁴ The report continues:

Equally, the fact that something is on the agenda does not mean that it will be decided by the IGC. The fact that the negotiations will be between fifteen governments means that the feasible will be several lengths ahead of the merely desirable.⁵

The Foreign Office Minister David Davies, the British representative on the Reflection Group, has said in a parliamentary reply that he did not expect the IGC to create a major transformation of the Maastricht Treaty.⁶ The White Paper recalls the Reflection Group conclusion that "the Conference should focus on necessary changes, without embarking on a complete revision of the Treaty".⁷

III Structure and operating procedures

A. Preparatory stage

IGCs are usually prepared by committees composed of representatives of the member states, together with representatives of the EU institutions such as the Commission or Parliament. The SEA was prepared by two committees, the "Adoninno" Committee and the "Dooge" Committee, which looked at different aspects of Community reform. The Delors Committee looked at economic and monetary union for that part of the Maastricht IGC and the Reflection Group has prepared for the forthcoming IGC on revision of the Maastricht Treaty.⁸

³ The IGC agenda is discussed in the 24th report of the Select Committee on European Legislation, *The 1996 Intergovernmental Conference: the agenda, democracy and efficiency, the role of national parliaments*, HC 239-I, 1994-95, and in House of Commons Library Research Papers 94/115, 95/27, 95/45, 95/76 and 95/123.

⁴ 24th report, p. xi. para. 16

⁵ *ibid*, para. 17

⁶ HC Deb, 6 March 1996, c.340

⁷ *Reflection Group's Report*, 5 December 1995, First Part: A Strategy for Europe, p.6

⁸ See Library Research Paper 95/123, *Towards the IGC: Weighing the Options*, 5 December 1995

B. IGC negotiations

There are no precise operating rules for IGC negotiations. Each of the previous IGCs has had a different mandate and has been conducted differently. IGC negotiations usually proceed in monthly meetings at Foreign Minister level. The composition and working methods of an IGC might be compared with those of the Council of Ministers, except that they are concerned with Treaty amendment rather than secondary legislation. Like most Council proceedings IGC negotiations have generally been regarded as confidential transactions until an agreed text emerged. In 1991 several negotiating texts from the political union IGC did become public. With more governments participating and a general shift towards greater openness in the working methods of the EU, it seems likely that the 1996 proceedings will be more transparent. On the other hand, procedures might be adopted which allow ministers to conduct IGC business in such a way as to avoid continuous publicity.

Proposals may come from the presidency, the member states or the EU institutions. The presidency has an important role to play as collator of proposals and facilitator of negotiations. During the last IGC negotiations in 1991, in addition to proposals from the Commission, the EP and member states on a range of specific subjects, draft treaties were drawn up which pulled together a number of other submissions into single texts called "non-papers" or draft papers.

A draft paper can be submitted by the presidency or by a member state. A "paper" has been described as "an informal document with no official status" in the Council's procedures. "Papers are typically intended to provoke discussion, and perhaps, ultimately, a Presidency ... initiative".⁹ The non-paper as used in the Council of Ministers has been described by Westlake as "a hybrid document of no official provenance and no official existence"¹⁰. Clearly an IGC non-paper does have a provenance, which could be the presidency or - though less likely - a member state government. Non-papers, unlike draft papers, might float ideas which are not necessarily those of the promoter, but which provide a general basis for negotiation.

During the last IGC the Luxembourg presidency submitted a non-paper on European Political Union and the subsequent Netherlands presidency offered a draft paper which suggested a very different and more integrated model for the EU. The latter was rejected by the majority of the member states and the Conference returned to a modified form of the Luxembourg non-paper. This eventually became the core of the Treaty signed in Maastricht on 7 February 1992.

⁹ Martin Westlake, *The Council of the European Union*, 1995. Westlake's description refers specifically to submissions to the Council of Ministers but could also apply to the IGC procedures.

¹⁰ *ibid*

IGCs may be launched and concluded at the European Council level of heads of state or government and the European Council may have a significant role in furthering progress, confirming negotiating positions, clarifying areas of ambiguity and agreeing final texts. The Luxembourg European Council in June 1991 took note of the Luxembourg draft Treaty and proposed guidelines on principles it considered "crucial to the success of the negotiations". It also confirmed that the two Conferences should continue in parallel with a view to final adoption together at the Maastricht European Council. In Maastricht in December 1991 the IGC, meeting at the level of heads of state and government, took up the negotiations and reached agreement on the final draft Treaties.

IV The changing nature of IGCs

Since the 1985 IGC which gave rise to the Single European Act, these Conferences have become "the key arenas in which competing visions of the structure and overall direction of the Union are articulated".¹¹ They are important and often highly contentious constitution-framing political events. Divergences among the member states over some issues have led to the inclusion of specific provisions for member states with particular national interests. In the past, special concerns have been covered by protocols attached to the Treaty but in order for the TEU to be agreed, more unusual measures had to be adopted in order for the final text to be agreed and/or ratified unanimously. These concerned the UK opt-out from the provisions of the social chapter and optional adherence to the final stage of economic and monetary union. Following a referendum which did not support ratification, Denmark was granted special provisions with regard to EMU and defence which were subsequently accepted by the electorate and allowed the Government to ratify the Treaty.¹² However, these special provisions did not formally modify the Treaty text which had already been ratified by other member states.

As the EC/EU has expanded, so the scope for divergence has increased, making consensus more difficult to achieve. Some have argued that for this reason special provisions for certain member states are inevitable and should be accommodated if a new Treaty is ever to be agreed and implemented. Others, the Commission and the German Government in particular, have objected to special arrangements, partly on the grounds that they are contrary to the spirit of ever closer union which pervades the Treaty.

The constitutional requirement (or in some cases political pressure) in some member states for public endorsement of Treaty changes in referenda has also meant that even when political agreement has been achieved and a new Treaty signed by ministers, there has been the

¹¹ *Penguin Companion to European Union*, Timothy Bainbridge, Anthony Teasdale, 1995

¹² See Library Research Paper 93/3, *The Maastricht Debate: clarifications, opt-outs and amendments*, 12 January 1993

possibility, and in 1992 the reality, of failure to implement a new instrument due to a negative referendum vote. The holding of referenda in the member states is considered below.

V Informing the UK Parliament of IGC progress

The papers emanating from the last IGC were sometimes not made available to Parliament or made available only immediately before a relevant debate. There was no Government White Paper dealing specifically with IGC matters, although the regular six-monthly White Papers on *Developments in the European Community* continued to provide information on Government attitudes towards a range of EC proposals and policies.

Following recommendations for a Government White Paper on the IGC from the Commons Select Committees on Foreign Affairs and European Legislation and the Lords Select Committee on the European Communities¹³, the Government published the current White Paper on 12 March 1996, setting out its views on the future European Union but stating that it would not be bound by them:

It would plainly be wrong in such an exercise for any Government to tie its hands rigidly at the outset. Rather, we shall form a considered view, as the negotiations progress, of what outcome would best serve the overall interests of the United Kingdom.¹⁴

In its response to the Select Committee's 24th report, the Foreign Secretary stated that "The Government remains committed to keeping Parliament informed about developments in the Study Group, and in the IGC as this develops".¹⁵ Exactly how it will inform Parliament and the extent to which IGC documentation will be made available to Parliament remains to be seen.

¹³ Foreign Affairs Committee Third Report, *European Union: Preparations for the 1996 Inter-Governmental Conference*, HC 401, 1994-95; Select Committee on European Legislation 24th Report, *The 1996 Inter-Governmental Conference: the Agenda, Democracy and Efficiency, the Role of National Parliaments*, HC 239-I, 1994-95; Lords Select Committee on the European Communities 21st Report, *1996 Inter-Governmental Conference*, HL Paper 105, 1994-95.

¹⁴ Cm 3181, para.19

¹⁵ Cm 3051, 1994-95

VI The Italian EU Presidency

Italy took over the presidency of the EU from Spain on 1 January 1996. Only two days earlier Italy's Prime Minister Lamberto Dini, head of the 54th post-war government, resigned when it became clear that he could no longer count on parliamentary support from the centre-left parties. President Scalfaro rejected his resignation until Parliament could debate the matter and Italy was faced with a domestic, constitutional crisis at the same time as having to cope with guiding the EU through the initial phase of the IGC.

Commentators familiar with Italian politics have pointed out that the seasoned bureaucrats in Rome who deal with EU business are experienced at promoting continuity amid political chaos. The *Independent* commented that "for 40 years Italy's senior civil servants have co-ordinated a coherent, ardently pro-European line which is unlikely to be disrupted now".¹⁶ The Foreign Minister Susanna Agnelli is a colourful figure, a federalist whose style has been described as "freewheeling" and "no-nonsense", but who is considered by some to be weak in dealing with the finer details of EU policy. Mrs Agnelli presented the Italian EU presidency agenda to the EP on 17 January, emphasising that the Government's "prime task will be to ensure consistency, continuity and cohesion in European action".¹⁷ She emphasised the Italian Government's view that the decision-making procedures should be made more democratic, efficient and transparent, and that enactment procedures should be simplified "while ensuring the European Parliament's role as co-legislator".¹⁸ The Treaty should be rewritten to make it easier to read, more "practical substance" should be given to the idea of European citizenship and the full powers of the Commission and the European Court of Justice should be upheld. On the inclusion of the EP in IGC discussions, Mrs Agnelli said:

The Italian presidency considers that the arrangement used to involve the European Parliament in the reflection group has produced positive results and it is therefore desirable for it also to be applied to the Inter-governmental Conference.¹⁹

The *Financial Times* has reported that the Italian presidency supported a plan for "conditional flexibility"²⁰, a concept which resembles the "variable geometry" proposed by John Major, under which some member states would be able to "opt out of certain areas without abandoning basic obligations in areas such as the single market". This would be aimed mainly at integrating the poorer states from the CCEE.

¹⁶ *Independent*, 3 January 1996

¹⁷ *Reuter News*, 17 January 1996

¹⁸ *ibid*

¹⁹ *ibid*

²⁰ 10 February 1996

The mechanics of EMU and enlargement of the Union will also be hovering over the European debate in the coming months. Some observers of Italian politics maintain that Italy will be trying to rejoin the Exchange Rate Mechanism and to become fully integrated in the Schengen Agreement, which it has already signed. Anxious not to be relegated to a second division in Europe, particularly with regard to EMU, Italy must take drastic economic measures to reduce high state deficits and strengthen the lira.

Following the government's resignation, the constitutional alternatives for Italy appeared to be for Mr Dini to continue in office in a caretaker capacity until a successor could be found or to hold early general elections. The President, anxious not to hold elections during the period of the Italian presidency, urged the parties to come to some agreement on a package of constitutional reforms which could be enacted by a broad-based cross-party coalition and prevent the disintegration of all political initiative. However, an attempt in February failed to form a new government uniting both left and right under the leadership of the centre-left Olive Tree candidate Antonio Maccanico. Parliament was dissolved and general elections called for 21 April.

Recent opinion polls indicate that support for the left and right is about level.²¹ The Olive Tree candidate is Romano Prodi and the alliance is composed of a number of parties, the two main ones being the Democratic Party of the Left (PDS, the former communists) and the Popular People's Party (mostly former Christian Democrats). It also includes the Greens and Mr Dini's own new party, Dini's List for Italian Renewal.

One of the main contenders for the new premiership could be Silvio Berlusconi, the right-wing media millionaire and former prime minister who now heads an alliance called Polo (or the Freedom Alliance). He was forced to resign in December 1994 and is still under investigation on corruption and fraud charges. Polo is composed of Mr Berlusconi's Forza Italia, the right-wing of the old Christian Democrats and Gianfranco Fini's far-right National Alliance.

If the centre-left alliance wins the April election, there is unlikely to be very much change in Italy's current European policies. If the Polo alliance wins and if Mr Berlusconi becomes prime minister, the initial course of the IGC might look rather different. The earlier Berlusconi government was expected to be a new ally for Britain in Europe, with its opposition to centralising moves and the creation of a socialist super-state, although this government did not really last long enough for national alliances to be formed or for policies to be tested.

²¹ *European*, 22 February 1996

The outcome of the election and its effect on the second half of the Italian presidency remain to be seen. The launching of the IGC will rest in any case with the present Government incumbents, the Foreign Ministry in particular. The *Guardian* commented, as President Scalfaro began talks aimed at resolving the government crisis, that it seemed certain that Italy would be unable to provide the EU with more than "token leadership for much of its six-month presidency".²² Silvio Fagiolo, a career diplomat who was Italy's representative on the Reflection Group, is to help Mrs Agnelli by taking on the responsibility of organising the Conference. According to the *Financial Times*, he intends to :

get the conference off to a brisk start, with weekly meetings enabling it to touch on all the main issues so that he can present a comprehensive "interim report" when Italy hands over the EU presidency to Ireland at the end of June.²³

It seems unlikely though not inconceivable that a draft or treaty would be tabled during the Italian presidency, largely because of the country's domestic political uncertainties with the prospect of a change of government mid-way through the presidency. However, Mr Fagiolo might begin to collect draft amendments from the member states or the institutions with a view to them being taken up by the Irish presidency, from which a draft Treaty might emerge.

VII Other Member States: Recent Government Statements, Reports and White Papers

In November 1995 the Danish and Swedish governments published reports on the negotiating position they intended to adopt at the IGC. The French Prime Minister and European Affairs Minister made Europe statements in March 1996 and French and German foreign ministers issued a joint paper on the common foreign and security policy at a seminar in February 1996. These are considered below.

A. Denmark

The Danish Government's report is called "Basis for negotiation: an open Europe - Intergovernmental Conference 1996".²⁴ The Government asserts that it will "make an effort to ensure that the issue of subsidiarity, transparency and simplification of the EU cooperation meets with a positive response at the IGC". It lays particular emphasis on the need for enlargement to include the countries of central and eastern Europe (CCEE), including the

²² *Guardian*, 15 January 1996

²³ 8 February 1996

²⁴ English translation of Danish document, British Embassy, Copenhagen

Baltic countries, in order to increase trade and "thus contribute to sustained progress throughout Europe". This would call for changes to the decision-making procedures and the institutions, and the government calls for "discussions on whether more decisions should be taken with qualified majority". As a small EU member state, the Danish Government is particularly concerned about the needs of the smaller states and will seek a solution that would maintain a balance between the larger and smaller states. It wants a more effective presidency and proposes shared presidencies as a way of reducing the length of time between presidencies in an enlarged Union.

The Government also supports a specific Treaty chapter on employment which had been a Swedish proposal to the Reflection Group (see below), as well as more committed environmental cooperation. To this end it will "try to bring about a consensus on attaching a declaration/protocol to the Treaty's environment provisions (Article 130S) to allow the introduction of levies with qualified majority to solve cross-border environmental problems". Disappointed with the results of the Social Protocol, the government proposes incorporating its provisions into the Treaty, along with provisions for basic employees' rights.

Denmark is in favour of keeping foreign policy at the intergovernmental level but is prepared to accept "the principle that a concerted action may be adopted in spite of one or two countries opting out". It also supports EU involvement in crisis management, humanitarian tasks and peace-keeping. The third pillar area of cooperation in justice and home affairs should remain inter-governmental but co-operation should be strengthened.

The Danish government is a firm supporter of more openness in the Union and favours either the inclusion in the Treaty of the principle of transparency, or perhaps amendment of the rules of procedure of the Council (which would not entail Treaty amendment), or both. It also supports an extension of the principle of subsidiarity, stating that it will "make efforts to bring about a clarification of the principle of subsidiarity", perhaps "by stipulating the competences of the EU in the individual articles".

On the decision-making procedures, the co-operation procedure in particular, the government favours simplification, a reduction of the number of procedures and the removal of obsolete legal acts.

B. Swedish Report to Parliament, 30 November 1995

The Swedish white paper was requested by the Swedish Parliamentary Standing Committee on the Constitution and follows an initial government report entitled "Sweden's fundamental interests prior to the EU 1996 Intergovernmental Conference". In a section entitled "Overall

Swedish Objectives", the Government sets out its priorities for the IGC. These are identified as:

increasing employment

improving the environment

promoting competitiveness and free trade

strengthening the common foreign and security policy (CFSP)

equality between men and women

combating international crime

strengthening the position of consumers and wage earners in the Common Market.²⁵

The report reiterates the Swedish proposal to the Reflection Group that the fight against unemployment "should be reflected in the Treaty". It also supports more majority decision-making and environmental considerations in all policy areas, more effective legal and police co-operation and a more effective CFSP with a development of EU conflict prevention and peace-keeping measures. The IGC "should play an important part in establishing the prerequisites for the future enlargement of the Union".²⁶ On the transfer of sovereignty, the report states:

The Government's starting-point is that the EU will continue to develop into an association of independent states, with some transfer of decision-making powers so that common goals may be more easily achieved.²⁷

The report considers the application of subsidiarity, emphasising that environmental matters, for example, are best dealt with at Community level and continues:

The Government considers that there should be a careful review of issues which could well be transferred to a Community or national level. However, attempts to return issues to the national level in the name of subsidiarity should be discouraged if they are best dealt with at Community level.²⁸

²⁵ p.12

²⁶ p.13

²⁷ p.13

²⁸ p.14

The Swedish Government supports the idea of a "variable geometry" with regard to closer integration, particularly in view of future enlargement to include the CCEE:

Future enlargement may lead to demands for varying degrees of integration in accordance with the capacity and wishes of individual member countries.

"Special solutions" for individual member states "should not be excluded in the future, as they contribute to a flexibility that may be necessary if further cooperation is to be achieved".²⁹

Sweden, like Denmark, is a small member in terms of population, and is concerned to maintain the relative advantage that the small members have in their representation in the EU institutions: "Any proposal which undermines the balance between large and small member countries should be rejected".³⁰

The report also acknowledges that "compromise will be essential" at the IGC, implying that the Swedish Government will not be bound by the position set out in the report.

C. France

On 13 March 1996 the European Affairs Minister Michel Barnier made a statement to the Assemblée Nationale on the Government's priorities for the IGC. This was endorsed by the Prime Minister Alain Juppé in an address to the European Democratic Union in Paris. Mr Juppé maintained that there was "no question of creating a European superstate", and he supported Europe as "guarantor of the fundamental values of democracy which will help and guide its peoples seeking their own identity".³¹ Aware of the narrow vote on the Maastricht Treaty in 1992, Mr Juppé assured the conference that the future Europe would derive authority not from the Commission-EP combination but from the Council and the national parliaments. He called for a High Parliamentary Council, composed of representatives from national parliaments, to review legislation and control the application of subsidiarity.

The Prime Minister opposed the "drifting" (*dérive*) of the European Court of Justice into new areas of competence. If the Court were "allowed to extend itself [this] could lead unavoidably to the acceptance of a federal-style European constitution".³² *Le Monde* commented that this statement would please "the friends of John Major" but that it was about the only comfort that the British could draw from the government's programme.

²⁹ p.15

³⁰ *ibid*

³¹ *Le Monde*, 14 March 1996

³² *ibid*

Mr Juppé reaffirmed the Franco-German concept of a "hard core" of member states comprising France, Germany and a few other states which wanted and were able to move more rapidly towards closer integration in areas such as monetary union and defence. The Council of Ministers, representing the member states, would be the central decision-making body helped by the EP, whose electoral method would have to be adapted, and the national parliaments. The Commission would have to be restructured with a reduced and more united team. He reiterated the proposal put to the Reflection Group by France and Germany for a "Mr CFSP", a super secretary-general of the Council to be responsible for a common foreign and security policy. The Prime Minister wanted concrete progress on a common defence at the IGC and in this context proposed that each of the five large member states (Germany, Britain, France, Italy and Spain) should contribute 50,000-60,000 soldiers in order to provide the Union with a force of 250,000-300,000 men who could act autonomously or with the US in a NATO action.³³

D. Franco-German Initiative on the Common Foreign and Security Policy, February 1996

The French Foreign Minister, Hervé de Charette, and his German counterpart, Klaus Kinkel, agreed a set of guidelines at a seminar on the Common Foreign and Security Policy held in Freiburg on 27 February 1996.³⁴ The guidelines, which will be presented to the opening session of the Intergovernmental Conference, marked a further step in French and German efforts to co-ordinate their positions on EU reform. The joint document produced by the Seminar, *Common Foreign and Security Policy Guidelines adopted on the occasion of the Foreign Ministers' Seminar of 27 February 1996*, put forward a number of substantive proposals for reform of the CFSP. These were divided into four areas.

First, there were measures which could increase the efficiency of the CFSP and the Union's ability to act, improve decision-making and reduce the rigidities created by unanimity. Measures which could be examined included making a distinction between initial decisions and decisions involving implementation; the principle of constructive abstention for the Common Foreign and Security Policy; and the use of qualified majority voting. The document noted that in the case of the use of QMV, member states which were against a particular proposal would not be compelled to commit their military or police forces to its implementation. By the same token, they could not prevent other members states from going forward.

³³ *Le Monde, ibid*

³⁴ *Die gemeinsame Aussen- und Sicherheitspolitik Leitlinien*, Foreign Ministry seminar, 27 February 1996, Freiburg

Second, the document also looked at means of improving the coherence and consistency of the CFSP. Both France and Germany wanted the Commission to be more closely linked to CFSP particularly in respect of implementation of decision-making. They called for the establishment of an analysis and planning cell in the Council Secretariat which would include personnel from the Commission, from members states and from the WEU. The Cell would pool the knowledge of its participants and prepare proposals.

Third, the document wanted a greater commitment to visibility and continuity in the CFSP.

Fourth, the document put forward proposals for the strengthening of European defence and security policy. It wanted a new solidarity clause included in the Treaty. This would take account of the circumstances of the legitimate interests of individual Members States. It wanted the European Council to be able to give the WEU guidelines for security and defence actions on its behalf. The goals of Petersberg type missions (humanitarian, peacekeeping, etc) would be set by the European Council rather than by the WEU as at present. There would also be a statement of the role of the EU in the definition of a Common European Defence Policy. European states which did not wish to participate in military actions would still have to show political and financial solidarity. CFSP actions should as a rule be financed from the EC budget. In the medium term, the WEU should be absorbed into the EU. Towards this goal, the institutional links between the two bodies should be strengthened.

The document wanted further development of the Franco-German initiative for a European Armaments Policy. To this end, it desired greater co-operation in the armaments field and the establishment of a European Armaments Agency.

The paper is a compromise between France and Germany. The latter in particular has abandoned its position of supporting the unfettered use of QMV in the CFSP. This has been achieved by separating the establishment of guidelines for foreign policy and defence actions, which would be decided by unanimity, from the decision-making about their implementation, which could be taken by QMV. This differs from current practice where all CFSP decisions are taken by consensus, including a decision that a particular policy should be implemented by QMV. The qualification of the proposed solidarity clause is intended to apply in cases such as the dispute between Greece and Turkey in which some Member States find it difficult to offer unconditional support to Athens.³⁵

³⁵ *The Financial Times* 28/2/96 and *The International Herald Tribune* 1/3/96

VIII Reactions to UK White Paper in Member States

El País, 13 March 1996

In a report entitled "Major prepares for the EU summit without forgetting his eurosceptics", *El País* described the White Paper as "cautious". The writer notes that in his statement to the Commons the Foreign Secretary had omitted to mention the thorny issues of fisheries and EMU, commenting that the debate over the Court of Justice ruling on compensation for Spanish fishermen in the *Factortame* case was still "hot" in Britain. "For the most part", the report continues, "the tone of [Mr] Rifkind was particularly balanced, recalling in passing the benefits obtained by the UK in its twenty years of EU membership".

Le Monde, 14 March 1996

According to this report, the White Paper was "above all a question of a compromise aimed at avoiding a rebellion of pro-Europeans and Eurosceptics at the heart of the Conservative Party and of not clashing head-on with EU members with positions that are too cut and dried". *Le Monde* also points to the recent ECJ ruling against Britain on the 48-hour week, linking this to the Government's view of the ECJ in the White Paper. The proposals are described generally as a "catalogue of British reservations about the Brussels institutions".

Frankfurter Allgemeine Zeitung, 14 March 1996

The German report also draws attention to the recent ECJ rulings against Britain over compensation and the 48-hour week, attributing these to the Government's criticism of the Court. The writer comments that the document was more moderate than had been expected and that the opponents of European integration were restrained in their views on the Paper. The *FAZ* also notes the absence of "the two most important contentious issues: monetary union and a referendum" and maintains that London "stands almost alone" in opposing the extension of qualified majority voting in the Council of Ministers.

Irish Times, 13 March 1996

An editorial on the White Paper comments:

The British Government's White Paper on the European Union is devoted to the need for a flexible model of integration, which respects diversity and puts the nation state at the centre of negotiations. Unfortunately Mr Major's extremely precarious parliamentary majority has reduced the tactical flexibility of his negotiating position, so that he is less well able to deliver on this strategic objective.

The writer does not think the White Paper is a "capitulation to the Europhobic extreme", however, and notes that it insists on Britain's role in Europe as an "indispensable guarantee of its national interests".

Irish Times, 16 March 1996

The former Irish Prime Minister Garret Fitzgerald underlines the importance of British policy on Europe for Ireland, particularly in view of its presidency of the Union in the second half of 1996 in which it envisages that there will be a need to "conciliate differences between the British and the rest". Mr Fitzgerald considers that the White Paper:

is largely expressed in conciliatory language, clearly seeking to damp down controversy both at home and in the European forum. What denunciations it contains are carefully restricted to forms of European federalism that are not in fact advocated by any member government.

He criticises it for failing to address arguments put forward on the reform and simplification of the 22 decision-making procedures identified by the European Commission and regrets that its "section on the European Parliament is lamentably weak". He is also critical of the British suggestion that in an enlarged Union there will not be any need to re-examine decision-making by qualified majority vote. He concludes:

It will be the task of the Government from July 1st onwards to tease out these problems and to do so in such a way as to facilitate an eventual British re-think of some of the more negative stances set out in this document.

IX Referenda on the Outcome of the IGC

In 1994 the three most recent EU members, Austria, Finland and Sweden, held referenda on EU membership and in 1992 France, Ireland and Denmark held referenda on the changes to the Treaty introduced by the TEU. It is not yet clear whether any of these countries will hold referenda on the outcome of the IGC. Much will depend on the nature of any reforms agreed. In view of the problems caused by the negative Danish vote on the last Treaty, IGC negotiators are expected to be more aware this time of the concerns of their electorates.

The possibility of a referendum in the six countries is considered below:

A. Denmark

The Danish Government held a referendum in June 1992 on the changes to the EC Treaty included in the TEU. This was a legally binding referendum because the changes involved a transfer of national sovereignty from Denmark to the EU. In 1986, Denmark held a guiding referendum on the Single European Act, which was not strictly speaking binding but which the Government would have been under pressure to respect in the event of a negative vote. As far as the forthcoming IGC is concerned, the question of whether or not to hold a referendum will depend on the outcome of the Conference. If only minor amendments to the Treaty are made, then a guiding referendum would be optional, but if major changes are agreed, then a legally-binding referendum would be necessary. The Prime Minister Poul Nyrup Rasmussen is not in favour of a referendum but the Foreign Minister Helveg Petersen is. The general opinion is that even if only minor amendments are agreed, there would still be pressure on the Government to hold a guiding referendum.

B. Ireland

There are no plans to hold a referendum in Ireland unless certain matters affecting Irish sovereignty (particularly in foreign policy areas) are changed as a result of the IGC. For example, if the new treaty gives rise to a need to change the role of the EU's security arrangements, devolving decision-making from the Dáil to the EU, then a referendum would be held.

C. France

Under Article 11 of the French constitution, the President decides whether to hold a referendum or proceed by parliamentary processes to authorise ratification of a treaty. According to the European Affairs Minister Michel Barnier, President Chirac is considering a referendum, depending on the outcome of the IGC.³⁶ He does not rule out a referendum on one or more of the next moves towards integration at the IGC on matters such as institutional reform, enlargement or the common foreign and security policy.

³⁶ *La Tribune Desfossés*, 15 December 1995

D. Austria

The Austrian Government has no intention of holding a referendum on the outcome of the IGC and is under no constitutional obligation to do so.

E. Finland

There has been no formal decision on a referendum and there is no intention to hold one at the moment. Those who voted against EU membership in the referendum in 1993 are in favour of holding one on the IGC.

F. Sweden

The Swedish Government presently has no intention of holding a referendum on the outcome of the IGC but this will depend on the extent of the changes agreed. Since joining the EU the number of anti-European groups in Sweden has grown and there might be pressure on the government to hold a referendum if the IGC introduces radical changes to the Treaty.

X Conclusion

The White Paper "A Partnership of Nations" has been published and the opening of the IGC in Turin is imminent. While the White Paper is concerned with the IGC agenda, and therefore does not cover economic and monetary union (EMU), the debate takes place in a wider context which does include the prospects for EMU and the implications for the UK. The matter of a referendum on EMU has also been raised in the House on a number of occasions and the exclusion from the White Paper of any discussion of the single currency has been questioned. The Government has not ruled out a referendum on EMU. The Prime Minister told the Commons on 7 March that "a referendum on joining a single currency could be a necessary step" and that the Government was "considering the circumstances in which a referendum might or might not be appropriate".³⁷ Britain will be the only EU member state to consider holding a referendum on EMU since all the other members except Denmark agreed to the terms and criteria as set out in the TEU.

³⁷ HC Deb, 7 March 1996, c.450

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It is very difficult to predict the future course of the IGC negotiations, but it is clear already that the EU has embarked on another round of constitutional review which could result in some significant changes, or could equally result in deadlock if the Member States are not able to agree on a new consensus.

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- 96/30 Radioactive Waste: Some Topical Issues**
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- 96/34 Housing Renovation Grants**
- 96/35 Water (Conservation and Consumer Choice) Bill [Bill 33 1995/96]**
- 96/36 The Treasure Bill 1995/96 [Bill 21]**
- 96/37 London Regional Transport Bill [Bill 68 of 1995/96]**
- 96/38 Unemployment by Constituency - February 1996**
- 96/40 The Reserve Forces Bill [HL] [Bill 75 of 1995/96]**