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CONFERENCE

OF THE REPRESENTATIVES OF THE

GOVERNMENTS

OF THE MEMBER STATES Brussels, 19 October 2000

CONFER 4787/00

LIMITE

INFORMATION NOTE

Subject: IGC 2000: Memorandum from the Benelux

Delegations will find attached a memorandum from the Benelux with regard to the Intergovernmental Conference and the future of the European Union.

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# ANNEX

## Benelux memorandum on the IGC and the future of the European Union

### Maintaining the momentum of European integration

1. The Benelux countries are of the opinion that the Union should continue to cherish its far-reaching ambitions, guarantee that its institutions work in an efficient, transparent and democratic manner, and create the conditions for the forthcoming enlargement rounds. They recall their memorandum of December 1999, which expresses the view that the IGC should not confine itself to the "leftovers" from the Amsterdam summit (the size and composition of the Commission, the weighting of votes in the Council and the extension of qualified majority voting) and a number of related subjects. The Benelux countries are also pleased that the European Council at Santa Maria da Feira placed closer cooperation on the IGC's agenda. This will make it possible to achieve impressive results in Nice, and thus help to create favourable conditions for enlargement.
2. Negotiations must now be pushed forward. The time remaining is short. The Benelux countries will support the French Presidency in its efforts to achieve a good outcome. This document represents a further Benelux contribution to these efforts.
3. The radical changes which Europe is undergoing are becoming increasingly visible. Reform is called for because of the forthcoming enlargement of the European Union. This enlargement is of immense importance to the entire continent of Europe. The opportunity to safeguard peace, prosperity, stability and the values of our community must be seized. The accession of so many new member states will affect decision-making in the EU. The IGC must therefore take measures, before enlargement takes place, to preserve effectiveness, democracy, transparency and unity in the European Union of the future.
4. The prospect of an enlarged, more diverse Union has prompted a debate on the future of the EU. In addition to their contribution to the IGC, which has absolute priority, the Benelux countries wish to lay out the broad outlines of their position on reform of the EU in the medium term. The various visions that have been put forward have in common the view that enlargement must be accompanied by further integration and cooperation between the member states. The Benelux countries have a high regard for the constructive ideas put forward in this connection and will continue to make an active contribution to this process. Wide-ranging reflection encourages dialogue on the nature and the objectives of European integration.
5. The Benelux countries would emphasise that a wide-ranging debate on the future must not distract attention from the steps that must be taken in the short term. No changes may be made to the agreed sequence of and the logical connections between the activities on the European agenda. In the opinion of the Benelux countries, the timetable should be as follows:
  - ? the current IGC should be brought to a successful conclusion in Nice, so that the way to enlargement is definitively open, in accordance with the conclusions of the Helsinki European Council. The Benelux countries are of the opinion that this should be stated explicitly in the conclusions of the Nice European Council;
  - ? the negotiations with the applicant states should be stepped up so that the first conventions on accession can be signed as soon as possible;
  - ? after Nice, further shape can be given to the constitutional order of the EU. That debate may produce ideas that are worth considering and which can lead to other, more far-reaching reforms in due course. A wider debate of this kind, in which the applicant states should be involved, must not form an obstacle to enlargement;
  - ? the Benelux countries propose that the heads of state and government should issue an indicative statement on the political future of the European Union at the end of next year. The debate thus prompted could produce results in the period following the ratification of the Nice Treaty.

## Strengthening the Community method

1. The Benelux countries would underscore the importance of examining what further reforms can be implemented. In this connection they are not advocating a new blueprint, but opting for an evolutionary approach based on two principles:

- ? the existing institutions will form the basis for new reforms;
- ? the Community method must form the main route to European integration.

1. The Benelux countries take the view that the Union should be re-formed on the basis of its existing institutions and structures. In an enlarged Union, strong European institutions will be even more important than before when it comes to ensuring efficient, democratic, transparent decision-making. The EU is a legal community. Decisions are initiated by the Commission and are taken by the Council, wherever possible by qualified majority vote, and by the European Parliament. Responsibility for scrutiny and oversight is primarily vested in the Commission and the Court of Justice. The Benelux countries would recall that the success of European integration is partly due to balanced, productive cooperation between the institutions, notably between the European Parliament, the Council and the Commission. There is room for improvement in particular in the Union's external representation. The Council and the Commission will probably vie with each other for dominance in external relations, and will weaken the Union as a whole. The Benelux countries believe that the position of the High Representative should be reviewed in due course; he should attend meetings of both the Council and the Commission. In a larger Union, the Commission's role in initiating and moving forward the decision-making process should be strengthened, while preserving its legitimacy. With its focus on the Union's interests alone, the Commission must continue to propel decision-making forward in what will be a largely divergent interests. This will call for greater drive and resilience on the part of the Commission.

To increase the Commission's democratic legitimacy, the Benelux countries feel that one question that should be asked is whether, in time, the Commission's President should be elected.

2. The unique Community method which has made European integration such a success must continue to be the hallmark of the European Union of the future. It is characteristic of this method that integration progresses step by step, in response to concrete issues and taking account of the scope available. Now, when the Union is facing up to major challenges and reforms, is the time to build wherever possible on the Community method. That is not to say that there is no room within the Union for other forms of cooperation or for new methods of integration such as those developed at the Lisbon European Council. The Benelux countries take the view that these forms of cooperation may be desirable in the future for assessing new fields of policy and tackling particular problems. The Benelux countries feel that in time ways should be sought of communitising the existing intergovernmental cooperation.

3. With due regard for these principles and for the maintenance of the EU's institutional equilibrium, the Benelux countries are open to reforms that will strengthen the EU's constitutional order. The common factor in these reforms is that they will improve the functioning of the Union as a whole vis-à-vis the people of Europe and the member states. The reforms could include:

- ? embedding the Charter of Fundamental Rights in the Treaty;
- ? reforming the structure of the Treaties;
- ? defining with greater precision the division of competencies between the Union and the member states, taking account of regional identities and diversity;
- ? strengthening external action by the Union.

These reforms could make a significant contribution to a process of constitutional restructuring which could provide a basis for the development of a European constitution.

## Concluding the IGC in Nice

1. The Benelux countries want to make one point absolutely clear: the current IGC on institutional reform must be concluded this year. The successful conclusion of the IGC is a sine qua non for enlargement.

2. The Benelux countries hope for substantial results from the IGC. Agreement must therefore be reached in Nice on the main points of the IGC agenda, viz.:

- ? the extension of decision-making by qualified majority vote;

? the size and composition of the Commission;

? the weighting of votes in the Council;

? the relaxation of the conditions for closer cooperation.

Agenda items arising from Amsterdam

Extension of QMV decision-making

1. The Benelux countries are of the opinion that in the future the Council should decide by qualified majority vote in any event on the following:

? free movement of persons (asylum and migration);

? environmental policy;

? common trade policy;

? social policy, taking account of the different national systems.

The European Parliament should have the right of co-decision in legislative decisions taken by the Council on the basis of qualified majority.

Size and composition of the Commission

1. The Benelux countries believe that each member state should be represented on the Commission by one of its nationals. The member states must continue to take part in the appointment procedure on an equal footing. The equality of the members of the Commission cannot be open to question, and there can be no question of introducing a hierarchy. However, the position of the President should be significantly strengthened. He/she should have more flexibility when it comes to assigning activities. The Commissioners' individual and collective responsibility should be regulated more clearly in the Treaty. This will also help to clarify the Commission's position vis-à-vis the Parliament.

Weighting of votes in the Council

2. The member states' votes in the Council should be re-weighted to take account of relative population size, with comparable solutions being applied in comparable situations. The Benelux countries would emphasise that the general balance between large and small member states should be preserved after enlargement. The new weighting could be achieved by re-weighting existing votes or by introducing a double majority.

Relaxing the conditions for closer cooperation

3. The Benelux countries are in favour of relaxing the conditions for entering into closer cooperation. It must no longer be possible for a member state to veto closer cooperation. The minimum number of member states that can enter into closer cooperation should be eight. The Benelux countries believe that closer cooperation should be open at all times to participation by member states that were initially unable or unwilling to take part.

Closer cooperation must not be allowed to lead to the creation of separate bodies alongside the EU institutions. The Benelux countries are willing to consider incorporating closer cooperation in the second pillar, for implementing the CFSP.

4. The Benelux countries would emphasise that relaxing the conditions for closer cooperation will provide an excellent guarantee for European integration. After enlargement, the Union will encompass an even richer variety of countries than it does today. To cope with such diversity while continuing to cherish far-reaching ambitions, the EU must further develop the closer cooperation mechanism, which enables member states that are able and willing to do so to cooperate more closely in a particular policy field. Closer cooperation is thus an indispensable means of maintaining the dynamic of European integration. If it is not regulated now, there is a risk that member states will seek forms of flexible cooperation outside the framework of the Treaty. Our political conclusion is that closer cooperation must be given substance within the European Union.

5. Despite plans to relax the conditions for closer cooperation, the safeguards against the misuse of this option must remain in place. Closer cooperation should continue to be an instrument that serves to further the integration of all the member states. In other words, closer cooperation is not intended to extend the powers of the Community or to make

changes to the institutional framework. Indeed, the role of the Commission should be strengthened where possible. Closer cooperation should not always involve the same member states and non-participants should always be able to join in at some later stage. The Benelux countries would stress that closer cooperation must remain open, and that guarantees for this openness must remain in place.

The IGC and related subjects

6. In addition to the issues discussed above, the IGC agenda contains a large number of other points that are highly relevant to the functioning of the Union and its further development:

? the allocation of seats in the European Parliament;

? the Court of Justice and the Court of First Instance;

? the European Court of Auditors;

? the advisory bodies;

? amendments to article 7 EU;

? the European Security and Defence Policy.

? The number of seats per member state in the European Parliament should be reduced proportionately, to allow representatives of the new member states to take their seats after enlargement without the EP's upper limit of 700 seats being exceeded. Each member state should have a certain minimum number of seats. The number of MEPs elected in each member state should guarantee that the peoples of the states united in the Community are represented in an appropriate manner.

? The Court of Justice's workload should be reduced by an array of measures. Many of its tasks could be transferred to the Court of First Instance, provided the latter's capacity is increased. Such a review must furnish guarantees for the unity of the European legal system.

? The position of the European Court of Auditors must be strengthened, in the interests of ensuring proper scrutiny of the movement of funds within the EU. Full cooperation between the European Court of Auditors and the national audit institutions in the member states is essential in this connection.

? In view of the greater diversity of the EU after enlargement, the Committee of the Regions and the Economic and Social Committee will need sound advice. Consideration may be given to strengthening the position of these Committees where appropriate.

? In the light of the Three Wise Men's report on Austria, it would be advisable to incorporate an early warning mechanism for potential human rights violations into article 7 of the TEU.

? The development of the European Security and Defence Policy must be anchored in the Treaty, in such a way as to provide a clear framework for EU decision-making in relation to its crisis management tasks, the role of the new committees in this connection and effective coordination with NATO.

1. The debate on the future of the European Union will be an interesting one. It must result in action, and not in words alone. After all, the immediate future of the EU will be shaped over the next few months. The Benelux countries stress that the current IGC must be concluded at the appointed time, on the basis of a sound package of reforms. The aim of this memorandum is to make a substantial contribution to that process.

The Hague, 29 September 2000

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