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Til underretning for Folketingets Europaudvalg vedlægges øvrige medlemslandes besvarelse af formandskabets spørgeskema af 19. september 2003 om Rådet (dok. CIG 10/03 – 34/03).

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 10/03**

DELEG 1

**NOTE**

| | |
|---|---|
| from: | Benelux |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Benelux to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from Benelux to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

## I. The Legislative Function

1. In the view of the Benelux the Legislative Function should not be conferred on a single Council formation. Doing so would constitute an unacceptable diminishing of the role of the sectoral Councils.

   The Benelux, as was expressed in the Benelux-memorandum of 4 December 2002, is in favour of distinguishing between the legislative and executive function of the Council's work. Such can be done within each Council-formation, including the General Affairs Council, whose coordinating role could entail the possibility of being seized of legislative proposals being discussed in other Council-formations, at the request of either the Commission or the respective Council-formation.

2. Article I-49 does not limit the requirement of public meetings solely to the normal legislative procedure. The Benelux sees no reason why the IGC should introduce such a limitation.

## II. The Formations of the Council

3. As the Benelux made clear in its contributions to the Convention we should stick to the Council formations as they were agreed at Sevilla, with the exception of splitting up the GAERC in a Relex Council and a General Affairs Council.
   The Convention text (art I-23 para 3) implies that decisions on the number of Council formations are taken by consensus. The Benelux sees no reason why the IGC should change this.

## III. The presidency of the Council of Ministers

The Benelux considers the basic choice with regard to the Council presidency to be between three options: current system of rotation ("unitary rotation"), elected presidents and teampresidents. The questionnaire is rather biased in that it explores only the option of teampresidents in great detail.

The Benelux would like to have a balanced discussion, in which elected presidents and the current system of rotation are also thoroughly examined. Both options carry distinct advantages that need to be taken into consideration. Elected presidents can serve for longer than the current six months period which enables them to better ensure coherence of the Council-agenda. They can be chosen by their peers based on merits, which will ensure quality. A rotational presidency based on the current system carries the advantage of unity of command throughout the GAC and the sectoral Councils.

4. **Questions 5 to 11:**

We are looking forward to an open exchange with partners on the subject of teampresidencies as one of the possible options. At this time it is not possible to give detailed answers to all questions regarding the nature and composition of team presidencies. However, some observations apply:

- Team presidencies raise the question of coordination within the team, especially the larger the team becomes. This coordination should be a responsibility of the member states that compose the team. Meanwhile the GAC is responsible for general coordination of all Council activities.
- The Member State chairing the GAC should also chair Coreper I and II. This member states bears a special responsibility, in that it needs to ensure coherence between the work in the Sectoral Councils and the GAC, in its role of preparing the European Council. Committees/working parties should be chaired by the member state holding the presidency of the Council in question.
- Membership of any team presidency should be based on equal rotation. Teams must be composed taking into account a geographical and demographical balance, determined in advance by unanimity.

**CONFERENCE**
**OF THE REPRESENTATIVES**
**OF THE GOVERNMENTS**
**OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 11/03**

DELEG 2

**NOTE**

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| from: | the Bulgarian delegation |
| *Subject:* | ***IGC 2003*** <br> – ***Reply from Bulgaria to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Bulgarian delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

- Bulgaria would not oppose the creation of a single Legislative Council (as provided in Article 23.1 of the draft) even though we would slightly prefer the legislative functions to be dedicated to each Council formation.

- The decision on the list of Council formations should be taken unanimously as provided in Art. 23.3 and art. 20.4. of the draft

- For the presidency of the Council formations we would prefer to apply the rotation system as provided in Art. 23.4 of the draft. We do not exclude the possibility of introducing the team presidencies but further clarifications are needed in this respect – the team might include three Member States; its composition would be fixed in advance with due regard to the principle of equal rotation; the allocation of the different Council formations would be left to the discretion of the Member States in the team. The Member State chairing the General Affairs Council should chair Coreper as well. The committees/working parties subordinate to a particular Council will not necessarily be chaired by the Member holding the presidency (each committee might elect its chairman on the basis of his/her competencies). The PSC and other external relations working groups should preferably be chaired by a representative of the Foreign Minister. We do not see the necessity for the creation of a permanent informal structure for coordination between the representatives of the Member States holding the Presidency (ad hoc informal coordinating structures could be created when necessary).

- The essential elements for future arrangements for the rotation of the Presidency of the Council should be agreed during the IGC but the details could be left for further decisions in the European Council.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 12/03**

DELEG 3

**NOTE**

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| from: | the Czech delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from the Czech Republic to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Czech delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

**ANNEX**

## I. LEGISLATIVE FUNCTION OF THE COUNCIL

1. Each Council formation should work in its public legislative function as well as carry out other activities (as opposed to a single legislative council).

2. The public legislative function should cover all laws and framework laws undergoing the legislative process. A provision stipulating the possibility to deviate from the rule in exceptional and justified cases by a qualified majority decision of the Council would be included.

## II. THE FORMATIONS OF THE COUNCIL

3. The individual Council formations should be laid down by unanimous decision of the European Council. The number of formations should be limited in line with the Seville European Council conclusions.

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

4. No other Council formation apart from the Foreign Affairs Council should have a fixed presidency.

5. There should be a Team Presidency system of rotation in all the Council formation with the exception of the Foreign Affairs Council.

6. (a) The Team Presidency should comprise 3 member states.
(b) The term of the Presidency should be 18 months.
(c) The composition of the teams should be fixed in advance.
(d) The allocation of the various Council formation should be left to the discretion of the member states in the team.

7. The chain of command should be maintained (for a period of six months) while the member state in question would simultaneously chair the General Affairs Council and the Coreper I a II.

8. The committees/working parties subordinate to a particular Council should automatically be chaired by the member state holding the Presidency of the Council in question.

9. The PSC and other external relations working parties should be chaired by the representatives of the member state which is at that point chairing the General Affairs Council and Coreper I. a II.

10. There should an informal structure for coordination between the representatives of the member states holding the Presidency, in which the President of the European Council, the President of the Commission and the Minister of Foreign Affairs could participate.

11. The detailed arrangements for the rotation of the Presidency could be unanimously adopted at a later stage, if the essential elements of the future arrangements were agreed at the same time as the Treaty establishing the Constitution. The composition of the Team of the Presidency is considered an essential point.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 13/03**

DELEG 4

**NOTE**

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| from: | the Danish delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Denmark to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Danish delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

## General remarks

The following Danish replies to the questionnaire on the legislative function/the formations of the Council/The Presidency of the Council of Ministers should be regarded as preliminary and subject to further specification in the course of the IGC discussions.

## I. The Legislative Function

1. Denmark holds the position that each Council formation should perform the legislative function within its area of work. Denmark is sceptical towards a separate legislative Council.
2. Denmark supports the decision in Seville to open Council debates on acts adopted in accordance with the procedure for codecision with the European Parliament to the public. It is important for Denmark that this principle of openness in the work of the Council is extended to all laws and framework laws in all Council formations.

## II. The Formations of the Council

3. Denmark supports the decision in Seville limiting the list of Council formations. Denmark is flexible with regard to the decision-making procedure of the European Council on the list of Council formations.

## III. The Presidency of the Council of Ministers

4. Denmark supports the principle of full and equal rotation among Member States with respect to the Council Presidency. The presidency of the Foreign Affairs Council must be seen in the light of the tasks of the EU Foreign Minister, including the role of the EU Foreign Minister in the Commission.
5. Denmark is open towards the idea of Team Presidencies. Team Presidencies would require clear measures to ensure efficient and coherent decision-making and coordination.
6. Denmark is ready to discuss various ways of organising Team Presidencies. If it is decided to opt for a Team Presidency system, principles for the composition of the Teams and for the allocation of Council formations within the Teams must be transparent and based on full and equal rotation among Member States.

7. Denmark is open towards discussing the idea of a vertical chain of command. In general, Denmark finds it preferable that the same Member State or institutional representative normally chairs a Council formation and the corresponding committees and/or working parties in order to ensure vertical co-ordination. The possibility of chairing of certain committees and/or working parties by the General Secretariat of the Council, by the Commission, or by an elected member of the committee or working party should not be ruled out.
8. See question 7.
9. See question 7.
10. It is important to achieve greater coherence and coordination in the Council's proceedings. Denmark is open to discuss modalities of an informal structure for coordination among the presidents of the various institutions.
11. It is important to achieve the above-mentioned results during the Intergovernmental Conference, but details can be sorted out at a later stage.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 15/03**

DELEG 6

**NOTE**

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| from: | the Estonian delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Estonia to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Estonian delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

# I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

   or

   **should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?**

Estonia is of the opinion that the present system in which the legislative function of the Council is conducted by different council formations should not be changed. Therefore, the provisions of the draft Treaty, which provide for the creation of a single legislative and general affairs council, should not be maintained.

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

   **or**

   **with all laws and framework laws?**

Estonia holds the view that the public legislative part of the work of different council formations should concern all laws and framework laws adopted by the Council.

# II. THE FORMATIONS OF THE COUNCIL

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

Estonia supports the wording of article 23(3) of the draft Treaty, according to which the concrete list of different Council formations is to be adopted by the European Council. Taking into account the importance of the issue, we are of the view that the European Council decisions on the list of Council formations should be taken unanimously. As for the number of Council formations, it should be in line with the decision taken in Seville.

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

Estonia holds the view that the Presidency of all Council formations should be based on the system of equal rotation between the Member States. The issue of the Presidency of the Foreign Affairs Council will have to be discussed together with the whole complex question of the institution of the Foreign Affairs Minister, which is a separate agenda point at the IGC.

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

As an alternative to the present rotation system, Estonia supports the Team Presidency system. However, in order to make the Team Presidency system acceptable and efficient, a number of conditions have to be met. Firstly, respect for the principle of equal rotation of Member States should be explicitly stipulated in the Treaty. Secondly, the organisation of coordination between different Member States presiding over different Council formations, as well as coordination between different levels of decision-making (Coreper, working groups) should be elaborated, in compliance with the general quest for simplicity and transparency, as well as efficiency and continuity.

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

**(a) how many Member States should there be in the "team"? three? four? five?**
**(b) what should be the duration of its term? a year? 18 months? longer?**
**(c) should the composition of the teams be fixed in advance or left open on the basis of criteria to be determined, with due regard for the principle of equal rotation (which would take into account political and geographical balance and the diversity of Member States as defined in Article 23(4) of the draft Convention)?**
**(d) should the allocation of the different Council formations within the team be fixed in advance or left to the discretion of the Member States in the team?**

Estonia sees the advantages of a team of 3 members for 18 months or of a team of 5 members for 2,5 years. We find that the different proposals should be subject to further discussions, taking into account that some states have also suggested other models.
The composition of the teams should not be fixed in advance, but the criteria should be clearly defined in the Treaty, guaranteeing the respect for the principle of equal rotation. Also the allocation of the different Council formations should not be fixed in advance, but should be subject to a unanimous decision of the Member States in the team. The idea of rotation within the team should also be discussed.

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

Estonia is of the view that the chain of command under a Team Presidency should be maintained, with the Member State chairing the General Affairs Council also chairing Coreper I and II.

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

Committees and working parties subordinate to a particular Council should be automatically chaired by the Member State holding the Presidency of the Council in question.

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

Estonia is of the view that if the Foreign Affairs Council is chaired by a Member State, the PSC and other external relations working parties should be chaired by the Member State holding the Presidency of the Foreign Affairs Council. If, on the contrary, the Foreign Affairs Council is chaired by the Foreign Affairs Minister (see point 4), then the PSC and other external relations working parties should be chaired by the Foreign Affairs Minister or, in his absence, by his representative.

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

We attach importance to horizontal coherence, but see no need to include provisions on such informal coordination in the Treaty.

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

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

The detailed arrangements for the rotation of the Presidency of the Council should be subject of a unanimous decision of the European Council. Essential elements of the future arrangements should be stipulated in the Treaty.

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 16/03**

DELEG 7

**NOTE**

| | |
|---|---|
| from: | the Greek delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Greece to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Greek delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

# I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

or

should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?

***The exercise of the legislative function and a part dedicated to other activities should be determined for each Council formation.***

***All Council formations should exercise legislative functions; otherwise, they are bound to lose their political character and dynamics and thus the interest of their participants (i.e. the respective ministers). So the provision of the Draft Constitution for a legislative Council (along with the General Affairs Council) should be dropped.***

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

**or**

with all laws and framework laws?

***The public legislative part of the Council formations should be concerned with all laws and framework laws in the spirit of transparency and simplification of procedures.***

# II. THE FORMATIONS OF THE COUNCIL

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

***The initial decision on the list of Council formations should be taken within the framework of the Intergovernmental Conference. The list should be in line with the one agreed in Seville, allowing for the separation of the GAERC into two formations (GAC and Foreign Affairs Council). The list could be annexed to the Constitution.***

***However, future amendments on the list of Council formations should preferably be agreed in the European Council by a qualified majority, as it would be unwise to fix in a rigid manner the Council formations.***

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

*With the exception of the Foreign Affairs Council, the fixed Presidency should not be applied to the Council formations. They must be subject to the rotation system on a strict equal basis among Member States.*

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

***Greece is in favour of the introduction of a system of Team Presidencies. In the enlarged European Union, this system would allow Member States to share in the function of the Presidency at regular time scales.***

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

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

   ***A Team Presidency should preferably consist of 3 Member States. Greece will consider any other alternative proposal on its merits.***

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

   ***The duration of the Presidency term should be one year.***

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

   ***The composition of the teams should be fixed in advance on a predetermined order based on the criterion of equal rotation and taking into account the political and geographical balance and the diversity of Member States as defined in Article I- 23(4) of the draft Constitution.***

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

   ***The allocation of the different Council formations within the Team Presidency should be fixed in advance.***

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

***In order to enhance coordination under the team presidency, it would be advisable for the Member States chairing the General Affairs Council to chair the Coreper, thus maintaining a certain degree of chain of command.***

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

***The application of the vertical structure is essential to the coordination of each Council formation. So, as a rule, committees / working parties subordinate to a particular Council should be chaired by the Member State holding the Presidency of the respective Council, unless the Council itself decides otherwise.***

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

***We reserve comment on this issue pending a more detailed description of the role of the Minister of Foreign Affairs of the EU and of the European External Action Service that will assist him.***

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

***Greece is of the opinion that such an informal coordinating structure would hardly be a constitutional-type provision.***

***We believe that there could be an informal structure for coordination (not built into the Constitution) between the representatives of the Member States holding the Presidency, in which the Presidents of the European Council, of the Commission, of the European Parliament and the Minister for Foreign Affairs could participate on an ad hoc basis and following a consensual decision of the team Presidency to invite them.***

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

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

*The essential elements and parameters of the future arrangements for the rotation of the Presidency must be agreed at the same time as the Treaty establishing the Constitution. The very specific arrangements (i.e. list of Member States in the Presidency), could be fixed at a latter stage by a unanimous decision of the European Council.*

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 17/03**

DELEG 8

**NOTE**

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|---|---|
| from: | the Spanish delegation |
| *Subject:* | ***IGC 2003*** <br> – ***Reply from Spain to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Spanish delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

**ANNEX**

# I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

<u>or</u>

should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?

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

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

**<u>or</u>**

with all laws and framework laws?

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

# II. THE FORMATIONS OF THE COUNCIL

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

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

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

**The list should follow the Seville precedent.**

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

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

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

**Yes. Spain clearly supports such a system.**

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

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

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

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

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

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

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

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

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

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

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

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

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

**It sounds reasonable.**

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

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

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

**Yes.**

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

**Yes.**

If so:

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

**Preferably, yes.**

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

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

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 19/03**

DELEG 10

**NOTE**

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|---|---|
| from: | the Irish delegation |
| *Subject:* | ***IGC 2003*** <br> – ***Reply from Ireland to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Irish delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

## I THE LEGISLATIVE COUNCIL

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

**A** **The legislative function of the Council of Ministers should continue to be carried out, as a present, in the relevant expert Council formations.**

**When the Council legislates, it should meet in public. This will cause a natural divide in the public/private exercise of each formation's functions.**

2. Should the public legislative part be concerned only with laws and framework laws adopted under the normal legislative procedure (ie joint adoption by the European Parliament and the Council) or With all laws and framework laws?

**A** **Whenever the Council legislates, it should meet in public (whatever the legislative instrument or procedure used).**

## II THE FORMATIONS OF THE COUNCIL

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

**A** **The decision on Council formations might be taken by qualified majority vote in the European Council.**

**While there does not appear to be a need at present either to expand or to reduce the number and function of the formations identified at Seville (other, perhaps, than separating General Affairs from External Relations), to provide for greater flexibility in the future there is no need for this detail to be set out in the Constitutional Treaty.**

## III THE PRESIDENCY OF THE COUNCIL OF MINISTERS

4. Should other Council formations apart from the Foreign Affairs Council have a **fixed Presidency** (ie not applying the rotation system provided for in Article 23(4))?
Which formations?
Of what duration?
Using what procedure (election for the Council formations concerned)

A Ireland does not support amending the approach agreed at the Convention to provide for elected or fixed Presidencies in the Council formations. The Presidency should be **carried out by Member States under a system of equal rotation as provided for in Article 23.4 of the Convention draft.**

**Ireland does not believe that the Foreign Minister should chair the Foreign Affairs Council. This places too great a responsibility in the hands of an individual, who will be fully occupied ensuring the external representation of the Union and carrying out the roles currently performed by the High Representative and the External Relations Commissioner. It also prevents the Council from playing its proper role in holding the Foreign Minister to account in the exercise of his/her functions. Rotation among Member States should apply. We are open to considering special arrangements in the Foreign Affairs formation, where continuity and coherence will be provided by the contribution of the Foreign Minister and the proposed External Action Service. We note, in particular, the arrangements for chairing of the UN Security Council (rotation among Member States every month) and believe these merit further study. The Member State chairing the Council would have no role in external representation.**

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

A **Ireland supports the Convention text which provides for Council formations to be chaired by Member States on the basis of an equal rotation. It is open to considering models through which this can be achieved, including a "Team Presidency system".**

**If a Team Presidency system is adopted by the IGC, this should provide for each member of a team to have the opportunity to chair every Council formation during the team's term in office.**

**In a Union of 25 or more Member States, continuing to strengthen the multi-annual and annual programming provided for at Seville will be vital to the success of whatever arrangement for the Presidency is agreed.**

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

a) How many Member States should there be in the "team"? three? Four? Five?
b) What should be the duration of its terms? A year? 18 months? Longer?
c) Should the **composition** of the teams be fixed in advance **or** left open on the basis of criteria to be determined with due regard for the principle of **equal rotation** (which would taken into account political and geographical balance and the diversity of Member States as defined in Article 23(4) of the draft Convention?)
d) Should the **allocation** of the different Council formations within the team be fixed in advance **or** left to the discretion of the Member States in the team?

A **(a) If the IGC decides to opt for a Team Presidency system, it will need to strike an appropriate balance between the need for the greatest possible coherence (which points towards a small team) and the need for each team to be representative of the Union in terms of geographic and demographic balance (which points towards a larger team). It should be possible to meet both requirements in a team of five, but we are open to other ideas.**

**(b) This question is linked to (a) above. While we are open to team Presidencies of shorter duration, there might be advantages in organising the team Presidency system to reflect the rhythm that operates in the Union's other institutions. A period in office of 30 months might, therefore, be considered.**

**(c) The IGC should decide the essential elements governing a Team Presidency system (the period in office, the need for equality between Member States, the need for balance in its composition etc). There is no need for it to determine the composition of teams. However, the European Council will need to take an early decision in the matter to ensure that the Council is prepared, in good time, for the entry into force of the new Constitutional Treaty. In the future, it will be necessary to decide on team Members at least two teams in advance.**

**(d) If a team system is adopted, every Member State should have the opportunity to chair each formation of the Council during the team's term in office. Once this principle is established, it should be possible for the members of the team to decide the sequence in which they chair each formation.**

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

A **Yes. The Member State chairing the General Affairs Council should also chair Coreper.**

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

A **Yes, in general. However consideration should also be given to the extent to which the Council Secretariat can chair more technical groups.**

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

A **As noted above, Ireland does not support the Foreign Minister chairing the Foreign Affairs Council. Ireland also considers that the PSC should continue to be chaired by the Member State chairing the Foreign Affairs Council. The question of how the CFSP and other external relation related working parties should be chaired will have to be considered by the IGC in the light of its decision regarding the chairing of the Foreign Affairs Council.**

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

A **The General Affairs Council should continue to coordinate the work of the Council of Ministers.**

**If the IGC decides to put a Team Presidency system in place, there will need to be arrangements for coordination between the members of the team. This should take place in a meeting of their GAC representatives (rather than a meeting of the individual Chairs of each Council formation).**

**There will also need to be appropriate coordination in the preparation of European Council meetings including all relevant figures.**

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

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

A **Yes, unanimity is required for deciding on detailed arrangements for rotation. As noted above, the IGC should decide the essential elements of the system of rotation (the period in office, the need for equality between Member States etc). Details can then be decided by the European Council in good time for the entry into force of the Constitutional Treaty.**

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 20/03**

DELEG 11

**NOTE**

| | |
|---|---|
| from: | the Cypriot delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Cyprus to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Cypriot delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

**ANNEX**

## I. The Legislative Function

1. Exercise of the legislative function and a part dedicated to other activities should be determined for each Council formation. Setting up a separate Legislative Council as proposed in the Draft Treaty will give rise to problems in determining the participation of Ministers.
2. In the spirit of openness and accountability, all laws and framework laws should be adopted through the public legislative procedure.

## II. The Formations of the Council

3. The European Council's decision on the list of council formations should be taken unanimously as stipulated by the Draft Constitutional Treaty. The decision on the number of formations should be left to the European Council as provided for in the draft Constitutional Treaty.

## III. The Presidency of the Council of Ministers

4. In the spirit of equality of member-states and equitable participation in the workings of the Union, Cyprus does not favour the extension of fixed presidencies to Council formations other than that of the Foreign Affairs Council. The rotation system provided for in article 23 (4) should apply.
5. Cyprus supports the establishment of team presidencies.
6. [a] Cyprus considers that there should be four member-states in each team presidency.
   [b] the duration of each presidency term should be one year.
   [c] the composition of each team should be left open on the basis of criteria to be determined, with due regard to the principle of equal rotation, political, geographical and other criteria and the diversity of member-states as defined in article 23 (4).
   [d] the allocation of the different Council formations within the team should be left at the discretion on the members of the team
7. The task of coordination should be allocated to the General Affairs Council, as provided in the Draft Constitution, with the Member State holding the Presidency of the GAC also chairing Coreper.
8. Subordinate committees and working groups should be automatically chaired by the member-state holding the Presidency of the Council in question.
9. The PSC and the other external relations working parties could be chaired by representatives of the External Relations Representative.

10. Coordination should be entrusted to the GAC.
11. The detailed arrangements for the rotation of the Presidency of the Council could be decided by unanimity, as per the current practice and could be adopted later if the essential elements of the future arrangements are agreed at the same time as the Treaty establishing the Constitution.

**General Comment:**

The responses to these specific questions does not imply, and should not be interpreted as implying, that Cyprus accepts that only the above subjects presented by the Presidency are open for discussion and formulation. Cyprus reserves the right to make suggestions on other issues in due course.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 21/03**

**DELEG 12**

**NOTE**

| | |
|---|---|
| from: | the Latvian delegation |
| *Subject:* | ***IGC 2003*** <br> – ***Reply from Latvia to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Latvian delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

## I. THE LEGISLATIVE FUNCTION

1. **Should exercise of the legislative function be conferred on a single Council formation**

**or**

**should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?**

Latvia does not support creation of the Legislative Council therefore the legislative function should be determined for each Council formation.

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

**or**

**with all laws and framework laws?**

The public legislative part could be concerned only with laws and framework laws adopted under the normal legislative procedure.

## II. THE FORMATIONS OF THE COUNCIL

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

The Convention's proposal on this issue is acceptable. The European Council's decision on the list of Council formations could be taken unanimously.
The list of formations could be in line with the decision taken in Seville.

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

Latvia supports equal rotation of the Member States within the Presidency of the Council of Ministers. Different mechanisms of functioning of a Council formations' Presidency could be considered.

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

A Team Presidency system for the Council formations could be one of the possible solutions.

6. **If it is decided to opt for a Team Presidency system:**
   (a) **how many Member States should there be in the "team"? three? four? five?**
   (b) **what should be the duration of its term? a year? 18 months? longer?**
   (c) **should the composition of the teams be fixed in advance or left open on the basis of criteria to be determined, with due regard for the principle of equal rotation (which would take into account political and geographical balance and the diversity of Member States as defined in Article 23(4) of the draft Convention)?**
   (d) **should the allocation of the different Council formations within the team be fixed in advance or left to the discretion of the Member States in the team?**

The issue of a Team Presidency requires further negotiations. While definite mechanism is not elaborated, it is difficult to assess the option for a Team Presidency.

However, possible models of a Team Presidency could be:

a. A Team Presidency, which could consist from three states with a one-year duration of its term. The composition of the teams could be left open on the basis of criteria to be determined, with due regard for the principle of equal rotation. Allocation of the different Council formations within the team could be left to the discretion of the Member States in the team.

b. A Team Presidency where every Council's formation is chaired by the different Member State. A coordination committee could be established to guarantee coherence in the Council's work.

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

The coordination should be increased - the Member State holding the Presidency of the General Affairs Council could chair Coreper [I and II].

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

Committees/ working parties subordinate to a particular Council automatically could be chaired by the Member State holding the Presidency of the Council in question.

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

The PSC and other external relations working parties should be chaired by the Member States.

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

There could be an informal structure for coordination between the representatives of the Member States holding the Presidency, in which the President of the European Council, the President of the Commission and the Minister for Foreign Affairs participate.

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

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

Decision on detailed arrangements for the rotation of the Presidency of the Council could be taken unanimously. It could be adopted on a later stage. However, the essential elements of the arrangements should be agreed upon at the same time as the Treaty establishing the Constitution.

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.

CONFERENCE
OF THE REPRESENTATIVES
OF THE GOVERNMENTS
OF THE MEMBER STATES

**Brussels, 15 October 2003**

**CIG 22/03**

**DELEG 13**

**NOTE**

| | |
|---|---|
| from: | the Lithuanian delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Lithuania to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Lithuanian delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

# I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

**or**

should a legislative function (public) and a part dedicated to other activities be determined for each Council formation? YES

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

**or**

with all laws and framework laws?

# II. THE FORMATIONS OF THE COUNCIL

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

UNANIMOUSLY; YES SEVILLE

# III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

NO

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

YES

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

   (a) how many Member States should there be in the "team"? three? four? five? FIVE
   (b) what should be the duration of its term? a year? 18 months? longer? 2,5 YEARS
   (c) should the **composition** of the teams be fixed in advance **or** left open on the basis of criteria to be determined, with due regard for the principle of **equal rotation** (which would take into account political and geographical balance and the diversity of Member States as defined in Article 23(4) of the draft Convention)? FIXED IN ADVANCE
   (d) should the **allocation** of the different Council formations within the team be fixed in advance **or** left to the discretion of the Member States in the team? FIXED IN ADVANCE

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

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

9. By the same token, if the Foreign Affairs Minister chaired the Foreign Affairs Council, should the PSC and other external relations working parties be chaired by a representative of the Foreign Affairs Minister? NO

10. In order to achieve greater coherence in the Council's proceedings, should there be an **informal structure for coordination** between the representatives of the Member States holding the Presidency, in which the President of the European Council, the President of the Commission and the Minister for Foreign Affairs could participate? NO

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

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

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.

CONFERENCE
OF THE REPRESENTATIVES
OF THE GOVERNMENTS
OF THE MEMBER STATES

**Brussels, 15 October 2003**

**CIG 23/03**

**DELEG 14**

**NOTE**

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|---|---|
| from: | the Hungarian delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Hungary to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Hungarian delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

**ANNEX**

## I. THE LEGISLATIVE FUNCTION

1. Hungary does not support the establishment of the Legislative Council. Consequently for each Council formation a legislative function (public) and a part dedicated to other activities are to be determined.

2. The public legislative part should be concerned only with laws and framework laws adopted under the normal legislative procedure.

## II. THE FORMATIONS OF THE COUNCIL

3. In our view the European Council's decision on the list of Council formations should be taken by a qualified majority. The decision on the list of Council formations should cover the nine Council formations defined by the Council Decision adopting the Council's Rules of Procedure (2002/682/EC, Euratom), from which the draft Constitutional Treaty splits the current General Affairs and External Relations Council into two formations: Foreign Affairs Council and General Affairs Council.

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

4. No Council formation apart from the Foreign Affairs Council should have a fixed presidency. Each Council formation apart from the Foreign Affairs Council should operate under the rotation system.

5. Hungary favours to continue to use the rotation system. The Team Presidency might be one option to be considered, but we are open to take into consideration other modalities of rotation as well.

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

   (a) It should be composed of 4 or 5 Member States.
   (b) Its term should be 2 or 2.5 years.
   (c) The composition of the teams should be left open.
   (d) The allocation of the different Council formations should be left to the discretion of the Member States in the team.

7. Yes, the Member State chairing the General Affairs Council, should also chair the Coreper I and II.

8. Yes, the Member State holding the Presidency of the Council in question should chair the subordinated committees/ working parties.

9. No. The rotation should be applied for PSC and external relations working parties.

10. We agree that informal co-ordination should take place but it should not be institutionalised.

11. The rules on essential elements of the decision making should be set out in the Treaty establishing the Constitution, while the detailed arrangements could be adopted later between the date of the signature and the entry in force of the Constitutional Treaty by the European Council acting unanimously.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 24/03**

**DELEG 15**

**NOTE**

| | |
|---|---|
| from: | the Maltese delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Malta to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Maltese delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

# I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

**or**

should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?

**Malta is in favour of the latter option.**

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

**or**

with all laws and framework laws?

**Malta is in favour of the latter option.**

# II. THE FORMATIONS OF THE COUNCIL

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

**The decision by the European Council should be taken unanimously, with the list confined to a small number of formations in line with the Seville decision.**

# III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

**Malta is of the opinion that no other Council formation apart from that on Foreign Affairs should have a fixed Presidency.**

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

**Malta is in favour of the Team Presidency system for the formations using the rotation system. However, the Member State of the nationality of the European Council President would not form part of a team during the term of such Presidency.**

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

(a) how many Member States should there be in the "team"? three? four? five?
(b) what should be the duration of its term? a year? 18 months? longer?
(c) should the **composition** of the teams be fixed in advance **or** left open on the basis of criteria to be determined, with due regard for the principle of **equal rotation** (which would take into account political and geographical balance and the diversity of Member States as defined in Article 23(4) of the draft Convention)?
(d) should the **allocation** of the different Council formations within the team be fixed in advance **or** left to the discretion of the Member States in the team?

**The team should consist of four Member States, with the duration of each term being of one year. The composition of the teams should be left open on the basis of criteria to be determined, with due regard for the principle of equal rotation which would take into account political and geographical balance and the diversity of Member States. The allocation of the different Council formations within the team should be fixed sufficiently in advance.**

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

**To ensure consistency and continuity, the Member State chairing the General Affairs Council should also chair Coreper.**

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

**Committees/Working Parties should be chaired by the Member State holding the Presidency of the related Council formation.**

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

**The PSC and other external relations working parties should be chaired by a representative of the Minister of Foreign Affairs.**

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

**Malta is in favour of such an informal structure for coordination.**

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

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

**The decision on the detailed arrangements for the rotation of the Presidency of the Council should be taken unanimously, and could be adopted later if the essential elements of the future arrangements were agreed at the same time as the Treaty establishing the Constitution.**

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.

CONFERENCE
OF THE REPRESENTATIVES
OF THE GOVERNMENTS
OF THE MEMBER STATES

**Brussels, 15 October 2003**

**CIG 25/03**

**DELEG 16**

**NOTE**

| | |
|---|---|
| from: | the Austrian delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Austria to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Austrian delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

**ANNEX**

# I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

**or**

should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?

| |
|---|
| The legislative function should not be conferred on a single Council formation. Each Council formation should be responsible for both legislative and non-legislative work within its area of responsibility. In each Council formation legislative agenda items (public in accordance with Art 49 para 2) should be separated from other items. |

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

**or**

with all laws and framework laws?

| |
|---|
| The transparency provision of Art 49 para 2 applies to all legislative procedures. |

# II. THE FORMATIONS OF THE COUNCIL

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

| |
|---|
| The current practice should be kept. On the basis of general orientations given by the European Council the General Affairs Council should decide on further Council formations in accordance with Art. III-247 par.3 (simple majority). |

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

Apart from the Foreign Affairs Council no Council formation should have a fixed or elected Presidency.

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

Austria is prepared to examine alternatives to the current rotation system with an open mind. However, we will not accept a new model unless it respects the principle of equality between member states, ensures the necessary chain of command between Council bodies and provides a clear added value to the present system.

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

(a) how many Member States should there be in the "team"? three? four? five?
(b) what should be the duration of its term? a year? 18 months? longer?
(c) should the **composition** of the teams be fixed in advance **or** left open on the basis of criteria to be determined, with due regard for the principle of **equal rotation** (which would take into account political and geographical balance and the diversity of Member States as defined in Article 23(4) of the draft Convention)?
(d) should the **allocation** of the different Council formations within the team be fixed in advance **or** left to the discretion of the Member States in the team?

Subject to the conditions mentioned under point 5) Austria would be willing to consider a Team Presidency model.

(a), (b)
A team presidency could consist of 4-5 Member States for a period of 2 - 2,5 years.

(c), (d)
Ministerial level and Coreper
Each team member **chairs all formations** of the Council of Ministers and the Coreper meetings during a six month period. The composition of the teams would be decided in advance respecting the principle of strictly equal rotation and taking into account political and geographical balance and the diversity of Member States.

Subordinated working group level
The Chairs of the committees/ working parties should be decided by Member States in the team. Chairs at this level should be held for a period of 2 - 2,5 years.
(see answer to point 8.)

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

| |
|---|
| In our model (point 6) there is no need for increased coordination as the chain **of command would be maintained.** |

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

| |
|---|
| The Chairs of the committees/ working parties should be decided by Member States in the team. Chairs at this level should be held for a period of 2 - 2,5 years.<br>Alternatively, the Chairs of the committees/ working parties could be elected by their members from among the representatives of the Member States in the team. |

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

| |
|---|
| No. |

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

| |
|---|
| Coordination is a core function of the General Affairs Council. Austria strictly opposes informal structures for coordination. |

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

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

| |
|---|
| Detailed arrangements for the rotation of the Presidency of Council of Ministers formations should be agreed as a part of the institutional package by this IGC. |

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.

CONFERENCE
OF THE REPRESENTATIVES
OF THE GOVERNMENTS
OF THE MEMBER STATES

**Brussels, 15 October 2003**

**CIG 26/03**

**DELEG 17**

**NOTE**

| | |
|---|---|
| from: | the Polish delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Poland to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Polish delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

# I. THE LEGISLATIVE FUNCTION

1. *Should exercise of the legislative function be conferred on a single Council formation*

***or***

*should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?*

**Poland favours the presently functioning model, in which the legislative function is performed by each Council formation. We believe this to be a better solution from the point of view of ensuring the necessary expertise in the legislative process as well as committing various sectors of the national administration to the process of integration. At the same time, the General Affairs Council could monitor the consistency of legislation being processed in the respective Council formations.**

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

***or***

*with all laws and framework laws?*

**In our view all the legislative works of the Council of Ministers should be conducted in a transparent manner. Therefore we support the second option, i.e. that debates within the Council on all laws and framework laws should be accessible to the public.**

# II. THE FORMATIONS OF THE COUNCIL

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

**We could envisage the situation in which the European Council decides by qualified majority on the list of Council formations. It is preferable to have a rather small number of formations which would be in line with the decisions taken in Seville.**

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

**We propose that all the other formations of the Council of Ministers apart from the Foreign Affairs Council and the General Affairs Council have, as a rule, a presidency for two years. The presidency would not be attributed to a specific person but to one Member State within the Team Presidency. The Member States within the Team Presidency should decide by themselves which country holds the presidency in which formation. The division of labour would be done on the basis of specialisation.**
**As to the General Affairs Council and the COREPER the half-yearly rotation system should be continued, but it should be in line with the sequence of the Team Presidencies, e.g. members of the team would rotate at the helm of the GAC and COREPER. Consistently, we propose to change the Article I- 23(4) in order to allow half-yearly presidencies in the GAC.. We believe that the option should be preserved for the sectorial councils to rotate on annual basis among members of the Team Presidency, so as to take account of the national political cycles and the demands of the job.**

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

**Yes, as explained above it should apply to all the Council formations except the Foreign Affairs Council which would have the Foreign Minister of the Union at the helm. In the GAC and the Coreper we should retain the half-yearly rotation system which would exclude dominance of the Team Presidency by one of the participating states and would ensure the necessary efficiency.. The other formations would be allocated for two years.**

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

   (a) how many Member States should there be in the "team"? three? four? five?
   (b) what should be the duration of its term? a year? 18 months? longer?
   (c) should the **composition** of the teams be fixed in advance **or** left open on the basis of criteria to be determined, with due regard for the principle of **equal rotation** (which would take into account political and geographical balance and the diversity of Member States as defined in Article 23(4) of the draft Convention)?
   (d) should the **allocation** of the different Council formations within the team be fixed in advance **or** left to the discretion of the Member States in the team?

**Our model for Team Presidency is based on the assumption of four countries holding the Team Presidency for two years. The European Council should at an appropriately early stage decide on the composition and the sequence of the Team Presidencies, according to the criteria listed above. Team Presidencies should reflect the balance between small, medium-sized and large countries as well as the geographical balance. The Member States within the Team will decide on the allocation of formations, at least a year before taking over the presidency.**

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

**Yes. There is a need for horizontal consistency as far as the chain of command is concerned and therefore it is all the more important to retain the half-yearly rotation in the General Affairs Council.**

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

**Yes. Vertical chain of command should be extended not only to the relationship between the General Affairs Council and the Coreper but also to the respective committees and working groups. The attribution of the presidency of working groups should be conducted on the basis of expertise provided by the members of the team. The presidency of a working group would be assumed for the period of 2 years.**

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

**Yes. His representatives should chair the working parties related to external affairs. We also believe that the Foreign Minister should have a deputy who could chair the PSC. The Team Presidency could assist the Foreign Minister in the task of chairing external relations working parties. However, it has to be made that the Foreign Minister is in the driving seat as far as the entire exercise is concerned.**

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

**Yes. Co-ordination will be necessary between members of the Team Presidency. At the same time, we should avoid creating new structures or institutions. Therefore we believe that the President of the General Affairs Council should chair an informal Steering Committee consisting of the Presidents of the respective Council formations. The Steering Committee would draft the Presidency's programme and oversee its implementation. It would meet four times a year. President of the General Affairs Council would be responsible for working together with the President of the European Council and President of the European Commission on the preparation of the work of the European Council. Such a system would ensure efficiency, cohesion and proper division of labour. It would also preserve the advantages of the system of rotation such as bringing European politics closer to the electorate and ensuring that all Member States take part on an equal basis in running the European Union.**

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

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

**The European Council should decide by unanimity on the detailed arrangements concerning the Team Presidencies. It should take place at an appropriately early stage prior to the entry into force of the Constitutional Treaty. We have a preference for the term in office of the Chair of the European Council to be in line with that of the Team Presidency.**

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 27/03**

**DELEG 18**

**NOTE**

| | |
|---|---|
| from: | the Portuguese delegation |
| *Subject:* | ***IGC 2003*** <br> – ***Reply from Portugal to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Portuguese delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

# I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

   **A:** WE AGREE WITH THE SOLUTION PROPOSED IN ARTICLE 23 OF THE CONVENTION'S DRAFT TREATY.

**or**

   should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?

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

   **A:** YES

**or**

   with all laws and framework laws?

# II. THE FORMATIONS OF THE COUNCIL

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

   **A:** THE DECISION SHOULD BE TAKEN UNANIMOUSLY; FOR THE TIME BEING, THE DECISION TAKEN IN SEVILLE IS APPROPRIATE. THE EUROPEAN COUNCIL SHOULD HAVE ENOUGH FREEDOM TO CREATE THE FORMATIONS IT DEEMS NECESSARY.

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

**A:** NO. WE DO NOT AGREE WITH FIXED PRESIDENCIES

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

**A:** NO. WE PREFER THE PRESENT SYSTEM.

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

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

**A:** 3

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

**A:** 18 MONTHS

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

**A:** IN THE EVENT OF TEAM PRESIDENCIES, THE COMPOSITION OF THE TEAMS SHOULD NOT BE DEFINED IN THE TREATY BUT LEFT OPEN FOR DECISION BY THE EUROPEAN COUNCIL, APPLYING THE PRINCIPLE OF EQUAL ROTATION.

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

**A:** LEFT TO THE DISCRETION OF MEMBER STATES

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

**A:** YES, INCLUDING GAC, COREPER AND PSC

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

**A:** YES

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

**A:** NO. THE PRESIDENCY SHOULD BE ASSUMED BY MEMBER STATES

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

**A:** NO. WE DO NOT AGREE WITH THE SET UP OF NEW STRUCTURES, EVEN INFORMAL ONES.

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

**A:** YES

If so:

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

**A:** NO

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

**A:** YES

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 28/03**

**DELEG 19**

**NOTE**

| | |
|---|---|
| from: | the Romanian delegation |
| *Subject:* | ***IGC 2003*** <br> – ***Reply from Romania to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Romanian delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

**ANNEX**

## I. THE LEGISLATIVE FUNCTION

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

Romania considers that the legislative function should continue to be exercised, as it is the case currently, by the Council's formations.

The distinction between the legislative and the executive functions should be ensured by separating the items on the agenda in two categories.

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

Whenever the Council exercises the legislative function (adopting all laws and framework laws), its meeting should be public.

## II. THE FORMATIONS OF THE COUNCIL

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

Romania is of the opinion that the list of Council's formations should be decided by the European Council by consensus, as stipulated in the draft Constitutional Treaty. In line with the decision by the European Council in Seville, the number of Council's formations should be limited.

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

4. *Should other Council formations apart from the Foreign Affairs Council have a fixed Presidency? Which formations? Of what duration? Using what procedure (election by the members of the Council formation concerned?*

Romania believes that the Presidency of the Council's formations, apart from the Foreign Affairs Council, should be held by the Member States representatives, on the basis of an equal rotation. This principle should be clearly stated in the Constitutional Treaty. Detailed arrangements for the Council Presidency should be submitted to a European Council decision.

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

Romania is in favour of a Team Presidency system for the Council's formations.

6. *If it is decided to opt for a Team Presidency system:*
   a) *how many Member States should there be in the "team"? three? four? five?*

The number of the Member States composing the Team Presidency may be limited, but not less than three.

   b) *What should be the duration of its term? a year? 18 month? longer?*

Romania considers that the duration of the term of the Presidency of each Council's formations should be at least one year (as stipulated by the draft Constitutional Treaty).

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

Romania is of the opinion that the Constitutional Treaty should provide only the general principles for the formation of the Team Presidency, on a basis of an equal rotation, taking into account European political and geographical balance and the diversity of Member States.

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

Romania considers that the allocation of different Council formations within the team should be left to the decision of the Member States in the team.

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

Romania considers that a "chain of command" should be maintained between the Presidency of the General Affairs Council and that of COREPER.

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

Romania considers that committees/working parties subordinated to a particular Council should automatically be chaired by the Member State holding the Presidency of the Council in question.

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

Romania believes that the PSC and other external relations working parties should be coordinated by the Foreign Affairs Minister, and the representatives of the European External Action Service could chair these structures.

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

Romania considers that the coherence in the Council's proceedings should be ensured by an informal coordination between the representatives of the Member States in the Team Presidency, and the European Minister of Foreign Affairs. The way to organize this coordination should be left to the discretion of the concerned representatives.

11. *Should the detailed arrangements for the rotation of the Presidency of the Council be the subject of the decision to be taken unanimously by the European Council? If so:*
    - *should it be adopted at the same time as the Treaty establishing the Constitution?*
    - *could it be adopted later if the essential elements of the future arrangements were agreed at the same time as the Treaty establishing the Constitution?*

Romania considers that the detailed arrangements for the rotation of the Presidency of the Council should be subject of a European decision taken by the European Council.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 29/03**

**DELEG 20**

**NOTE**

| | |
|---|---|
| from: | the Slovenian delegation |
| *Subject:* | ***IGC 2003***<br>***– Reply from Slovenia to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Slovenian delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

## I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

**or**

should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?

***In case the solution proposed in the Constitutional Treaty, Article 23, Title IV, is interpreted as the establishment of a special, exclusively legislative council, Slovenia would not agree.***

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

**or**

with all laws and framework laws?

***Public legislative part should be concerned with all laws and framework laws.***

## II. THE FORMATIONS OF THE COUNCIL

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

***European Council's decision on the list of Council formations should be taken unanimously. The list should be confined to a smaller number of formations in line with the decision taken in Seville.***

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

***The presidency of Council formations, other than that of Foreign Affairs, should be held by Member State representatives within the Council on the basis of equal rotation.***

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

***The issue of the presidency should be dealt within the overall imperative of maintaining the institutional balance and further enhancing the community method. This also means clearer delimitation of responsibilities of institutions. The provisions of the Council of Ministers should be defined in a manner that makes it completely clear that the system of equal rotation applied to the presidency of the different Council formations will continue to be based on a strict equality between Member States. Every Member State should have an equal access to the presidency of every Council formation. The Presidency system must be written into the Constitutional Treaty and not be left up to the European Council to determine. One of the crucial issues of Team Presidency is the question of co-ordination. If the Team Presidency system were to be adopted, it should be made clear in the Constitution, that it would be the General Affairs Council that would have responsibility to co-ordinate the Team Presidency.***

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

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

***If it is decided to opt for a team presidency, all the main categories of differences should be represented in a team (north/south, east/west, rich/poor, new/old, big/small).***

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

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

***It seems almost impossible to accommodate all the questions connected to the implementation of the principle of equal rotation without somehow fixing in advance the number of Member States in a team.***

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

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

***Yes, definitely, in a close co-operation with the Commission.***

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

***Yes, except for the current practice of committees/working parties chaired by the Council Secretariat.***

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

*Yes.*

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

***Any co-ordination in order to achieve greater coherence in the Council's proceedings should be the responsibility of the General Affairs Council.***

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

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

***Arrangements for the rotation of the Presidency of the Council should be subject of a unanimous decision by the European Council. It should be adopted and defined at the same time as the Treaty establishing the Constitution.***

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 30/03**

**DELEG 21**

**NOTE**

| | |
|---|---|
| from: | the Slovak delegation |
| *Subject:* | ***IGC 2003*** <br> – ***Reply from Slovakia to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Slovak delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

*The following is a working position of **Slovakia** on some questions put by the Presidency. Slovakia thus reserves the right to alter its position on any of the issues below, depending on forthcoming discussions of Member States.*

## I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

   **or**

   should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?

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

   **or**

   with all laws and framework laws?

*Slovakia does not consider creation of a single Council formation with legislative functions to be a step towards increasing legitimacy and strengthening democracy in decision making of the EU. We are concerned that such a step could lead to less effective work of the Council. We do not recommend changing actual arrangements, when every Council formation exercise its legislative function.*

## II. THE FORMATIONS OF THE COUNCIL

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

*Slovakia is of the opinion that the European Council should decide by unanimity. We consider the list of Council formations as approved by the European Council in Seville in June 2002 to be sufficient for a smooth work of the Council. It is not necessary to specify this list in the Constitutional treaty, instead the decision should be left to the European Council and be adopted in accordance with its rules of procedure.*

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

4. Should other Council formations apart from the Foreign Affairs Council have a **fixed Presidency** (i.e. not applying the rotation system provided for in Article 23(4))?

*No.*

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

*Yes.*

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

   (a) how many Member States should there be in the "team"? three? four? five?
   (b) what should be the duration of its term? a year? 18 months? longer?

*Slovakia would prefer a model of a team presidency that would consist of four countries and lasted two years or five countries for two and a half year.*

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

*Composition of the teams should be left open on the basis of criteria to be determined with due regard for the principle of equal rotation.*

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

*Allocation of the different Council formation should be left to the discretion of the Member states in the team.*

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

*Yes.*

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

*Yes.*

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

*PSC and other external relations working parties should be chaired by representatives of Member States holding the team Presidency.*

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

*There is a clear need for coordination between the Members States holding Presidency. Formal meetings of Team Presidency with the permanent President of the European Council (other representatives i.e. President of the Commission, Minister of Foreign Affairs) could be useful at the beginning of a term of the team presidency to discuss the presidency program and before the closing of a term to evaluate it. If a need arises a meeting could be convened on ad-hoc basis.*

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

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

*Detailed arrangements for the rotation of the Presidency of the Council should be adopted by the European Council acting unanimously at the same time as the Constitutional Treaty.*

CONFERENCE
OF THE REPRESENTATIVES
OF THE GOVERNMENTS
OF THE MEMBER STATES

**Brussels, 15 October 2003**

**CIG 31/03**

**DELEG 22**

**NOTE**

| | |
|---|---|
| from: | the Finnish delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Finland to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Finnish delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

**ANNEX**

# I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

**or**

should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?

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

**or**

with all laws and framework laws?

*Finland's answer:*

1: All Council formations should continue to exercise legislative functions and related activities as has been the case until now.
2: The public legislative part should concern all laws and framework laws, as well as delegated regulations adopted by the Council.

# II. THE FORMATIONS OF THE COUNCIL

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

*Finland's answer:*

3. The list of Council formations (not part of the Constitutional Treaty) should be adopted unanimously by the Council, and should be based on the list of Council formations approved in Seville, notwithstanding the need to separate more clearly the External Affairs and the General Affairs formations. The overall aim should be to limit the number of Council formations to max. 10.

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

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

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

   (a) how many Member States should there be in the "team"? three? four? five?
   (b) what should be the duration of its term? a year? 18 months? longer?
   (c) should the **composition** of the teams be fixed in advance **or** left open on the basis of criteria to be determined, with due regard for the principle of **equal rotation** (which would take into account political and geographical balance and the diversity of Member States as defined in Article 23(4) of the draft Convention)?
   (d) should the **allocation** of the different Council formations within the team be fixed in advance **or** left to the discretion of the Member States in the team?

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

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

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

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

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

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

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.

*Finland's answer:*

4. Finland does not support the nomination of any fixed Presidencies. The Council Presidency is a task for the Member States, who should be able to decide freely, whom they see fit to exercise this function at different levels and formations. This applies to all Council formations; we do not support the proposal to let the Union Minister for Foreign Affairs chair the External Affairs Council.

5. Council Presidency must also in the future be based on a system of strictly equal rotation between the Member States. On this basis, we are also ready to consider different models for a Team Presidency as long as they provide real added value as to the better, more coherent and transparent management of Council work. Whatever model we choose, it should cover all Council formations at all levels (no tailored or fixed solutions).

6. a + b) A model, which is consistent with the above-mentioned principles, could consist of teams of 4-5 Member States who share the Presidency for a period of 2-2,5 years. The Council multi-annual work programmes should be synchronized with the duration of the Team Presidency. Individual Presidency programmes would no longer be needed.

c) The Composition of the Teams must be based on strictly equal rotation, and should change every full round. To assure proper preparation, the new set of Teams would need to be determined unanimously by the Council in good time, preferably at least 2 terms in advance.

d) The allocation of Council formations should be fixed in principle so, that the Members of the Team would be in an equal position. In our model, every member of the Team would in turn chair all Council formations on a ministerial level, as well as Coreper I and II, during a period of 6 months. The preceding Presidency in each formation should work in close cooperation with the incoming one.

7. Yes. Coreper I and II should be chaired by the Member State chairing the General Affairs Council. In our model, this is automatically so as all Council formations and Coreper are in turn chaired by one single Member State.

8. The Presidencies of the committees and working parties should be decided by the Member States party to the Team among themselves. One Member State would hold the Presidency of a committee or working group during the whole period to be covered by the Team.

9. In our model, the Foreign Affairs Council is chaired by the same Member State chairing all other Council formations, not by the Union's Minister for Foreign Affairs. The Presidencies of the External relations committees and working parties (COPS etc.) should be decided by the Member States party to the Team among themselves for the whole period to be covered by the Team (see point 8.)

10. No special informal structure is needed, as all meetings of the Council of Ministers are chaired by one single Member State. Coordination can be assured by Coreper and the General Affairs Council, who together with the Commission are also responsible for the preparation of the meetings of the European Council. The eventual President of the European Council should not have any role in the daily management of the Union and its legislative work.

11. The basic system for the Council Presidency (eventual model for Team Presidency, system to be applied on ministerial/committee/working group level etc.) must be included in the Constitution, for example as a separate protocol, and not be left for the European Council to decide. The composition of and rotation within the Teams should not, however, be written in the Constitution but decided by the Council by the same procedure as the list of Council formations, i.e. unanimously. After every full round, the new set of Teams would need to be determined. This should be done in good time, preferably at least 2 terms in advance, to ensure proper preparation and planning.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 32/03**

**DELEG 23**

**NOTE**

| | |
|---|---|
| from: | the Swedish delegation |
| *Subject:* | ***IGC 2003*** <br> – ***Reply from Sweden to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Swedish delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

## The Legislative Function

1. The second alternative is the only viable solution. Legislative work should continue to be the task of each Council formation within its respective area of competence. There is no need for a Legislative Council.

2. The Council of Ministers should meet in public when examining and adopting *any* legislative proposal, i.e. all laws and framework laws. Whether the European parliament is involved in the legislative process or not is a question of the overall balance of power within the Union and is, in our mind, not related to the need for openness in the Council.

## The Formations of the Council

3. The European Council's decision on the list of Council formations should be taken *unanimously*. The decision is difficult to separate from the decision concerning the rotation of the presidency of the Council of Ministers (see below). We see, at the moment, no need to change the decision taken in Seville concerning the number of Council formations.

## The Presidency of the Council of Ministers

4. All Council formations, *including the Foreign Affairs Council*, should be chaired by a representative of a Member State. The proposal to have the Foreign Minister chair the Foreign Affairs Council could undermine the institutional balance and alter the established roles of the Council and the Commission in the decision-making process.

5. Yes. A Team Presidency system would increase the efficiency, continuity and visibility of the presidency of the Council of Ministers. All Council formations should be included in a Team Presidency system.

6. We are open to various models of a Team Presidency. The details below should be seen as an attempt to be helpful rather than a set position:

a) Three countries.
b) 18 months.
c) A notion of "Team Presidency" could be included in the Constitutional Treaty (article 23.4). The European Council could determine the modalities of the system of rotation, based on the principle of equal rotation. This could be done either in connection to the IGC or at a later stage.
d) It would be easier if the allocation of Council formations were made within the group sharing the Team Presidency.

7. Given the need for increased co-ordination, a "chain of command" should be preserved. The Member State whose representative is chairing the General Affairs Council should also be chairing Coreper.

8. A representative of the Member State holding the presidency of the relevant Council formation should chair Committees and Working Parties.

9. See 4 and 8. The Member State chairing the Foreign Affairs Council should also chair PSC and other external relations working parties.

10. The General Affairs Council should maintain overall co-ordination responsibilities for the work of the Council. Within the Team Presidency, the chair of the General Affairs Council could be given coordinating tasks. In addition, there will be a need for *informal* co-ordination between the presidency of the Council of Ministers and the President of the European Council, the President of the Commission and the Minister for Foreign Affairs. The modalities of this informal co-ordination should, however, not be regulated in advance.

11. Also see 6c. As the rotation of the Presidency of the Council is a fundamental part of the balance of power between Member States it must be decided by unanimity. There are advantages both with deciding on the future rotation in connection with the IGC or at a later stage. Either alternative is acceptable to us.

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 33/03**

**DELEG 24**

**NOTE**

| | |
|---|---|
| from: | the Turkish delegation |
| *Subject:* | ***IGC 2003***<br>– ***Reply from Turkey to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the Turkish delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

## I. THE LEGISLATIVE FUNCTION

1. A legislative function (public) and a part dedicated to other activities should be determined for each Council formation.

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

## II. THE FORMATIONS OF THE COUNCIL

3. The European Council's decision on the list of Council formations as envisaged by the Convention should be taken unanimously and the list can be confined to a small number of formations in line with the decision taken in Seville. However, the European Council should be able to decide on further formations.

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

4. Other Council formations apart from the Foreign Affairs Council should have a rotating presidency determined on the basis of equal rotation within the Council of Ministers for a period of one year.

5. Given the increasing number of Member States and considering the fact that every Member State in an EU of 28 members would hold the presidency in four year intervals, the Team Presidency structured on the basis of equal rotation can be considered to be an option.

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

   a) Four Member States should be in the "team".
   b) The duration of the term should be 18 months.
   c) The Composition of the teams should be fixed in advance by a unanimous decision of the European Council. The decision should be taken with due regard for the principle of equal rotation and should take into account political and geographical balance and the diversity of the Member States (as currently defined in Article 24(3) of the draft Constitutional Treaty).
   d) Allocation of the different Council formations within the team could be left to the discretion of the Member States in the team.

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

8. Committees/working parties subordinate to a particular Council should automatically be chaired by the Member State holding the Presidency of the Council in question so as to establish a proper coordination among the Member States in the team.

9. If the Foreign Affairs Minister chairs the Foreign Affairs Council, the PSC and other external relations working parties can be chaired by a representative of the Foreign Minister.

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

11. The detailed arrangements for the rotation of the Presidency of the Council should be subject of a decision taken unanimously by the European Council.

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

**CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES**

**Brussels, 15 October 2003**

**CIG 34/03**

**DELEG 25**

**NOTE**

| | |
|---|---|
| from: | the UK delegation |
| *Subject:* | ***IGC 2003*** <br> – ***Reply from the UK to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (doc. CIG 9/03)*** |

Delegations will find attached the reply from the UK delegation to the questionnaire on the Legislative Function, the Formations of the Council and the Presidency of the Council of Ministers (see doc. CIG 9/03).

**ANNEX**

# I. THE LEGISLATIVE FUNCTION

1. Should exercise of the legislative function be conferred on a single Council formation

UK view: No

**or**

should a legislative function (public) and a part dedicated to other activities be determined for each Council formation?

UK view: Yes

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

UK view: No

**or**

with all laws and framework laws?

UK view: Yes

# II. THE FORMATIONS OF THE COUNCIL

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

UK view: The decision should continue, as now, to be taken by simple majority, on the grounds that it is purely procedural. The treaty text should maintain the flexibility of the European Council to change the list of formations to meet changing needs. The list should indeed be confined to the small number of formations in line with Seville, although after the IGC we will need to review the exact list and division of responsibilities.

## III. THE PRESIDENCY OF THE COUNCIL OF MINISTERS

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

UK view: Yes. The General Affairs Council should be chaired by the Chair of the European Council. This will be important to ensure consistency and proper coordination under a system of Team Presidencies (see answer to 7).

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

UK view: Yes. This seems to us to be the only way to introduce greater continuity and burden-sharing to the Council of Ministers, while retaining the advantages of equality through rotation.

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

(a) how many Member States should there be in the "team"? three? four? five?
(b) what should be the duration of its term? a year? 18 months? longer?

UK view: The two are closely linked. We do not have a strong preference; our priority should be to achieve a balance between continuity and equality in the allocation of portfolios. Based on this, the simplest solution might be for four Member States to be in the team for two years. Each Member State would chair two formations at any one time (the FAC and GAC would have fixed chairs.) The members of the Team would rotate through the 8 Councils during their 2 year term, changing every 6 months.

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

UK view: The exact order of rotation should be fixed in advance by a decision of the Council (as now) with due regards for the principle of equal rotation as defined in I.23(4). But there is no need for this to be decided at the IGC.

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

UK view: The allocation should be fixed in advance as part of the rotation. This would allow each Member State equal access to each formation. This model has the merits of transparency, visibility and equality, although we are happy to consider alternatives.

For the sake of consistency, individual Member States might chair two complementary formations at the same time (e.g ECOFIN and Competitiveness, or Environment and Agriculture and Fisheries.)

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

UK view: We agree on the need for increased coordination. This, however, can most effectively be done by the Chair of the European Council, whose job will be to ensure delivery of the agenda set by the European Council. He should therefore chair the General Affairs Council. The Council Secretariat should also play a greater coordinating role: the Secretary General of the Council should therefore chair Coreper.

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

UK view: Yes, as a general rule. But we should maintain the flexibility we currently have for elected chairs (which work well for the ECOFIN preparatory bodies – EPC and EFC); we should also consider greater use of chairing by the Council Secretariat.

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

UK view: This will be difficult to finalise before we have agreed the precise role of the "European Minister for Foreign Affairs". Time constraints will make it impossible for the "European Minister for Foreign Affairs" himself to chair these.

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

UK view: Yes. Such an informal coordinating structure will be important and will have a distinct role from the General Affairs Council, although will need to work closely with it. (The General Affairs Council will remain a formal negotiating forum, where all Member States are represented, and will among other things prepare European Councils. The Team coordination structure would focus on delivery of the European Council's agenda in the separate sectoral Councils.) The Chair of the European Council should chair this structure in order to maximise coordination and consistency across the Council of Ministers.

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

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

UK view: Yes, although we would be happy for the decision to be taken by qualified majority. Our priority at this stage should be to establish the essential elements of the future arrangements (e.g. principle of teams of x members, principle of equal rotation, duration, chairmanship of GAC, FAC and COREPER). Some of this will require us to insert further detail in the Constitutional treaty itself (e.g. Article I.23.4). If this is the case, we would be happy for the more detailed arrangements to be agreed at a later stage.

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* At present, the list setting out the order in which Member States assume the Presidency is adopted by the Council unanimously.