

EU Presidency note on closer cooperation (5 October 2000)

Caption: Note from the Presidency of the Council of the European Union, dated 5 October 2000, on closer cooperation. In its note, the Presidency examines the general arrangements for closer cooperation.

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

**Brussels, 5 October 2000 (06.10)
(OR. fr)**

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LIMITE

NOTE

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| from : | Presidency |
| to: | IGC Ministerial Conclave |
| Subject : | IGC 2000 |
| | - Closer cooperation |

1. Proceedings to date have resulted in a number of guidelines to serve as a basis for discussions on closer cooperation:
 - (i) the need to regard closer cooperation as a factor of integration, not segregation, and to draw the relevant conclusions in terms of both the principles and the mechanisms governing such cooperation;
 - (ii) the fact that the benefits of closer cooperation and the potential risks it may pose for the cohesion of the Union's activities vary greatly, depending on the area in question, and the importance of taking that into account when establishing the conditions for resorting to such cooperation;
 - (iii) the consequent need to rule out, in practice, recourse to closer cooperation in certain areas and, conversely, to facilitate its use in others;
 - (iv) the fairly generally acknowledged value of establishing, under certain conditions, provisions to allow closer cooperation in the CFSP field.

To make these guidelines more concrete, the Presidency suggests that the general arrangements for closer cooperation set out in the Annex be examined.

2. Several delegations have proposed that security/defence aspects should form the subject of a specific closer cooperation clause, by means for example of a protocol or a specific enabling clause. The Presidency reserves the right to come back to this question.

Annex

GENERAL ARRANGEMENTS FOR CLOSER COOPERATION

A. GENERAL PRINCIPLES

1. Closer cooperation should:
 - (a) be aimed at furthering the objectives of the Union and protecting and serving its interests;
 - (b) respect the provisions of the Treaties, the *acquis communautaire* and the single institutional framework of the Union;
 - (c) concern areas that fall within the competence of the Union and of the Communities to the exclusion of areas falling within the exclusive competence of the Community¹;
 - (d) not restrict trade between Member States, nor distort competition between them;
 - (e) involve a minimum of [one third of the] *or* [x] Member States.
2. Closer cooperation must not affect the powers, rights and obligations of those Member States which do not participate therein.
3. Closer cooperation must be open to all Member States, which have the right to join in at any time.
4. Closer cooperation may be engaged in only when it has been established within the Council that its objectives cannot be attained with the support of all Member States.

¹ A limited number of areas could also be excluded, such as those relating to the core of the internal market, cohesion and citizenship.

B. CLOSER COOPERATION UNDER THE TEC

Minimum number of Member States

Closer cooperation under the first pillar should involve at least one third of the Member States.

Triggering procedure

Authorisation to institute closer cooperation is granted by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

If the clause providing for appeal to the European Council is deleted and the request emanates from between one third and half of the Member States, should it be possible for [one third] [half] of the Member States to request that the decision be deferred for one year?

The present operational arrangements set out in Article 44 TEU (application of the relevant institutional provisions of the Treaties and possible participation of all Member States in Council deliberations) are retained, but they could if necessary be further clarified.

C. CLOSER COOPERATION UNDER THE SECOND PILLAR (CFSP)

1. General objectives of closer cooperation

Closer cooperation in the CFSP area must be aimed at safeguarding the values and interests of the Union and asserting its identity on the international scene. It must respect the principles, objectives and general guidelines of the common foreign and security policy and the decisions taken within the framework of that policy. It must respect the powers of the European Community and the consistency of all the Union's policies.

2. Object and scope of closer cooperation

Closer cooperation in the CFSP field may be aimed at contributing to the implementation of a common strategy, a joint action or a common position within the general framework of the implementing measures referred to in Article 23(2) of the TEU.

3. Minimum number of Member States

Closer cooperation under the second pillar should involve at least [*three*] [*five*] Member States.

4. Triggering procedure

Decision by the Council, acting by a qualified majority, according to the same procedure and under the same conditions as laid down for implementing measures in general (Article 23(2) of the TEU).

5. Procedure for authorising participation by other Member States

Should the procedure currently laid down in Article 40(3) TEU be adapted for Title VI of the TEU?

6. Should there also be provision for closer cooperation in fields in which there has not been a common strategy, joint action or common position?

D. CLOSER COOPERATION UNDER THE THIRD PILLAR

1. Objectives

Closer cooperation under the third pillar must have the aim of enabling the Union to develop more rapidly into an area of freedom, security and justice, while respecting the powers of the European Community and the objectives laid down in Title VI.

2. Minimum number of Member States and triggering procedures

The provisions concerning minimum number of Member States and triggering procedures would be the same as those applying under the first pillar.

3. Procedure for authorising participation by other Member States

No change to the procedure currently laid down in Article 40(3) TEU.

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