

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

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**TRANSLATION OF LETTER**

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from : Permanent Representation of Austria to the European Union

dated: 22 May 1996

to ~~Mr Jürgen TRUMPF, Secretary-General of the Council of the European Union~~

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Subject: Basic positions of Austria for the Intergovernmental Conference

Sir,

Please find attached the basic positions of Austria for the Intergovernmental Conference as decided by the Austrian Federal Government on 26 March 1996. I would be grateful if you could circulate this document for the discussions on the Intergovernmental Conference.

(Complimentary close).

(s.) Manfred SCHEICH  
Ambassador

**1996 Intergovernmental Conference**

**Basic positions of Austria**

## 1.Challenges

The Union must be able to take effective action in those policy areas in which better and more comprehensive solutions of greater legitimacy can be achieved at European level than at Member-State level. Since the European Union is being designed on the principle of **subsidiarity**, Austria has made clear from the moment of accession that it attaches great importance to further strengthening the Community's capacity for action.

Austria sees the **process of European integration** as one of the **most important bases for economic and social development in Europe**, which can be **further strengthened by the implementation of economic and monetary union**. In addition to its economic function, integration has also ensured decades of **peace between the participating States**. Through the common exercise of sovereignty in common Institutions, a **zone of stability** has been established which must be extended to include other parts of Europe now that the Cold War is over.

Although the fundamental idea of integration has lost none of its relevance since the early 50s, the **tasks and functions of the European institutions are in a process of permanent evolution**. The bases provided in the Treaties for the activity of the Union and its institutional structure must be constantly scrutinized and further developed in the light of the changing framework in which they operate. In view of the far-reaching changes in the political landscape of Europe, the need for further integration has become even more pressing in recent years. Following the **Single European Act (1985)** and the **Treaty of Maastricht (1992)**, the forthcoming **Intergovernmental Conference** constitutes the third stage of the adjustment of the Union to meet the new challenges.

The Conference also marks the start of a particularly delicate stage in the integration process. In the years leading up to the turn of the century the Union must implement the **third stage of monetary union**, conduct the **enlargement negotiations** with the Countries of Central and Eastern Europe and with Malta and Cyprus, help to **develop the security architecture of Europe** and establish the **financial rules for the period after 1999**. Since the various items on this agenda for Europe are closely linked, the Union's ability to take dynamic action to resolve these problems will depend very much on the success of the Intergovernmental Conference.

The Conference must in particular take up the following **challenges**:

### **Democracy and a citizen-oriented approach**

In order to achieve democracy, the Union will have to adopt a different approach from that of an individual State. In the same way as citizenship of the Union is added to citizenship of an individual State without replacing it, in future there will be a need not only for direct representation of the Union's citizens in the European Parliament but also for strong representation of the Member States in the legislative process.

In this context small and medium-sized Member States must continue to play a role that is weighted in their favour.

The **balance between the institutions of the Union** should therefore by and large be maintained. However, **the Union's policy should be endowed with greater legitimacy and transparency**, in particular through **simplification of the legislative procedures, improved cooperation between the Council and the European Parliament and greater feedback to national parliaments**. Moreover, the gulf between Europe's citizens and the European institutions should be narrowed through further development of the **regional dimension of the integration process** as a contribution to transparency and a citizen-oriented approach, systematic **implementation of the subsidiarity principle** and **increased protection of fundamental rights**.

## **Employment and environmental protection**

**Combating unemployment**, which currently affects some twenty million people in Europe, should now constitute the European Union's main concern. Resolving this problem is the key not only to the future of the European social model but also to the credibility of European integration. The Intergovernmental Conference too must give commensurate attention to this topic. Strengthening the employment-policy objectives in the EC Treaty, introducing a monitoring procedure and systematically taking account of employment aspects in all areas of policy are the sine qua non for more effective and coordinated action by the Union in this area.

In addition to employment, effective protection of the environment is a major concern of Europe's citizens. Consequently, the **ecological orientation of Community policy**, which has been gradually strengthened by the Single European Act and the Treaty of Maastricht, must also be the subject of further dynamic development at the Intergovernmental Conference. Full account must be more systematically taken of environmental aspects in all areas of the Union's activity. The Union's instruments in the ecological sphere should be improved and the possibilities for introducing or maintaining higher environmental standards should be better safeguarded.

## **Internal security**

The **free movement of persons between all Member States** is one of the European Union's most important projects, which it has so far only been possible to implement in part. Full implementation of such freedom presupposes that the **security of individuals at European level** is sufficiently guaranteed. Migration and asylum questions, crime, drug abuse and terrorism have for many years been not just national but European problems, which can only be resolved through more effective supranational cooperation between security and judicial authorities. The relevant provisions of the Treaty of Maastricht have allowed some progress to be made, but experience has shown that the current methods and instruments of European cooperation are not equal to the challenges. The Intergovernmental Conference should therefore endeavour to achieve a far-reaching further development of the structures of Union activity in this area.

## Common Foreign and Security Policy

The Union today has **increasing responsibility for maintaining stability and peace both throughout Europe and in the world**. In order to meet the many challenges effectively it is necessary to devise a **comprehensive security plan** to bring together economic, foreign and security-policy instruments in one consistent policy.

It has become clear in the period since the entry into force of the EU Treaty that the existing instruments of the CFSP are not sufficient to cope with the problems arising. The Intergovernmental Conference's priority tasks must therefore include

- achieving **greater consistency between the various aspects of external relations**;
- developing a **common planning and analysis capacity**;
- making decision-making and the implementation of CFSP decisions more efficient;
- making progress with the implementation of the common security and defence policy, in particular by increasing the capacity to take action in the spheres of conflict prevention, crisis management, peace-keeping, emergency aid and humanitarian action.

## Enlargement and ability to function

**Enlargement of the Union** can make a key contribution to **ensuring stability in Central and Eastern Europe** and offer considerable economic benefits both to acceding States and to the present Member States. Systematic and comprehensive preparation by both acceding States and the Union will be a determining factor in meeting this challenge.

In order to ensure that an enlarged Union nevertheless remains capable of acting and developing, **reform of the Institutions is necessary**. Tightening up and simplifying legislative procedures, extending majority decisions, improving working methods and organizational procedures and maintaining the Commission's role as a driving force are the most urgent tasks in this area. Austria sees enlargement and reform of the Institutions as parallel processes, which should be implemented gradually and in tandem.

## Flexibility and consistency

The twin challenges of enlargement and deepening will increase the **need for differentiated-integration arrangements**. The integration process should not exclude those States which are at a stage of economic development which does not yet permit them to participate in the most highly developed forms of integration (e.g. third stage of monetary union). On the other hand, those countries which are ready and able should be given the possibility of moving ahead in terms of integration.

**Differentiated integration** should however remain the **exception** and be of a **transitional nature**. Common progress along the path of integration should constitute the rule. The

aims of further integration should continue to be established jointly in future, and participation in graduated levels of integration should in principle be an option for all Member States which fulfil objective criteria applicable to all. The common legal basis of the internal market and the uniform institutional framework of the Union must be maintained.

## 2.A more citizen-oriented Europe

The future of the EU will essentially depend on whether and to what extent it gains the **support of Europe's citizens**. The crisis surrounding ratification of the Treaty of Maastricht showed all too clearly the problems in this area. The Intergovernmental Conference must therefore make the expectations and desires of Europe's citizens the focal point of its work.

### 2.1.Human rights

**Respect for fundamental rights and freedoms is at the heart of the common heritage of EU Member States and an essential aspect of European identity.** This includes the protection and promotion of the identity of national minorities. The Intergovernmental Conference should further strengthen the already high level of protection of human rights in the Union and give even clearer expression to the binding implications of a common affirmation of fundamental European values.

All Member States already belong to the European Convention on Human Rights. Austria would also like the **Union as such to become a member of the European Convention on Human Rights (ECHR)**. That would make both the bodies and legislation of the Union subject to the control mechanisms of the Convention. For the Union to accede to the ECHR it would of course have to be given legal personality.

Maintaining a high level of respect for human rights should also continue to be a strict condition for accession to the Union. For cases of serious infringement of human rights or fundamental democratic rights in a Member State of the Union, it would seem appropriate to make provision in the EU Treaty for the possibility of political and economic sanctions against the State concerned.

On **inclusion of the Agreement on social policy** in Title VIII of the EC Treaty, see section 2.4 "Employment and social policy".

In this connection, Austria also welcomes the proposal by some members of the Reflection Group that certain provisions of the **European Social Charter** be included in the Treaty.

Austria will attach importance to the strengthening and further development in the EU Treaty of the **principle of equal treatment for men and women**. In view of the clearly existing inequalities between the sexes, the EC Treaty should also ensure that Member States are allowed to take **measures giving preference to women**.

Combating **racism and xenophobia** requires effective common action by the Member States. Appropriate account should be taken of this European objective in the Treaty on European Union, with particular reference to the obligation to cooperate and the agreeing of minimum standards.

Austria will also be arguing for greater safeguarding of the interests of the **handicapped**.

## 2.2. Citizenship of the Union

The concept of citizenship of the Union enshrined in Article 8 of the EC Treaty was intended to strengthen **the citizens' feeling of belonging to the Union**. This aim has certainly not been achieved to the hoped-for extent. This is partly due to the fact that the new practical rights provided for in Articles 8 to 8e of the EC Treaty (in particular voting rights for the Union's citizens in municipal elections and elections to the European Parliament, diplomatic and consular protection in third countries) were not sufficiently weighty. Nor has the concept as such sufficiently penetrated public consciousness.

Austria is in favour of citizenship of the Union being further developed. This should in particular involve measures designed to make freedom of movement a reality. In addition to supplementing existing rights, consideration could also be given to combining in a new Treaty text those provisions on citizens' rights which are currently scattered throughout various parts of the Treaty so that the concept of citizenship of the Union assumes wider significance. It should also be made clear in the Treaty that **citizenship of the Union supplements but in no way replaces nationality**.

## 2.3. Internal security and justice

Internal security, immigration policy, asylum and civil and criminal law are areas which affect the individual directly and call for a European approach on account of the cross-border problems they pose. Despite a certain amount of progress, the **cooperation on justice and home affairs** introduced by the Maastricht Treaty has so far proved **deficient in many respects**. The reasons for this, in addition to lack of political will, have mainly been structural defects.

Since guaranteeing the security of citizens constitutes a major concern of the Union, the cooperation structures specified in the Maastricht Treaty should be further developed in the Intergovernmental Conference. In view of the importance which the subject has for the citizen, strengthening cooperation under the third pillar brings with it a special opportunity for the EU to achieve additional public credibility and support.

There are essentially two methods of **increasing efficiency** in these areas. One consists in **transferring tasks to the first pillar** (communitarization), the other in **increased use of Community institutions, instruments and procedures in the work of the third pillar**.

In Austria's view, the following areas are suitable for **communitarization** at the Intergovernmental Conference: visa policy, asylum law, control of external borders, immigration policy and policy towards third-country nationals, combating drug trafficking, combating fraud on an international scale and customs cooperation, including the combating of fraud and other offences in that area. Criminal law matters should continue to be covered by the third pillar.

In addition, the possibility of communitarization of specific areas (Article K.9 of the EU Treaty) should, in Austria's view, be extended to the whole of the third pillar, and at the same time the cumbersome mechanism provided for the purpose (unanimity and ratification) should be reviewed.

In the case of the first pillar, Articles 2 and 3 of the TEC lay down **tasks and objectives** for the Community's activity as a whole. For work under the third pillar it would also make sense to state such objectives in Article K.1 of the TEU. Defining substantial objectives and developing annual and five-yearly programmes which would be constantly evaluated and improved should strengthen continuity and dynamism in the area of the third pillar. The list of objectives should also include universal minimum standards (e.g. no reduction in fundamental rights, in particular with regard to data protection).

At the moment the principle of unanimity applies in the area of the third pillar. However, in Austria's view it would be an advantage to extend the possibility of **majority decisions gradually** to various areas covered by the third pillar, including in particular the fight against organized crime.

Some existing efficiency problems can be ascribed to the complex negotiating structure of the third pillar (Council Working Parties, Steering Groups, K.4 Committee, Coreper II and Council). Therefore, the number of levels of discussion should be substantially reduced. In addition, the productivity of the Council General Secretariat should be increased and there should be a **shifting of responsibilities** between the various pillars.

Cooperation on justice and home affairs currently lacks a driving force to guarantee continuity, dynamism and consistency in day-to-day work. Austria is therefore interested in **the Commission being assigned a greater role in the third pillar in future**. In particular, the Commission's right of initiative should be extended to all areas of the third pillar. In addition, some means should be found of enabling greater direct use to be made of the Commission's independent action (in areas such as the PHARE programme).

The construction of a common legal order under the third pillar requires uniform interpretation of rules of law, which could be guaranteed most effectively by giving jurisdiction to the **European Court of Justice**. It would therefore make most sense to enshrine in the Treaty itself an obligation to involve the Court of Justice in legal control of matters relating to justice and home affairs.



However, Austria is also in favour of **clarifying and extending the European Parliament's rights to be informed and consulted** in matters covered by the third pillar, without thereby slowing down the decision-making process.

The role of **national parliaments** under the third pillar, as already enshrined in the Austrian constitution, must not be neglected. Precautions should be taken at EU level to ensure that they are informed as early as possible and involved in the legislative process.

It is specifically in the areas of justice and home affairs that there is a particular need for the action of EU bodies to be made more **transparent** in the interests of boosting European citizens' confidence in the Union. In Austria's view, consideration should therefore be given to the systematic publishing of all documents, from K.4 Committee level upwards, for which confidentiality has not been explicitly laid down. Regular briefing of the European Parliament in connection with Council meetings and a more aggressive information policy towards Union citizens on the results of cooperation in the fields of justice, police and immigration policy would also be appropriate.

Experience has shown that the list of legal forms currently contained in Article K.3 of the TEU does not always meet practical requirements and for that reason they are only partially applied. Tasks in the spheres of justice and home affairs would in most cases seem to require **instruments** with a clear, legally binding effect; conventions, however, because of their unwieldy procedures, are not suitable in all circumstances. Austria will therefore advocate a clearer definition of the instruments in Article K.3 of the TEU. In particular, it should be made clear whether and how a category of decision becomes binding. Conventions should be used only for settling fundamental issues. As a general rule a simpler, legally binding instrument should be used.

Since the **procedure for financing** operational expenditure under the third pillar laid down in Article K.8 of the TEU is insufficiently clear and, because of the unanimity principle, too cumbersome, clear financing procedures should be defined.

**Control of the financial affairs** of all institutions in the spheres of justice and home affairs should be handed over en bloc to the European Court of Auditors. This could also apply to EUROPOL, for example.

Cultivation of the necessary **contacts with third States** and in particular action to draw the countries of Central and Eastern Europe (CCEE) closer to the European Union are placing too great a strain on the existing structures of the third pillar. **With a view to the coming accession of the CCEE**, it seems a matter of particular urgency that concrete and substantial results be achieved by means of a **structural reinforcement of the dialogue**. This requires **concentration** on a few topics initially. Issues such as migration policy, border controls, police training, standardization of asylum procedure, visa policy, training of judges and mutual assistance in criminal matters would be particularly suitable for this.

The present division of legal systems relating to internal security (in particular, third pillar, **Schengen**, Dublin Convention) seems to pose problems as regards their

effective practical implementation. Austria therefore takes the view that at the Intergovernmental Conference at least a first step should be taken towards **standardization** within the framework of the third pillar. In particular, an attempt should be made to bring Schengen within the legal framework of the Union.

In addition, it may also be appropriate to develop possibilities for **participation by non-EU Member States** in the legal system covering internal security. Switzerland, Liechtenstein, Norway and Iceland should be considered in particular. Similarly, with a view to their coming accession, some form of participation in the area of internal security should also be introduced for the CCEE.

## 2.4. Employment and social questions

Although employment policy continues to be primarily a task for the Member States, combating unemployment, in view of the aggravated and structurally changed economic conditions, increasingly requires collective answers at European level too. The priority aim of achieving a high level of employment should therefore be formalized in the EC Treaty in a more forceful **definition of objectives and tasks**.

A **monitoring procedure** (similar to that in Article 103 of the EC Treaty) should be created to coordinate and control the employment policy efforts of the Member States. This should comprise the following aspects: on the basis of the employment policy guidelines adopted by the European Council, national employment programmes should be drawn up involving both sides of industry. Their implementation should be constantly monitored at European level. Where individual Member States deviate substantially from the guidelines or employment programmes, appropriate recommendations or reminders should be agreed on to exert political pressure. Creation of a set of employment policy instruments of this type in the Union would contribute towards more logical and consistent implementation in the Member States of the objectives laid down at European level – as contained especially in the White Paper on Growth, Competitiveness and Employment.

In addition, precautions should be taken to ensure that the proceedings of the **Labour and Social Affairs Council and the ECOFIN Council on employment policy issues are coordinated more effectively** in order to increase the synergy effect between different aspects of employment policy.

The **inclusion of the content of the agreement on social policy** in Title VIII of the EC Treaty is for Austria a priority political aim in order to achieve in that framework high social standards which would apply equally in all Member States. This would also remove the competitive advantages which currently exist on account of the derogation from the Maastricht Protocol on Social Policy and which militate against giving the internal market a social orientation.

Since the further development of the social dimension of Union policy requires an across-the-board approach, Austria will in particular advocate a system whereby in future all Commission proposals are **compulsorily subject to scrutiny as to their effects in the social sphere and on employment**.

## 2.5. Environment

As one of the most progressive countries with regard to environmental issues, Austria is positively disposed to further extension of the Treaty provisions on the subject. The following changes are being sought in particular:

- formalization in the Treaty of the concept of sustainable development;
- inclusion of the environmental protection angle in the Treaty provisions on agricultural policy, trans-European networks and transport policy (true costs);
- inclusion of environmental protection in the list of matters the protection of which justifies trade restrictions subject to certain conditions (Article 36, EC Treaty);
- in accordance with Austria's position during the accession negotiations, an attempt should be made to reinforce the possibilities for preserving or introducing more stringent national provisions on environmental protection grounds (Article 100a(4), EC Treaty);
- co-decision with the EP** on environmental issues seems appropriate;
- Austria is in favour of extending majority decision-making on environmental questions. It is of course essential that particularly sensitive issues (regional planning, land use, water resources, choice of energy source) should continue in future to be subject to the unanimity principle;
- the horizontal, cross-sectoral importance of ecological measures should be better safeguarded by obliging the Commission in future **to check the possible effects of all proposals on the environment**. In this connection, consideration could also be given to the submission of an annual **environmental report to the European Council**;
- in keeping with the Federal Government's efforts over many years to achieve a nuclear-free Europe, Austria will continue to support the long-term objective of abandonment of the use of **nuclear energy**;
- Austria will continue to advocate the inclusion of **animal protection** in EU policies.

## 2.6. Transparency

Improved understanding and greater accessibility of the Union's action can make a decisive contribution to increasing public support for the Union. Mainly as a result of demands from the new Member States, some improvements have already been achieved here in recent months – for example as regards access to Council minutes.

In the context of the Intergovernmental Conference, **simplification of the decision-making process** should considerably increase its transparency (see Section 3). In addition, Austria supports inter alia **increased public involvement** at the preparatory phase of EU legislation (Green and White Papers, Commission proposals), the publication of interinstitutional agreements, clearer and more comprehensibly drafted legal texts and improved public access to EU documents.

It would also be appropriate to **simplify the structure of the Treaties**. An attempt could be made, while preserving the three pillars, to achieve a single legal personality for the Union and a single Treaty form.

## **2.7.Subsidiarity**

The purpose of the subsidiarity principle which is already in force is that the Union should act only in areas in which solutions to problems can be achieved more easily at European than at Member State level. This type of citizen-oriented policy-making is essential for acceptance of the Union. Austria's own federal structure makes it particularly appreciate the subsidiarity principle. It should also be implemented effectively in relations between the Union and the Member States.

Because of the current obscurity in the interpretation of the subsidiarity principle, Austria will advocate that it be framed in more concrete terms so that review by the courts will also be easier. Inclusion of the provisions on this matter from the **Edinburgh** conclusions in a **Protocol to the Treaty** could provide a constructive approach.

As part of its constitutionally-based right to participate in decision-making, the Austrian Parliament can already comprehensively check EU projects against the subsidiarity principle. Austria is therefore in favour of increasing the opportunities for national parliaments to check compliance with the subsidiarity principle.

The Austrian **Federal Länder** have also suggested granting the Committee of the Regions a right of petition when the subsidiarity principle is infringed and granting the individual regions a similar right when their jurisdiction is infringed, while including in the provision relating to subsidiarity in the EC Treaty a reference to the regional and local level. These proposals were put forward in the meetings of the Reflection Group by the Austrian representative but were rejected by a large majority of its members.

Austria will also put forward these requests of the Länder to the Intergovernmental Conference. The Länder will also be fully involved in further defining Austria's position. Here, account will also be taken of the position of the Austrian Federation of Cities (Städtebund) and the Federation of Communes (Gemeindebund).

### 3.Efficacy and democracy

#### 3.1.Institutions

The fundamental Austrian position on the institutional aspect of the Intergovernmental Conference is guided by four considerations:

- Because of its **interest in a Union with the power to act**, able to assume its responsibility for pan-European stability, Austria takes a **positive line on "deepening" the integration structures and will consistently oppose any weakening of integration already achieved.**
- An essential concern of Austria in matters institutional is the gradual **narrowing of the chasm between the EU institutions and the European citizen.** The consolidation of the democratic legitimacy of the EU (both through the involvement of national parliaments and the strengthening of the European Parliament), increased transparency of EU procedures and full observance of the principle of subsidiarity are of major concern in this field.
- On the question of taking account of the size of populations, Austria naturally shares the interests of the small and medium-sized Member States.** The possibilities afforded to these countries of helping to shape Europe and defend their own interests in the institutional structure of the European Union are for Austria an indispensable characteristic of European integration.
- Because of its geographical situation **Austria is interested in the successful achievement of enlargement**, provided the operational ability of the institutions is preserved in this process. Austria consequently advocates practical steps to guarantee the effectiveness of an enlarged Union. However, deepening and enlargement are longer-term processes which should be carried out in parallel and in stages. The question at the Intergovernmental Conference is therefore not about laying down the definitive structures of a Union with over 30 Member States so much as about creating the conditions for introducing the enlargement process.

##### 3.1.1.European Parliament

In the matter of the **composition and electoral system** of the European Parliament, Austria will take care that the **existing proportionality of seat allocation** among the Member States is upheld. An appropriate approach to a medium-term enlargement of the Union would be the capping of the total number of members, taking account of this principle.

Austria advocates the simplification and tightening of the current excessively complicated forms of EP participation in the legislative process. In the context of Community policies, a reduction to three types of procedure would seem sensible: co-decision, assent and consultation. Austria would also welcome the extension of co-decision to other areas and the tightening of this procedure.

In decisions taken under Article 235 of the EC Treaty (supplementary Community activity), use of the assent or co-decision procedure could be contemplated, with the retention of unanimity within the Council.

**Political control:** Austria could countenance a stronger role for the European Parliament in the appointment of the President of the Commission, who could for instance be elected on the basis of a list submitted by the Council.

### 3.1.2. National parliaments

That the representatives in the Council of Ministers have to report back to their respective national parliaments is for Austria the primary source of democratic legitimacy. The importance of the involvement of national parliaments in the integration process should for this reason be expressly acknowledged in the Treaty. However, the practical form of this involvement should be a matter for the individual Member States themselves.

Because of the constitutionally enshrined and comprehensive participation of the Austrian parliament, Austria would welcome the creation at EU level of favourable conditions for the involvement of national parliaments in EU policy. In particular it should in future be ensured that each national parliament, to facilitate its work, receives clear and complete documentation in good time concerning every important legislative proposal from the Commission. This could for example be achieved by the setting of binding time limits.

In the Austrian view the aim should be a complementary, non-adversarial relationship between the national parliaments and the EP. Austria accordingly advocates the continuation and extension of cooperative structures (such as cooperation between committees, COSAC).

### 3.1.3. European Council and the Council

With a view to the strengthening of the consistency and political visibility of Union policy it is vital that the European Council fully assume its guidance function.

In the interests of the Union's capacity to act and particularly with a view to the enlargement of the Union, it is desirable that the area of application of **qualified-majority** Council decisions be enlarged. There should nonetheless be case-by-case assessment of whether a given policy still requires legitimation through unanimity in order to be accepted. The introduction of the majority rule would for example be **appropriate** in the area of taxation, some areas of social policy and in the field of harmonization of laws (Article 100 of the EC Treaty). The unanimity principle continues to be essential for own resources decisions and some particularly sensitive matters of secondary legislation. For the special conditions of the second pillar, see point 2.3. For the third pillar, see point 5.3. Amendments to the Treaties should continue to be adopted unanimously at intergovernmental conferences.

As regards the **weighting of votes**, Austria will work to safeguard the strong position of the small and middling States in EU decision-making. The worry of the big States that they may be outvoted by the small ones seems unfounded since confrontations between "big" and "small" practically never occur in the actual work of the EU. At present a qualified majority can be achieved only by States which collectively represent at least some 60% of the population of the Union. Austria would be sympathetic towards measures to ensure that the majority of the population cannot be outvoted by the minority in an enlarged Union.

Voting rules in the Council should not be altered at the expense of decision-making efficiency. Austria is opposed to any reduction of the blocking minority which would incapacitate the Union.

Austria sees considerable potential for increased efficiency in a reform of the Council's working methods. Negotiations on treaty amendments should therefore be accompanied by practical measures to improve present functioning and working methods.

The Council's rotating **presidency** system has proved its worth and should be kept, with the work of the presidency of the day being eased by a strengthening of the Council Secretariat and greater burden-sharing among the members of the Troika.

#### **3.1.4. European Commission**

Austria is interested in maintaining a strong Commission and the retention of its three main functions: defence of the common interest, monopoly of legislative initiative and monitoring of the observance of Community law.

The right of every Member State to nominate a member of the Commission is indispensable for its legitimacy. However, a reduction of the **College of the Commission** could be contemplated providing this principle is not violated.

#### **3.1.5. European Court of Justice (ECJ)**

The central role of the ECJ in the interpretation and application of Community law must in the Austrian view be maintained at all costs. A stronger role for the Court in the third pillar would also be sensible. Account should be taken of the initiatives of the Court (longer term of office for its members, no possibility of reappointment, participation of Advocates-General in the choice of the Court's President).

#### **3.1.6. Court of Auditors**

In the matter of **combating fraud**, Austria will argue for a strengthening of controls at supranational level, in which the Court of Auditors should be assigned a key role. To safeguard its rights the Court of Auditors ought to be accorded the possibility of **referral to the European Court of Justice**. It would be desirable to work for the

inclusion in the EC Treaty of an **obligation of cooperation between the national authorities and the European Court of Auditors.**

### **3.1.7. Committee of the Regions (CoR)**

Being a federal State, Austria **favours the upgrading of the Committee of the Regions.**

The Austrian Länder, the Federation of Communes (Gemeindebund) and the Federation of Cities (Städtebund) have asked for the CoR to be given the possibility of developing further by means of the following reforms: strengthening of the organizational independence of the CoR; extension of its right to be consulted; consultation of the CoR by the European Parliament; involvement of the CoR in assessing subsidiarity; greater participation of the CoR in the legislative process; empowerment of the Committee to refer matters to the Court of Justice to safeguard its rights; making the CoR an institution. The Austrian representative has fed the demands of the Länder into the proceedings of the Reflection Group.

Austria will also voice these concerns of the **Länder, the Austrian Gemeindebund and the Austrian Städtebund** at the Intergovernmental Conference. The Länder and the representatives of the interests of the communes will furthermore be fully involved in the further elaboration of the Austrian position.

### **3.1.8. Economic and Social Committee (ESC)**

Because of the essential role of the two sides of industry in Austria's political system, Austria has a positive attitude towards the ESC. The ESC should be granted the status of an institution. The term of office of its members should, as in the case of the Commission and the EP, be five years instead of four. Greater involvement of the ESC in the legislative process should also be explored.

Furthermore, Austria is generally in favour of the strengthening of Social Dialogue with the aim of intensifying cooperation between the two sides of industry at European level.

## **3.2. Legal acts, financial resources, policies**

### **3.2.1. Legal acts**

Like the other Member States, Austria does not consider it realistic for the Intergovernmental Conference to lay down a list of powers. Article 235 of the EC Treaty (supplementary Community activity) should be maintained.

Austria shares the view of the majority of Member States that the difficulties of creating a clear hierarchy of acts outweigh its advantages.

Austria advocates the reform and simplification of the rules on committee procedures.



### 3.2.2. Combating fraud

Austria will argue for an improvement in the necessary monitoring instruments in order to ensure that in future fraud in the context of Community policy can in future be detected more widely and efficiently.

### 3.2.3. Financial means

In view of the upcoming negotiations on the post-1999 financial package, there seems little point in discussing the issue of **own resources and the budget procedure** in the context of the IGC.

### 3.2.4. Policies

The comments in **section 2 on employment, social affairs and the environment** should be noted.

The suggestion made by the Reflection Group that the scope of Article 113 of the TEC be widened seems in principle a sensible one, although a careful study would need to be made of which WTO areas such an extension would apply to.

Austria takes the view that the scope of the requirement that a **high level of consumer protection** be reached should also extend to other policy areas by means of an amendment of Article 129a of the TEC. This would reflect a horizontal approach to consumer questions.

Furthermore, any other suggestions for extensions to the Community's area of responsibility must be examined with an eye to the **principle of subsidiarity**.

## 4. Common foreign and security policy

### 4.1. In general

Nowadays the EU bears **growing responsibility for international stability and security**. As the experience of the last few years has shown, the Union's current foreign policy is not yet equal to the new challenges. This is attributable in the first place to the lack of political will on the part of the Member States, which give priority to their national foreign policies and are prepared only to a limited extent to enter into common action within the European institutions. It is however also the fault of the Union's structures and instruments in the sphere of foreign policy, which, as created by the Maastricht Treaty, demonstrate inherent weaknesses.

The dangers facing the Union today stem from, inter alia, ecological problems, economic and demographic imbalances and social, religious and ethnic conflicts. The Union has to combat this broad range of security problems with the **coordinated deployment of a variety of instruments**. In addition to traditional foreign policy, therefore, the Union's economic and political weight, including the capacities being

built up within the WEU context (Petersberg missions), must be used as part of a comprehensive policy to secure peace. In particular, consistent cooperation between the three pillars must be put in place.

**The aims of Austria's foreign policy are identical to the CFSP objectives spelled out in Article J.1 of the TEU.** However, Austria takes the view that the IGC should strive to formulate these objectives in more concrete terms.

**Improving the Union's competence in foreign and security policy matters is an essential issue for Austria** in the IGC context. Negotiations in this respect at the Conference should focus on the following:

- improving the preparation of decisions,
- more effective decision-taking mechanisms,
- more effective implementation of the CFSP,
- progress in the area of security and defence policy.

At the upcoming Conference, the existing pillar structure of the Union Treaty is likely to be retained. At any event, Austria is of the opinion that, in the context of further wide-ranging development of the Union, **a progressive transition to a Community approach to foreign policy issues** would best meet the demands of the integration process. When the CFSP is reformed, the rights of the smaller and medium-sized States to be involved and the role of the Community institutions must be respected.

#### **4.2.Planning and analysis unit**

The creation of a common planning and analysis unit should enable the Union **not merely to react to foreign policy events but to take an active part in shaping international developments.** Further essential functions of such a unit might be the early identification of crisis situations, devising appropriate options for action and the development of approaches to relations with other regions. The continuous common analysis undertaken should provide a basis for joint action.

The unit should consist of **experts from the Member States, the Council Secretariat and the Commission.** It should be located in the Council Secretariat and be directly answerable to the Secretary-General. Close cooperation with the Commission and access to its expertise and resources should be ensured. In addition, it is important that the necessary channels of information be guaranteed on the part of the Member States and systematic links established with national analysis and planning units. The possibility of cooperation with the WEU planning unit in the relevant areas should also be examined.

It does not seem **appropriate for the planning unit to be given a formal right of initiative,** since that would further complicate the institutional structure of the CFSP.

However, care should be taken to ensure that the results of the planning work are actually channelled into the Council's opinion-forming process.

#### 4.3.Voting

In the CFSP sphere, the qualified majority procedure is not yet applied. The possibility provided for in the TEU (Article J.3(2)) of majority decisions for the adoption of joint action (although prior consensus is required on the matters on which decisions are to be taken by a qualified majority) has not yet been translated into action.

In the interests of increased efficiency of the CFSP, Austria supports a **gradual transition to majority voting**. In the light of experience with the first pillar it can be expected that, in practice, voting will be exceptional. The very possibility of majority decisions, however, would encourage greater readiness for consensus and compromise and galvanize the decision-making process.

Of course, any transition to majority voting would need to take account of the particular features of CFSP decisions, some of which concern sensitive aspects of State sovereignty. Austria believes, for instance, that the **area of military security** should continue to be a matter requiring **unanimity**.

As regards the detailed procedures for majority voting, various possibilities could be examined (in non-military areas):

- Qualified majority in specific CFSP areas to be determined at the IGC;
- "superqualified" majority, or "consensus-minus-one" (or two) in non-military areas of the CFSP, to at least preclude blocking by individual States;
- generalized majority voting on implementing measures in the framework of joint actions.

In each of the above cases, the introduction of majority voting would have to be accompanied by precautions such as "**constructive abstention**" or "**opting out**".

The introduction of a "flexibility procedure", which would allow a group of States to take action in the name of the Union without a corresponding decision having been adopted in the EU institutions is rejected by Austria.

With respect to the CFSP instruments introduced by the Maastricht Treaty (common position, joint action) and their implications for measures in the Community sphere, a number of demarcation problems have arisen in practice, leading to repeated friction. For that reason Austria intends to ask the IGC to review the range of CFSP instruments with a view at the same time to **achieving greater coherence between the CFSP and the Union's external economic relations**.

#### 4.4. Implementation

The **principal responsibility for CFSP management** rests at the moment with the **Presidency**, assisted in that role by the Council Secretariat. As far as Austria is concerned, that structure should remain essentially unchanged.

However, the efficiency and the continuity of implementation of the CFSP could be substantially increased by expanding the Council Secretariat. Austria would also not rule out entrusting specific foreign-policy tasks (including dialogue with third countries) to the Council's Secretary-General, acting always on precise instructions from the Council.

**Systematic involvement of the members of the Troika** or a division of work among them could also help lighten the Presidency's load. In addition, the Commission should be given a greater role in the implementation of the CFSP – particularly where there is an overlap with the first pillar. Austria is prepared to contemplate the entrusting of aspects of CFSP implementation to particular States or individuals as long as clear guidelines are established (transparency, feedback, responsibility).

At the IGC, Austria will continue to advocate the granting of legal personality to the Union.

#### 4.5. Security and defence policy

The security-policy scene in Europe is going through a dynamic process of change. The new challenges corresponding to a comprehensive security-policy concept can only be met by European and international cooperation in a spirit of solidarity. Austria will also argue for a **constructive Europe-wide security dialogue** to ensure that no new barriers emerge within Europe.

A country's security and that of its citizens is the first priority. Austria advocates a **comprehensive security policy** which attributes just as much importance to questions of economic, ecological and social stability as to internal and external security issues.

In a spirit of European solidarity and to ensure its security on a permanent basis, Austria will press for its **unrestricted participation in functional European security structures** in accordance with the objectives of the European Union.

By acceding to the European Union, Austria committed itself to full cooperation in the common foreign and security policy as well as to the prospect of a common defence policy laid down in the TEU. In accordance with that objective, Austria will

play an active role in efforts in this direction and will faithfully transpose the results of the Intergovernmental Conference into its laws in true "communautaire" fashion.

To that end, and in the interests of greater EU-WEU convergence, at the IGC Austria will, inter alia, support the idea that the WEU can be required to act in accordance with specific guidelines or instructions received from the Union with respect to the **Petersberg missions**.