

**NOTE**

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from: Presidency  
dated: 24 October 2003  
to: Delegations

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*Subject: IGC 2003  
– Qualified Majority Voting*

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1. The Convention proposed extending the number of areas in the treaty which are subject to qualified majority voting in the Council. In responding to the Presidency's invitation to submit comments on non-institutional issues in the draft Constitutional Treaty, many delegations addressed the issue of QMV. Their comments fall into three categories.
2. A number of delegations consider that provisions on the scope of QMV in the Convention text are balanced and should be adopted without modification.
3. There are a number of delegations which consider that in some areas the Convention text is not sufficiently ambitious and have therefore put forward proposals for a further extension of QMV. These proposals cover the following areas:
  - CFSP:
    - some delegations want qualified majority to be the general rule, except for defence matters and those with military implications,
    - another delegation wants generalised application of QMV, but with the possibility of referring decisions to a higher political level,
    - another requests a five-year transitional period, after which QMV would apply except in cases where vital national interests are at stake,
    - some (six delegations) want qualified majority to apply in the case of acts adopted on the basis of a joint proposal from the Minister for Foreign Affairs and the Commission;

- taxation (three delegations – for some this should be linked to the functioning of the Internal Market);
- environment (two delegations);
- justice and home affairs (two delegations), with a third delegation requesting qualified majority coupled with an "emergency brake" similar to the one which exists for the CFSP;
- social affairs (three delegations, with one delegation requesting QMV except in the area of social security).

4. In addition the following areas are the subject of a request for an extension of QMV by at least one delegation in the following cases:

- commercial policy (trade in services - except transport);
- intellectual property;
- environment - quantitative management of water resources( Article III-130);
- flexibility clause (Article I-17)
- future accessions to the European Union.

One delegation also proposes that QMV on structural funds come into effect immediately.

5. The Commission proposes qualified majority voting in the Council for the following areas:

- measures to combat discrimination, the right to vote in European elections, association of the OCT, association agreements, Union accession to the European Convention on Human Rights;
- following a more precise definition of competencies: taxation relating to the operation of the internal market, namely modernisation and simplification of existing legislation, administrative cooperation, measures to combat tax evasion and avoidance and measures relating to the tax base applicable to companies, with the exclusion of tax rates; aspects of free movement of capital linked to combating fraud; environment-related taxation; some aspects of social security; some measures relating to passports; the European Public Prosecutor's Office as it relates to protecting the Union's financial interests;
- by a specific date still to be determined: family law, police cooperation.

6. Other delegations consider that there are one or more areas where the Convention has been too ambitious, and propose in these areas a return to decisions by unanimity. These proposals cover the following areas:

- financial perspective (five delegations);
- modalities relating to the Union's own resources (six delegations);
- taxation (eight delegations) for some this covers not just Articles III-59 to 63, but all provisions which refer to tax measures);
- JAI:
  - evaluation procedure (Article III-161),
  - criminal law (five delegations, one delegation in part),
  - some aspects of police cooperation (two delegations),
  - asylum + immigration (one delegation);
- social policy (three delegations, for some this relates specifically to Article III-21 on social security);
- commercial policy (services in the social, health and education fields).

A return to unanimity in the following areas has been requested by at least one delegation in the following cases:

- structural funds (including after 2007);
- environment - quantitative management of water resources (Article III-130);
- social provisions (Article III-104);
- culture;
- ECJ statute (amending);
- commercial policy (addition of reference to agreements covering foreign direct investment and agreements relating to a field in which the Union has not yet exercised the powers conferred on it through the adoption of internal rules).

7. Some delegations are opposed to the bridging clause ("passerelle") which would allow the European Council acting unanimously to change the voting rules in a given area in Part III from unanimity to qualified majority. A few are also opposed to the bridging clause within the enhanced cooperation provisions.