



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

**Brussels, 9 November 2000 (10.11)
(OR. fr)**

CONFER 4798/00

LIMITE

NOTE FROM THE PRESIDENCY

Subject : *IGC 2000: Enhanced cooperation*

Delegations will find attached a text on enhanced cooperation revised in the light of Representatives' discussions at the informal meeting in Paris.

7. ENHANCED COOPERATION ¹

7.1. GENERAL PRINCIPLES

CLAUSE A

General conditions

Member States which intend to establish enhanced cooperation between themselves may make use of the institutions, procedures and mechanisms laid down by this Treaty and by the Treaty establishing the European Community provided that the proposed cooperation:

- (a) is aimed at furthering the objectives of the Union and the Community, at protecting and serving its interests and at reinforcing the process of integration;**
- (b) respects the Treaties and the single institutional framework of the Union;**
- (c) respects the *acquis communautaire* and the measures adopted under the other provisions of the Treaties;**
- (d) remains within the limits of the powers of the Union and of the European Community and does not cover areas falling within the exclusive competence of the Community; it may not conflict with the internal market as defined in Article 14 of the Treaty establishing the European Community, or the economic and social cohesion established in accordance with Title XVII of that Treaty;**
- (e) does not constitute a discrimination of trade between Member States and does not distort competition between them;**
- (f) involves a minimum of eight Member States, subject to Clause K;**
- (g) does not affect the competences, rights and obligations of those Member States which do not participate therein.**

¹ The proposed provisions would be divided between the TEU and the TEC in the final presentation of the new Treaty.

CLAUSE B
Last resort clause

Enhanced cooperation may be engaged in only as a last resort, when it has been established within the Council that the objectives of such cooperation cannot be attained within a reasonable period by applying the relevant provisions of the Treaties.

CLAUSE C
Participation of Member States

Enhanced cooperation shall be open to all Member States at the time it is established and subsequently at any time, in accordance with Clauses H, L and O, provided that they comply with the basic decision and with the decisions taken within that framework. The Commission and the Member States parties to enhanced cooperation shall ensure that as many Member States as possible are encouraged to take part.

CLAUSE D
Institutional procedures

1. For the purposes of the adoption of the acts and decisions necessary for the implementation of the cooperation referred to in Clause A, the relevant institutional provisions of this Treaty and of the Treaty establishing the European Community shall apply. However, while all members of the Council shall be able to take part in the deliberations, only those representing participating Member States shall take part in the adoption of decisions. The qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2) of the Treaty establishing the European Community. Unanimity shall be constituted by only those Council members concerned.

2. Member States shall apply, as far as they are concerned, the acts and decisions adopted for the implementation of the enhanced cooperation to which they are party. Member States which are not party to such cooperation shall not impede the implementation thereof by the participating Member States.

CLAUSE E

Financing

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.

CLAUSE F

Consistency of the Union's policies

The Council and the Commission shall ensure the consistency of activities undertaken on the basis of this Title and the consistency of such activities with the policies of the Union, and shall cooperate to that end.

7.2. ENHANCED COOPERATION UNDER THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

CLAUSE G

Procedure for establishing enhanced cooperation

1. Member States which intend to establish enhanced cooperation between themselves in one of the areas referred to in the Treaty establishing the European Community shall address a request to the Commission, which may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

2. Authorisation to establish the enhanced cooperation referred to in paragraph 1 shall be granted, in compliance with Clauses A to F, by the Council, acting by a qualified majority on a proposal from the Commission after consulting the European Parliament.

A member of the Council may request that the matter be referred to the European Council before the Council takes a decision.

3. The acts and decisions necessary for the implementation of enhanced cooperation activities shall be subject to all the relevant provisions of the Treaty establishing the European Community, save as otherwise provided in this Clause and in Clauses A to F.

CLAUSE H

Procedure allowing other Member States to participate

Any Member State which wishes to become a party to enhanced cooperation established in accordance with Clause G shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months of receipt of that notification. The Member States which are party to enhanced cooperation shall address any comments to the Council and to the Commission. The Commission shall take a decision within four months of the date of the notification.

ARTICLE 249 LAST SUBPARAGRAPH (NEW) TEC

Where the abovementioned acts are adopted within the context of the implementation of enhanced cooperation established on the basis of Clause G, they shall be binding on and directly applicable to only those States which are party to such cooperation.

7.3. ENHANCED COOPERATION UNDER TITLE V OF THE TEU

CLAUSE I

General objectives

1. Enhanced cooperation in one of the areas referred to in Title V of the Treaty on European Union shall be aimed at safeguarding the values and serving the interests of the Union as a whole by asserting its identity as a coherent force on the international scene. It shall respect:

- the principles, objectives, general guidelines and consistency of the common foreign and security policy and the decisions taken within the framework of that policy;**
- the powers of the European Community;**
- and consistency with all the Union's policies and external activities.**

2. The provisions of Articles 11 to 28 of this Treaty shall apply to the enhanced cooperation provided for in this Clause, save as otherwise provided in Clause K and Clauses A to F.

CLAUSE J

Object

Enhanced cooperation pursuant to Title V of the EU Treaty may have as its object:

- implementation of a common strategy, a joint action or a common position;**
- promotion of initiatives in the field of security and defence ... *[to be determined]***

CLAUSE K

Procedure for establishing enhanced cooperation

1. Member States which intend to establish enhanced cooperation between themselves under Clause J shall address a request to the Council to that effect.

The request shall be forwarded to the European Parliament and to the Commission for information. The Commission shall give its opinion on whether the enhanced cooperation proposed pursuant to paragraph 2 is consistent with Community policies.

2. Where the object of the request to establish enhanced cooperation is the implementation of a common strategy, a joint action or a common position, it must come from at least eight Member States. Authorisation to proceed to enhanced cooperation shall be granted by the Council, acting by a qualified majority, in compliance with Clauses A to F. A member of the Council may request that the matter be referred to the European Council before the Council takes a decision.

Where the request to establish enhanced cooperation comes from at least eight Member States, it may be authorised by the Council, acting by a qualified majority in accordance with the procedure referred to in the second and third subparagraphs of Article 23(2) of this Treaty, in compliance with Clauses A to F.

The provisions of this paragraph shall be without prejudice to paragraph 3.

3. Where the object of the request to establish enhanced cooperation is to promote initiatives in the field of security and defence in accordance with the second indent of Clause J, it must come from at least four Member States. Authorisation to proceed to enhanced cooperation shall be granted by the Council, acting by a qualified majority in accordance with the procedure referred to in the second and third subparagraphs of Article 23(2) of this Treaty, in compliance with Clauses A to F.

CLAUSE L

Role of the Secretary-General/High Representative

Without prejudice to the powers of the Presidency or of the Commission, the Secretary-General of the Council, High Representative for the common foreign and security policy, shall in particular ensure that all members of the Council and the European Parliament are kept fully informed of the implementation of enhanced cooperation in the CFSP area.

CLAUSE M

Procedure allowing other Member States to participate

Any Member State which wishes to become a party to enhanced cooperation established in accordance with Clause J shall notify its intention to the Council and to the Commission. For the enhanced cooperation referred to in Clause K(2), the Commission shall give an opinion to the Council within three months of receipt of that notification, possibly accompanied by a recommendation for such specific arrangements as it may deem necessary for that Member State to become a party to the cooperation in question. The Council shall take a decision within four months of the date of that notification. The decision shall be deemed to be taken unless the Council, acting by a qualified majority, decides to hold it in abeyance; in that case, the Council shall state the reasons for its decision and set a deadline for reexamining it. For the purposes of this Article, the Council shall act under the conditions set out in Clause D.

7.4. ENHANCED COOPERATION UNDER TITLE VI OF THE TEU

CLAUSE N

Objectives

- 1. Enhanced cooperation in one of the areas referred to in Title VI of the Treaty on European Union shall 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. The provisions of Articles 29 to 41 of the Treaty on European Union shall apply to the enhanced cooperation provided for by this Clause, save as otherwise provided in Clause O and in Clauses A to F.**
- 3. The provisions of the Treaty establishing the European Community concerning the powers of the Court of Justice of the European Communities and the exercise of those powers shall apply to Clauses N to P.**
- 4. Clauses N to P are without prejudice to the provisions of the Protocol integrating the Schengen acquis into the framework of the European Union.**

CLAUSE O

Procedure for establishing enhanced cooperation

- 1. Member States which intend to establish enhanced cooperation between themselves under Clause N shall address a request to the Commission, which may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so. Those Member States may then submit an initiative to the Council designed to authorise the enhanced cooperation concerned.**

2. Authorisation to proceed to the enhanced cooperation referred to in paragraph 1 shall be granted by the Council, acting by a qualified majority on a proposal from the Commission or at the initiative of at least eight Member States in accordance with paragraph 1 after consulting the European Parliament, in compliance with Clauses A to F. The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community.

A member of the Council may request that the matter be referred to the European Council before the Council takes a decision.

CLAUSE P

Procedure allowing other Member States to participate

Any Member State which wishes to become a party to enhanced cooperation established in accordance with Clause N shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months of receipt of that notification, possibly accompanied by a recommendation for such specific arrangements as it may deem necessary for that Member State to become a party to the cooperation in question.

The Council shall take a decision on the request within four months of the date of that notification. The decision shall be deemed approved unless the Council, acting by a qualified majority, decides to hold it in abeyance; in this case, the Council shall state the reasons for its decision and set a deadline for reexamining it. For the purposes of this paragraph, the Council shall act under the conditions set out in Clause D.