

## Chapter 6

# The Commission and institutional reforms

The period between 1986 and 2000 constituted the most intensive period of formalised institutional change in the history of the European integration process. It began, after all, with the ink barely dry on the Single European Act (SEA) — the treaty had been agreed in December 1985 but would not be signed until February 1986 — and ended with the agreement, in December 2000, on the Treaty of Nice. In between lay the Treaty on European Union, better known as the Maastricht Treaty, which was signed in 1992, and the Treaty of Amsterdam, signed in 1997. And each of these legal milestones required extensive preparation and negotiation, to say nothing of the almost equally intensive effort to implement, to fine-tune and to follow up. It is thus no exaggeration to say that, throughout the period discussed in this book, the debate rumbled on about European Community/Union (EC/EU) institutional change, about the shortcomings of the institutional status quo and about how the European system ought to change

in order to meet its massively increased range of tasks and cope with its ever growing membership.

Unsurprisingly the European Commission was at the heart of this debate, both as an object of discussion — in other words one of the institutions whose shape, powers and prerogatives were at issue — and still more as an active participant in the intellectual exploration of how the European system could be improved. It had long sought treaty change, with previous Commission Presidents feeling frustrated at the rigidities of an institutional system that the Member States refused to alter, formally at least<sup>(1)</sup>. It therefore threw itself with great enthusiasm into the discussion and negotiation of treaty change, once the floodgates for reform seemed to have been opened by the SEA. As will become clear from the pages that follow,

<sup>(1)</sup> See for example the chapters on Jenkins and Thorn in Harst, J. (van der) and Voerman, G. (eds), *An impossible job? — The Presidents of the European Commission, 1985-2014*, John Harper Publishing, London, 2015.

the Delors, Santer and Prodi Commissions all engaged seriously and with substantial energy with both the broader discussion about what shape Europe's institutions should take and the more detailed work of the multiple intergovernmental conferences (IGCs) convened during this period to carry out the task of treaty alteration. In the process they were able to secure a series of important changes, helping to steer through a massive broadening of the policy range of the EC/EU and utterly transforming the standing and powers of its core institutions. The European system of 2001 was institutionally very different from that of 1985.

Alongside the indisputable range of achievements, however, there also developed a sense of frustration about the inability of the EC/EU to move ahead as far and as fast as many within the European Commission had hoped. Dismay at what had not been done began to outweigh satisfaction with what had been achieved, not least because very real doubts remained, in the Commission and elsewhere, about whether the institutional system was strong enough and effective enough to cope with the vastly extended policy remit and the massively increased membership expected in the early years of the 21st century<sup>(1)</sup>. The failure of these multiple rounds of European treaty reform to capture the imagination and support of the European public was also a preoccupation — the ratification process of each new set of European treaties became seemingly ever more fraught, not least because of the increasing recourse by Member States to referenda, the positive outcome of which was far from guaranteed. By December 2000 Prodi's assessment

of the Treaty of Nice thus was not only rather ambivalent, with disappointment at the missed opportunity mixed in with satisfaction at the changes that had been agreed, but was also accompanied by a clear-cut call for the EU to adopt a radically different approach to future treaty change. The course had been set for the European Convention of 2002-2003 and for the ill-fated European constitution to which it gave rise. The section that follows will thus not only look briefly at how the Commission approached each episode of treaty change and at its assessment of what had been achieved, but also at its mounting dissatisfaction at the pace and manner of European institutional advance.

It is of course true that the European Commission is almost bound to complain about Member States' caution with regard to treaty change. Jacques Delors's initial assessment of the SEA was highly cautious, describing it as an example of 'Europe of the feasible' rather than 'Europe of the ideal'<sup>(2)</sup>. But such misgivings had soon been swept away by the extraordinary acceleration in the pace of European integration over the years that followed. Rather than a pragmatic and tentative advance, the SEA was soon being viewed as the crucial point of departure for the European boom of the late 1980s. Delors would retrospectively describe it as his favourite treaty<sup>(3)</sup>.

This highly positive view of treaty change helps explain the enthusiasm with which Delors and his team greeted the 1990 decisions to convene two new IGCs: one to explore the treaty changes required by the push for economic and monetary union, the other to flank economic and monetary union with an advance towards political union.

<sup>(1)</sup> The sensitivity of this subject was highlighted by the Commission's own hesitancy about the institutional implications of enlargement. Its 1992 report on 'Europe and the challenge of enlargement' was much less precise and far reaching than Frans Andriessen, its main author, would have liked, largely because his colleagues preferred caution to boldness in the uncertain atmosphere caused by the Danish rejection of the Maastricht Treaty. 'Europe and the challenge of enlargement', *Bulletin of the European Communities Supplement*, No 3, 1992. For the lengthy internal debates on both see HAEC, COM(92), Minutes No 1108, meeting of 3 June 1992; COM(92), Minutes No 1110, 17 June 1992. The watered-down text had little impact at European Council level.

<sup>(2)</sup> '1985-86 session — Report of proceedings from 9 to 13 December 1985', *Annex to the Official Journal of the European Communities: Debates of the European Parliament*, No 2-333, pp. 124-128.

<sup>(3)</sup> Interview with Jacques Delors, 16 December 2009: [https://www.cvcc.eu/en/histoire-orale/unit-content/-/unit/07f58085-4b00-405f-a403-a603c1397fd5/93a99c2a-41bb-4450-b16f-600e84bc05d1/Resources#.20f3cefc-fc4c-43e0-9e0d-e457ba9f368b\\_en&overlay](https://www.cvcc.eu/en/histoire-orale/unit-content/-/unit/07f58085-4b00-405f-a403-a603c1397fd5/93a99c2a-41bb-4450-b16f-600e84bc05d1/Resources#.20f3cefc-fc4c-43e0-9e0d-e457ba9f368b_en&overlay).



Frans Andriessen participated with Jacques Delors in the Intergovernmental Conference on Political Union in 1991. From right to left, sitting at the table: Frans Andriessen, Vice-President, Jacques Delors, President and Pascal Lamy, head of cabinet of Jacques Delors, speaking to the President.

The Commission was certainly very keen to emphasise the importance of boldness in each of the IGCs. Its October 1990 opinion on political union underlined how central parallel progress was: ‘The osmosis between economic, social, financial and monetary policy on the one hand and foreign policy on the other is and should continue to be the underlying philosophy of a European Union, as affirmed in the preamble to the Single Act’<sup>(1)</sup>.

But it was also prepared to accept that somewhat different institutional arrangements could be devised for different policy areas: the opinion

recognised for instance that in external affairs the Commission’s right of initiative should be shared with the Council presidency and the Member States<sup>(2)</sup>. There was pragmatism as well as enthusiasm as the negotiating process began. Notable too was the calibre of Commission participation in the IGC, with the President himself and two of his Vice-Presidents, Henning Christophersen (for Economic and Monetary Union) and Frans Andriessen (for Political Union), deeply involved. The progress of the IGC was a frequent topic for debate during the weekly Commission meetings, especially as the talks neared their climax in late 1991,

<sup>(1)</sup> European Commission, *Political union*, Office for Official Publications of the European Communities, Luxembourg, 1990, p. 11.

<sup>(2)</sup> *Ibid.*, p. 15.

## Subsidiarity: the emergence of a new Community term

One of the most striking features of the debate about institutional change in the EC/EU in the 1990s was the prominence of the concept of 'subsidiarity'. First given official status within the EU by Article 3b of the Maastricht Treaty, the term was used extensively during the subsequent decade. And Jacques Delors seems to have played an important role in its emergence as a key idea within the context of European integration.

The Maastricht Treaty article introducing the notion reads as follows:

*'The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein.*

*In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.*

*Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty.'*

Subsidiarity was therefore being defined as the idea that power should be exercised at the lowest level of government possible. European action was thus something that should only happen where national measures — or indeed subnational measures — were likely to prove inadequate. Article 3b in other words was intended to reassure governments in the Member States, and perhaps more importantly the European public, that unchecked and unlimited EC/EU interference would not occur.

The concept was not entirely new. First developed in Catholic social doctrine during the 1930s, the term had then been picked up in the debate about German federalism and the relations between the federal government and the *Länder* in post-war West Germany<sup>(1)</sup>. From there it had edged into the margins of discussions about European integration, appearing

notably in the preamble to the European Parliament's draft treaty on European Union in 1984<sup>(2)</sup>. But the next move had come from the Commission President. Reportedly influenced by a meeting he had had with German *Länder* leaders in 1988, Delors first used the idea publicly in a speech to the European Parliament in January 1989, before incorporating it into the Commission's institutional suggestions to the intergovernmental conference<sup>(3)</sup>. Politically the idea was attractive at a time of mounting disquiet about Commission activism and ambition; there were clear limits to how much Delors wanted his institution to do, he appeared to be saying. The idea was well received, with a special working group formed at the intergovernmental conference to explore the concept.

Subsidiarity only grew in importance as the Maastricht Treaty proved difficult to ratify. Revealingly, Delors put the concept at the forefront of his suggestions as to how the Commission should respond to the widespread sense of malaise caused by the Danish rejection of the new treaty and the troubled ratification process in the United Kingdom<sup>(4)</sup>. Neither the Danish Commissioner nor those from the United Kingdom were wholly convinced that subsidiarity held the key to reversing Euroscepticism in their homelands, but the Commission pressed ahead regardless<sup>(5)</sup>. In a communication to the Council in October 1992 the Commission placed subsidiarity alongside greater transparency and improved democratic control at the heart of its priorities for the future development of EC legislation<sup>(6)</sup>. And over subsequent years it would report regularly to the Council on the adaptation of Community legislation to the subsidiarity principle<sup>(7)</sup>. All directorates-general were also instructed to

(1) Marquardt, P. D., 'Subsidiarity and sovereignty in the European Union', *Fordham International Law Journal*, Vol. 18, No 2, The Berkeley Electronic Press, New York, 1994, pp. 618-620: <https://pdfs.semanticscholar.org/50f3/0b01ddaed0b31b0206ed3da14e8462476d2e.pdf>.

(2) 'Draft treaty establishing the European Union', *Bulletin of the European Communities*, No 1/2, 1984, pp. 7-28.

(3) Schaefer, G. F., 'Institutional choices: the rise and fall of subsidiarity', *Futures*, Vol. 23, No 7, Elsevier, New York, 1991, pp. 681-694; 'Statement on the broad lines of Commission policy presented by Jacques Delors, President of the Commission, to the European Parliament and reply to the ensuing Parliamentary debate — Strasbourg, 17 and 18 January 1989', *Bulletin of the European Communities Supplement*, No 1, 1989.

(4) HAEC, COM(92), Minutes No 1123, second part, meeting of 12 October 1992.

(5) HAEC, COM(92), Minutes No 1123, meeting of 12 October 1992.

(6) SEC(92) 1990 final, 27 October 1992, 'The principle of subsidiarity'.

(7) See for example COM(93) 545 final, 24 November 1993, 'Commission report to the European Council on the adaptation of Community legislation to the subsidiarity principle; or COM(94) 533 final, 25 November 1994, 'Report to the European Council on the application of the subsidiarity principle 1994'.

demonstrate that their draft proposals did not infringe the principle <sup>(1)</sup>. The recognition that the EC/EU should not seek to do more than necessary thus assumed a degree of centrality to Commission thinking, a fact confirmed by the importance that the Santer Commission would attach to the slogan of ‘less but better legislation’ <sup>(2)</sup>.

Despite its prominence, however, the idea suffered from a number of problems. First of all opinions varied significantly among the Member States about which areas of policy required European action and which were better left to national governments. A Commission decision in the late 1990s to withdraw a draft directive on the protection of zoo animals in the name of subsidiarity provoked a request from the UK government for EU action in this field <sup>(3)</sup>.

Second, as a mechanism to reassure the general public the concept suffered somewhat from being hard to define or grasp. Delors’s jest to the European Parliament that he should offer a prize for the person who came up with the most accessible definition pointed to a real underlying problem <sup>(4)</sup>. It therefore became something that the Commission took very seriously and that influenced what it did and did not do during the last years of the century. And its emergence undoubtedly sheds light on the Commission’s growing political awareness that its activism and dynamism during the late 1980s and early 1990s could alarm as well as enthuse the European public. But as a solution to public doubts about EU power it had its limitations, a reality that probably helps explain the term’s gradual fall from prominence in the years after 2000.

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as well as being the subject of at least one ‘discussion seminar’ <sup>(1)</sup>. Despite the frequent exchange of views and some divergence of opinion, Delors kept a firm hand on the public expression of the Commission’s position, for instance taking personal responsibility in the drafting of the document that the Commission submitted in late November 1991 reiterating the institution’s priorities and warning against what it saw as the wrong turns that the negotiators were in danger of taking <sup>(2)</sup>.

Despite its efforts, however, the treaty outcome was not wholly to the Commission’s liking <sup>(3)</sup>. Both to his Commission colleagues and in public, Delors was able to emphasise much that was positive <sup>(4)</sup>. In Strasbourg he asserted that: ‘An irrevocable, progressive and strict commitment has been made to economic and monetary union’ <sup>(5)</sup>. Similarly, if more surprisingly, he also hailed the ‘major step forward’ made over defence. And much was made of the potential for advances in the social policy field, albeit among 11 Member States rather than 12 because of the United Kingdom’s opt-out. Delors had positive words too about the increase in power of the European Parliament — an important element in making the European project democratically legitimate — and the fact that the Parliament and the Commission would now be coterminous. But he was equally frank about the disappointments: the rules drawn up for the common foreign and security policy were inadequate; qualified majority voting had not been extended sufficiently; and,

<sup>(1)</sup> Information from Nikolaus van der Pas.

<sup>(2)</sup> Interview with Jim Cloos, 4 July 2016.

<sup>(3)</sup> Information from Nikolaus van der Pas.

<sup>(4)</sup> ‘President of EU offers prize for definition of term “subsidiarity”’: <https://blogs.ec.europa.eu/ECintheUK/president-of-eu-offers-prize-for-definition-of-term-subsidiarity>

<sup>(1)</sup> See for example HAEC, COM(91), Minutes No 1082, second part, meeting of 14 November 1991; COM(91), Minutes No 1084, second part, 27 November 1991; COM(91), Minutes No 1085, 4 December 1991; COM(91), Minutes No 1086, second part, 11 December 1991.

<sup>(2)</sup> Press release IP/91/1063, ‘Declaration of the Commission on the two Intergovernmental Conferences on Political Union and on Economic and Monetary Union’, 27 November 1991: [http://europa.eu/rapid/press-release\\_IP-91-1063\\_en.htm](http://europa.eu/rapid/press-release_IP-91-1063_en.htm)

<sup>(3)</sup> In his interview for this volume, Jim Cloos (4 July 2016) attributes this disappointment to a failure to cooperate closely with the Luxembourg Presidency.

<sup>(4)</sup> HAEC, COM(91), Minutes No 1086.

<sup>(5)</sup> Extract from Delors’s speech to the European Parliament, 12 December 1991: ‘1991-92 session — Report of proceedings from 9 to 13 December 1991’, *Annex to the Official Journal of the European Communities: Debates of the European Parliament*, No 3-412, p. 232.

most fundamentally, the pillar system, with its much more intergovernmental rules for foreign policy and justice and home affairs, undermined the fundamental unity of the EU structure and risked creating a serious imbalance. Indeed so serious was the imbalance that Delors did not believe that it could endure and would have to be addressed in the new IGC planned for 1996: ‘Economic and monetary integration will not be possible without corresponding democratic political integration. I am convinced that, even if a certain imbalance exists at present, monetary union will inevitably be followed by political union. How can we envisage the existence of a powerful independent central bank, controlling a currency used by 340 million people, without corresponding political and democratic developments, without having a European political identity?’<sup>(1)</sup> Maastricht was an important advance, in other words, but its weaknesses were such that the effort to reform the EC/EU’s treaty base would need to continue<sup>(2)</sup>.

By the time the 1996 IGC got under way, however, the context was rather less favourable. In place of that surge of European optimism that had characterised the late 1980s and early 1990s, a more despondent mood had set in, marked by economic downturn across the continent, the difficult ratification process of the Maastricht Treaty and strained relations between Europe’s larger powers, Germany and France especially<sup>(3)</sup>. Delors had also left the Commission, and his successor, Jacques Santer, was less forceful in his direction of the institution’s engagement with the IGC<sup>(4)</sup>. Much of the negotiation was delegated to Marcelino Oreja, the Spanish Commissioner, and strong presidential leadership was much less apparent in the

Commission’s internal deliberations than it had been under Delors<sup>(5)</sup>.

The Commission’s appetite for further institutional change was not diminished by this more gloomy backdrop, however. Rather the reverse indeed, as Santer made clear in his speech outlining the Commission’s February 1996 opinion to the European Parliament, since treaty reform could become part of the Commission’s push to counter Euro-scepticism by making the integration process more relevant to the European citizen.

‘That opinion calls, first, for the creation of a citizen’s Europe. To achieve this, we first need to promote the European model of society. As I see it, there are five requirements to be met here: strengthening the defence of human rights, consolidating the rule-of-law union, emphasizing the social aspect — in this context, we are calling for the social protocol to be reintegrated into the Treaty — and inserting an “employment” chapter into the Treaty. This point seems to me especially crucial: fine speeches are all very well, but the Union must do more to demonstrate that it regards the fight against unemployment as its priority. I am well aware that merely including such a chapter in the Treaty will not in itself solve the problem. But I am convinced that the insertion of specific provisions will make a contribution to solving it’<sup>(6)</sup>.

Nor was this just a rhetorical flourish from the Commission President. The internal debates of the Commission when drafting the opinion highlight a widespread desire to use the IGC to address the perceived disconnect between the EU’s leaders and

<sup>(1)</sup> Ibid., p. 235.

<sup>(2)</sup> The interview with Giuseppe Ciavarini Azzi (30 September 2016) confirms Delors’s disappointment with the treaty.

<sup>(3)</sup> The shock of the Danish ‘no’ to Maastricht is very clear from HAEC, COM(92), Minutes No 1108.

<sup>(4)</sup> Cloos claims that the Commission did exercise rather more influence ‘behind the scenes’ than was perceived at the time: interview with Jim Cloos, 4 July 2016.

<sup>(5)</sup> HAEC, PV(96), Minutes No 1279, meeting of 7 February 1996; PV(96), Minutes No 1281, second part, 21 February 1996; PV(96), Minutes No 1282, second part, 28 February 1996; for Oreja’s account of his role and motivations see [https://www.cvce.eu/obj/marcelino\\_oreja\\_reform\\_of\\_the\\_eu\\_a\\_task\\_for\\_society-en-7b2ced6e-700c-4a5b-b91d-5cb8b4bdaef6.html](https://www.cvce.eu/obj/marcelino_oreja_reform_of_the_eu_a_task_for_society-en-7b2ced6e-700c-4a5b-b91d-5cb8b4bdaef6.html)

<sup>(6)</sup> ‘1995/96 session — Report of proceedings from 28 to 29 February 1996’, *Annex to the Official Journal of the European Communities: Debates of the European Parliament*, No 4-476, p. 3.



On 12 and 13 December 1997 the European Council in Luxembourg officially launched the enlargement process and initiated a general review of the development of the European Union in order to meet the challenges on the eve of the 21st century. From left to right: Hans van den Broek, Commissioner for External Relations with the Countries of Central and Eastern Europe, the Former Soviet Union and other European Countries, the Common Foreign and Security Policy, Human Rights and External Diplomatic Missions; Jacques Santer, President; Jean-Claude Juncker, Luxembourg Prime Minister and acting Council President; and Jacques Poos, Luxembourg Minister for Foreign Affairs, Foreign Trade and Cooperation.

the wider European population<sup>(1)</sup>. Equally central to the Commission's concerns was the looming challenge of enlargement. This had already lurked in the background of the Commission's preoccupations during the Maastricht negotiations<sup>(2)</sup>. Five years on, with Austria, Finland and Sweden having already taken their place within the EU, and discussions about membership well under way with multiple central and east European states, it was now very clear that the EU institutions

would have to be substantially reformed so as to be able to cope with the challenges of a Union of 25 or more Member States<sup>(3)</sup>. The necessary changes would include much greater use of qualified majority voting, changes to the numbers of Commissioners and Members of the European Parliament and improvements in the way the Council presidency functioned<sup>(4)</sup>. As Santer put it bluntly, 'an ill-prepared enlargement would turn

<sup>(1)</sup> HAEC, PV(96), Minutes No 1279; PV(96), Minutes No 1281.

<sup>(2)</sup> Sir Leon Brittan had, for instance, referred to the prospect of future enlargement: HAEC, COM(90), Minutes No 1028, second part, meeting of 26 September 1990, p. 14.

<sup>(3)</sup> See Chapter 20 'The integration of East Germany and the enlargements'.

<sup>(4)</sup> '1995/96 session — Report of proceedings from 28 to 29 February 1996', p. 4.



Hoffen auf den Weihnachtsmann

'Waiting for Santa Claus'.

After the disappointment of the Treaty of Amsterdam, Romano Prodi, Gerhard Schröder and Jacques Chirac hoped that Christmas would bring them success in institutional reform in Nice in December 2000.

into a nightmare what I think in reality is a historic chance for Europe' (1).

Once more, however, the final outcome of the negotiations fell substantially short of the Commission's hopes. The Treaty of Amsterdam did incorporate substantial progress towards what had become known within the Commission as the 'Amsterdamisation of Schengen' — in other words bringing into the Community proper a great deal of the *acquis* on judicial, police and other forms of internal cooperation that had developed outside of the EU (2). Santer welcomed the addition of a new chapter in the treaty on 'employment' (3), and the further growth in the Parliament's powers was also

seen in a positive light (4). But the treaty fell far short of Commission hopes with regard to the extension of qualified majority voting, the rebalancing of voting rules for qualified majority decisions within the Council of Ministers and the question of how many Commissioners there should be in an enlarged EU (5). If the institutions of the European Union were to be ready to meet the challenge of enlargement, a further round of treaty change would be needed.

The task of preparing for what would become the Treaty of Nice would fall to Romano Prodi and his colleagues. Like Santer, but unlike Delors, the new President entrusted the main responsibility for representing the Commission's stance at the IGC to one of his Commissioners, Michel Barnier. The College as a whole, however, continued to review the issue on frequent occasions (6). And the Commission's starting position was firm. As Prodi made clear at the IGC's opening ceremony in February 2000, 'we cannot expand from 15 to 28 members simply by patching things up. Decisive solutions must be found, otherwise the Union can only get weaker. For example, I genuinely believe that, with 28 members, any areas that are still decided by unanimity will be condemned to stagnation' (7). The President returned to the charge in October, warning of the dangers of creeping intergovernmentalism and reiterating that an EU

(1) Santer's speech on eve of Amsterdam Council: '1997/98 session — Report of proceedings from 9 to 13 June 1997', *Annex to the Official Journal of the European Communities: Debates of the European Parliament*, No 4-502, p. 116.

(2) Interview with Francisco Fonseca Morillo, 15 February 2017.

(3) This had been the issue most emphasised by Santer in his letter to European Council members on the eve of the Amsterdam meeting: [http://www.cvce.eu/obj/letter\\_from\\_jacques\\_santer\\_to\\_the\\_heads\\_of\\_state\\_or\\_government\\_of\\_the\\_member\\_states\\_10\\_june\\_1997-cn-fec05b0a-df46-4cb9-a400-b91c8385316a.html](http://www.cvce.eu/obj/letter_from_jacques_santer_to_the_heads_of_state_or_government_of_the_member_states_10_june_1997-cn-fec05b0a-df46-4cb9-a400-b91c8385316a.html)

(4) See Santer's speech at the signing ceremony in October: Speech/97/200, 'Speech by Jacques Santer, President of the European Commission: Signature of the Treaty of Amsterdam', Amsterdam, 2 October 1997: [http://europa.eu/rapid/press-release\\_SPEECH-97-200\\_fr.htm](http://europa.eu/rapid/press-release_SPEECH-97-200_fr.htm)

(5) The most detailed assessment of the treaty is in Michel Petite's note to the members of the Commission: HAEU, DORIE 540, SEC(97) 1411, 7 July 1997, 'Note for the members of the Commission'.

(6) HAEC, PV(2000), Minutes No 1463, meeting of 26 January 2000; PV(2000), Minutes No 1470, 14 March 2000; PV(2000), Minutes No 1471, 21 March 2000; PV(2000), Minutes No 1487, 12 July 2000; PV(2000), Minutes No 1492, 20 September 2000; PV(2000), Minutes No 1494, 4 October 2000; PV(2000), Minutes No 1498, 31 October 2000; PV(2000), Minutes No 1501, 22 November 2000; PV(2000), Minutes No 1503, 6 December 2000.

(7) Speech/00/40, 'Romano Prodi, President of the European Commission: Opening of the IGC', General Affairs Council, Brussels, 14 February 2000: [http://europa.eu/rapid/press-release\\_SPEECH-00-40\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-00-40_en.htm)

that failed to advance would actually be one that moved backwards<sup>(1)</sup>.

For the third time in succession, though, the Commission would react with disappointment at the eventual treaty outcome. Some progress was made with the Treaty of Nice, including a significant change to the manner in which the Commission President was selected (the appointment would now require majority support, rather than unanimity as had previously been the case, thereby preventing a repeat of the United Kingdom's blocking of Jean-Luc Dehaene in 1994<sup>(2)</sup>) and an increase in their powers. There were also some welcome provisions on enhanced cooperation — in other words the ability of some Member States to move ahead further and faster in some policy areas, without needing to wait for all of the Member States to be ready — and a strengthening of EU commercial policy. But several of the key decisions

were ducked, while the solution arrived at on vote weighting was seen as a retrograde step, not a forward movement. Prodi's conclusion was clear: 'the experience of Nice shows that the current method of reviewing the Treaties is no longer a valid one. Like the Community structure itself, the process for producing institutional change is under stress, and needs to be changed'<sup>(3)</sup>. Lessons, he suggested, should be drawn from the approach adopted when drawing up the Charter of Fundamental Rights of the European Union, where rather than a traditional IGC the task had been given to a body on which sat representatives of the European Parliament and of national parliaments, of governments and of the Commission<sup>(4)</sup>. Treaty revision would go on being necessary, but a new approach was needed.

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(1) Speech/00/352, 'Romano Prodi, President of the European Commission: Plenary Session of the European Parliament', Strasbourg, 3 October 2000: [http://europa.eu/rapid/press-release\\_SPEECH-00-352\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-00-352_en.htm)

(2) See Chapter 1.1 'Three men, one job: the presidency of the European Commission'.

(3) Speech/00/499, 'Speech by Romano Prodi, President of the European Commission: Speech at the European Parliament on the European Council of Nice', Strasbourg, 12 December 2000: [http://europa.eu/rapid/press-release\\_SPEECH-00-499\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-00-499_en.htm)

(4) See interview with Francisco Fonseca Morillo (15 February 2017) for recollections about the drafting of the charter.