

Report from the Council Presidency to the European Council on the reform of the Presidency (10 December 2002)

Caption: On 10 December 2002, the Danish Presidency reports to the European Council on the various ideas emerging, with a view to enlargement, from discussions between the national delegations on the reform of the rotating Presidency of the Council.

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Report from the Presidency to the European Council (Copenhagen, 12/13 December 2002)

Subject: Reform of the Council Presidency

Reform of the Council Presidency

Introduction

1. With a view to addressing the challenges enlargement will pose for the functioning of the Council, the European Council embarked upon a **process of reform** at Helsinki in December 1999. On the basis of continued discussions in Göteborg and Barcelona, based on reports from the Secretary-General/High Representative, the European Council subsequently adopted, in Seville, a set of detailed measures.

Among the items examined during that process was the question of the rotating Presidency, regarding which the European Council in **Seville** "*took note of the Presidency's report on the current debate regarding the Presidency of the Union. It found that there was a general readiness to examine the question further, with the proviso that any adjustment to the present system of six-monthly rotation will in any event have to continue to observe the principle of equality between the Member States*".

The European Council asked the Danish Presidency to take appropriate steps to continue discussions with a view to an initial report to the European Council in December 2002.

2. The issue of the Presidency is also on the agenda of the Convention on the future of the EU and forms part of a **broader debate** on the future institutional structure of the Union. The debate on the Presidency of the Council thus touches on the question of the balance between the EU institutions and thus the role of the Commission.

3. As regards the Presidency of the European Council and of the Council as such, a broad **variety of ideas** and proposals have been put on the table during the discussions. Some of these options would require amendments to the Treaty and thus an agreement at the future IGC. A number of delegations consider that options requiring Treaty amendment should not be explored by the European Council, but should be left entirely to the Convention and the future IGC. However, a majority of delegations understands the mandate given at Seville as allowing the discussion on workable options for Presidency reform to go on, including where it would entail a Treaty change, without prejudice to the work of the Convention and of the IGC.

4. From the discussions a number of points emerged. Firstly, there is broad agreement that the Presidency function so far has made an important contribution to the development of the Union. A difference of views exist however on the need for change in view of enlargement. Some believe that it is possible to maintain the basic structure of the current rotating Presidency while others believe that it is necessary to consider more substantial reform.

Secondly, discussions have demonstrated that there is general agreement on a number of key principles and objectives that must form the basis for any future reform of the Council Presidency:

- institutional balance;
- equality between Member States;
- strengthened continuity;
- improved efficiency;
- improved coordination, consistency and transparency in the Council's work.

For some delegations, the periodical involvement of national administrations in the exercise of Presidency is also an important element.

As regards the principle of equality between Member States, discussions revealed differences of interpretation. For some delegations, equality means equal *exercise* of the Presidency function, while for others it means equal *access* to the function.

5. Based on the discussions the Presidency has elaborated **three different approaches**:

(i) an approach consisting in **strengthening further the logic of cooperation between the present and incoming rotating presidencies**, possibly combined with a strengthening of the role of the High Representative;

(ii) an approach based on an **"institutional" Presidency** for the Council's "coordinating chain", while either introducing an **elected Presidency** or maintaining the **rotating Presidency** for most Council configurations,

(iii) an approach based on the system of **"Team Presidency"**, while possibly retaining a six-monthly component for the "coordinating chain" and adding an "institutional" element for external relations.

Finally, a number of delegations have put forward the idea of an elected President of the European Council. This idea might be combined with the preceding approaches. The proposal of strengthening of the role of the High Representative can be combined with all three elements.

6. Those delegations which wish to maintain the basic structure of the rotating Presidency, would see the first approach as the answer to the challenges presented by enlargement. Other delegations could go along with that approach as an interim solution until entry into force of the future Treaty following the Convention and the IGC, but would at the same time support further options, which would entail Treaty change.

7. The discussions show that since the duties of the Presidency cover many different situations, these may call for differing solutions depending on the sphere of activity, types of action or the level of responsibility considered. This may be seen as running counter to the general wish for simplicity and clarity in the Council Presidency function. On the other hand the complexity of the Presidency function itself makes it difficult to come up with simple answers.

8. Irrespective of preferences for the options for the future Council Presidency it is also generally acknowledged that the Presidency function in the area of **external relations, in particular with regard to CFSP/ESDP**, and as regards consistency, poses a particular problem and that one possible response lies in strengthening the role of the High Representative (irrespective of his status). In that area, on top of its usual tasks, the Presidency is entrusted by the Treaty with a number of specific tasks, namely representing the Union in international organisations and vis-à-vis third countries, negotiating "Article 24" international agreements, and informing the European Parliament and implementing decisions. The High Representative, for his part, is entrusted with assisting the Council in all CFSP/ESDP matters and assisting the Presidency and the Commission is fully associated with the tasks of the Presidency.

It should however be noted that not least in the area of external relations the Presidency is highly dependent on the political will in all Member States to support the tasks and functions of the Presidency and the High Representative.

A majority of delegations could consider, for instance, granting the High Representative the right to submit proposals, where appropriate jointly with the Commissioner for external relations, and allocating him duties relating to representation, negotiation of "Article 24" agreements, information of the Parliament, implementation of decisions and supervision of special envoys. Such responsibilities should be backed up by the necessary human and financial resources.

In addition, a number of delegations would favour the External Relations part of the Council on General Affairs and External Relations (GAERC) being chaired by the High Representative. For some delegations, such a move should be coupled with an elected or "institutional" chairmanship of preparatory bodies. Other delegations, however, remain opposed to these ideas.

This reinforcement would be without prejudice to the specific competences of the Community in external relations and to the role entrusted by the Treaty to the Commission in that respect.

9. The three approaches elaborated by the Presidency and the idea of an elected President of the European Council are set out in detail hereafter.

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FIRST APPROACH: Further extension of cooperation between rotating Presidencies and possible strengthening of the role of the High Representative

This approach takes the Seville European Council's thoughts on cooperation between successive Presidencies to their logical conclusion. It would consist in enshrining in the Council's Rules of Procedure a set of incentives and obligations to share and/or delegate power. It would lead de facto to the setting up of a small rolling team Presidency (only 2 or 3 members) where the Presidency-in-Office on a six-monthly basis would continue to take precedence. For some delegations, this approach could be the final one, while a number of other delegations would consider it only as an interim solution until the future Treaty following the Convention and the IGC enters into force.

This approach would have the following characteristics:

1. six-monthly Presidency for all Council configurations;

2. "operational association" between the Presidency-in-Office and the incoming Presidency or Presidencies:

- in general: mandatory hand over to the incoming Presidency of tasks that will continue into that Presidency whenever the last Council or Coreper discussion on the topic in question has taken place;

- in codecision and other legislative dossiers: mandatory division of labour according to the expected time profile of any dossier:

- in codecision, the Presidency which has been responsible for establishing the Council's common position would also be responsible for bringing the file to a close with the Parliament;

- in other areas: sharing of certain tasks and/or dossiers, e.g.:

- handing over the responsibility for a particular dossier to the incoming Presidency who would act as "rapporteur" when the dossier is presented to the Council. The Presidency-in-Office would maintain overall responsibility for the dossier,

- in relations with third countries, delegating certain meetings with third countries to the incoming Presidency (besides the sharing of responsibilities with the SG/HR);

- incorporating the elements of collaboration between successive Presidencies in the Council annual programme specifying which country is responsible for what. To facilitate the cooperation between Presidencies, the incoming Presidency would also participate in the preparatory meetings for Coreper within the General Secretariat;

3. possibly, parallel reinforcement of the role of the SG/HR in the area of CFSP/ESDP through applying some or all of the elements mentioned in point 8 of the introduction;

4. possibly, extension of the list of working parties the General Secretariat of the Council would be

called upon to chair.

SECOND APPROACH: "Institutional" Presidency for the Council's "coordinating chain" combined with a rotating or elected Presidency for most Council configurations

*In this approach, an "institutional" Presidency (i.e. entrusted to the SG/HR or his representatives) as regards the Council's coordinating chain (GAERC and Coreper) is combined with a system of **either rotating Presidency for most Council configurations or elected presidents for most or "specialist" Council configurations and their preparatory bodies**, chosen by their peers from all Member States, for a period of two to three years, and based on equality between member States.*

This approach would have the following characteristics:

1. "Institutional Presidency" for the Council coordinating chain:

- "General Affairs" meetings of the GAERC chaired by the SG/HR or possibly by the elected President of the European Council, see variant below;

- "External Relations" meetings of the GAERC chaired by the SG/HR, whose role would be reinforced in the area of CFSP/ESDP through applying some or all of the elements mentioned in point 8 of the introduction;

The question arises whether this function would be merged with the one of the Commissioner for External Relations.

- *The question arises whether this "institutional" Presidency should not be extended to some other Council configuration such as the JHA Council.*

- Coreper chaired by a Deputy Secretary-General of the Council.

2. Two variants exist for the chairing of the other Council formations:

A. Retaining the six-monthly rotation of the Presidency for most configurations, it being understood that the improvement under the first model would be applied and with the possible variant for ECOFIN where the President could be elected for a longer period.

B. Elected presidents from among their peers for "specialist" Council configurations and their preparatory bodies:

The question arises whether this should be accompanied by the creation of a coordinating committee, chaired by the GAERC President, meeting at regular intervals to coordinate and organise proceedings and oversee the implementation of the annual and triennial programmes.

3. possibly, extension of the list of working parties the General Secretariat of the Council would be called upon to chair.

THIRD APPROACH: Team Presidency possibly combined with retaining a six-monthly component for the purposes of the coordinating chain

In this approach, six-monthly rotation is dropped in favour of a team Presidency which would share the Presidency of all the Council configurations for a given period in accordance with a pre-established fixed scheme. As a variation thereof a six-monthly component could be retained in order to ensure that the whole system is properly managed and consistent, whereby members of the team Presidency would in turn chair certain central coordinating and steering bodies, such as the General Affairs component of the GAERC and Coreper ("backbone") for six months at a time. Both approaches could be backed up by a degree of

"institutionalisation", particularly in the external relations area.

This approach would have the following characteristics:

1. Presidency of Council configurations shared between several Council members within a team for an extended period:

- a team composed of 3 or 5 members, for a period of 1½ or 2½ years, the composition of which is predetermined and balanced (geography, size, etc.);
- it could be renewed either at fixed intervals (i.e. replaced by a new team at the end of its mandate) or through a "rolling" system (i.e. one Member State leaves and another joins at regular intervals);
- the allocation of Council configurations could be agreed within the team;
- chairmanship of committees and working parties would follow a so-called "national method" (i.e. depending on the nationality of the President of the relevant Council configuration);

2. a variation would be to retain a six-monthly Presidency (each member of the team in turn) for the **coordinating chain** of Council activities, the extent of which would need to be further defined;

3. possibly "External relations" meetings of the GAERC chaired by the SG/HR, whose role would be reinforced in the area of CFSP/ESDP through applying some or all of the elements mentioned in point 8 of the introduction;

4. members of the team Presidency, both at ministerial and Permanent Representatives level, form a **coordinating committee** meeting at regular intervals to coordinate and organise proceedings and oversee the implementation of the annual and triennial programmes. This committee could be chaired either by the GAERC President and Coreper president or by an institutional Presidency (SG/HR and Deputy Secretary-General).

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VARIANT APPLICABLE TO THE PRECEDING APPROACHES: elected President of the European Council

A number of delegations have put forward the idea of replacing the six-monthly Presidency of the European Council by a President elected for a longer period. This idea might be combined with the preceding approaches set out above. Other delegations oppose this idea.

According to the delegations advocating this idea, it would have the following characteristics. Some questions however would need to be further examined:

1. the remit of the European Council President would, for instance, consist in:

- preparing and presiding the European Council: besides chairing the European Council, the elected president could be responsible for preparing the European Council, including regular contacts with Heads of State or Government.

How could this role be reconciled with the Seville European Council decisions on reinforced preparation of the European Council by the GAERC. For example, could the elected President of the European Council also chair the "General Affairs" meetings of the GAERC or at least the deliberations in the Council on the preparation of the European Council?

- being the high level "external face" of the EU in contacts with third countries at level of Heads of State or Government.

- *What would be the relation between this figure and the president of the Commission?*

- *What would be the relation between this figure and the (perhaps reinforced) SG/HR? Would the SG/HR work under the responsibility of the elected chairman of the European Council?*

- *What impact would it have on high level meetings of Heads of State or Government from Member States with third parties in CFSP/ESDP matters?*

- Ensuring consistency of the Union's action and coordinating the Council's activity:

- *Would the elected President of the European Council chair all the "General Affairs" meetings of the GAERC and the coordination committee in the second and third approaches?*

- Reporting to the European Parliament:

- *Would he report to the European Parliament before and/or after meetings of the European Council?*

2. the **selection methods** would be based on equality between Member States (in the sense of equal access to the function). The President could be elected by Heads of State or Government either by a specific majority or by consensus;

3. the **term of office** of the elected President could be up to 5 years, renewable or not.