

Report by Javier Solana, Preparing the Council for enlargement (7 March 2002)

Caption: In his report dated 7 March 2002 and entitled Preparing the Council for enlargement, Javier Solana, Secretary-General of the Council of the European Union, presents suggestions for improving the way in which the European Council and the Council of the European Union operate.

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Preparing the Council for enlargement

Report by Javier Solana, Secretary-General of the Council of the European Union (Brussels, 7 March 2002)

Introduction

The Göteborg European Council mandated the Secretary-General of the Council to present suggestions for improving the way in which the Council operates. This report is the response to that request. It takes four particularly important issues, sets out the main problems which they pose and, for each of those problems, identifies possible improvements, taking its cue from proposals already made by European political leaders, in particular in communications from Prime Minister Tony Blair and Chancellor Gerhard Schröder and the memorandum from Prime Minister Persson. The other issues relating to the Council's operating methods will continue to be dealt with by the usual procedures, in order to find solutions before the forthcoming enlargement.

I. The European Council

The problem

The European Council is the Union's supreme political authority. It possesses a legitimate power of decision. It represents the unity between the Union, on the one hand, and its Member States, on the other, in its closest form. Its task is "to provide the Union with the necessary impetus for its development and define general political guidelines". That presupposes clarity of objectives, transparency of decisions, continuity of action. For some years now, the European Council has been sidetracked from its original purpose. Owing to malfunctioning of the Council, it is increasingly asked to spend time on laborious low-level drafting work, which adversely affects normal Community procedures. The drift in the workings of the Presidency has reduced its meetings to report-approval sessions or inappropriate exercises in self-congratulation by the institutions.

Possibilities for discussion

Refocussing the European Council on its original purpose

- concentrating on its role of coordinator and driving force, avoiding as far as possible making it an appeal body for the Council; the European Council must devote its meetings and its debates to framing Union policy and major strategic decisions, i.e. the key political decisions that will be crucial to the future of the Union;
- abolishing all reports, conclusions or parasitic procedures that clog up meetings.

Better organisation of European Council meetings

- regular European Council meetings (4 per year) conceived as working meetings forming part of the normal pattern of the Union's activities;
- application of certain procedural provisions relating to Council meetings (e.g. agendas);
- replacement of the present "conclusions" by a brief summary of decisions adopted and the agreed strategic guidelines;
- radical reduction in the size of delegations and, as a general rule, no more ancillary activities (meetings with third parties etc.).

More structured preparation

Preparations for the European Council must not be seen as a pre-negotiation of the outcome. The European Council must instead be provided with all the relevant background information needed to discuss the dossiers submitted to it and to take decisions in full knowledge of the facts. This will be achieved first of all by greater efficiency in the Council's various formations, the number of which should be reduced. That presupposes, secondly, a methodical approach to preparation which is lacking at present and which could be the task of a new formation of the General Affairs Council (see below).

None of these suggestions would require revision of the Treaty.

II. The General Affairs Council

The problem

The work of the General Affairs Council has increased considerably with the extension and diversification of the Union's powers. At the same time, its activities in the CFSP field have significantly expanded. Despite certain measures that have been taken and some recent improvements, the end result is that the General Affairs Council no longer satisfactorily fulfils its mandate.

Possibilities for discussion

The Council has a horizontal and multidisciplinary function (institutional questions, the Union's financial framework, enlargement, preparation of the European Council, etc.). That function is not being satisfactorily fulfilled. The following suggestions seek to remedy this situation:

- creation of a new formation of the Council, composed of Deputy Prime Ministers; this proposal has met with strong objections;
- creation of a special new formation of the Council, composed of Ministers/State Secretaries for European Affairs;
- splitting the present General Affairs Council into two formations, one to deal with external relations, the other responsible for horizontal questions. These two formations would have separate and different timetables, rules of procedure and methods of preparation.

None of the above formulae would require amendment of the Treaty.

III. The Presidency

The problem

The Presidency of the Council, and of its preparatory bodies, is held in turn by each Member State for 6 months. The office of the Presidency has gradually expanded. Today it performs many roles: coordination, planning and organisation of meetings, representation of the Council vis-à-vis other institutions, external representation of the Union. There is a tendency for these different functions to overlap.

To hold the current Presidency has become a matter of national prestige. Each Presidency

establishes its own priorities. Media coverage of the office leads to over-dramatisation and creates a pressure to produce results which adversely affects the quality of proceedings. The Presidency, which was conceived

as an element of balance and continuity, has become a source of permanent imbalance and infighting within the Union, and will be even more so after enlargement.

Possibilities for discussion

The proposals for reform of the Presidency are set out below. They could to a large extent be applied in combination with each other or selectively, depending on the level of the body or the nature of the activity (legislative or governmental). They will, of course, have to be fleshed out and the guidelines below are only of a general nature.

Formulae applicable without amendment of the Treaties

- improved cooperation between successive Presidencies by longer forward scheduling of meetings. The practical side of such scheduling could be to create specific functions for the subsequent Presidency or Presidencies;
- appointing the chairmen of certain working parties or committees for a period of longer than 6 months. How long? On a previously agreed basis, or by election?
- the General Secretariat of the Council could chair certain specific committees or working parties.

Formulae requiring amendment of the Treaties

- Election of the President of the European Council by its members for a term of over 6 months (2½ years?);
- appointment of some/all Presidents of Council formations for a term of over 6 months:
 - by election? If so, how would equality between Member States be ensured? How would the necessary coordination between the different formations of the Council be organised?
 - on the basis of a rotation between five or six groups of States which would hold the Presidency concurrently; those groups should be composed in such a way as to ensure representativity and maintain strict equality between States.

IV. The Council's legislative activities

The problem

The Council, in concert with the Parliament, acts in a legislative capacity under the codecision procedure.

The general requirement for greater transparency of legislative proceedings could lead to Council meetings being open to the public, where it is acting as a co-legislator. If that comes to pass, there should be a clear distinction between the way in which the Council operates, according to whether it is acting as a co-legislator or not.

Possibilities for discussion

- Should meetings at which the Council is acting as co-legislator be open to the public? If so:
- Should that decision apply throughout the procedure or to certain stages only (policy debate, final

deliberation with vote and explanations of vote?);

- How, in terms of equipment and technical resources, would public access to such meetings be organised?
- Should certain rules and practices used in parliamentary bodies (time accorded to speakers, allocation of interventions, etc.) be adopted?

These different suggestions do not require revision of the Treaty.

Conclusion

In Seville, the European Council will be asked to take decisions on the ideas put forward in this report. Those reforms that do not require revision of the Treaty should be implemented immediately or by 1 January 2003 at the latest. Those reforms that require revision of the Treaty should be regarded as a contribution from the European Council to the proceedings of the Convention on the Future of Europe.