

## At Europe's Highest Level: A More Effective European Council

*David Harrison*

### Summary

The European Council is the senior political authority of the European Union, and has a duty to provide impetus and political guidance for its development. But it is not as effective a body as it could be.

Making the European Council work effectively is one of Europe's main pieces of unfinished business. All the other EU institutions have been refined or modified over time, and the main ones (the Commission, the Court etc) are now half a century old. It is paradoxical that at the highest political level it has been most difficult to organise matters – although there is no lack of goodwill and few fundamental disagreements among Europe's leaders.

In 2002 certain reforms were agreed, including a proposed new President of the European Council. This idea figures in the EU Reform Treaty, due to enter into force in 2009. To improve Europe's collective political leadership some simple further steps could be taken, building on the 2002 reforms.

Suggestions put forward in this Analysis are:

- To provide more continuity between summit meetings;
- To delegate specialist tasks to committees of the European Council;
- To make European Council conclusions shorter and more readable; and
- To create new channels for Europe's leaders to communicate ideas about the development of Europe to the general public.

All such steps could be taken by minor adjustments to the existing European Council internal rules of procedure. Other ideas may well be possible. The European Council is a relatively young European institution, and has unexploited potential both to mobilise Europe's resources and to reconnect public opinion with the major international issues facing Europe.

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## Introduction

The European Union is a unique, and complex, experiment in international relations. It began life after the Second World War as a coal and steel community between six states and has now expanded to include twenty seven states, and most of the European economy. There is a European single market, a single legal structure and common institutions. Those institutions include the European Commission, which has the power to propose legislation, and the Council of Ministers and the Parliament, which together have the power to adopt legislation.

In addition there is the European Council, which is the name given to the system of summit meetings of European Union heads of state or government. The European Council was created in the 1970s, and has the duty under the EU Treaties to “provide the Union with the necessary impetus for its development and define the general political guidelines thereof”.<sup>1</sup>

It comprises the political leaders of the 27 EU member states, plus the President of the European Commission. It is distinct from both the Council of Ministers and the European Commission, and does not normally have any legislative role at all. Because its members are political leaders it is, however, the most senior political body in the EU. In the words of Javier Solana (the Secretary-General of the Council), “The European Council is the Union’s supreme political authority”.<sup>2</sup>

As Europe’s supreme political authority the European Council is therefore, clearly, of enormous potential significance. However, experience over the years has often been that the European Council falls short of expectations. The preparation and organisation of summits, and the extremely lengthy and technocratic nature of their conclusions, all undermine the collective quality of leadership. Again in the words of Solana (in 2002): “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.”<sup>3</sup>*

Already by 2002 (when the EU had only fifteen member states) there was widespread recognition that the European Council was not functioning effectively, and a number of suggestions were then made for reform before any further EU enlargement took place. One consequence was the adoption at the Seville European Council in 2002 of the first rules of procedure of the European Council (“*Rules for Organising the Proceedings of the European Council*”).<sup>4</sup> Another was the proposal to the Convention on the Future of Europe that the European Council should elect its own President, to chair meetings and drive forward its work.

Today, in 2007, the EU has almost doubled in size to 27 member states, and the idea of a President of the European Council figures in the proposed Reform Treaty, the text of which was agreed by the European Council at its informal meeting in October 2007. This treaty is expected to enter into force after ratification by 2009.

This Analysis, therefore, will look at various possible ways of making the European Council more effective in the light of these developments, and consider what role this important body might play in future.

## The Proposed President of the European Council

The EU Reform Treaty includes the idea that the European Council should elect its own President by qualified majority, for a term of two and a half years, renewable once. The role of the new President will be to chair the European Council; drive forward its work; ensure proper preparation and continuity; and “endeavour to facilitate cohesion and consensus within the European Council”.<sup>5</sup> The President of the European Council will not, however, hold national office.

The current timetable is to aim to have the Reform Treaty ratified by the beginning of 2009. This suggests that quite soon the European Council will be in a position therefore to elect

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a first President, for a potential term of as long as five years.

The precise working methods and style of the first President remain to be defined. Within the European Council the President (as no longer holding national office) may in fact be very much the servant of the other members. The President's effectiveness is also likely to depend on his or her ability to mobilise the collective authority of 27 separate heads of state or government, plus the Commission. This will not be an easy task, and a period of experiment can probably be expected.

How can a new President help better organise Europe's collective leadership? There could be many avenues to explore. Some ideas are put forward here to stimulate debate and encourage further thinking on the subject. It is worth noting at the outset that because it is a political body the European Council works essentially by agreement among its members. The 2002 internal rules of procedure of the European Council can, for that reason, be amended or updated with no great difficulty.<sup>6</sup>

## Ideas for Consideration

With the arrival of a new President four aspects of the European Council could be reconsidered.

**First**, some basic rethinking of the role and purpose of European Council summit meetings themselves is needed. The original idea behind the European Council was that private, informal meetings of European leaders, somewhat akin to cabinet discussions, would allow greater freedom of discussion and the chance to concentrate on a few major political questions. Today's large scale high profile diplomatic conferences of 27 member states rarely correspond to this original intention. Instead, they sometimes more resemble the nineteenth century Congress of Vienna (of which the Prince de Ligne said "*il ne marche pas, mais il danse*") than an effective political authority.

What is required is more continuity of purpose, with the object of allowing the European Council to fulfil its duty of providing the necessary impetus for the development of the EU, and de-

fining its political guidelines. This is required in particular of elected political leaders at a time when Europe is supposed to be turning its attention from internal affairs towards its place in the world. If the leaders do not lead, or set strategy, the risk is of Europe drifting, having its agenda set by others or else having advantage taken of its indecisiveness.

Summit meetings themselves have their uses, such as creating a collegiate spirit between participants, but they should not be seen as ends in themselves. Summit meetings of political leaders who did not know each other well originated from the middle of the twentieth century, when travel and communications were more difficult and the need for extended visits more obvious. Today the European Council consists of leaders of member states which are not strangers to one another but are on the contrary part of the same single market, the same legal system and subject to the same institutional arrangements. There should be few surprises.

In addition, modern communications technology should allow for an increasing amount of business to be conducted quickly and directly, without the need for physical travel. Either existing communications systems could be exploited better, or a new communications system could be created allowing views to be exchanged (videoconferences, telephone conference calls etc) and also documents to be transmitted simultaneously. In this way summit meetings could concentrate only on those issues which really require a physical presence.

One option would even be for a "virtual" European Council to be developed, meeting either on a regular basis or when the future President determines.

There clearly is a range of possibilities. To help in this respect a simple new rule could be added to the 2002 "*Rules for Organising the Proceedings of the European Council*", as follows:

*"At the initiative of the President the Secretary-General of the Council shall ensure that adequate communications are maintained between meetings."*

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*Modern technology should allow for an increasing amount of business to be conducted without the need for physical travel*

*It would be possible to create committees to concentrate on specific subjects*

**Second**, the sheer size of the European Council (now 27 member states plus the Commission, with further enlargement possible in future) also suggests some evolution in working methods is needed. The larger the European Council the more difficult the organisation of business becomes.

An inspiration might, however, be taken from the operation of cabinet government on a national level. It is common practice for smaller cabinet committees to be created, to deal with specialist or technical subjects on behalf of the cabinet as a whole. In that way resources can be concentrated where they are most useful, and the entire cabinet does not have to address the details of all the subjects which national governments deal with.

At European Council level a pragmatic approach could be adopted. Certain subjects will interest only certain member states. In other cases only certain member states might have the resources to make a contribution to a particular problem. Or in some cases there may be a particular expertise within a member state, for historical or other reasons. If, on the other hand, EU legislation is likely to be involved the Commission will have an interest. In addition, the Commission could if necessary represent the interests of member states which are not members of a particular committee.

Provided that initiatives are clearly delegated by the European Council as a whole it would be possible to create committees to concentrate on specific subjects, with the membership open to leaders who enjoy the confidence of their colleagues to act or advise in those areas. Such committees could report back to the full European Council within timescales to be agreed. In this way a multiplicity of more complex tasks could be addressed simultaneously, putting more efficiently to work the collective resources available to the 27 member states, plus the Commission.

Such a system would also be less divisive than formal ideas for a variable geometry or multi-speed Europe as the response to enlargement. In practice, again, a relatively simple addition to the 2002 rules of procedure might suffice, for example:

*“The European Council may invite certain of its members to prepare policy guidelines or decisions for its consideration. Working with the President the Secretary-General of the Council and the Commission will assist with this process.”*

A consequence of such new methods of working is that the existing summit meetings would, in effect, become plenary sessions of the European Council.

A **third** area for further consideration is the actual “output” of the European Council, as represented at present by the Presidency conclusions. It was agreed in the 2002 rules of procedure (at Rule 12) that:

*“The conclusions, which shall be as concise as possible, shall set out policy guidelines and decisions reached by the European Council, placing them briefly in their context and indicating the stages of the procedure to follow on from them.”*

Despite this agreement that they should be as concise as possible, European Council conclusions still appear as long and as incomprehensible as ever. Before the 2002 rules were adopted the conclusions of the June 2001 European Council were 23 pages long, and those of the December 2001 European Council were 35 pages long. In 2005 the three European Council meetings in March, June and December produced conclusions of, respectively, 39 pages, 40 pages and 24 pages. The June 2007 European Council conclusions were 32 pages long.

Why is this? At present European Council conclusions are issued by the Presidency of the day to “Delegations” (that is, official representatives of the member states in Brussels). They are usually a kind of omnibus declaration on all the current topics of the day, touching on everything and nothing. It is quite clear that they do not represent accurately what political leaders have actually discussed, for the simple reason that there is no time available in the short European Council meetings for all such topics to be discussed.

A new President could therefore both shorten the conclusions and also make them more operational. Moreover, instead of being drafted for a readership of Brussels delegations they

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could be drafted for a readership of the people of Europe, in clear non-technocratic language. If the European Council has not discussed something it need not be mentioned at all. The European Council could instead concentrate purely on producing distinct and separate “policy guidelines” and “decisions”, as Rule 12 already suggests.

What do these two types of instruments signify? Neither amounts to formal legislation (which in most cases requires a proposal from the Commission to the Council of Ministers and the Parliament). In the Reform Treaty it is made clear that the European Council “shall not exercise legislative functions”.<sup>7</sup> A “policy guideline” is a high level statement of strategy, setting out a particular direction for the EU to take. A “decision” appears to be an act of an administrative or political nature, binding only on those to whom it is addressed. The common factor in both cases is that the European Council is in effect giving political instructions to other, subordinate, public bodies in the EU, as part of its task of giving the “necessary impetus” for its development. A new President could, therefore, have the particular responsibility of ensuring any such “policy guidelines” or “decisions” are translated into action. If necessary this could be formalised by simply adding to the existing Rule 12 (as set out above) wording such as:

*“The President, working with the Secretary-General of the Council, shall be responsible for ensuring that policy guidelines and decisions are followed up.”*

A **fourth** area to work on is how the European Council as a political authority can communicate its views to the world beyond Brussels, and public opinion register concerns with the European Council. This is logically a two-way process. Having adopted a policy guideline or taken a decision the European Council could do much more to explain itself to the European public – in the same way that national governments explain national policies to their own electorates. In practice many European issues are, of course, highly technical, and the institutional arrangements complex. Nonetheless, the language should be found to explain in relatively simple terms what is going on

at a European level and why. The European Commission cannot easily take on this function, which is more natural to Europe’s elected political leaders.

But at present the European Council has no website, no spokesperson, not even a postal address. The future President could look at a number of ways of improving things. Policies, when adopted, could be set out somewhere accessible to the European public, if necessary with explanatory background. A single European Council spokesperson might be appointed to provide a point of media contact. And various methods of interaction with European public opinion could be explored (speeches, petitions, articles, broadcasts, websites) to explain and receive feedback on major policy questions – as political leaders do routinely for domestic policies.

One possibility, for example, is that, just as the European Commission issues white papers on subjects within its responsibility, the European Council could prepare white papers, or drafts of policies, on major political themes. There could be a period of public consultation, so allowing interested parties to express opinions. In this way a political process could be developed, leading to more predictability of European policy, and more engagement of public opinion.

Again, a simple new rule should be sufficient in this area, such as:

*“The Secretary-General of the Council may assist the President to communicate the views of the European Council to members of the public.”*

## Implications

It might appear, at first sight, as if these are all minor technical or procedural issues, of no great significance. However, the way in which the political leaders of 27 member states, governing a total population of almost 500 million people and an economy the size of the United States, organise their limited time, resources and political capital when setting their collective political strategy must be a subject of some importance.

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*Making the European Council work is one of Europe's main pieces of unfinished business*

On both external and internal EU policy issues the European Council could yet play a more effective role. The European Council is in a unique position to respond flexibly to problems in the real world and mobilise European and national resources accordingly. A sample of such major policy issues could include:

- Updating the 2003 European Security Strategy<sup>8</sup>, setting out how and when the EU collectively can expect to intervene in crises beyond its borders – and what it might do to prevent such crises arising. To engage public opinion the European Council might, for example, set a suggested new policy out in draft form, or as a white paper, and invite comments;
- The Mediterranean and the Middle East. There are suggestions that European policy should be more ambitious, possibly extending to new regional institutional arrangements. If so, the engagement of Europe's collective political leadership will be vital;
- Climate change and energy. Integrating European policies into a future global policy and institutional framework will require a mix of political leadership and the classical EU machinery;
- Terrorism and criminality. At European Council level any tensions between national laws and EU law should be reconcilable. Once political leaders have decided on a particular policy guideline both national and European administrative and legal instruments could be brought to bear on it;
- Economic reform. The role of the European Council in relation to improving Europe's economic performance could be strengthened. A new collective, informal approach, with more free exchanges of views on policies and successful strategies ("mutual learning") might work better than the present formal annual review of the Lisbon Strategy at the spring European Council. A committee to concentrate on Euro-zone economic issues might be possible. Europe's leaders could also do more to explain to the European public what is happening on the level of the single market, and how this fits

into Europe's overall economic performance.

## Conclusions

Other ideas are, of course, also possible.

Making the European Council work effectively is, perhaps, one of Europe's main pieces of unfinished business. All the other EU institutions have been refined or modified over time, and the main ones (the Commission, the Court etc) are now half a century old. It is paradoxical that at the highest political level it has been most difficult to organise matters – although there is no lack of goodwill and few fundamental disagreements among Europe's leaders.

The European Council is, however, relatively speaking, a young body, created not in the 1950s at a time of post-war reconciliation but in the 1970s at a time of economic and political crisis. It has still not had time to mature in the same way as the other institutions. The arrival of a new President may help it do so.

Much European economic integration involves delegating specific tasks to independent, law-based institutions, with a clear legal mandate and a system of checks and balances, including judicial review to prevent abuses of power. This was true for the original High Authority for coal and steel and is true today for the operation of the single market, competition policy, monetary policy and increasingly so for large network industries like energy, telecommunications and postal services, which are regulated by independent institutions at national or European levels. This method has not yet been bettered for addressing large complex international problems grown too big for individual nations to resolve. This European solution to a great problem does however create a further problem, which is how to develop a political counterpart, and a means of reconnecting public opinion to international issues which now escape national control.

A more effective European Council could have an important part to play.

## Endnotes

- <sup>1</sup> Article 4 of the Treaty on European Union, 1992.
- <sup>2</sup> Report by the Secretary-General "Preparing the Council for Enlargement", Brussels, 11 March 2002.
- <sup>3</sup> Ibidem.
- <sup>4</sup> Annex I to the Presidency Conclusions, Seville European Council, 21 and 22 July 2002 (See Appendix below).
- <sup>5</sup> Article 1, point 16, of the Reform Treaty (version dated 5 October 2007).
- <sup>6</sup> At Article 2, point 189, of the Reform Treaty it is now specified that the European Council shall act by a simple majority for the adoption of its Rules of Procedure.
- <sup>7</sup> Article 1, point 16, of the Reform Treaty.
- <sup>8</sup> "A Secure Europe in a Better World": European Security Strategy, Brussels, 12 December 2003.

## Appendix

### **Rules for Organising the Proceedings of the European Council** *(adopted at the Seville European Council, June 2002)*

In order fully to exercise its role of providing impetus and of defining the general political guidelines of the Union in accordance with Article 4 of the Treaty on European Union, the European Council has agreed on the following rules for the preparation, conduct and conclusions of its proceedings:

#### **Preparation**

1. The European Council shall meet in principle four times a year (twice every six months). In exceptional circumstances, the European Council may convene an extraordinary meeting.
2. European Council meetings shall be prepared by the General Affairs and External Relations Council, which shall coordinate all the preparatory work and draw up the agenda. Contributions by other configurations of the Council to the proceedings of the European Council shall be forwarded to the General Affairs and External Relations Council not later than two weeks before the European Council meeting.
3. At a meeting held at least four weeks before the European Council, the General Affairs and External Relations Council, acting on a Presidency proposal, shall draw up an annotated draft agenda distinguishing between:
  - items to be approved or endorsed without debate;
  - items for discussion with a view to defining general political guidelines;
  - items for discussion with a view to adopting a decision as described in paragraph 9 below;
  - items for discussion but not intended to be the subject of conclusions.
4. For each of the items referred to in the second and third indents of paragraph 3 above, the Presidency shall prepare a brief outline paper setting out the issues, the questions to be debated and the main options available.
5. On the eve of the European Council meeting, the General Affairs and External Relations Council shall hold a final preparatory session and adopt the definitive agenda, to which no item may subsequently be added without the agreement of all delegations.

Except for urgent and unforeseeable reasons linked, for example, to current international events, no Council or committee may meet between the final preparatory session of the General Affairs and External Relations Council and the European Council meeting.

#### **Conduct**

6. In principle, the proceedings of the European Council shall last for one full day, preceded the day before by a meeting restricted to Heads of State or Government and the President of the Commission, in line with current practice. The European Council meeting the next day shall continue until the end of the afternoon and shall be preceded by an exchange of views with the President of the European Parliament. Specific arrangements may be made if justified by the agenda.
7. Meetings in the margins of the European Council with representatives of third countries or organisations may be held in exceptional circumstances only. They must not disrupt the normal conduct of proceedings of the European Council meeting and they must be approved at the same time as the draft agenda drawn up by the General Affairs and External Relations Council.
8. The Presidency shall ensure that meetings proceed smoothly. To this end, it may take any measure conducive to promoting the best possible use of the time available, such as organising the order in which items are discussed, limiting speaking time and determining the order in which contributors speak.
9. In the context of enlargement and in exceptional cases, where an item is placed on the agenda of the European Council for a decision, the European Council shall discuss the item concerned. The political conclusions drawn from the positions emerging during the discussion shall be brought to the attention of the Council so that it may consider the implications for subsequent proceedings, in accordance with the applicable Treaty provisions.
10. Delegations shall receive summary briefings on the outcome and substance of the discussions on each item as proceedings continue. Such briefings shall be organised in such a way as to safeguard the confidentiality of discussions.
11. Each delegation shall have two seats in the meeting room. The total size of delegations shall be limited to 20 people per Member State and for the Commission. This number shall not include technical personnel assigned to specific security or logistic support tasks.

#### **Conclusions**

12. The conclusions, which shall be as concise as possible, shall set out policy guidelines and decisions reached by the European Council, placing them briefly in their context and indicating the stages of the procedure to follow on from them.
13. An outline of the conclusions shall be distributed on the day of the European Council meeting in good time for the start of proceedings. The outline shall distinguish clearly between those parts of the text which have previously been approved and which are not in principle subject to discussion and those parts of the text which the European Council is to discuss with a view to reaching final conclusions at the meeting.



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