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President : Jacques Delors

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THE REFORM OF THE COUNCIL OF MINISTERS

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Report by Jean-Louis Arnaud

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Notre Europe

Notre Europe is an independent research and policy unit whose objective is the study of Europe – its history and civilisations, integration process and future prospects. The association was founded by Jacques Delors in the autumn of 1996. It has a small team of six in-house researchers from various countries.

Notre Europe participates in public debate in two ways. First, publishing internal research papers and second, collaborating with outside researchers and academics to contribute to the debate on European issues. These documents are made available to a limited number of decision-makers, politicians, socio-economists, academics and diplomats in the various EU Member States.

The association also organises meetings and conferences in association with other institutions and publications. Under the organisation's articles of association, a European Steering Committee comprising leading figures from various European countries and political and professional origins meets at least three times a year.

FOREWARD

Given the current situation, why does Notre Europe attach such importance to the Council of Ministers and its reform? Following a seminar on this topic held in September, and a meeting of our Steering Committee in November, we now publish this report, accompanied by recommendations drawn from these reflections. In response to our initial question, one can simply argue that together with the Commission and Parliament, the Council of Ministers is the third member of the Union's institutional triangle, and that over the years its power to act effectively has been dangerously eroded.

No one was convinced by the remedies for curing the Council's problems put forward at the European Summit in Helsinki. One should remember that it is the Council of Ministers that makes the final decisions and that as a result, questions of procedure must be treated as fundamental issues. The devil is always in the details, and we must systematically flush him out if we wish to prevent the Community decision-making process from completely seizing up. It is also extremely hard for EU citizens themselves to understand how this institution functions.

The reader will see how, for the last ten years, the accumulation of tasks and participants has affected the work of the Council of Ministers both in its historically essential formation as the Council of General Affairs, but also in the specialised ministerial teams which have taken on considerable importance. It is impossible to ignore the dominant role taken by the Council of Heads of State and Government, or reflect upon the wisdom of the rotating six-month presidential system.

Our work has led to a number recommendations which follow the report on our seminar. Our suggested reform of the Council of General Affairs would transform it into the driver of Europe's political agenda: in liaison with the Commission, this revitalised Council of General Affairs would co-ordinate the work of the ministers effectively. It would also prepare and follow up the work of the European Council. Since the reform does not require any modification to the treaties – by no means its least attraction – nothing prevents it being implemented at the earliest opportunity by governments themselves.

Jacques Delors

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THE DEBATE

Despite the recommendations of the Heads of State and Government adopted in Helsinki in December 1999, there has been no improvement in the way the Council of Ministers of the Union works. How can this be remedied? And which reforms should be considered? This seminar was called to examine both aspects of this question. Opening the discussions, **Jacques Delors** cited the terms used in the Helsinki document: “The Council for General Affairs must have a clear overview of the Union’s policies. It is therefore essential to have a single co-ordination track at the heart of the system, capable of guiding Union action in line with the will of its political leaders. The Committee of Permanent Representatives (COREPER), the General Affairs Council and the European Council must form the joint backbone to this system.”

For Delors, the General Affairs Council is especially important since it stands at the meeting point of two institutional triangles, the first between the Commission and Parliament, the second between COREPER and the European Council. “Should we keep the General Affairs Council?” he asked, noting that the six-month Presidency has its own goals, orientations and initiatives. He wondered whether the General Affairs Council could act as a link between the various domains covered by the three pillars, something he considered a good idea. He had strong reservations, however, about the vague ambitions of the Heads of Government to keep the co-ordination work for themselves; he felt that successful collaboration between the General Affairs Council and the Commission was a better basis.

Presented by **Bernard Vial**, former Secretary General of the SGCI, the French Interministerial Commission, the introductory report had been sent to all participants. In it, Vial observes that the functioning of the institutions has been disturbed over the last decade, by the increase in tasks, institutions and participants. This represents a “constant risk for the consistency, procedural transparency and political control of the decision-making process.”

“Questions emerge into centre stage from time to time and then disappear back into obscure processing procedures with uncertain deadlines,” said Vial. He noted that one key

to this problem is to control the political agenda, and this is largely in the hands of the General Affairs Council, which is critically responsible for drawing up the calendar.

“The responses given at Helsinki are insufficient,” said Vial. Foreign Ministers do not have enough time to carry out non-Union foreign policy tasks, and he regretted that more technocratic and less political procedures are increasingly applied to the process of preparation and co-ordination.

“We will not succeed if we do not start putting the politicians to work again, and ask ministers to take the responsibility to carry out properly their tasks of co-ordinating, filtering, guiding work and drawing up the calendar,” he said. He admitted that the right ministers for this still had to be found, given the specificity of governmental organisation in each Member State.

“If we wish the European Council to carry out its function as the supreme authority and ensure that its decisions can be understood both by public opinion and the rest of the world,” says the introductory report, “it is imperative to ‘protect’ it by equipping it to focus on the key issues. This protection depends on the capacity to first filter the questions put on the European Council agenda and then prepare its decisions. But there is no point in expecting the European Council to accept that its work is prepared and framed by a purely technocratic procedure. There must be an effective political level between it and COREPER.”

Keith Richardson said that for *Les Amis de l'Europe*, a more consistent system would feature the following:

- the European Council is given a stronger role and more regular meetings,
- the General Affairs Council would remain in charge of co-ordination and legislation,
- three special councils should be maintained, covering Foreign Affairs and Security, Economic and Financial Affairs, and Legal and Interior Affairs,
- the Presidency must play a political rather than administrative role, with a one-year mandate, the abolition of the automatic rotating system and the president elected by the European Council, voting with a double majority (both Member States and the population).

“This reform is essential,” claimed Richardson. “And it must be led from the top down. Heads of Government must decide how Union policies should be co-ordinated. But the reform should focus on the Council, where ministers must be held responsible for the decisions taken.”

The former Secretary General of the Council, **Jürgen Trumpf** from Germany, is one of the authors of the report on the reform of the Council submitted to the Heads of Government in Helsinki. “There is no point in having a General Affairs Council in its current form, since it can no longer carry out the tasks of its mission,” he explained. The topics it deals with no longer interest Foreign Ministers. They spend their time on foreign policy and defence and security questions. Hence the proposal to switch these tasks to another authority, for example to Ministers providing permanent co-ordination in Brussels, giving a political complexion to the job of preparation and co-ordination. COREPER permanent representatives cannot carry out this task since they are by definition technicians. Each country will send those Ministers most suited to this task, depending on the organisation of each government.

At the risk of surprising the floor, **Niels Ersboll** from Denmark, another former Secretary General of the Council, asked the participants not to split into two camps over this co-ordination problem – for him it was ‘a red herring’. What is fundamentally wrong, he said, is the transferring of typical national level practices to the European level, without accepting the full consequences. There is no point in simply transferring one form of responsibility, if at the same time you don’t also transfer to the European level those aspects which are inseparable from the function of government; it is illusory to believe that it all boils down to a question of levels - that of Ministers or that of Heads of Government.

For him, “the only way to create something comparable to government, is to use the Commission. If we go back to the idea of the Treaty which stipulated that the Commission is a college with a policy and a line of conduct, in which each commissioner shares global responsibility together with his colleagues.” And addressing Delors directly, Ersboll added: “This way, we could return to a situation that you and I experienced for a fairly short time when the European Council trusted your recommendations and where Commission proposals were perfectly consistent with the advice given by the Secretariat.”

Aware of the democratic deficit in European practice, Ersboll suggested “some apparently radical, but actually quite straightforward” measures – and first and foremost preventing experts or working groups from ‘negotiating’ instead of political leaders. “Their job is to analyse and highlight problems, but never to negotiate.” He was not bothered about whoever it was in the Commission or the Secretariat that did the co-ordinating. What is important is to create a trusting relationship; the real problem is “a lack of governance.”

For **Philippe de Schoutheete**, a long-time Belgium permanent representative at the Union, it is necessary to maintain at least ‘a’ if not ‘the’ General Affairs Council as it is today. He did not believe in a golden age when the Council co-ordinated all activities. “If the Council ever did have this co-ordinating power, it lost it very quickly - at least fifteen years ago. COREPER has maintained a shadowy power of co-ordination but this deteriorated substantially after Maastricht.” But he felt it would be possible to improve operational effectiveness, provided that the process began at the real centre of decisions - the European Council – whose meetings could be better prepared. He offered two suggestions:

- strengthen the authority of COREPER to give it greater weight over other technical experts on the Monetary Committee, the Agricultural Committee or any other technical group, by having the permanent representative appointed by the Head of Government himself. His permanent representative would report on his management directly to him.
- Appoint Ministers to the General Affairs Council – an essential political level between COREPER and the European Council - who work closely with the Heads of Government and whose main task is to prepare the work of the European Council. This Minister would sit right behind his Head of Government at Council meetings.

This would create greater consistency than exists today, said Schoutheete, who like Ersboll, also wanted the Commission to return to its true role.

Ferdinando Riccardi, director of the *Europe* press agency in Brussels, also believes that the European Council must be at the heart of the system. “The Heads of Government,” he said, “have got into the habit of intervening in European decisions, mainly because these are the real national decisions and they are not prepared to give up this power.” In his opinion, this makes it all the more necessary for the Commission to reclaim “intellectual control” of the European Council, and prevent everything becoming inter-governmental and bringing the Community method to an end.

For Riccardi, there is little point in talking about co-ordination in Brussels without prior national-level co-ordination. Using the example of the liberalisation of the Post Office “which raises so many problems in France”, he noted that Foreign Ministers cannot make a decision in Brussels so long as the policy hasn’t already been drafted at national level.

For **Alain Lamassoure**, former French Minister for European Affairs, and today a PPE Member of the European Parliament in Strasbourg, the Council of Ministers, like any other national or European institution, is incapable of reforming on its own. He therefore regrets that this question is not on the agenda for the reform of the Treaty now under negotiation.

Alongside the Commission and Parliament, the Council of Ministers is regarded as one of the Union's key institutions, able to drive things forward and enjoying the very highest political visibility. And yet, observed Lamassoure, it is the only body that operates part time and which has no political responsibility, in that Ministers do not have to put their European policies – but only their national government record - to the national vote.

What, then, is the remedy? First to “de-diplomatise” the Council, said Lamassoure, who finds it “absurd” that Foreign Ministers have to represent their country on the General Affairs Council and equally absurd that the permanent representatives in Brussels belong to the diplomatic corps, which no longer corresponds to Union competencies. It would therefore be better either to make them report directly to their Head of Government, or to turn them into political representatives, as Messrs. de Schoutheete and Trumpf suggested.

Lamassoure can only see advantages in making a clearer distinction between the two functions of the Council of Ministers – as legislator and as co-ordinator of the executive – each of which operates in a different way and requires different work methods and even players. He is also in favour of making a clearer distinction between the teams exercising these two functions. In the legislative function, the work must be carried out under the scrutiny of public opinion and the media, from an agenda announced in advance, with publicised votes and explanations. Within this function, categories such as civil servants, should not be allowed to vote for their country. The voters should be politicians or, possibly national Parliamentarians. In its other role - as co-ordinator of national policies, in areas where the Union is competent to act, or in areas which do not formally belong but which are of common interest - the Council does not need to debate in public and can appropriately do business through diplomatic-like negotiations rather than through Parliamentary debates.

Addressing the issue of how to remove the disadvantages of the six-month Union Presidency, Lamassoure suggested multiplying the number of presidencies by organising sector-based presidencies. He saw this as a simple way for each country to hold a Presidency and be responsible for running Europe's affairs, while ensuring continuity. One

country would have the Presidency for cultural affairs for three, four or five years, and another country for industrial or regional policy. Practically speaking, Lamassoure felt that there would be more or less one Presidency per country, a further argument for accepting a limit to the number of commissioners.

In the Treaty of Rome, no one asked whether the Council co-ordinated or not, observed **Etienne Davignon**, former Vice President of the Commission, and today president of Société Générale in Belgium. “The Council in fact represented the political force of Member States, whatever the area, but the situation has changed”, he said. He then made two remarks:

- 1 – Today, the European Council embodies political legitimacy at Member State level,
- 2 - The European Council must do what it can do and not be tempted by what it cannot.

If one asks who prepares the European Council, then one is asking about the role of the Commission in preparing strategic decisions, and about the meaning that is given to the very term strategic decision, said Davignon. For him, enlargement negotiations with Turkey fall into this category, but not enlargement negotiations with Croatia. “We need a Council that can carry out all the functions provided for in the Treaty, but in a different context.” He went on to launching a global defence of civil servants in the European system. “We are basically unfair to the Committee of Permanent Representatives, since the whole purpose of civil servants is to be useful, even if they sometimes have to defend the interests of their country over and above what is reasonable.” The Committee of Permanent Representatives is in many cases left to itself, but Davignon said that he didn’t know any cases where, in situations like this, COREPER would have been “an obstacle to progress.”

For him, “the clearer the political situation, the easier it is for COREPER or other civil service structures to function; but if COREPER has to fill a political void, it will claim as much autonomy as it can without causing a blocking reaction at the political level which would bring everything to a stop.”

If all political impetus comes from the European Council, this makes agenda preparation even more important. For Davignon, there is no question about the Commission not participating, which entails permanent reflection about innovation, and how to prevent paralysis wherever it occurs. This is the priority level for improving the institutions, but he advised against an approach which first affected structures below the Council, warning that

choices would be even more difficult at times when economic activity is less buoyant than today, and that it would be better to know immediately how and at which level it should be done.

Drawing on his three years as Minister for European Affairs in the Jospin government, **Pierre Moscovici** gave a working politician's point of view about the “malfunctioning of the system.” He first noted that what is at stake in the IGC is the debate between the Community model and a more intergovernmental model, represented by the positions of Joschka Fischer and Jacques Chirac respectively. “We act as if they were identical, but in fact they aren’t”, he said, remarking that “the Commission-Council pair is a good representative of this tension between the Community method and everything that is the best or worst in the inter-governmental method.”

If we want the Commission to regain its capacity to influence the European agenda, we must avoid in an enlarged Europe turning it into a “excessive, ungovernable” institution, with one commissioner per Member State and no ranking among them. On the contrary, we must strengthen its legitimacy, and the need to politicise the election of the president of the Commission, as Jacques Delors and the Steering Committee of *Notre Europe* have suggested, is still a real issue today. “It provides a means of giving meaning to European elections that are being dangerously ignored by electors, and to give the president of the Commission greater political weight and legitimacy.”

“Why, then, criticise the European Council? After all, it is there. There is a strong trend towards inter-governmental action and media impact gives this added resonance. What is important, therefore, is to prepare it well,” observed Moscovici for whom “it is clear that Foreign Ministers either cannot or will not, or both cannot and will not act as co-ordinator.”

“It’s a problem of available time, but also lack of interest,” he said, but brushed aside the idea of abolishing COREPER, and putting in its place ministers working half in Brussels and half in their own capitals. He said he preferred the triangular COREPER, Council (which needs redefining) and European Council formula,. He also excluded the idea of a vice-Prime Minister in charge of European Affairs, mainly because it seemed to him impracticable in France. On the other hand, he would be happy to see General Affairs divided into two: one part devoted to external relations and security questions which remain with Foreign Ministers, and the other dedicated to Community Affairs, appointing a Minister of European Affairs, reporting to the Prime Minister, with the power to co-ordinate

within his government. This Minister would spend one day a week in Brussels, to do the spadework on the agenda with the Commission. The European Council agenda would then be designed to distinguish between the two tracks, and this would enable the two ministers to follow each other beside their Head of Government during Council.

Moscovici agrees to changing the current six-month rotating Presidency, since it would fail after the enlargement to Eastern countries. He was less convinced of the merits of the multiple Presidency formula suggested by Lamassoure but noted that, with a system of greater co-operation in sight, each co-operation should be able to choose its president for several years.

Pascal Lamy is the European Trade Commissioner and former director of Jacques Delors' cabinet in Brussels. He noted that "the crisis of Council is not just a plumbing problem only affecting the machinery of Council itself, but is part of a broader crisis of institutions. All institutions have been through a series of upheavals, and Council probably more than the others."

- The "powerful" shock of the three pillars "which in a way has written into the Treaty that there was no longer any General Affairs Council."
- The ever-changing structure, with its highly visible effects as Euro 11, where the Council of Finance Ministers operates with increasing autonomy. This is a trend that will prosper if there are more reinforced forms of co-operation.
- The enlargements have deeply modified "the physical reality" of the Council; in 2000 it is not much like what it was fifteen years ago.
- The impact of public opinion, which makes it impossible to live today with the ambiguities of an institution called the Council - "something that doesn't exist or, more exactly which takes on different manifestations, and you cannot expect the average citizen to have the intellectual capacity to refer to different things with the same name."

Concerning the co-ordination problem, Lamy basically situates it in the capitals and, secondarily, in the power that governments leave to their permanent representative to arbitrate where they themselves have not done so.

Lamy agreed with Lamassoure in adapting solutions to the different functions of the Council, according to whether it is acting as legislator – sometimes combining legislative and executive since at the Community level the difference between law and regulation is not as clear-cut as it is for example in France - or in co-government mode. He also agreed

with Schoutheete that the main question is to know who prepares the European Council. Obviously a combination of Council Secretariat, COREPER and the Commission. He insisted on the role of Council Secretariat “which was recently given considerably more manpower, money and very different ambitions than it had ten or fifteen years ago.” Like Moscovici, he would be very happy to see the Council split into two teams, one for traditional general affairs, the other for foreign policy and security.

Lamy did not believe there was any way out of the rotating Presidency system, and played down the need to correct its negative impact as suggested by other speakers. He was against the vice-Prime Minister formula or the idea of a minister more or less resident in Brussels. He drew attention to the potential danger of ‘dis-empowering or dis-involving’ ministers and national administrations from their work and from their European choices. “All these people are involved, and whichever system you adopt they will remain involved, unless you bring back the divisions that time has erased between what happens in Brussels and what is done in the capitals.

Pier Virgilio Dastoli, spokesperson for the Forum for a Civil Society, sees the Commission as the only institution suited to European-level co-ordination. “It is the sole institution capable of taking on this role, and its governmental role should be reinforced,” agreeing with Niels Erbsboll. If the European Council worked well between 1985 and 1995, he observed, it is because meetings were prepared by the Commission. Jacques Delors reacted by saying that this preparation was due to the combined work of the Commission and the Council’s General Secretariat: “If it had only been the Commission,” said Delors, “nothing would have happened.”

The increasing complexity of the Council of Minister’s legislative tasks should “give a more Parliamentary focus to its work”, said Scognamiglio, which does not mean that national Parliamentarians should be appointed to the Council, but that the Council’s method of working should conform more closely to a Parliamentary-type activity, so as to “politicise legislative debate”. He does not believe that the Council can operate with a two track system, separating foreign policy from the rest of Community policy and leaving it to ministers to examine foreign economic relations or trade policy, or foreign policy as such.

For **Jean-Louis Bourlanges**, PPE Member of the European Parliament, one cannot talk about the Council unless one examines how it works in tandem with the Commission. “The crisis of the Council is exactly the same as the crisis at the Commission,” he said, noting

that the originality of the European system has been to replace the traditional distinction between the legislative and the executive by a functional distinction between three centres of power:

- initiative-taking power held exclusively by the Commission,
- decision-making power in Council,
- executive power shared between the Commission and Member States.

In the context of enlargement, there should be greater emphasis on this approach, said Bourlanges, since “the more players there are, the less the Council will be capable of doing anything apart from taking decisions – i.e. do or don’t do, modify or don’t modify.” But, he observed, “the general attitude of governments has been to rebel against this function sharing, by first creating pillars which in certain areas, have encouraged the Council to believe it can do everything – as initiator, decision centre and executive.” Governments, then, have found themselves having to choose between retaining only some of their power by staying within the Community approach, or keeping it all in the intergovernmental approach.

Hence the absurdity of the current situation: who apart from the Commission can carry out initiatives? asked Bourlanges. “It cannot be the Presidency which is only a Member State and inevitably suspect, nor can one reinforce the Council Secretariat since it is a purely administrative structure which is not designed for the task.” He drew attention to the increasing competition from Finance Ministers (Ecofin) against the General Affairs Council. He sees no problem with putting General Affairs in the hands of a minister reporting directly to the Prime Minister, with powers of co-ordination in his own government, but not a vice-Prime Minister whose political authority would compete with that of the Head of Government. He strongly insisted that each government should be given complete freedom to organise itself as it wished.

Bourlanges also insisted on defending the role of COREPER, “first because it is an institution that oversees everything, second because national civil servants from the permanent representations live in Brussels and represent an irreplaceable cultural mix of Community and national systems.”

Like Lamy, Bourlanges would not change the six-monthly rotating Presidency system, but he felt it was essential to bring the Commission back into the work of the European Council in such a way that the Commission representative acts as rapporteur and is able to drive negotiations on texts under discussion. “This is the way to maintain equality of access to the Presidency among Member States, and to ensure that this Presidency is

effective. This means that governments have to create positive, complementary relations with the Commission rather than conflicting ones.”

The British Ambassador to Paris **Michael Jay** focused on the European Council. “This is where the reform should start since, below the level of the Council, it is hard to find a body capable of effective co-ordination. Foreign Ministers simply do not have the time or in some cases, the authority to do it.” Like Moscovici, he does not believe in the vice-Prime Minister solution. “It might work in some countries,” he said, “but not everywhere and senior ministers such as those for Agriculture, Finance and Defence would almost certainly not accept instructions from anyone apart from the Head of Government.”

British views on the role of the Presidency are evidently closer to those of Alain Lamassoure than to Pascal Lamy or Jean-Louis Bourlanges. Jay would not talk about a “crisis of the Presidency” but he regrets that it is not more effective. He felt that there would be even less enthusiasm when, with twenty or twenty five Member States, the Presidency would only come round every twelve years. There is therefore food for thought and action, he said, but had no clear solution to put forward. He felt the idea of multiple presidencies introduced by Lamassoure was worth looking at, and he also thought that three-country team presidencies – one large and two small – could work together for a year or two. He also raised the possibility of each Council electing its own president, again for one or two years. Nor did he exclude the Council General Secretariat from taking on the Presidency of certain working groups.

Since any board with above twelve members finds it hard to take any decision at all, the British Ambassador favoured more flexibility in Union council operations. He believes it would be possible to set up formal and informal working groups among Member States, which would simplify general discussion and decision-making.

As the first speaker to react to the analyses and suggestions put forward, **Bernard Vial** insisted on a point made in his introductory report: the Council of Ministers cannot hand over the task of preparing the European Council to COREPER. “If the politicians do not get personally involved in this procedure, it won’t work”, he said, explaining that this political commitment is essential at both the national and the European level. “It is extremely difficult to stop a Member State’s civil servants transforming all their bureaucratic problems into a political problem,” he observed, recalling his three years experience at the head of the General Secretariat for the French Interministerial

Commission. He gave the example of a departmental head of the Economy and Finance Ministry who decided that a possible expenditure of 20 million ecus approved by a Council of Ministers in Brussels raised such a huge political problem that it could only be arbitrated by the Prime Minister.

Vial also remarked that many speakers, and he entirely agreed with them, consider that the Community system cannot work properly if the Commission does not return to its historic mission. “The debate is therefore between those who hold to this line and those tending towards the intergovernmental solution,” he said, observing that the one common ground between the two approaches is precisely the Council, since for intergovernmental partisans, this is where they are represented by the members of their government, while for the federalists, it is the very heart of the Community system. “Hence the interest in focusing on making the Council work well, since in any case it is necessary.”

“What comes out most clearly from the debate is that Foreign Ministers have too many other things to do to carry out the co-ordination task expected of the General Affairs Council,” began **Keith Richardson**, who underlined the following points:

- The European Council must stand at the head of the pyramid,
- There must once again be a strong Commission at the core of Community action,
- The responsibilities of the Council of Ministers are so diversified that it is hard to draw up a simple organisation chart, and its sector responsibilities, e.g. Ecofin, are so important that there can only be co-ordination at the level of Heads of Government.

In addition to these “vertical” tasks, Richardson also referred to the Council’s more “horizontal” tasks:

- Policy co-ordination, especially in pillar number 1, and above all in policies that influence industrial activity,
- Legislative activity as such,
- The preparation of the European Council, where the Commission and Council General Secretariat must also play a role.

Richardson did not rule out the possibility of having a full-time minister to carry out these ‘horizontal’ functions. And concerning the length of each Presidency, he observed that it must be scaled up from six months to at least one year and that the president should be chosen by his Prime Ministerial colleagues.

Philippe de Schoutheete, did not believe in multiple presidencies or an elected president. “The Presidency needs a leader who controls operations,” he said, “and I don’t see how the Prime Minister of country A could act if the Ecofin, for example, was controlled by a minister from country B and the Foreign Affairs Council by country C.” The right solution in his view is to “empty the Presidency of much of its current competencies” and to return to the former situation of simple chairmanship: the president presided, and it was up to the Commission to handle agendas, arbitrages and compromises.

The drawbacks of the rotating system are far less harmful when the Presidency restricts its ambitions in this way, said Schoutheete. He noted that the creation of the High Representative for the CFSP, the increase in occasional representatives (for Bosnia or in other circumstances), as well as the reinforcement of the role of the General Secretariat, all move in the right direction by helping to clear the decks for the Presidency.

Etienne Davignon also criticised the belief that the six month rotating Presidency caused European institutions to operate inefficiently. He strongly believes that the government that takes on the Presidency, whatever its own resources, can now count on General Secretariat resources to master their subjects. He also noted that when the president’s role became central, the Presidency stopped being anonymous, and that this brought more problems than advantages. First it created a spirit of competition between both people and structures, which does not induce greater global effectiveness. Second, it exposed longer Presidencies to the risks of a national government crisis. If the president’s mandate were extended, it would inevitably restrict the pool of countries to choose from. And if chosen from a large country, there had to be some certainty that the head of government would remain in office for two years. In other words, making the Presidency the key to effectiveness would not be beneficial to Europe’s cause.

Like Davignon, **Jacques Delors** does not believe that the reform of the Presidency is ‘the right response’ to current problems. He felt it would be better to “lift the hood of the European Union car and see how the engine could be tuned up.” But he invited the participants to pursue the debate on the Presidency – if only to get it off the agenda –with respect to three criteria of unequal importance: effectiveness, representativeness and citizens’ understanding.

He noted that the existence of a second and third pillar has complicated things and that among Heads of Government, there is a temptation these days to prioritise new tasks

and innovations in order to stamp their Presidency with their own personality. He also noted that the US partner pays more or less attention to the European Presidency depending on the incumbent country. But he was very much against yielding to such an attitude. At a time when personal power politics is on the ascendant, he noted that citizens need a more 'personalised' Europe and that this was difficult to ignore.

For the Luxembourg Ambassador to Paris, **Jean-Marc Hoscheit**, the Presidency should not be torn apart; it is a single whole that needs a single leader: "It must express the wish of the whole organisation from the smallest squad up to the whole army. Otherwise there would be chaos. Especially since Community procedure is very dependent on well-structured preparations."

Hoscheit invited his listeners not to underestimate the innovative dimension of the Presidency: "Each country contributes its own complexion, helping create a global European outlook in which each piece of the mosaic has its place." As to the issue of the Presidency's representativity vis à vis the outside world, he felt that it was important that the president in charge was not perceived as the minister of country A or B, but as Europe's representative, with all that this means in terms of economic and political power." He also insisted on putting the Presidency into 'Community mode': it should not be a "national show like Eurovision", but a service to the Union, using the whole of the Community's machinery, especially the resources of the General Secretariat.

Like many of the previous speakers, **Bourlanges** said that "we are wrong to torture ourselves" about the duration of the Presidency. Six months, he said, would not be enough for a Presidency with executive or governmental responsibilities, but would be sufficient to do the legislative work and complete three or four projects already in the pipeline. He saw this as an "excellent antidote to the tendency towards procrastination currently found in Community institutions."

Are there any remedies to the break-up of Council, wondered Bourlanges. He did not try to paper over the drawbacks in this multiplication of colleges, but counted on three corrective instruments: the Commission, COREPER and the Presidency. He claimed that centrifugal forces should not be exaggerated, and like several of the earlier speakers, he felt that the Head of Government in charge of the Presidency should take all outstanding issues in hand and lead and successfully complete negotiations. But he had reservations about the increasing power of the General Secretariat, and its tendency to set itself up as an

administration competing with the Commission, rather than keeping to its role of encouraging decision-making within the Council, and he wanted a clarification of the role of the Council administration.

Be careful, replied **Delors**, warning against any kind of “mistrust, jealousy or pulling rank” among the main players in Brussels. “They must be aware that they are all part of the same family, even if they have family arguments,” he said.

Pascal Lamy sided with those who believed the solution will not come from the Presidency. If the problem is effectiveness, he said, then take a closer look at the General Secretariat. If it is representation, look at the CFSP High Representative, created specially for the task. If it is visibility, again the issue is elsewhere. For Lamy, the problem is not within the Presidency itself, remarking that all fundamental questions - permanence, consistency and programming capacity – are the Commission and Council’s prerogatives.

The Presidency is not an anonymous institution, stated the two former Council Secretaries General **Niels Ersboll** and **Jürgen Trumpf**, insisting on the special role of the Head of Government who has the Presidency of the European Council for six months. Ersboll referred to the very special work of the president which involves consulting all his colleagues, often going in person, to prepare the European summit, checking each position on this or that item on the agenda and evaluating the chances of an agreement or a compromise. “Nothing,” he said, “can replace this highly personal process.”

The quality of the relationship between the president of the European Council and the president of the Commission and the Secretary General of the Council largely affects the preparation of these summits, said Trumpf, who finds the six-month rule as difficult to modify as the rule whereby each Member State is represented on the Commission. He reckoned that the Union’s external representation is ill-suited to such frequent changes but he noted that there are solutions, that the Monetary Committee, (now the Economic and Finance Committee) has never changed president every six months and there is now a High Representative of CFSP. Why not the same for Defence or the Policy Committee? asked Trumpf, who believes it is possible to combine greater continuity while keeping the six month rotating system.

The reason why the Monetary Committee did not have the same Presidency as the rest of the Community, said **Davignon**, is to demonstrate that monetary and financial affairs do not form part of the Community system. The same goes for the Policy Committee since it had to “battle ferociously to ensure that the rotating Presidency of the policy directors coincided with the Community’s” he recalled, emphasising that this difference was not due to concern for consistency and effectiveness, but for more fundamental reasons.

Michael Jay then observed that there was no consensus about his “trial balloon’ on team-based presidencies or elected presidencies. But he wondered whether there weren’t other ways of reaching these goals.

Jay agreed with those who want to reform the General Secretariat so that it delivered greater support to the successive presidencies, especially with respect to foreign policy. He noted that the new Security Committee can be presided by the Secretary General. He also suggested reducing the number of Councils of Ministers: “Sixteen different Councils is still too many.” He felt that work methods could be improved, for example by abandoning the round table system, cutting down on meetings and using new information technology. He also believed that the chronological order of presidencies could be changed to improve the balance between small and large Member States or between founder members and the rest. In this way, he said, there would be greater continuity and consistency; by creating a number of groupings, the three times six-month cycle would be replaced by a continuous 18 month period.

Angus Lapsey is a member of the British Cabinet Office. He made two remarks :

- If each of the different councils choose their own president with mandates of over six months, they run a risk of giving this Presidency too personal a touch, to the detriment of overall consistency,
- Because the councils work in different ways, why not select a different solution for each of them?

Making a comparison with NATO, to him a model of an international institution that works well, not just because of US leadership but also because of a General Secretariat that drives the system, **Carlo Sognamiglio**, an Italian senator and former Defence Minister drew the following conclusions:

- Europe needs leadership. Although no country in the Union could play the same role as the Americans in NATO, there are other formulae - the French-German leadership of the single currency, or Franco-British leadership in Defence.
- Within the Union's institutions, the six month rotating Presidency system eliminates any opportunity for leadership since no one can put forward and complete a project in six months. The only solution would be to elect a president on a programme of ideas, for a period of one or two years.
- The fact that the NATO General Secretariat plays a political role goes a long way to explaining why the organisation works well. The Union should be equipped with a similar kind of Secretariat.

A former director at the Commission, **Horst Krenzler** disagreed with the idea of importing a model designed for other needs, since it would risk “radically altering the Community balance.” He is suspicious of over-substantial reforms, such as a longer-term Presidency or group-style presidencies. He prefers to stick to the operational possibilities in the current system, for example using the next Presidency to bail out the ongoing Presidency in areas where it is poorly prepared.

He insisted not only on the preparation of the European Council, awaiting with great interest the list of co-ordination methods due to be published by the Helsinki summit, but also follow-up on decisions agreed by the Council. In this perspective, he did not rule out the idea of a minister in each government with special responsibilities for co-ordinating and following up European affairs, though he found the vice-Prime Minister formula too unwieldy.

Christine Roger, the ‘chef de cabinet’ of Commissioner Michel Barnier, said she was in favour of a “low profile, pragmatic” evolution. She noted that the group Presidency model had already been experimented under the troika system, and that it had not survived. For her, elections unfortunately tend to give the Presidency a personal stamp, when this is precisely what should be avoided.

She noted that personal power politics often turned summits not just into a moment of truth but a “moment of vanity” for the presiding Head of Government, preceded by a tour of the capitals and crowned with the Presidency's conclusions. She felt that the often insufficient preparations should be put into motion right from the start of the six months

Presidency. “All forms of “crude display” should be avoided and a call should go out for contributions from other institutions.

Should we improve the way the Council works? Yes, said the former French Finance Minister, **Edmond Alphandéry**, but he did not support any reinforcement of the Council’s power. Nor should its mandate be extended, since “this would only accentuate the intergovernmental contribution, which is only one of the components in the institutional system.” He did not consider it blameworthy that ministers defended their country’s interests in the Councils, provided that one institution – and not only the Commission – keeps the “little federalist flame” alight.

“It is a question of balance. By trying to reinforce the Council’s powers, there is a danger of gradually squeezing out the Commission’s power, when the key problem is to consolidate it.”

Davignon is also convinced that one cannot improve the way the Council works in areas critical to Union progress, simply by extending the length of the Presidency or fiddling with the machinery. The seminar, he said, was devoted to discussing the reform of the Union as it is, i.e. without modifying the Treaty. “It is dangerous,” he said, “to try and reply too early to questions when there are still no proper guidelines.” He also focused on “the powerful trend towards limiting the Commission’s power, whichever pillar is involved” and asked attendees whether this was the right way forward.

Jean Nestor, the Secretary General of *Notre Europe*, asked attendees to bear in mind the very special cadence of Community decision-making. It is “an inevitably long and cumbersome process because it is not very reactive but highly iterative”, which makes the agenda extremely important.

Recalling Raymond Barre’s remark that Europe can only do one thing well at a time, Nestor observed that the unwieldy decision-making process made it all the more essential to control the agenda; it was not simply a case of deciding on this or that item, but of handling it in a certain way, and fixing a deadline. He then noted that there is nothing natural about co-ordination: “Co-ordinating means amputating one’s own power, and people only reach decisions in Europe once they have forced themselves to add the decision to a demanding agenda.” Hence the interest in being absolutely clear who is setting the agenda, because they also control Community decision-making.

“The European Council ensures the continuity of Community work, but does not really control its own agenda,” said Nestor. He does not believe that extending the duration of the Presidency will solve the problem of more consistent agenda management; the work always has to be articulated from one Presidency to the next, however long it might take. Should, then, the task be handed over to the Commission, as in the past? “This would tend to devalue the intergovernmental dimension of Community activity,” said Nestor. He concluded that the only instrument with the right mix of permanence and consistency in these conditions is the General Affairs Council.

Despite the constraints, the cumbersome procedures and the delays, important decisions are taken every day in Brussels, observed Ambassador **Hoscheit**. He expressed admiration that in a fairly brief period, so much had been achieved or initiated. He gave as examples the internal market and the whole accompanying legislative programme, as well as the liberalisation of such vital economic sectors as electricity, energy, transport, agenda 2000, defence and security policy. He felt it was perfectly legitimate to try and improve the way the machine worked, but the balance sheet for Community production is not “that unsatisfactory.”

Taking the chair in the afternoon, **Etienne Davignon** suggested focusing the discussion on the role of the European Council. He recalled that when it began (in the mid-1970s), it was just a cosy get-together without any special goals, “designed to help Heads of State and Government join forces and tame a beast with which they felt more or less comfortable.”

“In a way, things haven’t changed,” he said. He referred to the habit among members of the European Council of choosing topics that allow them to take a decision themselves, without having to delegate it to anyone.

For Davignon, there is a mismatch between public perception of the Council, which sees it as the Union engine room, and what actually occurs, which is far less clear-cut. So he queried the role the Council could play and wondered what influence it will have on ongoing institutional reform. He believes there is little chance of seeing real measures about such reform emerge at the Nice summit.

Davignon believes that the two vital issues for the development of the Union – reinforced co-operation and the impact of enlargement – will not be answered in Nice and one way or another will be postponed. “This means there will only be provisional responses to other questions, since no one is prepared to commit themselves unless they know what

the next stage will be.” By offering this diagnosis for discussion, he wondered how public perception could be drawn closer to the reality on the ground: “as is often the case, what we shall have to deal with is a flexible, pragmatic approach, not an intellectually elegant one.”

Is the European Council likely to invite Foreign Ministers to reform the General Affairs Council so as to better co-ordinate Union action? To this question from **Beaudoin Bollaert**, editor in chief of *Le Figaro*, Davignon replied that he did not believe Foreign Ministers wanted to reclaim the power of co-ordination they enjoyed at time of the Community. “If they did, they might be capable of reforming themselves, but they no longer wish to play this role and intend only to deal with the traditional aspects of foreign policy. It is worth bearing this in mind.”

Niels Ersboll referred to the role of Foreign Ministers in preparing for the Single European Act and the Maastricht Treaty, as well as in the Delors package and, one long night when the basic Regulation for structural funds were discussed. They can, then, be called upon to act outside their official foreign policy role, “provided you don’t ask them to do the impossible and that you submit a well-prepared package.” Those who carry out the orders can say yes to some options or send it on to Heads of Government if the issue is important enough, but they aren’t policy makers, and the system stopped working well when the Union grew to over twelve members. Now, he said, the Union must learn to think in terms of groups of countries that share certain interests. These groups must gain formal recognition, and discuss their situation with the Presidency and the president, on the understanding that each country can be a member of two or three different groups.

In reply to a remark from Riccardi, Ersboll said that this group formula has nothing to do with the system of reinforced co-operation, which for him was an extremely dangerous source of division between Member States. Like Lamy, he insisted on the ‘number’ phenomenon and on the fact that Council changed natures when it expanded from 12 to 15. Hence his idea for natural groupings. “In an enlarged Europe, any hope of doing business properly will depend on simplifying the process for reaching agreement”, he said, recalling that before Amsterdam, the three Benelux countries had done just that, as had the French and the Germans. “No Presidency in the world will ever be capable of meeting the Heads of Government of thirty countries - it is physically impossible. In any case it doesn’t work properly now with just fifteen!”

What makes the European Council strong is its capacity to create a real event when it meets together, said Ersboll. And what has weakened the General Affairs Council is the

routine of work, which has meant that it can postpone a decision until a later meeting. “Once the pressure of the event is off, you lose something very precious,” he concluded by saying: “A good European Council doesn’t settle many things but what it does, it does well, and in a good Union, the institutions provided for by the Treaty play their role to the full.”

The make-up of the General Affairs Council can vary according to the topics it handles, said **Davignon**. He identified two issues:

- Should the European Council be prepared by a Council at ministerial level?
- Is this Council made up of Foreign Ministers?

“This is why the renewal of the General Affairs Council does not necessarily mean that the Foreign Ministers will return to a role they haven’t played very often in recent years.”

Robert Cox underlined the lack of co-ordination at national level. If Foreign Ministers are no longer at their posts, if no one wants the vice-Prime Minister formula, and if Finance Ministers make their colleagues jealous or suspicious, then “political pressure” must be brought to bear on governments so that they are better prepared when they arrive on the European stage. But he did not explain in what way. He also deplored the fact that Member States no longer have their former confidence in the Commission – this conditions any effective partnership with the Council.

Alain Dauvergne, chief editor at the French weekly *Le Point*, observed that the general public only knows the European Council; it is easily identified by the handy term ‘summit’. He also observed that the Council took on more and more activities and met more often, almost once a quarter. “Is this good or bad? Why not hold this summit more often, once every two months for example, and really make it into what it already is for the public - that special event at which the Union’s affairs are shaped and moved forward?”

To which **Riccardi** objected that the problem is not the frequency of meetings of the European Council but the method – should it be intergovernmental or Community? “It could meet every month,” he said, “but if it uses the intergovernmental method, nothing will get done.”

For **Davignon**, knowing what you expect of the European Council largely depends on the issues an enlarged Union would handle, and he wanted to draw attention to the ongoing changes in this area. “For a long time, the trend has been towards increasing the

Community's competencies, but this will have to stop somewhere," he said, denouncing 'regulation-making rage' that wants sea water quality on beaches, for example, to be regulated at the European level. With Lamassoure, he believes that the Union's legislative and regulatory activity will decrease and that the role of the General Affairs Council will be modified. What about relations between the various institutions, he asked? "Traditionally it is the Commission's task to call upon the Council of Ministers, but in relations between the European Council and the Commission, who calls upon whom?" He also observed that it inevitably comes back to knowing what one expects of Europe.

Given the very different nature of the situation in a thirty-strong Europe, Davignon does not believe that certain problems can be solved by periods of transition as has been done until now. Hence the interest in reinforced co-operation. The Union's basic philosophy is that no one is forced to do what they can't or don't want to do; this can be enriching but also creates difficulties for European construction. The same problem occurs in the pillar system but, for Davignon, a policy is still a Union policy even if some members don't participate. It needs a legal foundation and a set of rules; and he feared like the plague any pragmatic-style improvisation:

"Pragmatism is a way of reaching an approved objective; it mustn't be used to improvise your objectives as you go," he said, criticising those who in the name of pragmatism, avoid any talk of motives, goals and modalities.

Helen Wallace, director of the Sussex European Institute, does not believe one can expect Foreign Ministers to do co-ordination. There will have to be anchorage elsewhere. Nor does she think that the Commission is the most appropriate opposite party for the European Council in areas such as Foreign Affairs. In the case of Monetary Affairs, it should be the Central Bank. In other cases, it remains to be seen.

Angus Lapsey emphasised that the primary concern for members of the European Council is internal policy. A government is always driven by events and domestic affairs. He noted that the cross-border contacts between Prime Ministers' offices have developed substantially in the last two years: "Their people speak to each other and send emails every day," he said.

While the Council is comfortable with short-term affairs, it is less so when it starts tackling problems of medium-term strategy, due to the lack of intellectual punch in its search for solutions. Cox said that this is one of Tony Blair's concerns. He himself

suggested providing the Council with a small group of planners, who would work in the same spirit as the forecasting unit at the Commission during the 1980s, bringing together people from both the Secretariat and the Commission or elsewhere.

For **Niels Ersboll**, the way is open for reinforced co-operation in the areas under intergovernmental authority. “For issues such as foreign policy, defence or even co-operation between police forces, not all countries have to participate in the same way. But things are different in the Community domain”, he said, and in the enlarged Union this is where the focus of negotiations and operational problems will be. He himself would like to see issues concerning the second and third pillars incorporated back into Community affairs

As for economic and monetary Union, all countries participate according to the philosophy of the Treaty. The United Kingdom and Denmark kept open their options to decide at a later date, mainly because of something that went wrong on the way, recalled Ersboll (Kohl was in a hurry, since he did not want to submit to an automatic decision after two years). “A great error on their part”, he commented.

In the area of EMU, **Davignon** said that Member States are obliged to participate once the conditions are fulfilled. The situation today is equally ambiguous: while it is true that Great Britain and Denmark can legitimately remain outside if they wish (since they negotiated dispensations), Davignon noted that this was not the case for Sweden, who itself decided whether or not to participate, and this is exactly what could happen again in the case of enlargement.

The reinforced co-operation formula (he did not find the term ideal), presupposes that “the opposite of not forcing is not preventing.” He added that “it was a case of avoiding blockage where the person who says ‘no’ wins over the person who is brave and who says ‘yes’. By using a majority, you eliminate the ‘I say no’ bonus.”

Delors replied to a question from Riccardi about whether everyone agreed with his idea of reinforced co-operation. He recalled that “the French authorities” (i.e. the President of the Republic-Prime Minister tandem) only started rallying in the spring to the idea of including this topic in the IGC programme of reforms, and claimed that it is the only point in common with the European views he himself had expressed.

His proposal for an “avanguard” is different to that of reinforced co-operation, and he explained it as follows: “I don’t believe a Europe of 27 or 28 countries can stick to the

policy line expressed in the still-valid initial project of the fathers of Europe, even if it is upgraded. But to push this through, we need a vanguard of pioneer countries. Otherwise we shall make our brothers from the East standing at the gates of Europe wait a very long time, and this would be a political mistake.” In other words, reinforced co-operation is simply a way of focusing new thinking on this vanguard, and it would be pointless if you believe that the initial original project of the fathers of Europe is now irrelevant. “This is a real debate and we should be constantly open to it, even when we already have a clear position on the question.”

What guarantee is there that there won’t be other ‘accidents’ like those cited by Ersboll for Great Britain and Denmark, asked Horst Krenzler? He observed that if reinforced co-operation does not take place within the Union’s institutional framework, it will be done completely outside it, with the risk that the Community framework will appear increasingly inappropriate for Europe. Hence his plea for simplifying the conditions introduced by the Treaty of Amsterdam.

Given the changes in the role and functioning of the European Council since its original fire-side chats, why not formalise its existence by writing into the Treaty the full role it really plays on the European stage? Krenzler felt that this would not solve the problem of whom its opposite party is. “The Commission could return to its normal role opposite the Council,” he said, “and the Parliament would change its role vis à vis the European Council as well.”

For the former Italian Commissioner **Emma Bonino**, the European Council has evidently changed profoundly in nature since it began, not least because this sort of Council cannot operate as it once did with the current 15 countries. Discussions are inevitably partly devoted to current affairs, she said, but this is not a problem. The real question is: who prepares the long-term questions for the Council? Ms Bonino believes that the wisest approach is to refer all these issues to the Commission (at least for everything that the Treaty assigns to the Commission), while those issues referring to the intergovernmental part can be handled by the current Presidency and the Council General Secretariat.

The existence of the pillars creates a fundamental difficulty about the unity of these procedures, insisted **Davignon** and this raises the question of the role of the Commission with respect to the European Council. “The Council calls for competencies, but it is quick

not to exercise them,” he observed, “and it is even more sensitive about the competencies that it does not exercise.”

Taking up Krenzler’s question – shouldn’t the European Council be written into the Treaty, with the attributions that it now has today? – Davignon said that one should examine the implications of this when preparing the discussions and decisions of Heads of Government. “When the Council works in a Community context, there is a procedure and you either use it or not – but it is there”, he said. It was the mandate given to the Commission by the Treaty of Rome which has ensured that things have been set up as they are. “But if the Council operates in a multilateral context and if it is not responsibly prepared in an organised way, then it will not be prepared at all. So how can we create the constraint that ensures that multilateral diplomacy has nothing on the table, and at the same time prepare the Heads of Government to opt for a specific direction?”

For **Delors**, what is at stake is indeed the future of the traditional Community model. “If we recognise that the European Council has become the cornerstone, let us try to invent a system around it, asking ourselves who will carry out the preparations and above all who will execute its decisions.”

Delors observed that the European Council is evolving towards a G7 type structure with different sources of preparation, and he warned against adding more pieces: “By trying to add and improve too much, you put the whole Community model at risk. Don’t forget that Heads of Government are happiest when you don’t ask them too many questions.”

If the system seems to be out of date, then make this absolutely clear, he insisted, but if there is a decision not to change it, then we should try to regenerate the Community model.

“There’s something rotten in the state of Europe ” he went on. This is the first time during a return to economic prosperity that the Union has no common project on the table, and he regretted instances of obstruction from ministers who ignore the recommendations of Heads of Government. He cited the case of the immigration policy chosen by the European Council: the Commission drafted a report on it, but the ministers deliberately ignored it.

Christine Roger also thinks that the system should be simplified rather than further tinkered with. “The European Council is there to give directions and to arbitrate. It is not there to discuss. And the General Affairs Council is there to decide, not to simply canvas the views of those present.”

Alphandéry also welcomed Delors's remarks: "The real question is: do we renovate the Community method or change to a new system." He called for a reinforcement of the Community dimension, saying that what already exists should certainly not be destroyed. "The basic problem is not so much how to improve the way the Council works as re-establishing the Commission's authority." He suggested grouping the three pillars together within the Commission and giving its president greater legitimacy and authority.

Ersboll as is known, supports Delors in wishing to regenerate the Community system. He is also worried about Interior and Justice Ministers asking Central and Eastern European new accession countries to apply an even stricter policy towards their neighbours further to the East. What is actually required is a much broader-based European policy towards its neighbours. He thinks it is up to the Commission to explain to the European Council how actions are inter-connected in a specific field and how they might impact the future of the Union.

"I don't believe there are any arguments for leaving the initiative for dialogue with the European Council to anyone other than the Commission, and possibly to Javier Solana", he added. He would like to see a new function similar to that of the High Representative for CFSP in the third pillar "to counter-balance the excessive influence of Member States."

"As long as we were in a single-pillar system, the machinery was clear," continued **Davignon**. Even when the Commission didn't do everything, the procedure was unambiguous. Today, the Commission is in a better position to request that its responsibilities and capacity to act are maintained in its traditional areas of competence, rather than in those areas where Union competence is more recent."

- In economic and monetary affairs, Davignon observed that the Commission's competence has not been recognised. Monetary affairs have for good reasons been sub-contracted elsewhere, but the situation in the economic field has not yet been settled. Exterior representation of the Union in first-pillar-only issues could be improved, and he regretted its negative effect on "the legibility and legitimacy of the Union's action as such."
- Does the same go for areas where the Commission does not have exclusive responsibility, he wondered? He noted a tendency for the Commission to do nothing, unless it can do everything, and considers this kind of sulkiness to be

ineffective and should be reprimanded; it is particularly dangerous since Ministers and Heads of Government can easily ignore the Commission's contributions by sending it to "must think about it" limbo, without overtly affecting their powers (to do so, the Treaty would have to be modified). To escape from this mess, he suggested asking the European Council and the Commission what each expects of the other. This would set things in motion and show that even though things will never be the same again, they do not have to remain where they are now.

Like Delors, Davignon is worried by the lack of European ambition in its current leaders, when "the economic situation does not justify sharing less than before simply because of what might happen in the future." As for the organisation of the Union, he suggested drawing conclusions from the reforms already introduced, while preparations are made for further reforms later.

He believes that the role of the European Council is vital to all tasks associated with all three pillars. "What does the Council expect? What does it want? And what do we expect it to be capable of achieving?" As to the debate on the Commission's role, he noted that this had been going on ever since the Commission existed; today, however, the Commission is over-preoccupied with what people expect of it, which provides an opportunity for those who wish to curb its power. "Member States need the Commission when they can't extricate themselves on their own. It is up to the Commission to occupy the terrain and hold cautious discussions with everyone," he said, judging the ongoing debate about the Commission's place in the new Europe as "extremely dangerous."

Returning to the seminar's key question – how to ensure that the Council of Ministers operates effectively and has the capacity to prepare European Council discussions within the existing constraints - **Delors** concludes from the discussion that the General Affairs Council can be renovated without upsetting the institutions, provided that it is distinct from Foreign Affairs and that it is composed of co-ordinating ministers who have the confidence of their Head of Government without having to change them into vice-Prime Ministers.

"This would be enough to lubricate the system and get it working again." The ministers would meet each week in Brussels to review the agenda. This reorganisation would prompt the Commission to examine the number of texts it produces, and the permanent representatives would regain control of the working groups.

"This is not a Copernican revolution", said Delors. For him the reform can be situated within the limits of current issues. He called for "a motivating, dynamic sense of

uncertainty.” He asked for the existence of the three pillars to be born in mind, welcomed the “promising” progress achieved in defence, interior and legal affairs, and argued that if the Community method worked properly, a change of president every six months would not be a catastrophe. He recalled that the European Council now features in the Treaty and that it has taken some substantial steps forward. If it should go further and carry out other functions than initiating and mapping major policy orientations, then this will entail a shift from the Treaty formula to a constitution; it is imperative that we know how and to whom the Council should account for its action.

The final speaker, **Moscovici** said he was largely in agreement with what Delors had just said. He too thought that the Foreign Affairs Council, whose ministers have worked on occasions with Defence Ministers, should be separated from the General Affairs Council, which would handle all other subjects. In their own governments, Ministers responsible for General Affairs should at least be cabinet members and have control over the intergovernmental machinery. In France this would be the SGCI (General Secretariat of the Interministerial Council).

The remaining problem will be to persuade Foreign Ministers to give up tasks they can no longer carry out. Moscovici offers two arguments in favour of this:

- If it is not done, the General Affairs Council will achieve nothing in any area.
- The Finance Ministers will take over; they have already begun this process by raising interior and legal issues as well as enlargement on several occasions at Ecofin.

Moscovici considered that radical reform of the Commission is essential. He believes in reinforcing the role of the president, but does not believe that the Commission could serve as a European government. He is attached to the distinction between the Community pillar and the intergovernmental pillar.

On the disadvantages of the rotating Presidency, he sees no alternative to the existing system, even though there should be more debate. The system of reinforced co-operation, due to be improved at the Nice summit in December, can stimulate thinking about this, since it should distinguish the Presidency of each planned co-operation from the Union’s rotating Presidency. Moscovici is optimistic that the formula for reinforced co-operation can be modified by reforming both the method for expansion and actual operations.

As for the preparations for the European Council, “it would be better not to overload the system until it breaks”, he said. It is up to the Council of Ministers – in its Foreign Affairs and General Affairs modes – to do this preparation together with the Commission.

A CHAIN OF COMMAND FOR EUROPE

Recomandations adopted by the European Steering Committee
Of Notre Europe following the seminar

The risk of a rudderless Europe

The European Union's structure has gradually evolved with the successive reviews of its treaties. In particular, the European Council has become the supreme body responsible for providing impetus and defining political guidelines. This development, made necessary by the increasing overlap between national, Union, and external policies, is irreversible. Not only do the heads of State and government not wish to give up this role, but their meetings are also highlights of the Union's political life in the eyes of public opinion. Yet the consequences for the organisation of the Union's work have by no means been drawn.

For the European Council to fulfil its tasks efficiently, its agenda should be restricted to essential issues, its debates should be properly prepared, it should hold genuine political discussions, and its conclusions should be clear to the general public. It must also arrange for a connection to the "institutional triangle" for as an organ that only meets every few months it is not capable of carrying out daily management tasks.

These conditions are not currently fulfilled, and the general public does not know what to think. The Union must be given the efficient – and therefore linear – chain of command that it is currently lacking.

Reforming the General Affairs Council

In such a chain, the Council of ministers should clearly be given a key role in two areas. First, together with the Commission it should set and review the Union's working agenda, with respect to both day-to-day decisions and matters for submission to the European Council. Second, it should prepare the meetings of the heads of State and government and prepare the implementation of their decisions. Yet the Council is the side of the

"institutional triangle" established by the treaty of Rome that has lost most of its edge. It has failed to meet three challenges:

- *Function*: the steady expansion of the Community's scope has led to an increase in the number of Council compositions and preparatory bodies. Alongside its traditional legislative function (the Council acts on proposals from the Commission, with the European Parliament under the co-decision procedure where applicable), it has gradually taken on a "governmental" function in the sphere of foreign and security policy. In addition, convergence processes have been established to organise the cooperation of the Member States in areas such as employment and macro-economic policy.
- *Complexity*: new institutional players have emerged, but their relationship within the institutional triangle has not been fully clarified. Alongside the European Council, which has already been mentioned, there is the European Parliament, whose role under the co-decision procedure is expanding; the six-month presidency, which often seeks to assume a guiding role to boost its image at home; the European Central Bank, which jealously safeguards its independence; and the more recent High Representative for the Common Foreign and Security Policy (CFSP). This multiplication of players makes European policy more difficult to manage, and makes it unintelligible to public opinion.
- *Numbers*: with the successive enlargements, the initial "club" has become more of an assembly with working instruments (round-table discussions, presidency compromises, etc.) that have not been adapted accordingly.

The expected expansion of the "closer cooperation" procedure will present the Council with a fourth challenge, flexibility, which has not yet been successfully addressed within the EMU framework.

As it stands at present, the General Affairs Council is no longer able to meet these various challenges. Its shortcomings are hampering the work of the Commission and the Parliament, that is made more difficult by the fact that they cannot engage in permanent political dialogue with the Council. We are therefore confronted with the risk of a gradual

degradation in the Union's mode of governance, as intergovernmental procedures that offer no assurance of efficiency or openness tending to prevail over the "Community method".

At its meeting in Helsinki in December 1999, the European Council attempted to provide an initial response to the problem. However, while highlighting the widening scope of the Council's work, it merely proposed an increase in the number of coordination procedures at diplomatic and administrative levels. The "chain of command" issue therefore remains unresolved.

Our proposals

1. Steering the Community's action

Continuity is an essential factor in the efficiency – and hence credibility – of the Union's policies. Experience has shown that the Union acts more efficiently when it sets itself precise goals and establishes working programmes over a period of several years. Steering the Community's action therefore requires both a capacity for analysis and initiative and the authority required to circulate the jointly decided guidelines among the various levels of the institutional machine.

Some observers believe this essential role should be played by the Council presidency with a longer term. This would require giving the presidency specific means and would raise the question of the relationship between a stronger presidency and the rest of the Member States. Such an option would inevitably rekindle the debate about the balance between States, which has been a serious bone of contention in the current IGC.

It seems more reasonable to take note of the growing role acquired by the European Council and to define the methods that must permit it to efficiently exercise its steering function.

The task of preparing and following up the guidelines set by the European Council should therefore be the joint responsibility of the Commission and a reformed General Affairs Council, under the supervision of the European Parliament. The Commission would continue to control programming aspects, thus preserving its right of initiative. However, the Commission would be expected to work in close cooperation with the Council. For its

part, the reformed General Affairs Council should first and foremost ensure that the Community's action is consistent.

2. Establishing a political coordination body

The current organisation of the GAC provides foreign affairs ministers with a major role in the co-ordination of European policies. Nevertheless, the development of the CFSP leaves them almost no spare time. Additionally, the co-ordination function requires them to proceed with a vision in which European policies depend on foreign policies, which is not really the case. Therefore it is necessary that we now entrust the co-ordination of Union policies to a new Council composition, distinct from the Council of foreign affairs ministers.

This new General Affairs Council would be responsible for setting and steering the Union's political agenda. Jointly with the Commission, it would coordinate the work of the Council of ministers, prepare the meetings of the European Council, take part in the co-decision procedure with the European Parliament, and monitor the quality of new Community law. In this case, we are not advocating the centralisation of all community legislation in the hands of the GAC. Instead, we are entrusting it with the right to oversee the Council's work as a whole in a manner that is consistent with the general position of the European Council. The GAC would therefore be responsible for urging the Council toward action when it seems to stray from the decisions of the Heads of State and government. On the other hand, it will also be responsibly for asking the Council to restrain from initiatives that the Heads of State and government do not consider priorities.

Given the scale of this task and the necessity to foresee a case that demands a rapid reaction from the Council, all members of the new GAC must be readily available. It would be up to the Member States to appoint, in accordance with their own organisational structure but at comparable levels of responsibility, the ministers best suited to fulfil these tasks. It is not necessary to consider having "super-ministers" who are skilled at arbitrating the discussions of their colleagues. Instead it would suffice if they were to be authorised to commit the government of their Member States or to act with inter-ministerial methods of co-ordinations that exist at the national level.

3 . Setting a priority on political aspects

The proposed reform has the distinct advantage of not requiring an amendment to the treaties. It can therefore be put in place without delay.

It would be premature to define the workings of the Council and its preparatory bodies in any detail. It is up to the reformed General Affairs Council to reexamine the way the Council is organised, identify working methods suited to the Union's tasks, and review the relevance of the various committees established under the treaties. What matters at this stage is to establish this crucial political level between the European Council and COREPER and give it the authority to submit the measures required to the European Council.

In establishing a clear chain of command, governments also have the possibility of increasing the visibility of the European decision making process. This would assure citizens that large problems would be addressed and that the decisions would have tangible effects as well. This increase in efficiency and transparency would then contribute to reinforcement of the quality of European public debate.

APPENDIX 1

Participants

at the Seminar held on September 4, 2000

- Edmond Alphandéry - President of the Executive Board of CNP Assurances
- Jean-Louis Arnaud - Journalist – works with "Notre Europe"
- Baudoin Bollaert - Journalist – Le Figaro - Paris
- Emma Bonino – MEP – Former European commissioner
- Jean-Louis Bourlanges - MEP
- Henri de Bresson - Journalist - Le Monde - Paris
- Paolo Cecchini - former Director General at the European Commission
- Robert Cox - trustee of "Les Amis de l'Europe"
- Pier Virgilio Dastoli - Secretary General of the Mouvement Européen International
- Etienne Davignon - President of the "Les Amis de l'Europe"
- Alain Dauvergne - Journalist – Le Point - Paris
- Renaud Dehousse - Academic - Director of the Centre Européen de Scie Po
- Jacques Delors - President of "Notre Europe"
- Françoise de la Serre – University lecturer at CERI
- Philippe de Schoutheete - Former permanent representative for Belgium
- Niels Ersboll -Ambassador - Former Secretary General of the Council
- Catherine Gernay – Director of "Evolution Management" - Brussels
- Jutta Hergenhan – Researcher at "Notre Europe"
- Jean-Marc Hoscheit – Luxembourg Ambassador to Paris - Former permanent representative
- Michael Jay – British Ambassador to Paris - Former director of the Cabinet Office
- Horst G. Krenzler - Former director at the European Commission
- Alain Lamassoure - MEP - Former Minister for European Affairs
- Pascal Lamy - European Commissioner
- Angus Lapsley - Cabinet Office - London
- René Leray – Researcher at "Notre Europe"

- Giles Merritt - Director of "Les Amis de l'Europe"
- Pierre Moscovici - Minister for European Affairs
- Jean Nestor - Secretary General of "Notre Europe"
- Fiorella Padoa Schioppa Kostoris - Professor at Rome University - President of ISAE
- Jean-Christophe Ploquin - Journalist - The Croix - Paris
- Paolo Ponzano - Director of the General Secretariat at the European Commission
- Jean-Louis Quermonne – Emeritus Professor at IEP in Paris and Grenoble
- Paul Révay - Director of the Europe Trilateral Commission
- Ferdinando Riccardi - Journalist - Director of the Agence Europe - Brussels
- Keith Richardson - "Les Amis de l'Europe"
- Christine Roger – ‘Chef de Cabinet’ for Michel Barnier
- Carlo Scognamiglio - Senator
- Jean-Claude Thoenig – Research Director at the CNRS
- Jürgen Trumpf - Former Secretary General of the Council
- Bernard Vial - Former Secretary General of the SGCI
- Helen Wallace - Director of the Sussex European Institute

APPENDIX 2

July 2000

**INTRODUCTORY REPORT BY
BERNARD VIAL, FORMER SECRETARY-GENERAL OF THE SGCI
(SECRÉTARIAT GÉNÉRAL DU COMITÉ INTERMINISTÉRIEL, FRANCE)**

This presentation is based on an examination of the documents available, a limited number of meetings with persons who have practical experience of the workings of the Council, and some meetings of a working group within Notre Europe. Although summaries are unavoidably subjective, the various proposals and analyses set out below are not necessarily the author's own.

The role and operation of the Council have been the subject of a large number of reports issued by the institutions, groups of experts and national bodies over the last two or three years.

The European Council itself addressed the issue by including the main recommendations of one of these contributions – the Trumpf-Piris report drawn up by the Council Secretariat General – in the conclusions of its meeting in Helsinki. Several months on, however, a number of difficulties quite clearly remain, in particular as regards the operation of the General Affairs Council (GAC). A review of the observations on which the European Council based its conclusions would therefore appear to be necessary.

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There is quite a large degree of convergence among the various analyses of the workings and future of the European institutions. All reports and proposals, including the most innovative, agree on the main elements of the diagnosis and on the central role the Council must play in resolving them.

The workings of the institutions, which posed no major problem up to the beginning of the 1990s, have gradually come under increasing strain on account of the expansion of tasks, bodies and participants.

Tasks have naturally increased in quantitative terms, as a result of the steady transfer of national responsibilities to the Community. But the nature of some of them has also changed. The Council, in some of its compositions at least, now has a second function in addition to its traditional legislative role. Not only must it adopt regulations and directives, but it must also steer political convergence processes. In practice, that is a "governmental" task. The combination of these two roles has been one of the causes of the consistency difficulties encountered at regular intervals.

The growing number of participating bodies makes the decision-making process considerably more complex than in the early days, when it involved only an executive power and a legislative power. This is not just due to the fact that the codecision procedure with Parliament, which is tending to become systematic, is taking up an increasing part of the agenda. The decision-making process has also been affected by the ever greater role played by the European Council on the one hand and the presidency on the other. The European Council no longer just gives the general political impetus the Union needs for its development but also takes part in many "ordinary" decisions. And the presidency is tending to become a collective function, owing to the necessary continuity in its action. Through its "compromises", it is impinging on the Commission's role as initiator of proposals – including in areas which do not necessarily belong to the "new pillars". Together with the European Council, the presidency is gradually acquiring a higher profile than both the Commission and Council.

Lastly, the increase in the number of participants results, of course, from the Union's successive enlargements. However, and just as alarmingly, it is also due to a dramatic increase in the number of committees and working groups stemming from the expansion of tasks. This trend has made it possible to involve more and more national players in the European integration process, so it is not entirely negative. But, as was rightly pointed out in the Council Secretariat's report, it does raise obvious doubts as to the workload of those

supposed to coordinate the work. And most importantly, it poses an ongoing threat to the consistency, procedural openness and proper political supervision of the decision-making process.

In the light of these observations, most analysts agree that:

- The trend is worrying as regards not only practical procedures, but also and more fundamentally as regards "governance". The Union must clarify its decision-making procedures, not only by defining the responsibilities of the various players more precisely and by making their action more transparent, but also by ensuring that its deadlines and work schedule are "intelligible". In all likelihood, nothing hampers the general public's understanding of the Union's activities and decisions more than situations where issues come under the spotlight at regular intervals, only to slip back into obscure debating procedures for an indefinite period.

- One of the key factors in resolving the issue is control over the political agenda, at all decision-making levels.

- This key is to a large extent in the Council's possession. Firstly because it has, in its capacity as prime legislative body and together with the Commission, which still has the main power of initiative, a central responsibility in setting the schedule. And secondly because it controls the interfaces between the three pillars.

This is quite clearly the thinking which, in part at least, prompted the European Council to reassert, at its meeting in Helsinki, that there must be available at the heart of the system a single chain of coordination, starting at Member State level with an interministerial coordination and arbitration body and extending through the Union via Coreper, the General Affairs Council and finally the European Council.

However, several months after the Helsinki meeting and despite the efforts of the Portuguese presidency, the workings of the GAC still seem to suffer the same shortcomings. This is particularly the case as regards the availability of foreign affairs ministers for tasks which do not come under the Union's external relations policy. Furthermore, even within the European Council itself, preparatory methods ("sherpas") and organisational ideas (such as a specific secretariat for the European Council) which at first glance do not seem very compatible with the concept of a single chain of coordination, are beginning to emerge.

This situation calls for a review of the Helsinki conclusions and the diagnosis on which they are based.

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The report of the Council's General Secretariat, whose mandate was probably too restricted, and the conclusions drawn by the European Council in Helsinki would appear to present two fundamental problems.

First of all, the report has not drawn the full conclusions of its own findings. It has clearly analysed the various political and practical reasons for the fact that foreign affairs ministers are unable to control all the Union's spheres of activity and act as arbiters in conflicts between the Council's various compositions where necessary. Yet it has excluded

the possibility of entrusting this task to other government members, without having genuinely examined all the options available. Its recommendations focus mainly on separating the external relations and general affairs meetings and improving upstream preparation measures.

Furthermore, it is based on the hypothesis that there are many consistency problems, but has not analysed them. It seems to consider that they are due mainly to the proliferation of poorly coordinated bodies and to the lack of consistency in the stances adopted by the Member States.

It is as if the report's authors had concluded that, within the framework of their mandate, they could not recommend any solution other than preserving the GAC as it is. That left them with no other option than to address the consequences of the lack of availability of foreign affairs ministers by decreasing their workload, and therefore by strengthening upstream preparation procedures within Coreper. This conclusion logically led them to emphasise measures which seemed designed mainly to make the work of the permanent representatives easier, by limiting the number of bodies they have to monitor and seeking to impose greater consistency in the positions adopted by their national authorities within these bodies.

If we accept these conclusions, there is indeed no other solution. But it quite obviously does not resolve the main problems. It redistributes most of the tasks among the non-political levels of the decision-making chain. It is therefore not very likely to contribute to increasing openness. Nor can it be expected to bring about any significant improvement in the preparation of the European Council meetings (one of the main difficulties being to identify the issues which should be dealt with at that level in the light of their degree of importance and advancement – something the technical levels have seldom managed to do). And lastly, it is unlikely to result in greater consistency in national positions, particularly since there is some doubt as to how the Union could intervene directly and efficiently in the internal procedures of its members.

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The best way forward today is no doubt to approach the question from another angle. Instead of attempting to improve consistency as a whole without demanding more effort from political decision-makers, we should on the contrary consider how to involve them more closely in more transparent procedures.

We believe the solution should take several factors into account.

- Consistency problems are rarely purely technical in nature, and will not be resolved solely by improving procedures. What kind of procedure could have prevented the Ecofin Council from withholding the resources needed to implement the large-scale Community works, in spite of the fact that the measures had been approved on several occasions by the European Council? In the last resort, the only true judge of consistency is public opinion, and the only true arbiters are the electors. The issues of consistency and openness are therefore closely interrelated.

- Consistency problems are not due only to internal contradictions within the Member States and the proliferation of procedures and bodies. These are merely symptoms of a

deeper problem. The steady extension of the Union's sphere of competence is inevitably creating a number of problematic overlaps, similar to those already observed at national level. But the Union's workings are not as flexible as the governmental procedures of its Member States. As has been noted in all surveys of these issues, control over the agenda is the main key to the solution.

- Consistency problems are not solely – nor even mainly – the responsibility of the Council. Even if the Commission does not have the constitutional status of a government, it acts as the Union's executive body for the purpose of implementing most of its policies. For its part, the Council plays the role of legislator, subject to conditions which the treaty authors deliberately made more restrictive than within the Member States (limited power of amendment). In no State is the legislator expected to ensure the consistency of the policy implemented and of the proposals submitted by the executive.

- The role played by the European Council, not just in providing a general impetus but also in acting as a decision-making and arbitration body, is now well established: it is the inevitable consequence of the increasing interaction between EU and national policy-making. European issues have long ceased to be purely a matter of foreign affairs for the Member States. The European Council itself acknowledged the fact when it positioned itself, in the Helsinki conclusions, as the final level in the single chain of coordination and arbitration.

- If we want the European Council to fulfil this role of supreme body and its decisions to remain intelligible to European public opinion and the rest of the world, it must be "protected" by being allowed to concentrate on essential matters. This entails in particular that the points on the agenda should be selected and decisions prepared ahead of the European Council meetings. But it is highly unlikely that the European Council will accept its work be prepared and channelled in this way, through a procedure perceived as technocratic. There is therefore a need for an effective political level between Coreper and the European Council. Otherwise, the latter could gradually be led to institutionalise autonomous preparation procedures that could undermine the consistency and openness of the whole.

The first question to be addressed by the seminar is whether participants agree with the premises of this analysis. If so, their discussions could focus on the main issues set out below.

I – The General Affairs Council

The issues relating to its role, workings and composition are closely linked.

- How does it manage its agenda?

In order to address the concerns set out above, the GAC must exercise its full responsibilities in terms of organising, monitoring and summing up the work of the various Council compositions and of preparing the European Council meetings. It must fulfil these tasks directly and not delegate them *de facto* to the presidency or Coreper.

While there would appear to be fairly general agreement on this point, it would nonetheless seem useful to expand on its substance and implications, in particular as regards the points below:

- The period and scope covered by the GAC. The scheduling of debates will probably be effective only if it extends well beyond the normal duration of a presidency, and if it goes into the detail of the agendas of the various Council compositions (in particular as regards the organisation of work on issues relevant to several of them).

- The scope of the GAC's powers in relation to the other Council compositions as regards their number, membership and schedule.

- The consequences for ministers. Taking full responsibility will require considerable availability on their part, both to keep sufficient track of the issues dealt with by the various Council compositions and to attend all GAC meetings. Can we reasonably consider that this is compatible with the other duties of the foreign affairs ministers and that they will fulfil their role effectively without, in practice, delegating most of the work to Coreper?

- **Must a renovated GAC be enabled to arbitrate between the various Council compositions on matters of substance?**

That was the purpose, *inter alia*, of the proposal to establish a GAC made up of ministers who would have a special status within their own government ("vice-prime ministers"). This special status would allow them, where necessary, to settle divergences between their colleagues within the specialist Councils.

The proposal was rejected, in the General Secretariat's report, mainly on the grounds that it would interfere with Member States' internal organisation and was, in certain cases, contrary to their constitutional order. But it clearly posed other problems. Is it realistic to believe that heads of government could (and would) delegate the responsibility for settling such issues, particularly where they concern matters pertaining to national sovereignty (external relations, defence, justice and home affairs, etc.)? This would, in effect, transform the GAC into a vice-European Council...

Even so, should we nevertheless consider this proposal in greater depth (if not for the immediate future, at least as a longer term possibility)? Should we not primarily expect the GAC ministers not only to be readily available but also to have the political ability to identify in advance issues which will require arbitration, ensure the necessary decisions are taken in good time by taking an active part in the decision-making process at national level, and identify and put forward the issues that should be dealt with by the European Council?

- **What role could it play in improving legislation?**

There is a fairly general consensus on the fact that the proliferation of regulations and directives is gradually undermining the quality and consistency of Community legislation.

Can the GAC contribute to reversing this trend:

- by coordinating the legislative process, and in particular the involvement of the various Council compositions in the "trilogue" with the European Parliament and Commission?

- possibly by becoming the "legislative Council" of the Union, which would be responsible for the final validation of all texts (with the support of appropriate legal bodies)?

- What rank and membership should it have?

The answer is easy if the Council is made up of "vice-prime ministers". It is less clear-cut if this option is not retained.

In the latter case, the following steps should no doubt be taken as a minimum measure. First, a distinction should be made between the external relations and general affairs functions, not merely by arranging separate meetings of the same Council but by establishing distinct Councils. Second, strict rules should be set to ensure that States are represented within the GAC only at ministerial level. It should be up to the Member States to make the necessary arrangements to satisfy this requirement.

Should we go beyond these minimum provisions to ensure that the governments take the necessary measures to arrange appropriate representation, at the risk of interfering in a counter-productive manner with their internal organisation? For instance, should a "Council of alternate members" be considered? This would implicitly determine the status of its members within their own government. Would the idea of having them based in Brussels, which would no doubt be useful to guarantee their availability, be compatible with the role they would also be expected to play in their national governmental procedures?

II – The Council: organisation and workings

There are several issues relating to the workings of the Council (in particular arrangements regarding majority voting) on the agenda of the intergovernmental conference (IGC). This does not mean they should not be discussed during the seminar (particularly since they have implications for other issues), but the seminar's debates should perhaps concentrate primarily on other points:

- Should the number of Council compositions be restricted, and why?

The decision was taken in Helsinki. Should it be regarded as final or can the issue be re-examined, from the viewpoint of both grounds and consequences?

What justifies this restriction, other than the concern to reduce the workload of the coordinators? Do the advantages, from this point of view, offset the potential disadvantages of bodies with a very broad scope? Might these not be tempted either to split their agendas, thus recreating separate sessions in practice, or to hold meetings with a number of participants that would undermine the quality of their work?

- How can the Council work with an increased number of members while preserving continuity?

The diagnosis is clear and widely accepted. Given the regular rise in the number of members, the increasing diversity of their concerns and the increase in the number of languages, the Council can no longer remain the "club" it used to be. It is gradually

becoming a small legislative assembly, and will probably have no other option but to adopt the working methods corresponding to that status.

Must we merely point this out and hope that the Council will gradually adjust to the situation? Or can we already identify the changes required in the short term as regards the organisation of discussions? For instance, can the practice of going round the table to invite comments be avoided or at least restricted to specific circumstances and moments?

Would it be possible to organise interventions by "groups of States" which share similar stances on the issue under discussion?

Can the possible consequences of any development of "closer cooperation" already be identified? Will this merely lead to a heavier workload by increasing the number of meetings, as has been noted in the case of the Euro 11 group, or will it create additional difficulties?

Lastly, can the way the presidency is organised be adapted to reflect this new state of affairs (for instance by establishing longer or collegial presidency periods)? If so, in what areas or within which Council compositions? Is the issue really essential? Could more permanent institutions (such as the Council General Secretariat and the Commission) not help to ensure continuity?

- How can the number of preparatory bodies be kept down?

This issue is quite rightly one of the fundamental points addressed in the Council General Secretariat's report.

And it seemingly has no easy solution. The preparatory bodies often play an indispensable role in ensuring that the groundwork is carried out by the most qualified experts and in temporarily delegating part of the work of the various Councils to the close collaborators of the ministers.

Rather than attempting to control their number, might one possible solution not be to monitor the scope and lifespan of these bodies? For instance, only those included on a "positive" and limited list approved by the GAC and updated at regular intervals would be of a standing nature. The others would be created only on a temporary basis, further to a decision by the relevant Council, with a specific mandate and for a limited period.

- What about the European Council itself?

The working methods of the European Council were adopted at a time when its main purpose was to provide the general political impetus needed to sustain the European integration process.

Are these largely informal procedures still appropriate now that the European Council also takes specific decisions and acts as a supreme coordination and arbitration body? Should it not base its working methods on those of the Council, at least for matters other than political impetus and general guidelines?

III – The roles of the various players

The role of the other institutions in the "triangle" is somewhat beyond the scope of this seminar.

Yet participants could usefully address the issue. Firstly to check whether their findings as regards the Council have obvious implications for the other institutions. And secondly, in more general terms, by examining whether some of the issues raised today about the workings of the Union do not stem from recent developments in the relations between institutions, and whether a number of them could not be resolved merely through deeper and more trusting cooperation between these institutions (particularly as regards the role of the Commission).

IV – Democratic openness

For the reasons already set out above, the key factor in openness is the way in which the agenda is managed and publicised.

Other than that, the issue currently involves two fundamental questions:

- Can we move further along the road towards making the discussions public? One way to do this would be to increase the public part of the Council meetings when they are devoted to legislative matters, or by allowing representatives of the general public – such as national members of parliament – to attend. Can this be achieved without undermining the reorganisation of working methods which might also prove necessary (in particular restrictions on inviting comments from around the table and on speaking time)?

- Is the key information for the purposes of openness the positions adopted during the discussions or the final decision? Would making the votes public, and drawing up clearer agendas, not be the main factors in increasing openness?

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APPENDIX 3

FRIENDS OF EUROPE BACKGROUND PAPER

Présented by Keith Richardson

In his background paper Bernard Vial clearly sets out the practical difficulties of putting into practice the reform proposals agreed at Helsinki (*An Effective Council for an enlarged Union*) and poses the fundamental question. Are these merely temporary problems of implementation, or do they flow from a wrong sense of direction based on a wrong diagnostic?

It may be useful first to recall the conclusion of the Friends of Europe paper issued in June 1999, that the main political authority to the European Union should pass into a more coherent system dominated by a European Council meeting on a more regular basis, a General Council organising the detail, and a Presidency with a more political than administrative role. The specific proposals relevant to this discussion were:

- Strengthen and formalise the role of the European Council,
- Establish a General Council for coordination and legislation,
- Maintain three special Councils, for foreign/security, economic/financial and justice/home affairs,
- Replace other Councils by Ministerial Committees responsible for policy details,
- Focus Presidency responsibility on the main Councils only (not committee and working groups),
- Extend the Presidency to one year, the Presidency to be elected by the European Council, not by automatic rotation, voting by “double majority” (states and population) to be the norm,
- Rationalise the structure of committees responsible to the Council.

The details may be debated; what matters about this scheme is that the line of authority is clearly defined, and responsibilities could be mapped out precisely in an organigram. *Can the same be said of the Helsinki proposals?*

Helsinki lays down the principle that there should be a single “chain of coordination”, or “chain of command”, which starts in the Member States and extends through COREPER, the General Affairs Council to the European Council. The direction of this “chain of command” is not specified. Are the States at the bottom and the European Council at the top, or vice versa? Or, since the European Council represents the Member States, is it circular, making it subtly different from any chain of command known to military science? Especially when we are separately reminded that the Presidency must retain overall political responsibility and the Commission is not mentioned at all.

This is not a trivial matter. The basic weakness of Helsinki is that it makes everybody responsible for coordination, with the likely result that nobody will do it

effectively. Moreover it puts overwhelming responsibility on effective coordination within national governments. This is important. If governments were better coordinated no doubt many practical problems could have been avoided. But this link in the chain will not bear the weight that is put on it.

Political reality is that governments are made up of fallible individuals, with differing political goals, coming from different parties in a coalition or different streams within a party, briefed by different ministries with different departmental agendas. Coordination will always be weaker in practice than we would like to see in theory. And however well they are coordinated at home, when they come to different Council formations they will inevitably reach different compromises because different ministers will have different ideas about where they are most willing to make concessions, and they will be facing different sets of interlocutors who will have their own different approaches to negotiation.

What Helsinki fails to perceive is that national coordination, however desirable, is not enough. There is no substitute for coordination at EU level, and the unanswered question is who will take responsibility for it. Or rather there seem to be too many answers. Let us consider them.

The European Council? It does not have the formal machinery, neither the legal status nor the permanent staff, and its agenda is already over-loaded.

The General Affairs Council? Foreign Ministers will not do it. They have neither the time nor the expertise, nor necessarily the status to overrule colleagues within their own governments.

The Presidency? Its life-time is too short, the administrative burden is enormous, all the pressures are to pursue a limited number of specific short-term objectives, not always clearly distinguishable from domestic political goals.

COREPER? As Bernard Vial reminds us, coordination at this level is a political, not an administrative task. And their relationship to economic, political and other committees made up of equally high-level officials is ill defined.

The Council of Ministers Secretariat? Is it well placed, with strong leadership and a developing role. But what extra resources, what changes in status would be needed? And is there then a danger of more and more duplication between the Secretariat and the Commission?

The Commission? The only body with the necessary administrative depth and with a solely pan-European agenda. The coherence of its proposals is essential. But the greater focus on inter-governmental machinery in the EU is slowly pushing the Commission to the sidelines. What has to be done to reverse this? Is it a temporary question of attitudes and confidence-building through effective reform measures, or is it in practice inconceivable that heads of government will give greater responsibility to a body which, because of its independent status, they cannot control or direct?

A tentative conclusion might begin with a question. Over the past two years the EU agenda has been transformed by a historic sequence of summit meetings, from Pörschach to Feira. There has never been such an outpouring of agreements, declarations and

programmes. Is there any way in which an essentially inter-governmental approach can ever be equipped to manage all the detailed implications and implement the specific measures without bringing strong, central institutions back into a coordinating role?

In a sense, the assumptions about institutional development on which Helsinki was based are already out of date. The speeches of Joschka Fischer and Jacques Chirac map out different visions of Europe's future and make controversial proposals. But they have asked similar questions and ignited a debate which will not die down. Both suggest an inner circle, which will need its own coordination machinery. Both speak of a future European constitution to lay down more clearly where we are going and who does what. Under the guise of a "new Messina Conference" the Friends of Europe report called for thorough debate about Europe's future system of government to be launched in 2001, and that hope is likely to be realised. Far-reaching change is at last in the air.

However the debate develops, the Council of Ministers in some form or other is likely to remain the EU's central decision-making institution for some years to come. The problem of reforming the Council is not one of trivial administrative routine. It will not be solved simply by changing the voting arithmetic, still less by pious hopes about better coordination. It can only be dealt with by strong institutions linked by a clearly defined set of relationships and driven from the top by the people's elected representatives. Then we would be a "chain of command", which could win the confidence of its own citizens and the respect of the rest of the world.