

Helen Wallace and Fiona Hayes-Renshaw

# **Reforming the Council:**

## A Work in Progress

Helen Wallace and Fiona Hayes-Renshaw

# **Reformning the Council:**

**A Work in Progress**

Report No. 9  
June/2003

*Publisher:* Swedish Institute for European Policy Studies.

The report can be ordered from  
*info@sieps.su.se*

The report is available at  
**www.sieps.su.se**

The opinions expressed in this report are  
those of the authors and are not necessarily  
shared by Sieps.

*Cover:* Svensk Information AB

*Print:* EO-print AB

Stockholm, June 2003

ISBN 91-85129-08-9

ISSN 1651-7679

## **PREFACE**

Sieps, the Swedish Institute for European Policy Studies, conducts and promotes research, evaluations, analyses and studies of European policy issues, with a focus primarily in the areas of political science, law and economics.

Sieps has commissioned a number of reports relating to issues that, in the opinion of Sieps, will be of importance in the upcoming intergovernmental conference. The reports will be dealing with a range of constitutional, procedural and material questions. Each report will outline the key principal problems of the issue area, the work and the proposals of the Convention and analyse these proposals from clearly stated assumptions or aims and finally to be firmly grounded in the academic debate. The reader shall consequently be able to get an overview of the state of the art as well as a comprehensive introduction to the issues in question.

One of the missions of the Institute is to act as a bridge between academics and policy-makers and one of the primary aims of these reports is to build this bridge. Furthermore, in a broader sense the reports shall contribute to increased interest in current issues in European integration as well as increased debate on the future of Europe.

Tomas Dahlman  
Director  
Sieps

## **ABOUT THE AUTHORS**

Helen Wallace is Director of the Robert Schuman Centre for Advanced Studies at the European University Institute in Florence.

Fiona Hayes-Renshaw is a visiting professor at the College of Europe, Bruges, where she teaches a course on negotiation and decision-making in the Council.

## CONTENTS

<b>1</b>	<b>INTRODUCTION</b> .....	7
<b>1.1</b>	<b>Question</b> .....	7
<b>1.2</b>	<b>Outline</b> .....	7
<b>2</b>	<b>SUMMARY AND CONCLUSIONS</b> .....	8
<b>2.1</b>	<b>Summary</b> .....	8
<b>2.2</b>	<b>Conclusions</b> .....	11
<b>3</b>	<b>REFORMING THE COUNCIL: A WORK IN PROGRESS</b> .....	18
<b>3.1</b>	<b>Introduction</b> .....	18
<b>3.2</b>	<b>Process I: In and Around the Convention</b> .....	19
3.2.1	The European Council .....	20
	Keeping down numbers .....	20
	Less consensus, more voting? .....	21
	A long-term President .....	22
3.2.2	The Council of Ministers .....	23
	Changing formations .....	23
	Adapting the Presidency .....	25
	Simpler qualified majorities .....	27
<b>3.3</b>	<b>Process II: Self-Analysis Within the Council</b> .....	27
3.3.1	The European Council .....	28
	More systematic preparation .....	29
	An official agenda .....	29
	Presidential options papers .....	30
	Smaller delegations.....	31
3.3.2	The Council .....	32
	The GAC becomes the GAERC .....	32
	Fewer Council formations .....	33
	Annual and multiannual programmes .....	33
	Sharing the burden of the Presidency .....	34
	Live transmission of Council debates.....	34
	Smooth conduct of Council meetings.....	35

<b>3.4 Process III:</b>	
<b>Within the Council Secretariat .....</b>	<b>36</b>
3.4.1 Structural changes .....	36
Changes at the top .....	36
Reorganisation of the General Secretariat .....	37
3.4.2 Procedural changes .....	39
Linguistic regime .....	39
Transparency .....	40

# **REFORMING THE COUNCIL: A WORK IN PROGRESS**

## **1 INTRODUCTION**

### **1.1 Question**

This paper describes and analyses various processes of reform currently being discussed and taking place in and around the Council and the European Council, two central institutions of the European Union. Proposed and actual changes in their structure and functioning will affect not only these institutions themselves, but also the EU as a whole. In researching the paper, the authors have followed the debates on the institutions taking place in and around the Convention on the Future of Europe, and have spoken with a variety of national and international actors on the subject.

### **1.2 Outline**

The report will start with a summary of the main text which is followed by conclusions (Part 2). Then, the main text of the report (Part 3) will be introduced with a brief background to the question of reforming the Council. In the subsections, three ongoing processes are discussed : the first within the European Convention, the second within the Council itself and the third within its secretariat.



## **2 SUMMARY AND CONCLUSIONS**

### **2.1 Summary**

The Council has proved more than capable of adapting to many new situations over the years, often in innovative ways. But a system initially designed for 6 is having problems accommodating 15 and is not expected to be able to cope with 25. Reform of the Council (including the European Council) is therefore being addressed in a number of different forums. Three distinct processes of Council reform can currently be identified and are addressed in this paper.

The first process is the debate in and around the Convention on the Future of Europe, which is focussing on changes that require revision of the Treaties in order to be implemented. The discussions have proved divisive; there is general agreement on certain basic principles (the foundations), but little consensus on the details of the design of the building itself. The proposed reforms relating to the European Council are intended to help this body to revert to its original role (providing the Union with the necessary impetus for its development and defining its general political directions and priorities). Draft articles put forward by the Convention's Praesidium in April 2003 therefore proposed first, that the number of participants involved be reduced (essentially by confining the meetings to the heads of state or government (HSG) and the Presidents of the Commission and the EU, with the EU Foreign Minister and other relevant ministers and Commissioners only attending 'where the agenda so requires'); second, that the use of qualified majority voting (QMV) be allowed in certain circumstances at the level of the European Council; and third, that the current rotating presidency system be replaced by a President of the European Council to be (s)electd for a period of two and a half years. The latter has proved to be one of the most controversial of all the reform proposals currently being examined, with most of the small member states and the Commission in direct confrontation with the big five member states.

The reforms proposed for the Council by the Praesidium's draft

articles are designed to create an efficient, streamlined ministerial body capable of fulfilling its own role and of adequately supporting the HSG in the fulfilment of theirs. First, it is proposed that the number of Council formations be reduced to five (including separate General Affairs and Foreign Affairs formations and the creation of a new Legislative Council), although they could be supplemented by other sectoral (sub?) Councils on the initiative of the General Affairs Council. Second, the current system of the rotating Presidency is to be abolished, but there is little precision as yet on what should take its place. The draft articles propose that the term of office be at least a year and that greater use be made of elected presidents. The Praesidium has suggested that the presidency of the Foreign Affairs Council be undertaken by the Foreign Minister, who will be appointed for a period of five years. Third, it is proposed that QMV be simplified, the future requirement being a simple majority of the member states comprising at least 60% of the EU's citizens (the equivalent percentage agreed at Nice was 62%).

The second reform process is that of self-analysis going on within the Council for the past four or five years. The decisions taken at the Seville European Council in June 2002 and largely implemented in the course of that year are the fruit of this process. The reforms applying to the European Council were listed under three main headings (preparation, conduct and conclusions) and were designed to enable that body to exercise its role properly. A new-look General Affairs Council (GAC) was given the chief responsibility for preparing and following-up on all meetings of the European Council, as well as institutional, administrative and horizontal questions. An official annotated agenda was to be prepared by the GAC in advance of European Council meetings, and the Presidency was required to produce options papers for every item on the agenda on which the HSG were expected to take an actual decision. In order to keep the numbers manageable, each delegation was to be restricted to only two seats in the meeting room itself, and the national and Commission delegations could in future consist of no more than 20 people.

The Seville reforms regarding the Council were designed to streamline both its structures and its working methods, thereby making it more efficient, more transparent and more capable of supporting the European Council. The General Affairs and Foreign Affairs Councils were merged into one body, awkwardly entitled the General Affairs and External Relations Council (GAERC), whose two constituent parts now meet separately on different dates (normally consecutive days) and with separate agendas. The number of Council formations was reduced from 16 to 10 by merging certain Councils to form composite bodies. The introduction of an annual operating programme and a three-year strategic programme was intended to ensure greater continuity in and longer-term planning of Council activities. At the same time it was expected to at least partially resolve the problem of constantly shifting priorities which has been one of the greatest criticisms of the system of the rotating presidency. New rules were laid down regarding the chairing of some working group meetings by officials from the Council Secretariat and, under certain circumstances, from the next presidency member state in line. In order to enhance the transparency of ministerial deliberations, provision was made for the live transmission of certain parts of some Council meetings, and finally the Presidency was required to ensure the smooth conduct of Council meetings with a number of practical recommendations being made in this regard.

The third reform process is going on within the Council's administrative body, the General Secretariat, which has undergone a period of profound change over the past decade. The structural and procedural reforms which have taken place (and there are more on the way) are designed to streamline the Secretariat and enhance its ability to meet the operational requirements of an enlarged Council. The Amsterdam Treaty extended the role of the Secretary General to include that of the High Representative for the Common Foreign and Security Policy (CFSP), and created the post of Deputy Secretary General, who is responsible for the day-to-day administration of the Secretariat, including its reform. The number of Directorates General has

been reduced, as well as the number of Directors General, and there has been an increase in the number of A-grade officials (who are engaged in administrative and advisory duties). The number of staff per linguistic division in the Secretariat's translation service is being reduced, and discussions are underway as to how best to organise (and pay for) the provision of interpretation and translation services in an enlarged Union with 21 official languages. As the body chiefly responsible for implementing the decisions taken regarding the transparency of the Council's activities, the Secretariat has created and maintains a register of documents and an informative Internet website, and deals with an increasing number of requests from the public for access to Council documents.

## **2.2 Conclusions**

Dysfunctions and inefficiencies within the ministerial and European Councils have existed and been acknowledged for some time. The imminent large-scale enlargement of the EU has provided the impetus to address them seriously and the opportunity to institute reforms designed to make these bodies more efficient, more democratic and more transparent, with subsequent positive effects for the EU as a whole. In this paper, we have identified and examined three distinct reform processes; to conclude, we will make some short remarks about the implications of these reforms for the European Council, the Council and the Secretariat, as well as for other EU actors and processes.

### **The European Council**

Accounts of the European Councils that have taken place since the Seville meeting in June 2002 suggest that the implementation of the Seville reforms at least as regards the preparation and conduct of these meetings has had a positive effect on their organisation, functioning and output.

It is as yet too early to predict the outcome of the debate on the presidency of the European Council, but given the divi-

sions within the Convention on this issue, an inconclusive recommendation to the IGC cannot be ruled out.

Accounts of the European Councils that have taken place since the Seville meeting of the HSG in June 2002 suggest that the implementation of the Seville reforms at least as regards the preparation and conduct of these meetings has had a positive effect on their organisation, functioning and output. There is now a good deal of pressure on the General Affairs and the External Relations compositions of the GAERC to reach agreement at their level in advance of the meetings of their political masters. The drawing-up of an annotated agenda has helped to focus attention on those areas where concrete decisions are required of the HSG, and has helped the latter to concentrate on the really important issues on their now rather shorter agendas. Better preparation, including the drawing up of options papers by the presidency, does not necessarily mean more agreement, but it should result in more focussed discussions and facilitate the finding of compromises on which much of EU decision-making is based.

It is as yet too early to predict the outcome of the debate on the presidency of the European Council, still less the impact of a long-term elected President (should that be the chosen way forward) on the Council as a whole and on its relations with the other EU institutions. For the moment, the initiative lies with the members of the Convention, but given the divisions within that body that have come to light so far on this and other related issues, an inconclusive recommendation to the IGC cannot be ruled out.

### **The Council**

It remains to be seen whether the figure of five main Council formations foreseen by the Praesidium's draft articles will survive the deliberations of the Convention's Plenary and the subsequent IGC.

The future organisation of the presidency of the Council is as yet unclear, although there appears to be a general consensus that the current rotating system cannot continue.

The proposed strengthening of the GAC will only be achieved if its members are senior political figures from the member states with sufficient time to devote to EU affairs, and capable both of binding their governments and of settling disputes between other sectoral ministers.

It remains to be seen whether the figure of five main Council formations foreseen by the Praesidium's draft articles will survive the deliberations of the Convention's Plenary and the subsequent IGC. In particular, the implications for traditionally powerful bodies such as the Agriculture Council of the creation of a Legislative Council are unclear. Much will depend on the eventual functions attributed to the relevant ministers in their role as 'assistants' to the national representative in the Legislative Council.

Similarly, the future organisation of the presidency of the Council is as yet unclear, although there appears to be a consensus on the fact that the current rotating system cannot continue after enlargement. Whether the chosen future system is one of team presidencies or of elected individuals for particular Councils, it will be important to ensure that neither large nor small states predominate when these roles are attributed.

Care must also be taken not to make the mistake of throwing the baby out with the bathwater. The Council and the European Council have served the Union well precisely because they have operated on the basis of certain principles, of which parity among the member states and largely consensual patterns of decision-making are perhaps the most important. To dispense with these principles entirely would be to remove an important plank in the foundations of the EU itself.

In the past, the weakness of the General Affairs Council has had a negative impact on the functioning and output of the European

Council, and on the coherence of the work of the sectoral Councils. The proposed strengthening of the General Affairs Council will only be achieved if its members are senior political figures from the member states with sufficient time to devote to EU affairs, and capable both of binding their governments and of settling disputes between other sectoral ministers.

### **The Council Secretariat**

Changes already put in train have ensured that the new Secretary General (relieved of the post of High Representative for the CFSP) will find him or herself at the head of a more streamlined, specialised body, which is expected to play a more central role in the post-enlargement decision-making process.

Linguistic diversity is set to continue within the Council, although discussions are still going on as regards who should pay for it.

The introduction of cameras into Council meeting rooms has merely had the effect of altering the timing and location of the real negotiations on the basis of which actual decisions are taken.

The proposed abolition of the post of the High Representative for the CFSP will mean that the role of the Secretary General will revert to that of heading up the General Secretariat. However, the changes already put in train by Pierre de Boissieu have ensured that the new Secretary General will find him or herself at the head of a more streamlined, specialised body, which is expected to play a more central role in the decision-making process, particularly following enlargement.

Changes are also afoot as regards the provision of interpretation and translation services in the Council. Those who, for many years, have argued that the EU should work with a reduced number of languages, bemoan the fact that the opportunity provided by large-scale enlargement to implement this change has

not been taken up. Instead, it has been decided that the costs associated with even greater linguistic diversity are a price worth paying, although discussions are still going on as regards who should effect this payment.

The new rules on transparency are being implemented, with regular live transmissions of Council debates and deliberations being broadcast. But the real negotiations (what in fact the viewers are hoping to see) do not take place in front of the cameras; they occur in telephone conversations, corridor discussions and email contacts between the delegations in advance, or before the cameras are switched on in the meeting room itself.

### **Coreper**

It is as yet unclear what role will be played by Coreper after the implementation of reforms of the ministerial and European Councils currently being discussed, particularly that of strengthening the GAC.

Coreper has seen its position severely weakened in recent years, largely due to the increased influence of other senior preparatory bodies.

The Committee of Permanent Representatives (Coreper) has long occupied a pivotal role in the Council hierarchy. Acting as the gatekeeper between the specialised working groups and the sectoral Councils, it enjoyed a unique overview of the entire range of the Council's activities. The inability or unwillingness of the General Affairs Council to fulfil its coordinating function left a vacuum which Coreper filled along with the presidency and the Council Secretariat, and thereby won a role in helping to prepare meetings of the European Council. However, its pivotal position has been eroded in recent years by such bodies as the Economic and Financial Committee and the Political and Security Committee, who have largely succeeded in side-lining it as far as their areas of activity are concerned.



Little mention has been made as yet of the role of Coreper in the new-look enlarged EU. A strengthened GAC, meeting regularly, might reduce the political influence previously enjoyed by Coreper due to its permanent position at the heart of the Council. On the other hand, the preparation of the work of the GAC – which will surely fall to Coreper – will involve the permanent representatives in the type of bargaining and negotiation that has been their hallmark to date. The fact that the numbers involved will be almost doubled after enlargement will only make the need for skilled and experienced practitioners more pressing.

### **Inter-institutional relations**

Any process which attempts to effect change in one of the institutions must be conscious of the effect it will have on the others, and be prepared to consider readjustments in order to ensure that the balance is maintained.

Inter-institutional relations in the enlarged EU will be even more important than they have been to date, and a co-operative spirit among the institutions will help to smooth what could be a rather bumpy road.

The institutional balance within the EU is the delicate fruit of long years of fine-tuning and adjustment. Any process which attempts to effect change in one of the institutions must therefore be conscious of the effect it will have on the others, and be prepared to consider readjustments in order to ensure that the balance is maintained. A stronger, more focussed European Council will obviously be better able to provide strategic direction for the EU as a whole, but the latter is best served when the European Council works in cooperation with rather than in opposition to the Commission and the European Parliament. Similarly, a more streamlined Council should be better able to fulfil its legislative duties, but shares them with the European Parliament with whom it must work closely, while the Council Secretariat serves the Council best when it engages in close cooperation with the Secretariats of the other main EU institutions.

Inter-institutional relations in the enlarged EU will be even more important than they have been to date. New members, new interests and new priorities will have to be accommodated. Greater numbers will make discussions more complex and more time-consuming. A settling-in period will be required for new structures and new rules, with consequences that may sometimes be unpredictable. The existence of a cooperative spirit among the principal institutions will go a long way towards smoothing what could be a rather bumpy path in the history of the EU.

## **3 REFORMING THE COUNCIL: A WORK IN PROGRESS**

### **3.1 Introduction**

The Council has in the past been an adaptable institution. It has been required to adapt to many new situations over the years – successive enlargements, significant extensions of its areas of responsibility, new decision-making procedures and the resulting altered relationships with the other main EU institutions. It has adapted in various ways: by incorporating and socialising new members, by setting up new structures, and by introducing novel norms which co-exist with formal procedural rules governing its means of operation. But the vehicle initially designed for 6 is having problems accommodating 15 and is expected to slow down considerably or, some even argue, come to a complete halt, under the weight of 25. Adaptation and muddling-through may no longer be deemed sufficient responses to changed and changing circumstances. This explains why reform of the Council is being addressed in a number of different forums.

Three distinct processes of Council reform can currently be identified. The first and, for the moment, the one attracting most attention, is the debate in and around the Convention on the Future of Europe. A second process has been in train for the past four or five years among the representatives of the member states as a form of self-analysis within the Council itself, becoming visible to the public via the conclusions of discussions of the heads of state or government at successive European Councils, starting with Helsinki in December 1999 and peaking in Seville in June 2001. A third, less public, process is under way within the Council Secretariat, as it undertakes its own process of internal reform in order to ready both itself and a reformed Council hierarchy for the tasks that will be demanded of them in the future. The reform process under discussion in the Convention is concentrating on changes that require revision of the Treaties in order to be implemented, while the processes within the Council hierarchy and within the Secretariat have largely focused on reforms capable of being introduced without having to revise the Treaties.

In this paper, we will describe each of these processes in turn, keeping in mind the fact that, at the time of writing, each process is at a different stage. Draft treaty articles detailing proposed reforms have been produced by the Convention's Praesidium but at the time of writing have yet to be discussed in the Plenary, where they may undergo some or even severe revision, before being presented to the Intergovernmental Conference (IGC), due to begin later in 2003. Many of the reforms agreed upon within the Council hierarchy and made public in the Conclusions of the Seville European Council in June 2002 have been implemented and are already having an impact on the operation of the Council and the European Council. The Council Secretariat has already implemented a large number of its own internal structural and operational reforms, but an action plan to modernise the administration of the Secretariat is due to be completed only by January 2004.

Both the Council and the European Council have been dogged by increasing evidence of dysfunction and inefficiency in recent years, but it has taken the spur of imminent and large-scale enlargement to ensure that at least some of the necessary and long-overdue reforms be proposed, discussed and even implemented. The most far-reaching changes are still at the discussion stage, but some innovative reforms have been implemented and are bearing fruit in terms of efficiency.

### **3.2 Process I: In and Around the Convention**

Discussions about institutional reform in the EU are divisive. They raise difficult questions about powers, appointment, accountability and institutional balance that go to the very heart of the debate about the nature of the entire enterprise. In order to avoid possible stalemate at an early stage of the Convention's proceedings, and given the perceived importance of the issue, the Chairman, Valéry Giscard d'Estaing took two calculated risks. The first was to leave the institutional discussion to the end of the life of the Convention, perhaps in the hope that enough progress would have been made in other areas (aboli-

tion of the pillar structure, a unified nomenclature for decisions, changes in the codecision procedure) in order to render the discussion less fraught. The second was to treat institutional reform slightly differently to the other issues being discussed.

Rather than having the main discussion take place in a working group reporting to the Plenary, all Convention members have been allowed to have their initial say, and the Chairman and Praesidium have been closely involved in the production of the small number of official documents on which the subsequent discussions will be based. A first reflection paper, 'draw[ing] on contributions from Convention members' was 'prepared by the Convention Secretariat and approved by the Praesidium' and circulated in January 2003. Plenary debates ensued, and a paper containing draft articles was agreed by the Praesidium on 23 April, following what was by all accounts a stormy discussion of a paper drawn up by the Chairman himself and leaked to the press before being presented to the Praesidium. Since, at the time of writing this paper, the first discussion by the Plenary of these draft articles has yet to take place, what follows is necessarily descriptive only.

### **3.2.1 The European Council**

If the EU is to function properly, in the eyes of some at least the European Council must revert to the role originally defined for it: that of providing the Union with the necessary impetus for its development and defining its general political directions and priorities. The reforms proposed in the Praesidium's draft articles concentrate on three means of achieving this: cutting down on the number of people involved in the meetings of the heads of state or government, allowing for at least some majority voting in the European Council and appointing a permanent President to 'lead' it.

#### **Keeping down numbers**

As currently constituted, a meeting of the European Council can comprise 16 or 32 individuals, depending on whether the Heads of State or Government and the President of the Commission

are meeting alone, or with their Foreign or Finance Ministers or Commissioners. With enlargement, the extended European Council would consist of 52 individuals, a number clearly not conducive either to the sort of informal debate by which the European Council has historically set so much store, or to the discussions which are required for the setting of general political guidelines.

The draft articles recommend that, in future, the participants will be restricted to the Heads of State or Government, the President of the Commission and the President of the European Council (see below). The EU Foreign Minister (on which more below) 'shall take part in its work', presumably when issues of foreign policy are being discussed, with the result that the maximum number of participants would normally be 28. However, 'where the agenda so requires', the relevant ministers and Commissioner may also attend, as is the current practice at the spring European Council every year, which is largely devoted to discussion of economic affairs under the so-called Lisbon strategy, and is prepared and attended by the relevant ministers and Commissioner.

### **Less consensus, more voting?**

As reports emanating from Nice in December 2000 and Brussels in October 2002 indicated, consensus is not always in evidence at meetings of the European Council, but it is the prevailing practice when decisions are being taken by the members of this body. This is the case even for issues when qualified majority voting (QMV) is the rule at the level of the Council of Ministers, the infamous exception being that of the Milan European Council in 1985, when a simple majority vote was called on the convening of an IGC, and Mrs. Thatcher found herself out-voted.

The introduction of QMV as the general rule for more and more areas of ministerial Council business has, it is argued, had a positive effect on the decision-making process among the ministers and their officials. It may be that in only about 15% of cases where voting is provided for does a vote actually take

place, but many argue that the possibility of a vote being called at ministerial level encourages the search for compromise and trade-offs at all levels. The Praesidium's draft treaty articles leave the door open to extending QMV at the level of the heads of state and government by stating that 'except where the Constitution decides otherwise, decisions of the European Council shall be taken by consensus.'

### **A long-term President**

The question of the chairmanship of the European Council has attracted a great deal of attention. A large number of alternative and conflicting proposals have been put on the table, and these have mainly divided the member states according to their size (with some notable exceptions, the most obvious being the Swedes!). These alternatives range from the maintenance of the status quo (the presidency of the European Council being undertaken by the Head of State or Government of the member state currently holding the presidency of the Council of Ministers) to the election by the European Parliament or another representative body of a 'permanent' President of the European Council. Given that the big five member states as well as the Chairman of the Convention himself have made no secret of their preference for a permanent President for the European Council, it should come as no surprise that this is the formula put forward by the Praesidium for consideration by the Convention Plenary.

As with all negotiations, the proposals put forward in the draft articles contain a number of compromise positions. According to the Praesidium, the future President will be (s)elected for a period of two and a half years, renewable once (some alternatives had proposed a mandate of five years). He (or she – this alternative is not mentioned!) will be (s)elected by the European Council from among its current or former members (with the proviso that a former member must have attended European Council meetings *ex officio* for a minimum of two years). A board of three rotating European Council members 'may' be created (in place of the elected Vice-President and seven-member Board proposed by Giscard to assist the President in his work).

There has been much opposition to the idea of a long-term President of the European Council. The smaller member states fear the down-grading of their historical ally, the Commission, and the increasing dominance of their larger colleagues, and have started to orchestrate their opposition to the idea. The Commission is also opposed to it. Given the strong coalition in favour of a permanent President, it may well be that it will survive in some form or other. But the road ahead, which leads through the Convention Plenary, the subsequent IGC and the ratification process involving 25 member states and the European Parliament, cannot be assumed to be either straight or level.

### **3.2.2 The Council of Ministers**

The reversion of the European Council to the original role envisaged for it can be achieved only by the creation of an efficient, streamlined Council of Ministers, capable of fulfilling its own role and of adequately supporting the heads of state and government in the fulfilment of theirs. The draft articles relating to the Council of Ministers contain three main innovations in comparison to the present situation. These refer to configurations of the Council, the Presidency and voting rules.

#### **Changing formations**

The number of formations in which the Council is capable of being convened has been a source of disquiet for some years, because of the lack of coordination that can (and does) ensue from an over-abundance of configurations. Steps had already been taken to reduce the number from the high point of 22 distinct configurations that existed in 1999 to 10 following the Seville European Council in June 2001 (see below). The Praesidium's draft articles propose an even more drastic reduction in the number of Council formations, mentioning only 5:

- a General Affairs Council, which would be responsible for general coordination, for preparing and following-up the decisions of European Councils, for institutional questions and for horizontal questions that cut across the sectoral Councils.



- a Legislative Council, charged with enacting legislation with the European Parliament under the co-decision procedure across all areas of EU activity where this procedure applies.
- a Foreign Affairs Council, presumably composed of Foreign Ministers who, released from their General Affairs responsibilities, could concentrate on what truly interests them – foreign policy;
- an Economic and Financial Affairs Council, presumably composed of the national Ministers for Economic and Financial Affairs who have become increasingly influential over the years, and even more so since the introduction of the Euro and the Lisbon process; and
- a Council on Justice and Security, covering the expanding dossiers of justice and home affairs.

The chief innovations here are the splitting-off of the Foreign and General Affairs Councils, the creation of an entirely new Legislative Council and the suppression of the new Competitiveness Council, created to take forward the Lisbon strategy.

The process of separating out the coordination and foreign policy tasks of the awkwardly-named General Affairs and External Relations Council (GAERC), begun in 2002 at Seville, has been carried one stage further by the draft articles through the creation of two distinct Councils. The aim is to restore the General Affairs Council to the role initially intended for it (the central coordinating body for all Council activity and the chief preparatory organ for the European Council), but increasingly neglected by the Foreign Ministers. If the GAC is to play the central role envisaged for it (and on which the whole system depends), its members would need to be senior members of their national administrations, close to their prime ministers, capable of taking decisions which engaged their governments, and of exerting real influence over their national ministerial colleagues.

As regards the Legislative Council, it would presumably be left up to each member state to decide who would represent them in

this body, but it has been presumed that it would make sense for the same person to sit in both the GAC and the Legislative Council in the interests of continuity. It is foreseen that the relevant sectoral ministers could attend to ‘assist’ the national representative. It remains to be seen how this idea goes down with the likes of Ministers of Agriculture who, in the past, have enjoyed a high profile at the level of the Council of Ministers. It is also a moot point whether it makes sense to make optional the involvement of those departmental ministers who are conversant with the substance of the legislation being debated. It is also envisaged that, in the interests of transparency, meetings of the Legislative Council would be open, in the sense of being transmitted to the public.

The draft articles propose that these five super-Councils (the term is not employed in the draft articles, but the implication is there) could be supplemented by sectoral sub-Councils, based on a decision to be taken by the GAC.

### **Adapting the Presidency**

The system of the six-monthly rotating Council presidency dates back to the fifties and sixties, when the job entailed merely chairing ministerial and official meetings, and was regarded as a chore to be shared among the member states. With the increasing prominence of the leadership and external representation aspects of the presidency over the years, however, there has been loud and prolonged criticism of the rotation system from many quarters. While acknowledging the positive socialisation effect on national citizens and officials of undertaking the presidency on a regular basis, those arguing in favour of the abolition of the current system point to the dangers arising from constantly-shifting priorities, and the difficulties faced in particular by the smaller member states in ensuring effective and credible external representation of the EU during their time in the chair. Even those who favour the retention of some form of rotation freely admit that the presidency is a burden to be borne, and that enlargement will exacerbate rather than alleviate the problem.

Where the Council presidency is concerned, therefore, insiders and commentators alike seem united on one issue: the current system of six-monthly rotating Presidencies cannot continue. There is little consensus, however, on what should take its place. The smaller member states, fearing that relinquishing the principle of rotation would result in dominance by their larger colleagues, have advocated team presidencies spanning several years, an idea which has much to recommend it. Yet insiders with long experience of the presidency have expressed very real concerns about the possibility of ensuring adequate levels of coherence and coordination that would be required of a team presidency, pointing to the difficulties already encountered by some unitary states in this regard. Yet, the tasks facing the presidency in a Union of 25 or 27 members will be greater than ever before, with confidence in the presidency being a vital component in a system where an increased number of interests have to be taken into account. The authority and personality of individual presidents and the impact they make in the chair will be key, hence a growing acceptance for the idea of a greater use of elected presidencies. A compromise solution would therefore be some form of differentiated presidency, with a degree of built-in rotation to maintain the traditional emphasis on the principle of parity among member states that has underpinned the organisation of the Council to date, and arguably served it well.

A final decision on the Council presidency will probably be informed by what is eventually agreed concerning the future presidency of the European Council. In any case, the question of the presidency of the Council is a divisive one at present, as may be deduced from the lack of precision on the issue in the Praesidium's draft articles. The exception is the Foreign Affairs Council, which 'will be chaired by the Union's Foreign Minister', who will be a Commission Vice-President but accountable to the European Council. As for the other Council formations, the draft articles merely suggest that the presidency should be undertaken for at least a year, and that the choice of president should take into account the 'European political and geographi-

cal balance and the diversity of all Member States'. It remains to be seen what the Convention Plenary (and the IGC which succeeds it) will make of these proposals.

### **Simpler qualified majorities**

The rules on qualified majority voting which eventually emerged from the Nice European Council in December 2000 are virtually incomprehensible to all but the most dedicated of Council insiders. They do nothing to reinforce the Council's much-criticised attempts to improve the transparency of its decision-making procedures. No mention is made in the draft Convention articles of weighted votes for each of the member states, the source of so much argument and bitterness at Nice. Instead, the Praesidium proposes that a qualified majority be composed of a simple majority of the member states, representing at least three fifths of the Union – i.e. 13 countries in the EU of 25, comprising at least 60% of the EU's citizens. (The equivalent percentage agreed at Nice was 62%.)

### **3.3 Process II: Self-Analysis within the Council**

Dysfunctions and inefficiencies have long been acknowledged within the Council itself, with the loudest criticisms frequently emanating from those most closely involved in its work. However, a parallel tendency to view the often rather idiosyncratic nature of the Council's structure and working methods as a necessary evil in the process of tying-in the member states has ensured that any changes that were introduced took the form of tinkering at the edges rather than the fundamental review of the system which was required. The prospect of a large-scale enlargement of the Council to almost twice its size has provided the stimulus at least to consider some radical reforms, although it remains to be seen which will actually see the light of day.

Ongoing detailed discussions about non-treaty internal Council reform have been taking place within the Council hierarchy since 1999, when Jürgen Trumpf (the outgoing Secretary General of the Council) and Jean-Claude Piris (the head of the

Council's Legal Service) produced a report on the subject for the Helsinki European Council of December 1999. The Trumpf-Piris report suggested 144 rather low-key reforms, 55 of which were listed in the Helsinki Conclusions. Commenting on the Helsinki reforms two years later when presenting his own report (entitled 'Preparing the Council for Enlargement') to the Göteborg European Council in June 2001, the new Secretary General, Javier Solana, remarked that some encouraging improvements were evident, but that farther-reaching reforms were required if the Council were to be seen as 'a results-oriented decision-making body rather than a platform for political statements'. Progress reports were submitted to the Laeken (December 2001) and Barcelona (March 2002) European Councils, and a raft of operational decisions were taken at the Seville European Council in June 2002. Under the Danish presidency of the second half of 2002, they were largely translated into amendments to the Council's internal rules of procedure, and implemented without delay.

The decisions were contained in two annexes attached to the Presidency Conclusions, the first laying down the rules for the organisation of the proceedings of the European Council, and the second outlining the agreed measures concerning the structure and functioning of the Council. The ensuing changes are due to be evaluated in a report to be submitted to the Rome European Council at the end of 2003.

### **3.3.1 The European Council**

The decisions taken at Seville relating to the European Council were listed under three main headings (preparation, conduct and conclusions), and were designed to enable the European Council to exercise its role properly. In some cases they merely outlined best practice, or reiterated guiding principles that have always existed, but have not always been implemented. Four principal changes should be noted, relating to the new-look General Affairs Council, the agenda, options papers and the size of delegations.

### **More systematic preparation**

If the European Council was to fulfil its strategic role properly in the future, its meetings needed to be properly prepared, so that none of the members' time would be wasted on unimportant business or unfocussed discussion. The earlier failure of the former General Affairs Council to fulfil this function was widely attributed to the fact that it was composed of foreign ministers who, unsurprisingly, were more interested in issues of foreign policy than in horizontal coordination and institutional questions. The agreement reached at Seville saw the General Affairs configuration of the newly-created General Affairs and External Relations Council (see below) firmly and unequivocally reminded of its original remit: the preparation of and follow-up to all meetings of the European Council, as well as institutional, administrative and horizontal questions.

### **An official agenda**

Up to and including the Seville European Council, no official agenda was produced for meetings of the heads of state or government. Instead, the prime minister holding the presidency was, in theory, free to decide what he or she and his or her colleagues would discuss when they met. This could be informed by input from the foreign or finance ministers, or points raised during the prime minister's discussions with individual members of the European Council prior to the meeting, whether by letter, by telephone or during the prime minister's tour des capitals. However, in theory there was nothing to prevent a determined president ignoring all these pointers, and including only his or her own priorities in the list of issues to be discussed traditionally laid out in the letter of invitation to the meeting.

The Seville European Council therefore agreed that in future the GAERC (specifically as a version of the General Affairs Council in its newly-revived role as chief preparatory body for the European Council) would be responsible for agreeing a draft agenda at least four weeks before the date of the European Council. This draft agenda would be based on a presidency pro-

posals, and would distinguish between four different types of agenda item:

- those requiring approval without discussion;
- those requiring discussion and the definition of general political guidelines;
- those requiring discussion and the adoption of a decision; and
- those requiring discussion only but no conclusions.

Other Council configurations would have to submit their contributions to the GAERC, which would meet on the eve of the European Council itself to adopt the definitive agenda for the meeting.

The aim of this reform was to make the work of the European Council more focused, and indeed the Danish presidency, which implemented the change immediately, won plaudits for its conduct of the Brussels and Copenhagen summits in October and December 2002. As a result of meticulous preparation in the month or two preceding each summit since Seville, the heads of state or government have been able to concentrate their energies on those parts of their agendas where specific agreements have been required of them, with consequentially positive effects on the system as a whole.

### **Presidential options papers**

The idea of heads of state or government engaging in ‘fireside chats’ on issues of strategic interest to both them and the EU as a whole is a beguiling one, not least perhaps for the heads of state or government themselves. The consequent desire to allow room for relatively unstructured debate is understandable, but the risk of a lack of focus resulting in sub-optimal decisions (or no decisions at all) has grown over the years along with the number and the complexity of the issues to be decided.

Agreement was reached at Seville that the presidency would in future be required to prepare a paper detailing possible options for every agenda item on which the heads of state or govern-

ment are required either to define general political guidelines or to adopt a decision. Like the annotated agenda, this reform has had a positive impact on meetings of the European Council, allowing as it does for more focussed discussion and, where positions are suitably close, more rapid decision.

### **Smaller delegations**

Hosting a European Council gives rise to many headaches, not least of which is caused by the large number of people for whom accommodation, food and sheer physical space must be provided. National delegations are frequently composed of up to 100 persons each and, given the perceived importance of the meetings, hundreds of journalists are anxious to be on the spot to record the event as it unfolds on film, tape, computer disk or paper. An exponential increase following enlargement could be chaotic, even with all official European Council meetings taking place in Brussels, as agreed at Nice.

The Seville European Council therefore laid down that delegations could consist of a maximum of 20 persons only (not including security or logistic support personnel), and that each delegation would have only two seats at the table in the meeting room itself. In future, therefore, the heads of state or government can only be accompanied by their foreign or finance ministers, but not by both simultaneously, as is often currently the case. Given that, under current operating rules, post-enlargement meetings would involve 26 or 52 individuals as opposed to 78 (depending on whether the heads of state or government and the Commission representative met alone, with one minister or Commissioner or with two), this reform makes evident sense, both as regards physical space and group dynamics. It does, however, pose a problem for the future when, as is frequently the case, the European Council deals with matters which are of concern to both foreign and finance ministers (eg. the EU line to be taken at a conference on sustainable development.) One of the ministers will have to give way to the other, accepting that they will not have a place at the table, something which neither group can be expected to relish. A



creative, face-saving solution will be required to solve this practical problem.

### **3.3.2 The Council**

The Seville reforms relating to the Council were designed to streamline both its structures and its functioning, thereby making it more efficient, more transparent and better equipped to lend the European Council the support it requires in order to properly fulfil its central role in the EU. Six main areas of reform were identified: the General Affairs Council, the number of Council formations, the programming of Council activities, the Presidency, the opening up of Council debates to the public and the conduct of Council meetings.

#### **The GAC becomes the GAERC**

The General Affairs Council was designed to coordinate the work of all the other Councils and to deal with institutional, administrative and horizontal issues, and later to prepare meetings of the European Council. It has had a troubled career in recent times. Composed of foreign ministers who were, not unnaturally, generally more interested in the issues coming before their Foreign Affairs Council, it was regularly criticised for neglecting its coordinating duties and for its increasingly inadequate preparation of meetings of the European Council. Proposals for a new General Affairs Council composed of very senior figures from the national administrations with real and strategic authority met with stiff resistance, not least from the Foreign Ministers themselves and their senior officials. The compromise agreed at Seville, therefore, was that the General Affairs Council would be transformed into the rather awkwardly named 'General Affairs and External Relations Council', whose two component parts would meet separately, on different dates and with separate agendas. Given the lack of agreement on the composition of these bodies, it was left up to each government to decide who would represent them therein.

### **Fewer Council formations**

The number of Council configurations had been reduced to 16 in 2000, following lengthy discussions at the Helsinki European Council in December of the previous year. The Seville Conclusions listed ten formations in which the Council could convene in the future, a number arrived at by merging a number of previous Council formations. In effect, what has happened so far is that the agendas of composite Councils have been organised so that issues relating to a particular policy area are grouped together, thereby allowing the relevant national ministers, should they so wish, to attend the part of the Council session where 'their' area of responsibility is due to be discussed. This has led to a *va-et-vient* of virtually separate meetings, albeit rather shorter than previously. Informal gatherings have also been organised for ministers who formerly had their own formal configuration.

### **Annual and multiannual programmes**

One of the main criticisms of the rotating presidency system has been that it tends to result in constantly-shifting priorities for the Council, as successive presidencies push issues of national interest towards the top of the agenda during their period in office. In reality, every presidency is faced with a largely pre-ordained list of items that must be dealt with during the six months in question, mostly arising from work already in progress. But it cannot be denied that there is normally the opportunity to give greater prominence to one or two issues of particular interest to the member state in the chair, nor that most presidents, being human, grasp it.

The decision, taken at Seville and subsequently written into the Council's internal rules of procedure, to introduce annual and multiannual work programmes was an attempt to ensure greater continuity in Council activities, and to facilitate longer-term planning. Starting this year, the heads of state or government will adopt a three-year strategic programme every December, which will be prepared by the presidency in consultation with the Commission. From this strategic programme, the next two

presidencies in line will draw up an annual operating programme of Council activities, including indicative agendas for Council meetings scheduled for the first half of the coming year. In the absence of a strategic programme in December 2002, the Greeks and Italians drew up an operating programme for 2003 which ran to some 50 pages.

### **Sharing the burden of the Presidency**

The Seville reforms relating to the presidency of the Council made no mention of the system of rotation. Instead, they focused on practical arrangements and pragmatic solutions for seemingly mundane eventualities. First, it was agreed that a representative of the next presidency in line could chair parts of some meetings during the current presidency where the issues under discussion were ones largely due to be discussed or resolved during their term in office. Thus, for example, during preliminary discussions on the budget for 2004 taking place during the first half of this year while Greece is in the chair, the discussion may be led by the Italian delegate, who will be in the chair when the matter comes up for final decision later this year. In this way, the member state with the ultimate responsibility for the dossier can be in charge of it throughout, the only stated exception being at the level of Coreper, which must be chaired by the current presidency.

Second, the Seville reforms provided for the chairing of certain working groups by an official of the Council Secretariat. This decision is not so radical as it sounds, however. These are not the first working groups to be chaired by the Council Secretariat, and the groups involved cover very technical subjects, such as electronic communications, new buildings and legal data processing.

### **Live transmission of Council debates**

The closed doors of the Council chamber have long been a cause of grave concern to proponents of transparency within the EU, whose numbers have been swollen since the 1995 enlargement. The reforms agreed at Seville, designed to allow Europe's

citizens and any other interested observers to watch as the ministers debate and vote on acts agreed under co-decision with the European Parliament are but the latest in a long succession of steps designed to prise open the doors of the rooms where the ministers meet. Yet even these reforms are only partial. The public can now watch the Commission presenting its proposals to the Council and the initial ministerial debate on the matter; they can also observe the final discussion on the issue, the vote (if indeed one takes place, which is not always the case) and any explanations of voting which the ministers may prove to proffer. But the real negotiations – arguably the part of the process holding the greatest interest for the public – still takes place away from the cameras, and is likely to continue to do so, no matter what further rules on transparency may be adopted.

But the Seville reforms were an advance, and the Danes lost no time in ensuring they were implemented. Council agendas now indicate those items during which the discussion will be transmitted live and the cameras will roll. A room is set aside in the Justus Lipsius building for members of the public to watch these parts of Council sessions, although few people actually use it, since the transmissions can also be received via personal computers. It has not all been plain sailing, however; problems encountered with the broadcasting organisations have led to some disruption of schedules, and on a number of occasions, the discussion leading up to the expected final agreement has proved inconclusive, with the result that some transmissions have had to be repeated. These are perhaps only teething problems, and initial concerns among ministers and officials alike have given way to a more general acceptance of the idea of opening-up at least some parts of some Council meetings to the public gaze.

### **Smooth conduct of Council meetings**

The final area of Council reform agreed at Seville concerned the conduct of meetings, which applies throughout the Council hierarchy. The onus is put squarely on the presidency to ensure that the optimum use is made of the time set aside for meetings.

Thus, the presidency is called upon to encourage ministers and officials alike to be concise in their interventions, to present proposed amendments in writing in advance of the meeting in question and, where they share a position with one or more other delegations, to appoint a spokesperson to speak on their behalf. Such practices, if properly implemented, could speed-up and simplify discussions considerably, particularly in the context of an enlarged EU.

### **3.4 Process III: Within the Council Secretariat**

The General Secretariat of the Council has undergone a period of profound change over the past decade, starting with the implementation of the Maastricht Treaty that created two new 'intergovernmental' pillars of activity, the Common Foreign and Security Policy and Justice and Home Affairs (JHA). Subsequent extensions of the scope of the Council's activities have led to the creation of new structures and procedures governing the European Security and Defence Policy (ESDP). These new policy areas have given rise to new tasks for the Secretariat, which go well beyond its traditional roles of conference organisation and committee servicing. The 1995 enlargement of the EU, the integration of the Schengen Secretariat and the arrival of military personnel have resulted in a significant increase in numbers and the establishment of new security procedures. The imminent large-scale enlargement will be but the latest change to have a direct impact on the body which underpins the entire Council hierarchy, and has provided the spur to institute deep-seated structural and procedural reforms designed to streamline the Secretariat and enhance its ability to meet the operational requirements of an enlarged Council.

#### **3.4.1 Structural changes**

##### **Changes at the top**

The role of the Council Secretary General today bears no relation to that of earlier holders of the position, thanks both to

the pioneering work of Niels Ersboll (the holder of the post from 1980 until 1994), and to the Amsterdam Treaty, which came into force in 1999 and introduced two fundamental changes. First, the post of Secretary General is now combined with that of High Representative for the CFSP, although the latter role is the more time-consuming, at least for the present incumbent, Javier Solana, who was chosen for his impeccable international and foreign policy credentials. Second, a Deputy Secretary General is now responsible for what was the original but oft-neglected remit of the Secretary General, the day-to-day administration of the Secretariat, a post ably filled by Pierre de Boissieu, a former permanent representative of France with long experience of the Council.

This clear division of labour works well in both theory and practice. Since the Secretary General/High Representative is frequently present in Brussels for only one day a week (a point to be borne in mind as regards the availability of the proposed new Foreign Minister for meetings in Brussels), his Deputy has been free to concentrate on reforming the administration of the Council, a job he has tackled with much enthusiasm, energy and determination. Much of the material and ideas behind the proposed reforms were already available in previous studies and audits that had been carried out in recent years. What was required was someone with the vision to draw them all together into a coherent programme and with sufficient authority to ensure that they would actually be put into effect. The combination of imminent large-scale enlargement and a determined Frenchman with a mandate mean that reform of the administrative arm of the Council is now well underway.

### **Reorganisation of the General Secretariat**

Pierre de Boissieu is a man with a mission. His aim is to produce a slimline Secretariat, capable of taking on the extra tasks likely to be demanded of its administrative arm by an enlarged Council. In determining how this is to be achieved, he has taken a number of initiatives. He has overseen a number of studies, both internal and interinstitutional, which have come up with a

large number of recommendations for reform. He has appointed a Director General for administrative reform (known as the Change Manager within the Secretariat), who has produced an Action Plan the essential parts of which are due to be implemented by January 2004. And he has started making changes, not all of which have been greeted with enthusiasm.

The most obvious change has been in the structure of the Secretariat itself, which has been subject to reorganisation on a number of occasions in the past decade due to the introduction of new areas of Council activity and enlargement. What may be called the de Boissieu effect is evident in the disappearance of Directorate General D (its areas of responsibility – research, energy and transport – have been allocated to others), a redistribution of work between the existing nine Directorates General and the creation of a division specifically responsible for financial control. Less obvious but more far-reaching has been the reduction in the number of Director General posts, by the simple means of non-replacement of out-going holders of the post. The result is a reversal of the convention that every member state is ‘entitled’ to see one of their nationals appointed to this position. Clearly this could not continue in an enlarged Union, but there is some bitterness among the smaller member states, who feel that they have been the targets in this particular campaign.

In line with his desire to produce a leaner, more specialised administration, de Boissieu has also concentrated on increasing the number of A-grade officials, who are engaged in administrative and advisory duties. Their number has increased by almost 50% over the past few years, largely through a process of conversion of lower-grade posts, which have become vacant through retirement or resignation. As a direct consequence of the new linguistic regime that is due to be introduced (see below), the Secretariat’s translation service is also facing fundamental change, following a decision that after enlargement the translation work for twenty languages will be done using the current or even a reduced number of translation staff. This will be achieved through natural wastage (non-replacement of out-

going staff) and the recruitment of only 25 officials for each of the new translation divisions within the translation service.

### **3.4.2 Procedural changes**

#### **Linguistic regime**

The EU has more official and working languages than any other major body or international organisation in the world, and their number will almost double with enlargement. This linguistic diversity may be viewed as both a hallmark and a major asset of the EU, contributing as it does to the principles of equality, democracy and transparency that underpin the entire enterprise. But there is a price to be paid. Extra time must be factored into the negotiating and decision-making processes in order to allow for simultaneous interpretation during meetings, the translation of the documents under discussion into each of the working languages between meetings and the translation of the final decision into each of the Union's official languages before it can be published and implemented. Specialists must be employed to undertake this work, and provided with the necessary infrastructure to produce it. More nebulously, the officials involved in the EU must learn to cope with the complexity, the uncertainty and at times the sheer frustration of operating in a multilingual environment, where words and their meanings are of the utmost importance.

The accession of ten new member states in May 2004 will see the number of official languages jump from 11 to 21, putting unprecedented demands on the interpretation and translation services of the institutions. Full interpretation and translation has always been provided for all meetings of the Council and the European Council, and this practice will be continued after enlargement. To this end, new Council meeting rooms are currently being constructed, complete with 22 interpretation booths and tele-guided cameras, and three are due to be ready for use by the end of 2003.

As regards provision of interpretation for preparatory meetings, however, a certain degree of pragmatism has operated for some



time due to a lack of space, personnel and money. Some are provided with full or partial interpretation, others use a restricted number of languages and yet others, particularly those composed of Brussels-based officials, operate without any interpretation at all. An across the board full interpreting regime could be provided at the preparatory level in the future only by means of a very significant financial commitment from the Council (i.e. the member states). Even if this were to occur, it is in any case unclear whether such a move would promote efficiency in the decision-making process. It is much more likely that pragmatism will continue to reign when deciding on the interpretation service to be extended to preparatory groups, with more extensive use being made of relay interpreting (which is already common) and greater flexibility being required of groups consisting of Brussels-based officials. The idea of introducing some form of a 'request and pay' system is also being discussed.

The number of officials in the Secretariat's translation service is being reduced, following a decision that, in future, only core documents will be translated at specific points in the decision-making process. Commission proposals, on which discussions in the Council are based, will continue to be produced in all the official languages, so that all working group delegates will have a copy of the initial text in their own language. Following discussions in the working groups and the senior preparatory bodies, the amended text will be translated once again into all the official languages only when the dossier goes before the Council, so that each minister will be able to examine the text in their own language. The notion that more translation could take place in the capitals in the future should also be retained as a useful means of maintaining the benefits of linguistic diversity.

### **Transparency**

The various decisions taken in the early 1990s to make the workings of the Council more transparent placed the Council Secretariat squarely in the forefront as regards their implementation. Initial resistance, arising out of entrenched attitudes

and long-standing practices of secrecy, has given way to a much more open approach. The proponents of greater transparency still find much to criticise, and indeed the system is far from perfect, but real progress can be discerned in several areas.

The Council's Internet website, which is maintained and constantly updated by the Secretariat, is a good source of information about the Council's structure, role and activities, and a useful means for the public to gain access to the decision-making process. Here, citizens who so wish can follow those Council debates and deliberations that are open to the public, and can see the minutes, voting records and explanations of votes arising from meetings when the Council is acting as legislator. Through a link to the presidency website, the public can also gain information about meetings taking place, agendas, relevant documents and press releases.

An early criticism that the public's right of access to documents (granted in 1993) was hampered because they had no way of knowing what documents actually existed was rectified by the creation of a register of documents in January 1999, which is updated on a daily basis by the Council Secretariat. By 6 January 2003, it contained over 375,000 documents in the 11 EU languages, of which 45% are directly and completely accessible to the public, and can be downloaded from the Council's website. Requests for access to documents not directly available have increased almost a thousand-fold since 1997, with the result that nine people are now employed in the Council Secretariat to process these applications. The percentage of documents supplied in response to specific requests has reached almost 89%, helped by a decision taken at the end of 2001 to allow partial release of some documents.



Swedish Institute for European Policy Studies

Universitetsvägen 10 F  
SE-106 91 Stockholm  
Office: Stockholms universitet,  
Frescati, House F, 6th floor  
Tel: +46-(0)8-16 46 00  
Fax: +46-(0)8-16 46 66  
E-post: [info@sieps.su.se](mailto:info@sieps.su.se)  
**[www.sieps.su.se](http://www.sieps.su.se)**