

The General Affairs Council

The Key to Political Influence of Rotating Presidencies

Piotr Maciej Kaczyński and Andrew Byrne

No. 246, July 2011

In spite of the formal role laid out for the General Affairs Council (GAC) in the Treaties, it has been weakened since it was extracted from the General Affairs and External Relations Council (GAERC) and set up to function on its own. Its current uneven composition is leading to further marginalisation. Reforming the GAC can bring it to the centre of gravity of the Council proceedings and address a number of problems in the current institutional structure. For that to happen, however, countries holding the rotating Council presidency need to consider placing their head of state or government in the chair of the GAC meetings. Upgrading GAC in this way would streamline the diverse work of the Council, it would help in alleviating the heavy political burden that now falls on the understaffed President of the European Council and it would allow the institution of the rotating presidency to regain a higher political profile by creating out of national leaders a de facto Vice President of the European Council.

The General Affairs Council (GAC) is one of only two Council formations with a basis in the Treaties. Despite this formal treaty importance and its historically significant role as a part-descendant of the General Affairs and External Relations Council (GAERC), it has become substantially weakened since the Treaty of Lisbon came into force in December 2009. This apparent paradox raises the question whether the GAC should be empowered to act as the coordinating nexus for the Council as envisaged by the Treaties, and if so, how?

The Treaty of Lisbon broke a longstanding chain of command operating in the Council, in which the entire process was in the hands of the rotating presidency. With all its deficiencies, the system worked after many years of settling in. The Lisbon system vitiated the rotating presidency with the arrival of the permanent chair of the

European Council meetings. For the system to work properly, close cooperation between the Council and the European Council is essential, but this cooperation must respect each of the institutions' distinctive prerogatives. In principle, the General Affairs Council would occupy the central position for this is where the two parallel systems of governance *should* meet: the top-down model in which issues are delegated from the European Council and the bottom-up model in which issues are uploaded from sectoral Council formations. Until now, however, the reality has been different.

From GAERC to GAC

Before the Lisbon Treaty entered into force, the General Affairs and External Relations Council had a strong pedigree as the beating heart of EU coordination. Under pre-Lisbon rules, the

* Piotr Maciej Kaczyński is Research Fellow at CEPS and Andrew Byrne is EXACT Research Assistant at CEPS and Ph.D. candidate with the University of Edinburgh and the University of Cologne.

CEPS Policy Briefs present concise, policy-oriented analyses of topical issues in European affairs, with the aim of interjecting the views of CEPS researchers and associates into the policy-making process in a timely fashion. Unless otherwise indicated, the views expressed are attributable only to the authors in a personal capacity and not to any institution with which they are associated.

GAERC was in reality the central EU forum for decision-making, and the key actors were the Foreign Ministers, who participated in the meetings of the GAERC and the European Council.

The Treaty of Lisbon split GAERC into two Council formations: the Foreign Affairs Council (FAC), chaired by the High Representative of the Union for Foreign Affairs and Security Policy, and the General Affairs Council (GAC), chaired by the rotating Council presidencies.

In the old system, Foreign Ministers, in general terms, held greater prestige in the ministerial ranks than they do today. In GAERC they dealt with the Common Foreign and Security Policy, but also the horizontal coordination of other Council formations and the preparations for the European Council.

Since December 2009, two major structural factors introduced by the Lisbon Treaty have undermined the new GAC's importance:

- Firstly, the command structure was broken between the President of the European Council and the rotating presidency, and
- Secondly, foreign ministers have shifted their attention to the FAC and no new set of ministers has been assigned responsibility for coordinating the national EU positions. This has left a vacuum.

GAC's Function

The GAC's functions are two-fold according to the treaties. Firstly it is charged with the crucial task of coordinating the other Council formations. Where cross-policy or multi-policy issues arise (for instance, issues concerning both telecommunications and competition, or between environment and ECOFIN) as discussion points (so-called 'B items' in EU jargon), the GAC is the designated actor to address them. The same is true for general horizontal issues - budgets, multiannual financial frameworks (MAFF), enlargement, etc. In practice, however, the GAC has been struggling to fulfil this cross-policy coordination role. These issues currently proceed to the European Council at the discretion of the

President of the European Council (POTEC), with little or no input at the GAC level.¹

Secondly, the GAC is responsible for the preparation and follow-up of the European Council, in liaison with the POTEC (Art. 16.6, TEU). On paper, this body's role in preparing the work of an ascendant European Council and in coordinating over a dozen policy areas makes it a central actor in EU policy-making (see diagramme in the Annex). Yet in practice, its importance and effectiveness have withered.

The post-Lisbon rotating presidency

One major critique of the new EU governance architecture relates to the break in command between the European Council and the rotating presidency since the position of President of the European Council (POTEC) was created. Previously the head of state or government of the member state holding the rotating presidency could effectively coordinate cross-policy matters by directly managing his or her ministers as they chaired other Council formations. In this arrangement, the minister chairing GAERC played a key deputising and horizontal role for their head of state or government in the European Council. The new permanent POTEC cannot exert the same prime ministerial authority over the chairs of other Council formations, as these actors are still drawn from the six-month rotating presidency (with the exception of the FAC). Moreover the national Foreign Ministers, who traditionally covered general EU affairs within GAERC, attended the European Council meetings in the previous system, allowing for greater continuity of work. Since early 2010, however, they no longer assist their head of state or government in those meetings and they rarely attend the GAC, as we show below. These developments present a challenge in trying to bring about a coordinated management across diffuse policy areas, which is where the GAC would ideally weigh in.

Relative ministerial prestige and egos matter when it comes to choosing an actor who can effectively coordinate his/her ministerial peers.

¹ The treaties as amended by Lisbon (Art. 15.6(b) TEU) provide that input into the European Council agendas comes from the POTEC, the President of the Commission and the rotating presidency (GAC).

Apart from the head of government, foreign ministers provided horizontal coordination in the old system. Yet those days when the GAERC chair would corral his ministerial peers across different Council formations are now gone, as the position of foreign minister has slipped down the ministerial pecking order.

To make matters worse, due to their primary focus on CFSP matters at the FAC, Foreign Ministers now often delegate participation in the GAC to their deputies, state secretaries for European affairs, or even their permanent representatives. It is questionable whether a body composed of these more junior actors can be effective at coordinating cross-cutting, horizontal policy initiatives.

Diminished participation

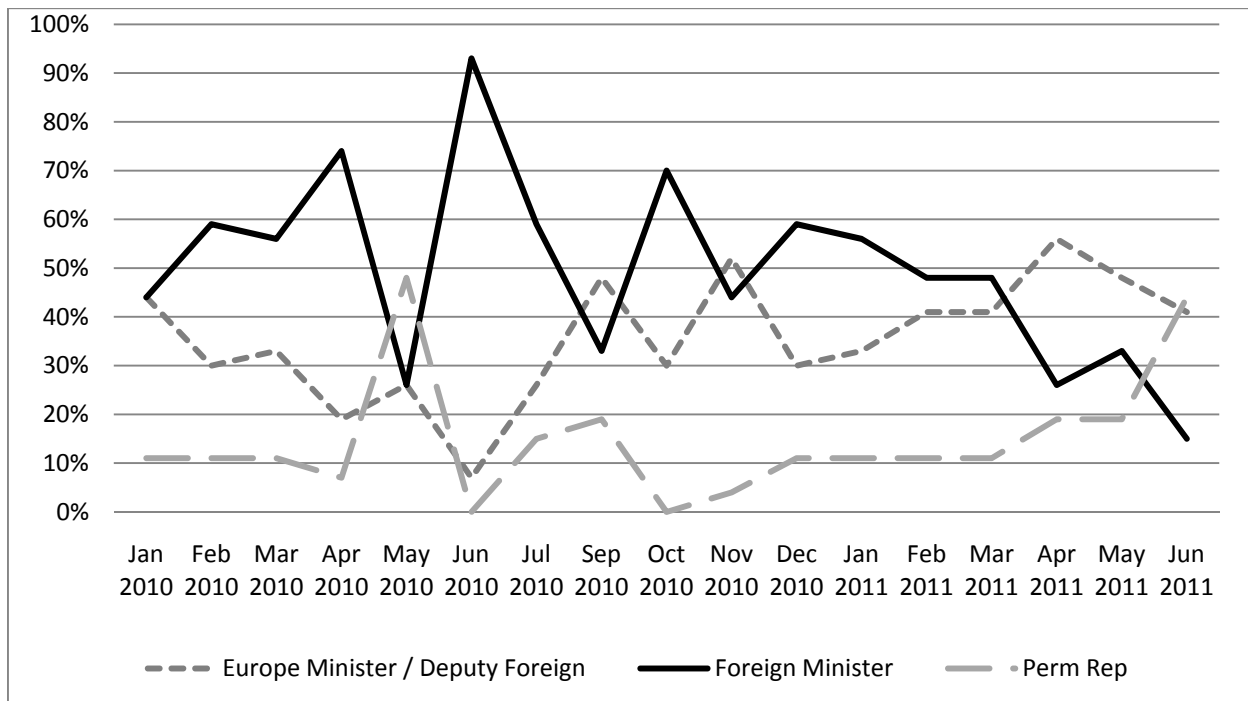
Our survey of attendance in the GAC over the period January 2010-June 2011, as depicted in Figure 1, reveals clear evidence of declining participation. For instance, only four member states sent a minister (either foreign minister, deputy foreign or state secretary) to every GAC

meeting. In the same period, 15% of all representatives held no ministerial rank at all. In one GAC meeting in May 2010, only one-half of the participants were ministers of any rank.

Further analysis of the participation in the GAC meetings shows that this Council formation is not evenly attended. Between January 2010 and June 2011, foreign ministers attended only 50% of the meetings, while the junior ministers were present at 35%. In 15% of the cases, representation was provided by the permanent representatives. Only four states were represented by a cabinet-level minister on more than 75% of the occasions; and only one country - Hungary - was represented by a foreign minister at all GAC meetings. In nine other cases, the GAC meetings were attended by a Europe minister (state secretary level) on more than 50% of the occasions.

Also, this fluctuating attendance significantly reduces the potential for continuity of the Council's work, as different persons follow the agenda from one meeting to the next. This leaves little room for increased levels of trust to develop among the various participants.

Figure 1. Participation in the GAC meetings by the highest rank position, January 2010-June 2011



Therefore, it appears even more problematic for this body - with its heterogeneous and often low-ranking membership - to be responsible for coordinating policy initiatives falling across

several Council formations. Put simply: most of the other formations that the GAC would seek to coordinate are made up of more senior ministers.

As to whether the GAC can fulfil its second responsibility, namely preparing the work of the European Council, there are certainly areas where the POTEK would benefit from effective support from the GAC. But the GAC risks not being taken seriously in this effort if it does not reform its membership and streamline its work.

How to reform the GAC?

Without upgrading the GAC, coordination efforts will shift more decisively to other forums, such as COREPER (the Committee of Permanent Representatives), or direct coordination will be performed by the POTEK. In principle, these two actors may effectively fill the coordination vacuum, but this development raises concerns of democratic legitimacy and accountability, and would not appear to be in line with the spirit or letter of the treaties. Additionally, it would also further limit the political importance of the rotating presidencies and put enormous pressure on the very small POTEK team. In short, both the President of the European Council and the rotating presidency need a strengthened GAC.

The alternative is for policy-makers to reform the GAC by channelling its attention towards the important political questions of the day and by strengthening the composition of the body to employ its competences as envisaged by the treaty. Reforming the GAC would help to repair the missing link between the POTEK staff and the European Council and between the Council General Secretariat and the various Council formations of the rotating presidency.

The GAC's first opportunity comes with the imminent negotiation of the next MAFF while other important topics are being addressed elsewhere (e.g. enlargement to Western Balkans, asylum, staff regulation or the reform of the Court of Justice).² MAFF presents the Council formation with an opportunity to demonstrate its

² There are 19 working parties and groups under GAC, ranging from the High-Level Working Group on Asylum and Migration and Horizontal Working Party on Drugs to entities dealing with such highly diverse issues as outermost regions, atomic questions, statistics, Cooperation and Verification Mechanism (CVM) for Bulgaria and Romania, enlargement and the situation in Cyprus (see List of Council preparatory bodies, 56881/1/11 Rev 1, Council of the European Union, 1 February 2011, Brussels).

relevance by initiating substantial talks on all MAFF-related issues (i.e. the EU's own resources) before it proceeds to discussion at the European Council. The GAC can be effective when it acts as a sounding-board for member-state positions, identifying roadmaps (and roadblocks). The MAFF negotiations will allow the GAC to put these strengths into action and reduce the burden on the European Council.

Secondly, a key factor constraining the GAC's effectiveness as a coordinating actor is its varying and low-level composition. In most member states, the only minister with sufficient horizontal authority to coordinate his/her ministerial colleagues in other Council formations is the head of state or government.³ Rotating presidencies should have the opportunity for their prime minister or president to assume the chair of the GAC. In addition to facilitating better coordination of cross-sectoral initiatives, and assisting the POTEK, this innovation would raise the authority of the body and also provide a task for the rotating presidency's PM, who is currently left with little to do aside from addressing the European Parliament.

In cases where the GAC would be presided over by a head of state or government of the country holding the rotating presidency, other member states should send a sitting minister with a mandate from his head of state or government to address the relevant horizontal issue. Indeed, some countries may wish to send their deputy prime minister, or even their prime minister. The incentive for all member states to upgrade their participation would undoubtedly lead to a more powerful GAC, with a high-profile chair and better equipped to fulfil the tasks envisaged for it by the treaties.

Challenges

This is not to say that such an approach would not present problems. Some might argue that in coalition governments, senior coalition partners would have difficulty with the junior partner coordinating horizontal policy areas (for instance, if the UK's Deputy PM from the Liberal Democrats was to chair the GAC). However, that

³ Excepting semi-presidential systems such as France, Romania, Finland and Lithuania, where both the heads of state and government would have sufficient authority.

concern applies equally to the European Council for the junior party – presumably unrepresented at head of state or government level. The issue of engendering trust within a government in their representatives on different Councils is one that can and should be addressed between governing parties on a national level.

An important element in the system would be that the head of national government as a GAC chair would act *de facto* as Vice President of the European Council. There are two reasons for this perspective. First, he or she would be *the only* person who would simultaneously sit on both Councils (that is, unless other European Council members decided to take part in GAC meetings), giving this political figure a comparative advantage with issues addressed at the highest EU political level. Second, he or she would have major input into what is (and is *not*) on the European Council agendas. In total, this would also foster cooperation between the European Council and the sectoral Council formations, since the GAC is envisaged by the treaties to act as a supporting body to the European Council and a facilitator for cross-Council policy initiatives. It should be understood that by chairing the GAC, the PM of the rotating presidency is rendering a service to the institutions – albeit one wielding considerable influence.

Another challenge is to ensure for the PM of the rotating presidency that the representation around the table is adequate. In other words, for the PM to chair the GAC, the rotating presidency needs to ensure that the interlocutors from other member states are at a commensurate level. There is always a risk that a PM would in fact chair a unimportant working meeting of junior Europe ministers or national sherpas on EU affairs (or, the opposite challenge would be if GAC would *de facto* become an alternative setting to the European Council, but with legislative powers and under the leadership of the rotating presidency). This would clearly be unsustainable. However, all member states should see the upgrade of the GAC as an opportunity for their own PM to potentially play an important role during their rotating presidency. This in itself should motivate general high-level participation in the body.

Conclusions: The GAC and the European Council

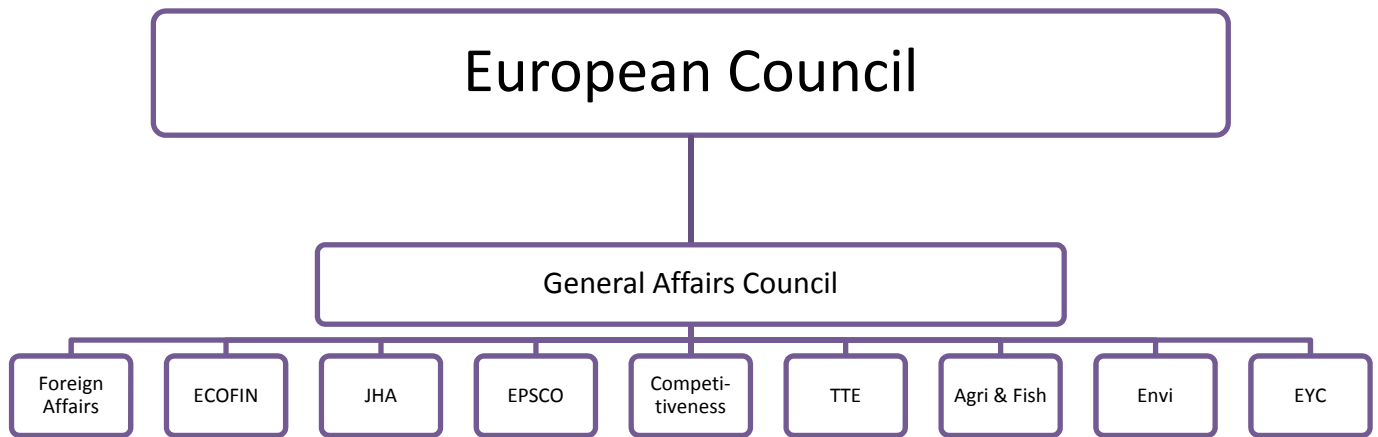
A GAC led by a more effective chair who can steer his colleagues in their capacity as chairs of other Council formations would lead to more positive and productive working relations with the POTEK. Greater burden-sharing with the new chair of the GAC would also lessen the burden on POTEK's modest-sized staff. Having the GAC chair present in the European Council would further strengthen the links with the sectoral Council formations. (Alternatively, there might be a half-way solution of a new rule if the GAC chair is not the prime minister under which the GAC chair would attend the European Council meetings and accompany the POTEK and the head of the rotating presidency.) A more productive partnership between POTEK and an empowered GAC chair would be in everyone's interest and would more accurately reflect the spirit of the treaties.

Such an arrangement would also provide an important role for the prime minister of the rotating presidency, who at present plays virtually no role in that capacity. By channelling that actor's energy into the task of bringing together the separate strands of POTEK, the rotating presidency and the European Council, the broken chain of command could be restored in a new form.

The Lisbon Treaty was not the silver bullet that some observers had hoped would bring greater coordination and unity of purpose among EU actors. While there have been many improvements, gaps remain, notably between POTEK and the various formations of the Council. Upgrading the GAC in the two ways suggested by this paper should improve the situation by repairing the broken chain of command and demonstrating the GAC's potential effectiveness in coordinating horizontal policy issues.

Annex

GAC in relation to other Council formations and the European Council





ABOUT CEPS

Founded in Brussels in 1983, the Centre for European Policy Studies (CEPS) is widely recognised as the most experienced and authoritative think tank operating in the European Union today. CEPS acts as a leading forum for debate on EU affairs, distinguished by its strong in-house research capacity, complemented by an extensive network of partner institutes throughout the world.

Goals

- Carry out state-of-the-art policy research leading to innovative solutions to the challenges facing Europe today,
- Maintain the highest standards of academic excellence and unqualified independence
- Act as a forum for discussion among all stakeholders in the European policy process, and
- Provide a regular flow of authoritative publications offering policy analysis and recommendations,

Assets

- Multidisciplinary, multinational & multicultural research team of knowledgeable analysts,
- Participation in several research networks, comprising other highly reputable research institutes from throughout Europe, to complement and consolidate CEPS' research expertise and to extend its outreach,
- An extensive membership base of some 132 Corporate Members and 118 Institutional Members, which provide expertise and practical experience and act as a sounding board for the feasibility of CEPS policy proposals.

Programme Structure

In-house Research Programmes

Economic and Social Welfare Policies
Financial Institutions and Markets
Energy and Climate Change
EU Foreign, Security and Neighbourhood Policy
Justice and Home Affairs
Politics and Institutions
Regulatory Affairs
Agricultural and Rural Policy

Independent Research Institutes managed by CEPS

European Capital Markets Institute (ECMI)
European Credit Research Institute (ECRI)

Research Networks organised by CEPS

European Climate Platform (ECP)
European Network for Better Regulation (ENBR)
European Network of Economic Policy
Research Institutes (ENEPRI)
European Policy Institutes Network (EPIN)