

**Leading the Union: An
Argument in favour of
a dual EU Presidency**

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Leading the Union An Argument in favour of a dual EU presidency

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Introduction

Although the Convention has been working on a European Constitution for over a year the most crucial aspect of this convention, the EU's institutional design, has not yet been tackled. This issue is likely to divide the Convention more than any other. The Praesidium will have its work cut out to find an acceptable compromise. *Conventionals* have already submitted a number of proposals concerning the issue of institutional design and these are mostly centred around the question of presidency, i.e. how (and if) to reform the rotating presidency of the European Council and the position of the Commission President. A further linked issue is the question of merging the position of the High Representative for CFSP with that of the Commissioner for External Affairs. Moreover, a permanent presidency of the European Council inevitably raises the question of the re-organisation of the Council of Ministers since a permanent president of the European Council cannot possibly chair all Council of Ministers meetings.

This paper will examine two important contributions regarding these institutional issues:

- The Franco-German proposal for two Presidents;¹ and
- The proposal from UK MEP Andrew Duff and Italian Senator Lamberto Dini (both members of the European Liberal Democratic and Reform Group (ELDR)) for a single double-hatted President²

Both proposals are predicated on certain fundamental reforms to the Council of Ministers. The starting point of this analysis are these two proposals because they represent relatively moderate views on the future of the European Union of a) the 'larger' member states and b) the European institutions (notably the European Parliament³).⁴

The paper focuses on the three issues these two contributions deal with:

- the Presidency,
- the new Foreign Minister and
- the Council of Ministers.

The principles against which the contributions will be analysed concern the imperative need for institutional reforms which will make the European Union more transparent, accountable and understandable to the citizens whilst taking into account political feasibility.

The two proposals

The Duff/Dini and the Franco-German proposals represent two different poles within the current debate on the future of Europe. Andrew Duff is known for his strong pro-integration views based on a federal vision for Europe, whereas the French government is famous for generally supporting European integration albeit with an intergovernmental approach to it. So what are the main

differences between these two proposals, both dealing with the future institutional structure of the European Union?

Both proposals centre on the Union Presidency. However, different approaches to the debate on the future of the EU taken by the two governments and the two parliamentarians are clearly evident. Paris and Berlin suggest a dual-presidency, which means a permanent President of the European Council, separate from the position of the Commission President. The two governments in their proposal make clear that they would like to see the different executive branches of the European Union, which are part of different institutions (the Council and the Commission), being chaired by different yet long-term presidents. This scenario, according to the Franco-German proposal, would preserve the Union's institutional balance and ensure that the Council and Commission remain inherently separate institutions, each with a different function within the EU's institutional structure, and hence a different head figure pursuing their respective interests. The new Council President would chair the meetings of the European Council and the General Affairs Council, and would also represent the Union on the international stage. S/he would be elected by a qualified majority in the European Council. To counter the new permanent chair of the European Council, Paris and Berlin propose a reinforced Commission President elected by a qualified majority in the European Parliament (following an EP election) and confirmed by a qualified majority in the European Council. It is worth noting that this proposal is very much a fusion of two separate German and French proposals. Germany previously supported the idea of a combined Commission/European Council President and a double-hatted EU Foreign Minister; whereas the French supported a separate long-term European Council President and a continued separation of the High Representative and the External Affairs Commissioner.

Duff and Dini propose a combined (or 'double-hatted') Commission/Council President, which they refer to as 'Union President'. This implies that the President of the Commission would also chair the European Council. The two *Conventionals* claim that the combination of the two offices would enhance EU efficiency and make the Union more transparent. They argue that the double-hatted Presidency would be an important step forward on the road to increase the EU's transparency and effectiveness. The co-ordination between the Council and the Commission would greatly improve, leading to a Union that will use its political powers and resources much more efficiently than it has done so far. According to Duff and Dini, s/he would be elected by a qualified majority in the Council and approved by the European Parliament because an election by the European Parliament would make him/her potentially dependent upon party politics in the EP.

With regard to the issue of the EU's foreign representation, the Franco-German Proposal is in favour of a new Foreign Secretary who would combine the jobs currently held by Chris Patten (Commissioner for External Affairs) and Javier Solana (High Representative for Foreign Affairs); this is often referred to as 'double-hatted' Foreign Minister. This new foreign Minister would be elected by a qualified majority in the Council and, according to the Franco-German proposal, he or she would be part of the Commission (with 'special status', meaning no voting rights) and chair the Foreign Affairs Council of Ministers (now

separated from the General Affairs Council). Yet, the two governments have made clear that they would want the new permanent Council President to also represent the Union on the international stage which seems to be likely to lead to conflicts or confusing messages for the outside world. The two Liberals agree with the French and Germans on this issue as they also propose a 'double-hatted' Foreign minister. Duff and Dini suggest that the new Foreign Minister should represent the Union abroad but s/he would not be challenged in this job by their version of the 'Union President'. Both proposals argue that the 'double-hatting' would make the Union's foreign policy activities more effective, transparent and understandable as it would become much more obvious to the European public as well as to third country officials who is in charge of European external affairs. The confusion of competences and the potential rivalry between the offices of Solana and Patten would be laid to rest.

As far as the Council of Ministers is concerned, the French and German governments propose to divide it into two parts, an executive and a legislative Council. The former would consist of the General Council, the Council for Foreign and Security Policy, the Economic and Finance Council and the Council for Justice and Home Affairs. The General Council would also be chaired by the Council President and the Council for Foreign and Security Affairs would be chaired by the new Foreign Minister. As far as the presidency of the legislative part is concerned, the Franco-German proposal remains ambiguous referring to the necessity of 'equal participation of the member states based on a system of rotation'.

The Duff/Dini proposal also suggests that the Council of Ministers should be divided into an executive and a legislative Council. The executive Council would be chaired by the Union President (General Council), the Foreign Minister (Foreign Affairs Council) and the Vice-Presidents of the Commission, responsible for the respective portfolios, under Duff/Dini, would chair the other two executive Councils (EcoSoc, JHA). The two liberals point out that the role of the President of the legislative Council would be similar to that of the President of the European Parliament namely, to apply the rules of procedure, to be the spokesman of the house in relation to the other institutions, to represent the house in legal, financial and administrative matters, and to carry out protocol duties. Following from this argument, Duff and Dini propose that the Presidency of the legislative Council (which they refer to as 'Law Council') should continue to rotate according to the existing six-month procedure.

The Presidency

The Union's executive powers have grown over the years and are now distributed across the Commission, the European Council, the General Affairs Council and the High Representative' for CFSP. The fact that the EU has become a political system in which the executive powers are not concentrated within one institution (i.e. the lack of an EU government) means that it is neither apparent who carries out what function or who holds which competences nor whom these different executives are accountable to. Considering the need for streamlining the Union and making it more democratic, transparent and efficient, it seems only logical to favour a double-hatted President. S/he would chair the European Council and

the Commission and would be able to structure better the Union by making it more effective and transparent. Yet, there are two problems with this proposal for a double-hatted EU Presidency. The first is that it would mean that the Council and the Commission are no longer independent of each other. The second problem is that having the Council chaired by the President of the Commission is politically unfeasible as a majority of the member states (including heavyweights such as the UK, France and Spain) will not sign up to such a scenario. Instead of presenting hypothetical 'best-case scenarios' this paper argues in favour of a solution which serves the interests of an effective, transparent and democratic European Union and could at the same time realistically achieve the consent of the member states.

In order to guarantee the EU's inter-institutional balance when proposing changes to the current system of governance, one should remember that the current decision-making system of the EU is constructed on the basis of four separate institutions, the Parliament, Commission, the European Council and the Council of Ministers. Each of these fulfils a different role. The Commission represents the Union's interests and acts as independent executive enforcing and monitoring the implementation of EU legislation at the member states level and it initiates legislation at the EU level, the European Parliament represents the interests of the European citizens, the European Council represents the views of the Heads of State/Government and the Council of Ministers represents the interests of the member states' governments. It is important to note that in the original institutional system, the power of legislative decision was largely given to the Council of Ministers alone, but that it is now substantially shared with the European Parliament. All four have the potential to increase efficiency, accountability and democratic legitimacy but it is important to maintain their overall inter-institutional balance and not to upset this institutional quadrilateral by giving one institution considerably more (or less) powers than any of the others. Reflecting on this line of argument, one comes to the conclusion that making the institutions more democratic, transparent and efficient cannot mean merging them together. They all serve a different purpose and thereby guarantee the functioning of the EU on the basis that the interests of the European citizens, the member states' governments and the Union itself are equally represented at Union level. The aim of any reforms should be to reinforce the individual effectiveness of the four so that their respective tasks and competences are strengthened and more clearly defined. Their independence should be reinforced and their inter-institutional co-operation encouraged.

Arguably, the governance of the Union would become much simpler and therefore understandable to the citizens if there were only one President presiding over all of the EU's executive functions. However, this would merge effectively the European Council with the Commission and it would mean that the Commission would become much more of a government, with its president chairing the European Council and hence being able to influence considerably the decision-making process of the Heads of State/Government at the EU level. The Union is built on a quadrilateral of institutions because it has to serve and guarantee different interests, hence, there is a strong argument in favour of a dual presidency, i.e. a Commission President as well as a permanent President of the European Council. To avoid a rivalry between the two offices, potential areas of conflict, such as the right of legislative initiative and the

formulation of long-term policy projects and visions upon with the Union, should be dealt with in the constitutional treaty. It is not feasible to establish two heads presiding over two separate institutions each with executive powers and then leave it to the two individuals to argue about who has the final say in a case of disagreement. This would lead to a political deadlock between the two presidents if their powers and competences were not clearly defined.

The European Council formulates its view on long-term EU policy projects which might clash with the legislative priorities of the Commission. It seems natural that in case of incompatible legislative visions/proposals from the two Presidents, the powers of the Commission and its President should not be interfered with. The Commission represents the interests of the EU, whereas the European Council represents the interests of the national governments. In such a case the two presidents would be forced to discuss the issue but the President of the Council would not be allowed to force legislative initiatives from the Commission. The latter's independence should not be challenged by a strengthened, permanent president of the European Council. Maintaining the independence of the Commission and enforcing its President's authority vis-à-vis a permanent European Council President would not rank one over the other, but would reassure that neither is inhibited from fulfilling his/her role within the European institutional quadrilateral. Much of the Union's success rests on the art of compromise. For example, qualified majority voting has not led to a situation in which 'minority views' are constantly ignored and outvoted. Issues that fall into policy areas that fall under qualified majority voting, are still decided as far as possible by consensus and it is only rare for member states to find themselves formally outvoted.⁵ The same principle should apply to the relationship between the two Presidents. It should be built on co-operation and every possible effort should be made to achieve an agreement between the priorities of the Commission and the Council in terms of long-term visions for the EU and consequential legislative initiatives. It would be in the interest of the Union as well as the member states' governments that legislative initiatives receive the approval of both presidents. In fact even under the current system the Commission generally takes into consideration the opinions and views of the Council when it is proposing legislation.⁶ To avoid deadlock it seem appropriate to suggest that the Council President should take part, as an observer, at Commission meetings and vice versa. It is important that the two institutions keep their independence yet reinforce their inter-institutional co-operation through mutual participation during meetings. This would allow the Union to increase its transparency and the political effectiveness of Commission and Council would equally benefit.

A further issue closely linked to the debate of the Union Presidency is the question of how to elect the Commission President.⁷ One argument often used against the election of the Commission President by the European Parliament, is that it would establish a *de facto* parliamentary system of governance. This, the argument runs, would make the President dependent on the European Parliament and imperil the Commission's role as an independent initiator of legislation and of the executive branch of the EU governance system.⁸ This argument suggests that if the Commission President's powers derive directly from the European Parliament the activities of the Commission would be influenced by the party politics predominant in Parliament.

Supporters of this argument would like to maintain the status quo, i.e. electing the Commission President by a qualified majority in the Council.

Under the current provisions the European Council elects the Commission President (so far by unanimity but under the new Nice guidelines, by QMV). Even so, this has not led to an interdependence between the Council and the Commission President. Consequently, it is unlikely that his/her election by the European Parliament would trigger this effect. Furthermore, the Parliament already holds the power to impeach the Commission. This, however, has not led to the Commission becoming politically dependent on the European Parliament. Establishing a closer political link between the Commission and the Parliament does not have the same inter-institutional implications than establishing such a link between the Commission and the European Council. The former two are 'Community' institutions in the sense that within the system of European governance they represent the interests of the European Union (Commission) and of the European citizens (European Parliament). They pursue their own 'European' agenda as their 'constituency' is the whole of the EU; they represent Community-wide interests. Linking them together through the election of the Commission President by the EP would strengthen both institutions because the powers of the EP (and the stakes during its election) would be raised and the legitimacy of the Commission President (and therefore his/her political weight) would be increased. The Council represents the interests of the member states and electing the Commission President is not increasing his/her legitimacy as the democratic link to the electorate is too remote. Besides, having the Commission President elected by the European Parliament would have the beneficial effect of ensuring that the European Parliament elections would become politically more important so that both turnout and the incidence of European-orientated election campaigning might increase. This would not necessarily put European elections on an equal footing with national elections but it would be an important boost to the EP elections. With the position of the Commission President being indirectly dependent on the outcome of EP elections, voting would become much more appealing to the European public because for the first time there would be a European-wide issue directly linked to the EP elections; so far European elections are fought on national policy issues rather than on European ones. A higher level of interest in EU elections and, linked to that, a higher turnout would increase the legitimacy not only of the European Parliament but of the Union as a whole. The European Union is in need of a more active and aware public. Giving voters more responsibility by linking the European Parliament elections to the Commission President nomination would do exactly that.

Taking into consideration that the inter-institutional balanced should be maintained, the argument of this paper is that the Commission President should be elected by the European Parliament,⁹ and the President of the European Council should be elected by a qualified majority of the European Council itself.

The Foreign Minister

The Franco-German and the Duff/Dini proposals both come to the same conclusion on this question, supporting the idea of a double-hatted Foreign Minister; this is remarkable due to their otherwise different views on the structure for the future European Union. The fact that the EU effectively has two people dealing with foreign affairs and the lack of a clear distinction between their respective competences has meant that merging their positions has been on the political agenda for some time. Yet many governments have resisted this idea, due to the fear of losing national influence over European foreign affairs issues by effectively doubling the political weight of the High Representative for Common and Foreign Security Policy (CFSP). As mentioned above, the French government represents traditionally a pro-integrationist yet intergovernmental position, i.e. it is keen to strike a balance between strengthening the European Union itself and ensuring that the interests of the member states are preserved and respected. Even so, France has been persuaded by the German government to agree on a double-hatted foreign minister. The Germans were long keen to see a further 'communitisation' of European foreign and security policy which would mean combining Solana's and Patten's positions. Contrarily, the French have argued in the past in favour of a strengthening of the High Representative for CFSP but they have opposed the idea of merging his/her position with the one of the Commissioner for Foreign Relations. The French wanted to avoid an accumulation of powers in this policy area in order to guarantee that (French) national interests would not be overlooked.

The aim of making the Union more effective, transparent and comprehensible features in the Laeken Declaration and it is an important target which the Convention and the future Constitution aim to fulfil. Merging the two positions of the High Representative for CFSP and of the Commissioner for Foreign Relations would mean that the powers and competences of the new Foreign Minister need to be laid out clearly in the future constitutional treaty. S/he needs to be given a certain amount of authority crucial for the effective conduct of foreign policy. Therefore, it is important the Foreign Minister should chair the Council of Ministers concerned with Foreign Affairs, Security and Defence issues. Although it can be expected that most of the decisions will be taken by unanimity, it is important for the efficiency and transparency of the system that relevant Council sessions are chaired by the person who holds the responsibility for European foreign affairs. Chairing the Council would make his/her position politically more important (crucial in the area of foreign affairs) and it would also increase transparency in the intergovernmental area of foreign policy. It must be noted that the Foreign Minister should only chair the sessions and not have an actual vote; decisions would still be made by the member states – depending on the issue by unanimity or qualified majority. Besides, the Foreign Secretary should have the right of initiative in matters of foreign policy that fall under EU competences. Intergovernmental matters will still be initiated by the Council but the Foreign Minister, as chair of the Council of Ministers for Foreign Affairs, should be able to voice his/her opinion on these issues. It would be counterproductive to create this new position and not hand the new Foreign Minister the authority and powers s/he needs to carry out effectively his/her job. To assure that the Foreign Minister is kept fully informed s/he should be part of the

Commission (although without the power of voting) and of the Council (equally without voting rights). The Foreign Minister might be able to mediate successfully between different views among the Council members and between the Council and other EU institutions. This might become a very useful position in terms of political effectiveness as the Union is in need of an inter-institutional and inter-member state mediator and communicator in order to increase its effectiveness on the international stage. The Iraq crisis has proven how far apart the opinions and priorities of the member states can spread in the area of foreign policy. It should not be suggested that a foreign minister chairing the Council for foreign affairs could have prevented the current diplomatic difficulties but s/he could perhaps have prevented the rift from becoming as deep as it currently is.

A further issue often is raised in the context is the question of representation. The Franco-German proposal postulates that the President of the European Council should join the new Foreign Minister in representing the Union abroad. This would not be a satisfactory solution considering that the aims of the current reform process are to make the European Union more effective and transparent. In this light, the EU external representation should be assigned to one figure only, the newly created Foreign Minister. The European Council represents the interests of the member states at the European level. These have their own foreign ministers to represent them on the international stage. The EU's external relations and foreign policy should be represented by a figure representing the Union's interests. Additionally, being represented by only one figure and hence speaking with only one voice would clearly increase the EU's political weight and credibility in international affairs and increase the credentials and effectiveness of the newly created European Foreign Minister.

The Council of Ministers

The European Council and the Council of Ministers perform different tasks yet they are often confused as they fall both under the broad umbrella term 'Council'. The European Council performs an executive role whereas the Council of Ministers fulfils both executive as well as legislative tasks. To achieve the aim of the current reform process, making the European Union more transparent and understandable, re-organising the Council of Ministers seems a necessary step. In this light, both, the Franco-German and the Duff/Dini proposal suggest the separation of the Council of Ministers into two parts, an executive and a legislative Council.

Under the current system the member state holding the presidency presides over all Councils, executive and legislative for six months. The Council presidency is empowered through agenda setting (adding issues onto the agenda), agenda structuring (giving certain issues a bigger or smaller emphasis during Council meetings) and agenda exclusion (take issues off the agenda altogether).¹⁰ Yet, this kind of leadership is not very efficient as it means that the Council's leadership structure and style changes every six months. Following through long-term political visions as well as legislative and executive strategies becomes comparatively difficult. In consequence, it seems imperative that the Council should be clearly divided into an executive and a legislative part and the executive part should

be chaired in a more efficient manner. The accumulation of the 'agenda-shaping' powers¹¹ make it obvious why a long-term president should only chair the executive part of the Council and both the Franco-German and the Duff/Dini proposal support this view. As regards the legislative part of the Council, the Duff/Dini proposal seems to point into the right direction. The legislative Council should be kept under the rotating system. In this regard it might be most appropriate that different countries hold the presidency over different parts of the legislative Council at the same time so that there is less accumulation of power for individual member states and also there is a smaller interval between presidencies of the individual member states – especially important in an enlarged EU.

Conclusion

This paper has looked at the Franco-German and the Duff/Dini proposals using them as an intellectual basis to determine which kind of institutional structure would best serve the European Union. There can be no doubt that the EU needs a clear and transparent political structure that caters for its specific role and its unique institutional structure. Both the Franco-German proposal and the Duff/Dini initiative suggest the introduction of a new Foreign Minister combining the positions of the Foreign Relation Commission and the High Representative for CFSP. This combination is to be welcomed and the new Foreign Minister should be given the powers and competences necessary for him/her to effectively carry out his/her duties. The crucial point is the question of the EU presidency. This paper has argued in favour of the Franco-German proposal of a double Presidency. A natural corollary of this is that the Commission President should have the final word in case of a fundamental disagreement between the two offices. The interests of the member states need to be adequately represented at the EU level and the current rotating system is not up to the job. Having the Commission President presiding over Council meetings would not serve the Union well. The Commission (and its President) represents the interests of the Union as an institution. It is different from the Council, which represents the interests of the member states within that institution. The Commission President should be elected by the European Parliament, following European elections. That would increase the popular interest in the elections and the position of the Commission President would be considerably strengthened.

Linking the institution that represents the member states with the Community orientated Commission does not seem to be the way to construct a democratic and well-balanced institutional order at the European level. That is true for the way the Commission president is elected and also for the question whether to join the Commission President's and Council President's office.

With the backing of France and Germany it is difficult to see how this 'double-hatting' of Solana and Patten could now be prevented even by countries (such as the UK) fearing it might result in an over-centralisation of powers compromising vital national interests in this delicate policy area. Both the Franco-German and the Duff/Dini proposals agree with this view and it is to be hoped that the Convention and the forthcoming Intergovernmental Conference (IGC) will subscribe to it as well.

NOTES

1 CONV 489/03.

2 Duff A., Dini, L. *A Proposal for a Unified Presidency*. CONV 524/03.

3 Although Lamberto Dini is member of the Italian upper chamber, the Senate, he is the Vice-President of the ELDR and hence represents much more a 'European-focused' view than an Italian one; not least because his political party, *Rinnovamento Italiano*, is not part of the current Berlusconi government.

4 This paper refrains from other – more 'radical' – proposals because it is interesting to see how far apart or how close moderate proposals from different institutions/member states are within the current 'consensus-orientated' debate on the future of the EU.

5 see, e.g., Golub, J. (1999). In the shadow of the vote. Decision-making in the European Community. in *International Organisation*: 733-764, Vol 53 No 4.

6 Tallberg J. (2003). The agenda-shaping powers of the EU Council Presidency', in *Journal of European Public Policy*, Vol 10 No 1.

7 The election of the Council President would inevitably be carried out by a qualified majority in the European Council – as proposed by the French and German government – and will therefore not be discussed in further detail.

8 Interview Lars Hoffmann with parliamentary assistant to Andrew Duff, February 2003.

9 See Hoffmann, L. (2002) Linking National Politics to Europe - An opposing argument. [fedtrust.co.uk/Media/Linking_National_Politics.pdf](http://www.fedtrust.co.uk/Media/Linking_National_Politics.pdf)
http://www.fedtrust.co.uk/Media/Linking_National_Politics.pdf.

10 See Tallberg J (2003).

11 See Tallberg J (2003).