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The System of European Political Cooperation: A Brief Explanation

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Although the European Economic Communities more frequently are taking what appear to be institutional positions on foreign policy and political issues of grave concern to the world community,[1] it is not inappropriate for them to do so. The long-term goals of the Communities in part are political,[2] as expressed in the Treaty of Rome.[3] In the preamble to the Treaty the signatories state that they are "[d]etermined to lay the foundations of an even closer union among the European peoples."[4] Article 2 provides, in part, that one of the tasks of the Common Market is to promote "closer relations between the states belonging to it."[5] One of the mechanisms by which these positions are formalized and articulated is through a shadow organization—an extra-Communities structure—referred to as European Political Cooperation (EPC).

The importance of EPC in fostering the goals of the Communities is clearly stated in the foreign ministers' first report to the European Council on European Union. EPC is said to "[lead] step by step to the seeking of a common external policy, which will form a

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[1] For a small sample of the numerous positions taken in recent years, see 12 BULL. OF THE EUR. COMM. (No. 11) 81 (1979) (a demand for the release of the American hostages in Iran, and a rejection of the violation of international law resulting from their seizure); 12 BULL. OF THE EUR. COMM. (No. 6) 93 (1979) (concern over developments in Nicaragua); *see also* 17 BULL. OF THE EUR. COMM. (No. 3) 80 (1984) (statements regarding the return of democracy to Argentina); 17 BULL. OF THE EUR. COMM. (No. 3) 79 (1984); 15 BULL. OF THE EUR. COMM. (No. 4) 7 (1982) (statements regarding the situation in the Falkland Islands); 14 BULL. OF THE EUR. COMM. (No. 12) 69 (1981) (concern over the situation in Poland); 14 BULL. OF THE EUR. COMM. (No. 4) 47 (1981) (concern for the refugee situation in Africa); 13 BULL. OF THE EUR. COMM. (No. 3) 70 (1980) (condemnation of Vietnamese intervention in Kampuchea); 13 BULL. OF THE EUR. COMM. (No. 4) 79 (1980); 13 BULL. OF THE EUR. COMM. (No. 9) 57 (1980) (frequent statements regarding various issues in the Middle East).

[2] *See* D. LASOK & J. BRIDGE, AN INTRODUCTION TO THE LAW AND INSTITUTIONS OF THE EUROPEAN COMMUNITIES 129-32 (2d ed. 1976).

[3] Treaty Establishing the European Economic Community, Rome, Mar. 25, 1957, 298 U.N.T.S. 14.

[4] *Id.* at preamble.

[5] *Id.*

constituent part of European Union."[6] Despite EPC's significant role in furthering Community goals, however, relatively little has been written about it.[7] This article briefly traces the history of EPC, examines its structure, and proposes some reforms.

The concept of EPC[8] is an outgrowth of the renewed spirit of cooperation among the Community members, which was aroused by the initial enlargement of the Communities.[9] In the Communique issued at the conclusion of the December 1969 Hague Conference of the Heads of State and Government of the Member States of the European Communities, the participants unanimously stated that "by reason of the progress made, the Community [had] now arrived at a turning point in its history," finding that "never before [had] independent states pushed their cooperation further."[10] They instructed their foreign ministers "to study the best way of achieving progress in the matter of political unification within the context of [an enlarged community]."[11]

Approximately ten months later, in October 1970, the foreign ministers concluded their review and issued the Luxembourg Report.[12] Part One of the Luxembourg Report reaffirms the spirit of the Hague Communique, which is that the European Communities are "the original nucleus from which European unity has been devel-

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[6] *Report by the Ministers of Foreign Affairs to the European Council on European Union*, 10 BULL. OF THE EUR. COMM. (Supp. 8/77) 8 (1977).

[7] *See* A. PARRY & J. DINNAGE, EEC LAW 53-56 (2d ed. 1981); D. LASOK & J. BRIDGE, *supra* note 2, at 20-25 & 131-32; Von der Gablentz, *Luxembourg Revisited or the Importance of European Political Cooperation*, 16 COMMON MKT. L. REV. 685 (1979); H. Wallheim, Ten Years of European Political Cooperation (1981) (distributed by the Information Office of the Delegation of the Commission of the European Communities in the United States, Washington, D.C.).

[8] The various uses of the term "European Political Cooperation" capture some of the vagueness and confusion surrounding the concept. European Political Cooperation is used as a description of the objective to be achieved and also as a designation of the amorphous procedures through which the objectives are accomplished.

[9] Von der Gablentz, *supra* note 7, at 685. During this first enlargement, Denmark, Ireland, Norway, and the United Kingdom became members of the Communities. Norway subsequently withdrew.

[10] Communique of the Conference of the Heads of State and Government of the Member States of the European Community (The Hague, Dec. 2, 1969), art. 3, *reprinted in* THIRD GENERAL REPORT ON THE ACTIVITIES OF THE COMMUNITIES 486, 487 (1969) [hereinafter cited as Communique]. The Communique, along with numerous other documents regarding the EPC, is also contained in EUROPEAN POLITICAL COOPERATION (EPC) (3d ed. 1978), edited by the Press and Information Office of the Federal Government of the Federal Republic of Germany.

[11] Communique, *supra* note 10, at art. 15, *reprinted in* THIRD GENERAL REPORT ON THE ACTIVITIES OF THE COMMUNITIES at 489 (1969).

[12] *First Report of the Foreign Ministers to the Heads of State and Government of the Member States of the European Community* (Oct. 27, 1970), 3 BULL. OF THE EUR. COMM. (No. 11) 9 (1970) [hereinafter cited as Luxembourg Report]. This Report is sometimes referred to as the Davignon Report because it was prepared by a committee of officials from the foreign ministries of the member states presided over by M. Viscount Davignon, Director of Political Affairs in the Belgian Foreign Ministry.

oped and intensified."[13] Moreover, the development of the European Communities is said to require that the member states intensify their political cooperation and "provide means of harmonizing their views in the field of international politics."[14] In Part Two the foreign ministers articulated the objectives of this political cooperation:

> — to ensure, through regular exchanges of information and consultations, a better mutual understanding on the great international problems;
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> — to strengthen their solidarity by promoting the harmonization of their views, the coordination of their positions, and where it appears possible and desirable, common actions.[15]

Part Two also sets forth specific measures to accomplish these objectives, including periodic meetings of the foreign ministers and formation of a Political Committee, made up of the heads of the political departments of the foreign ministries, to assist the ministers and working groups of European correspondents.[16]

At the conclusion of the Paris Summit Meeting two years later in October 1972, the heads of state and government of the then enlarged European Communities issued a statement that set as a goal the achievement of a European Union by the end of the decade.[17] The foreign ministers were instructed to meet again with this goal in mind and to consider means of further improving the network of political cooperation established in the Luxembourg Report.[18]

The enlarged Community provided the opportunity to renew and expand the political cooperation measures established in the Luxembourg Report. Within a few months the foreign ministers met again and issued a report that set forth improvements in the workings of EPC. The Copenhagen Report, issued July 23, 1973, suggested that the number of ministerial meetings be increased to four a year.[19] It also elaborated on the function of the political committee and correspondents and proposed the appointment of a diplomat at each embassy to act as liaison on common political questions.[20] Perhaps the most significant undertaking embodied in the Copenhagen Report, however, is the agreement by the member states to consult their partners on all important foreign policy issues, and "as a gen-

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[13] *Id.* at 9.

[14] *Id.* at 10.

[15] *Id.* at 11.

[16] *Id.*

[17] *See* Statement of the Conference of the Heads of State and Government of the Member States of the European Community (Paris, Oct. 21, 1972), art. 16, *reprinted in* SIXTH GENERAL REPORT OF THE ACTIVITIES OF THE EUROPEAN COMMUNITIES 6, 16 (1972).

[18] *Id.* at art. 14, *reprinted in* SIXTH GENERAL REPORT OF THE ACTIVITIES OF THE EUROPEAN COMMUNITIES at 15 (1972).

[19] *Second Report of the Foreign Ministers to the Heads of State and Government of the Member States of the European Community*, 6 BULL. OF THE EUR. COMM. (No. 9) 12 (1973) [hereinafter cited as Copenhagen Report].

[20] *Id.* at 15-16.

eral rule not to take final positions [on these issues] without prior consultation."[21] This is only a committment to consult, however; it is not a committment to common policy.

The final and perhaps the most important event in the historical development of EPC was the Paris Summit meeting of heads of state and government of Community members in December 1974. In the Paris Communique, issued at the end of this meeting,[22] the participants agreed to create the European Council and to meet three times a year with their foreign ministers "in the Council of the Communities in the context of political cooperation."[23] The Paris Communique reflects a commitment to work toward European unity and significantly advances beyond the Copenhagen Report, because the participants have agreed to consult one another on foreign policy positions. The heads of state and government affirmed their "determination gradually to adopt common positions and [to] coordinate their diplomatic action in all areas of international affairs which affect the interests of the European Community."[24] The notion that the separate positions of the member states are perceived as institutional positions follows from the pivotal role assigned by the Paris Communique to the President of the Council of the European Communities, who is to serve as spokesman for all the member states.[25]

The periodic meetings of foreign ministers of the Community members called for by the Luxembourg and Copenhagen Reports are "institutionalized" in the European Council.[26] While this is the body through which EPC is to be conducted, there is uncertainty as to its specific role. This uncertainty stems in part from the conflicting positions of the member states. The French Government wanted political cooperation through EPC to remain totally separate from the European Communities' activities, but others, such as the Dutch Government, favored a merger of the political cooperation with Community activities.[27]

Views differ on whether the European Council is a decision-making body and the paramount political authority for both the Communities and EPC, or whether it is a means of initiating and stimulating action.[28] These competing views have resulted in paral-

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[21] *Id.* at 17-18.

[22] Communique issued after the meeting of the Heads of State and Government (Paris, Dec. 10, 1974), 7 BULL. OF THE EUR. COMM. (No. 12) 6 (1974) [hereinafter cited as Paris Communique].

[23] *Id.*

[24] *Id.* at 7.

[25] *Id.*

[26] *See* D. LASOK & J. BRIDGE, *supra* note 2, at 131.

[27] Lauwaars, *The European Council*, 14 COMMON MKT. L. REV. 25, 29-30 (1977). This position also has been taken in the reports of political cooperation prepared for the European Parliament. *See Tindemans Report on European Union*, 9 BULL. OF THE EUR. COMM. (Supp. 1/76) (1976).

[28] *See* Von der Gablentz, *supra* note 7, at 685-86; Lauwaars, *supra* note 27, at 30-31; *A*

lel systems to foster unification. One system consists of the Communities activities, while the other includes the intergovernmental workings of EPC and the European Council.[29]

The distinction between the two systems largely may be a matter of form, however, because the Paris Communique states that the workings of the European Council shall not affect the rules and procedures of the Communities.[30] This has not been understood to imply, however, that the Communities should not be involved in EPC and the European Council, because the mechanics of EPC contemplate significant involvement by the Communities' institutions. For example, the European Council consists of exactly the same member states as the Council of the European Communities and, to a large extent, the same individuals representing those states.[31] Moreover, reports regarding political cooperation and activities of the European Council are contained in official Community publications[32] and matters of political cooperation are discussed in the European Parliament.[33]

EPC and the European Council appear to be a series of periodic formal meetings of foreign ministers. It is through the preparation for these meetings and the efforts of the consultative committee of experts, however, that the workings of EPC have evolved. Functionally, EPC consists of an ongoing series of high level conferences, coupled with preparatory work by a liaison among the diplomatic staffs of the embassies of the Community members. The most visible meetings are those of the heads of state or government, accompanied by or represented by their foreign ministers as provided for in the Paris Communique.[34] These meetings constitute meetings of the

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Report on European Political Cooperation and the Role of the European Parliament 1981-1982 EUR. PARL. DOC. (No. 1-335) 35 [hereinafter cited as Elles Report].

[29] P. MATHIJSEN, A GUIDE TO EUROPEAN COMMUNITY LAW 51-52 (3d ed. 1980).

[30] Paris Communique, *supra* note 22, at 11. The name also is similar to that of the Council of Europe. It is unrelated to that entity. The Council of Europe, which also promotes political and social issues, is geographically more broadly based, consisting of 21 states. Its most notable achievement is the European Convention on the Protection of Human Rights, 1950 Europ. T.S. No. 5, and its protocols establishing the European Commission of Human Rights and the European Court of Human Rights. For a general discussion of the Council of Europe, see J. FITCHETT, THE EUROPE OF THE 21—UNITING FOR EUROPEAN DEMOCRACY (1981).

[31] *See infra* notes 50-51, 57-59 and accompanying text.

[32] Most monthly issues of the BULLETIN OF THE EUROPEAN COMMUNITIES contain information about current positions of the European Council, notices of the periodic meetings, and other relevant information usually under a standard heading "European Political Cooperation." *See, e.g.*, 15 BULL. OF THE EUR. COMM. (No. 10) at 52, (No. 11) at 59, (No. 12) at 81 (1982). Moreover, the Commission's Annual General Report on the Activities of the European Communities reports on these same matters, usually within a chapter entitled "Enlargement and External Relations." *See, e.g.*, FIFTEENTH GENERAL REPORT ON THE ACTIVITIES OF THE EUROPEAN COMMUNITIES 285-86 (1981) [hereinafter cited as Fifteenth General Report].

[33] *See generally infra* notes 73-86 and accompanying text.

[34] Paris Communique, *supra* note 22, at 7.

European Council and are in addition to the quarterly meetings called for in the Luxembourg and Copenhagen Reports for discussion of foreign policy matters by the foreign ministers or their designees.

The Luxembourg Report called for ministerial meetings once during each six-month term of the President of the Council of the European Communities.[35] The number of these meetings was increased to four a year, twice during each six-month presidency, by the Copenhagen Report.[36] These meetings take place far more frequently in practice. Issues of political cooperation often are discussed by the foreign ministers at Council of the Communities meetings,[37] and the foreign ministers also meet informally for a weekend during each six-month term of the President of the Council of the Communities in a country house setting. These latter sessions are referred to as the Gymnich meetings.[38]

Much of the preparatory work for these ministerial meetings and the coordination of ongoing matters is carried out by the Political Committee. The Luxembourg and Copenhagen Reports[39] provide that this Committee be composed of the political directors of the foreign ministries of the member states and meet at least quarterly. It actually meets much more frequently, often in conjunction with United Nations General Assembly sessions, European Council, or Council of the Communities meetings.[40] In addition to preparing for the ministerial meetings, the Political Committee performs tasks assigned to it by the foreign ministers. It coordinates activities of the permanent representative of the Communities to various international organizations[41] and supervises the activities of working subgroups. The correspondents, who work under the supervision of the Political Committee, are in charge of coordinating their member state's participation in EPC. They generally meet before and after each Political Committee meeting to handle various organizational and procedural matters.[42] In addition, they assist in preparing the

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[35] Luxembourg Report, *supra* note 12, at 11.

[36] Copenhagen Report, *supra* note 19, at 15.

[37] The Paris Communique specifically provides for these discussions at Council of the European Communities meetings. Paris Communique, *supra* note 22, at 7. For example, the foreign ministers met during a Council of the European Communities meeting on March 23, 1982. The parties met "in the political cooperation context" to discuss the political situation in the Middle East, focusing especially on the West Bank controversy. They also met at a European Council meeting March 29 and 30, 1982 to discuss East-West relations and the situations in Afghanistan, Central America, and Turkey. *See* 15 BULL. OF THE EUR. COMM. (No. 3) 66 (1982).

[38] The first of these weekend retreat-like meetings was held at Schloss Gymnich. Elles Report, *supra* note 27, at 11; *see* Von der Gablentz, *supra* note 7, at 691.

[39] Luxembourg Report, *supra* note 12, at 15-16; Copenhagen Report, *supra* note 19, at 15.

[40] H. Wallheim, *supra* note 7, at 4.

[41] *See* Elles Report, *supra* note 27, at 10.

[42] Copenhagen Report, *supra* note 19, at 15-16; Elles Report, *supra* note 27, at 10.

drafts of positions and conclusions for the ministerial or Political Committee meetings.

There are also numerous working groups of experts as authorized in the Copenhagen Report.[43] These groups work under the direction of the Political Committee and are comprised of officials of the member states' foreign ministries. Separate working groups exist for various geographic sectors and for certain issues, such as the Conference on Security and Cooperation in Europe (CSCE), the United Nations,[44] and various substantive issues under consideration. The working groups consider issues of current concern as well as long-range studies assigned to them by the Political Committee.[45] A diplomat in each member state's embassy in the other states is designated as liaison with the host state's foreign ministry for political cooperation purposes, and member states are linked by a direct telex line that is used for political cooperation purposes.[46]

It is apparent that EPC is not merely a periodic "summit-type" meeting of foreign ministers or heads of state. Through the activities of the Political Committee and the working groups there is a quasi-permanent group of diplomats in each member state's foreign ministry and embassies carrying on uninterrupted dialogue on matters of political cooperation.[47]

Frequently, the common position of EPC begins with a declaration of precepts by the foreign ministers and is followed by detailed studies and option papers prepared by working groups, which may become the basis of a decision or diplomatic action by the European Council.[48] This ongoing dialogue, coupled with the familiarity of personnel serving as the Political Committee, correspondents, and working groups, fosters what has been referred to as the "concertation reflex" among the member states' foreign services.[49] This reflex is an attitude or approach toward a political issue not only from the perspective of the diplomat's national interest, but from that of the Community and its long-term objectives.

The Copenhagen Report provides that the system of EPC be presided over by the President of the Council of the Communities.[50] This office rotates each six months, on January 1 and July 1, among the member states in alphabetical order. The identity or office of the individual to serve as president is unclear. The government minister

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[43] H. Wallheim, *supra* note 7, at 5.

[44] Elles Report, *supra* note 27, at 10; H. Wallheim, *supra* note 7, at 5.

[45] Copenhagen Report, *supra* note 19, at 16.

[46] H. Wallheim, *supra* note 7, at 6.

[47] Von der Gablentz, *supra* note 7, at 689. The author gives the example that there were 250 meetings among the members during the 1977 United Nations General Assembly Session. *Id.*

[48] *Id.*

[49] *Id.*

[50] Copenhagen Report, *supra* note 19, at 17.

serving as the state's representative on the Council during the term of the state's presidency will be the president of the Council and normally will be the minister of foreign affairs.[51] The President assumes wide responsibilities for the management and supervision of EPC activities during the six-month term. As provided in the Paris Communique, he is the spokesman for the European Council on EPC matters, and most of the ministerial EPC meetings will be held in his nation's capital. Under the supervision of the European Council, he alone is responsible for the management of EPC business "ranging from the practical organization of meetings to the maintenance of a flow of ideas and initiatives."[52]

The President and his foreign ministry also prepare most of the drafts, declarations, reports, and responses to parliamentary questions.[53] Because EPC operates without a permanent staff, these administrative responsibilities place a substantial burden on the members, especially on the smaller states.[54] There are recurring proposals to provide a permanent secretariat,[55] but to date these suggestions have not been adopted. The informality and rather unstructured nature of EPC frequently is considered a strength. There may be a greater likelihood that positions developed by individuals who remain in the foreign service of the member states will be acceptable to the member states than if they were developed by a detached, permanent secretariat.[56]

The relationships between EPC and the institutions of the European Communities in part are specified in the constitutive documents and in part have evolved in practice. The relationship between the European Council and EPC on the one hand and the Council of the Communities on the other has been alluded to. One commentator only half facetiously noted that there is no relationship between EPC and the Council of Communities "other than the fact that it is the same ministers who meet in both forums."[57]

EPC is coordinated and supervised by the heads of state and

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[51] *See* D. LASOK & J. BRIDGE, *supra* note 2, at 118.

[52] Elles Report, *supra* note 27, at 37. The foreign ministers recently formalized a customary practice of recent years. A small group of diplomats from the country next to assume the presidency and last to do so are assigned to assist the current president with the EPC matters. Fifteenth General Report, *supra* note 32, at 286. While the Copenhagen Report authorized other member states to provide administrative assistance to the President, Copenhagen Report, *supra* note 19, at 17, such support earlier had been supplied only very sparingly. Von der Gablentz, *supra* note 7, at 689.

[53] H. Wallheim, *supra* note 7, at 6.

[54] The President of the Council also coordinates the positions of the member states at the United Nations and acts as spokesperson for the Community. The EPC workload of the President is compounded during the second half of the year when the United Nations General Assembly is in session.

[55] Elles Report, *supra* note 27, at 48-52.

[56] Von der Gablentz, *supra* note 7, at 689-90.

[57] H. Wallheim, *supra* note 7, at 20.

government or, more usually, by their foreign ministers acting as the European Council. The foreign minister also often is his state's representative on the Council of Communities.[58] Strictly speaking, however, a state may delegate whomever it chooses to be its representative on the Council of the Communities, and the individual need not hold any other position in the state's government.[59]

The President of the Council of the Communities is the spokesman and coordinator for EPC.[60] Despite the identity of personnel and the function of the President, there is a formal distinction between EPC and the European Council on the one hand, and the Council of the Communities on the other. This distinction, which is often criticized,[61] requires that the foreign ministers issue an annual report on European Unity to the European Council on activities within the framework of the treaties, and on Political Cooperation, which, ironically, is printed as a supplement to the Bulletin of the European Communities.[62]

While the Council of the Communities and EPC theoretically are separate, but practically fused, the Commission of the Communities has substantial direct involvement in EPC. Both the Luxembourg and Copenhagen Reports encourage consideration and cooperation with the Commission on EPC matters. The Luxembourg Report provides that if the work of the ministers affects the activities of the European Communities, the Commission should be consulted.[63] In the Copenhagen Report the Communities again were encouraged to participate by contributing their views on EPC deliberations.[64] Initially, some member states were reluctant to encourage involvement by the Communities, despite the position taken in the Luxembourg Report. By the mid-1970s, however, the presence and contributions of the Commission were accepted broadly.

The President and Members of the Commission can attend all ministerial EPC meetings, and the Deputy Secretary General represents the Commission at Political Committee meetings. This allows for almost complete involvement by the Commission in most aspects of EPC activities. There is less Commission involvement, however, at the working group level at present.[65] A special division within the Commission, under the supervision of the Deputy Secretary General,

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58 D. LASOK & J. BRIDGE, *supra* note 2, at 118.

59 P. MATHIJSEN, *supra* note 29, at 35.

60 Paris Communique, *supra* note 22, at 7.

61 *See, e.g.*, D. LASOK & J. BRIDGE, *supra* note 2, at 132; Elles Report, *supra* note 27, at 37.

62 *See, e.g., Report on European Union from the Ministers of Foreign Affairs to the European Council*, 15 BULL. OF THE EUR. COMM. (Supp. 7/82) 5 (1982).

63 Luxembourg Report, *supra* note 12, at 12.

64 Copenhagen Report, *supra* note 19, at 18.

65 H. Wallheim, *supra* note 7, at 16.

coordinates the Commission's participation in EPC.[66] Like the foreign ministers, the Commission submits an annual report on European Unity to the European Council.[67] It also replies to specific requests from the European Council, such as its recent report on the consequences of the contemplated admission of Portugal and Spain to the Communities.[68]

While authority to conclude agreements between the Communities and nonmember states is vested in the Council of the Communities, the Commission is involved significantly in implementation of the Communities' external relations.[69] Usually it is involved in negotiation with nonmember states of arrangements in commercially related areas such as taxation, tariffs, agriculture, and monetary matters. The distinction between the external relations appropriately carried on by the Council of the Communities and the Commission pursuant to the treaties from those matters more appropriately treated through EPC, however, remains unclear. This is particularly true because the Communities Court of Justice in *Commission v. Council*[70] stated that "the Community enjoys the capacity to establish contractual links with nonmember states over the whole extent of the field of objectives defined in Part One of the Treaty."[71] The political aspirations previously referred to are contained in Part One of the Treaty of Rome.[72] Therefore, it is difficult to separate those issues of an external relations nature that are appropriately conducted by the Council of the Communities and the Commission directly under the Treaty from those that should be dealt with through EPC.

In its Political Affairs Committee and in the plenary sessions, the European Parliament has devoted considerable effort to the advancement of the foreign policy of the members and to the procedures needed to ensure more effective cooperation.[73] Like that of the Commission, its role was expanded through the Luxembourg and Copenhagen Reports and as a result of the Paris Summit. The Luxembourg Report initially called for an informal meeting twice a year

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66 *See id.* at 12-16.

67 *See, e.g., Commission Report on European Union to the European Council, 1982*, 15 BULL. OF THE EUR. COMM. (Supp. 7/82) 19 (1982).

68 *Problems of Enlargement—Taking Stock and Proposals*, 15 BULL. OF THE EUR. COMM. (Supp. 8/82) (1982).

69 *See generally* D. LASOK & J. BRIDGE, *supra* note 2, at 35-37; P. MATHIJSEN, *supra* note 29, at 199-213. See also the discussions in the annual reports of the Commission's activities regarding external affairs in the *Commission Report on European Union, supra* note 67, at 20.

70 *Re the European Road Transport Agreement: E. C. Commission v. E. C. Council*, 1971 E. COMM. CT. J. REP. 263, 1971 Common Mkt. L.R. 335, [1971-1973 Transfer Binder] COMMON MKT. REP. (CCH) ¶ 8134.

71 *Id.* at 274, 1971 Common Mkt. L.R. at 354, [1971-1973 Transfer Binder] COMMON MKT. REP. (CCH) ¶ 8134, at 7524.

72 *See supra* notes 3-5 and accompanying text.

73 Elles Report, *supra* note 27, at 9.

between the foreign ministers and the Political Commission of the European Parliament (currently called the Political Affairs Committee) to discuss foreign policy matters.[74]

Three years later, in the Copenhagen Report it was agreed that the European Parliament should become more involved in EPC matters. This is consistent with other statements in the Copenhagen Report dealing with the consequences of enlargement.[75] The meetings, or colloquies, between the foreign ministers and the Political Committee of the Parliament were increased to four, following the ministers' quarterly EPC meetings.[76] The Political Committee should advise the ministers of the Parliament's foreign policy proposals; and the President of the Council, in his capacity as spokesman for EPC, must present an annual report to the Parliament on the progress made in political cooperation.[77] The report is debated in the Parliament, and the President replies to the debate.[78] Because the meetings with the foreign ministers are attended only by the Political Committee of the Parliament, these debates are significant as a forum for Parliament's expression of its views regarding EPC matters and the development of the Community.[79]

Perhaps the most significant involvement of the Parliament in EPC matters is stated in the Paris Communique: "the European Assembly [Parliament] must be more closely associated with the work of the Presidency in EPC matters" because of the increasing role of political cooperation in Europe.[80] The Communique suggests, as a means of attaining greater involvement, that the President of the Council reply to questions on EPC matters put to him by the Parliament.[81]

This seemingly innocuous procedure of asking the President questions and receiving replies carries with it some important consequences. The procedure was implemented in 1975 when the foreign ministers agreed that the President of the Council would reply to written or oral questions put to him by the Parliament,[82] and the Parliament has been taking increasing advantage of this procedure.[83] Because EPC matters are directed by a consensus of the members, this questioning procedure serves as a device by which the Parlia-

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74 Luxembourg Report, *supra* note 12, at 12.

75 *See, e.g.*, *supra* notes 18, 21 and accompanying text.

76 Lauwaars, *supra* note 27, at 30.

77 Copenhagen Report, *supra* note 19, at 17.

78 Elles Report, *supra* note 27, at 43.

79 P. MATHIJSEN, *supra* note 29, at 26-27.

80 Paris Communique, *supra* note 22, at 7.

81 *Id.*

82 Elles Report, *supra* note 27, at 41.

83 During the one-year period July 1, 1977 through June 30, 1978 Parliament posed 49 written and 42 oral questions. Between July 1979 - July 30, 1980 the number had risen to 111 written and 65 oral questions. H. Wallheim, *supra* note 7, at 19 n.1.

ment can prod the Ministers on political issues and thereby have a presence in the ongoing EPC process. This is far more important today than it was several years ago because of the direct election of the Parliament.[84] In the past, when members of the Assembly were appointed by the member states, the members had access to their states' government and could make suggestions to or receive information from the government. Today, because of direct election, the European Parliament members more directly may represent their constituents than their state's government.

There are, however, several defects in this questioning device that significantly hamper its usefulness. First, information is given in the replies only as to issues on which a consensus has been reached. The positions of member states, which either form the basis of the consensus or render it impossible to achieve, are not disclosed. This approach does not allow for more participation by the Parliament in the process of building a consensus. The questioning procedure may evoke only replies about positions or events of which the Parliament is already aware.[85] In addition, the time taken to prepare the reply often is so long that the reply is of little value.[86] Because preparation of the replies is the responsibility of the President, these questions could be used as a means of building a consensus. Unless the role of the President is restructured, however, it is unlikely that the reply time-frame will be shortened sufficiently, or that the full use of the questioning device can be developed.

The major objective of European Political Cooperation is to develop a coordinated policy response to international occurrences and problems that confront the member states. This is not accomplished by attempting to strip member states of their national foreign policy, and it would be quite foolish to expect each member state to surrender its own foreign policy in exchange for a policy created by the Community.[87] Instead, the objective is obtained by using the member states' influence, knowledge, and traditional ties to various parts of the world.

Although the topics for review under EPC are varied, there are some clear, practical limits. The main focus is on foreign policy toward non-EEC Community activities.[88] The foreign ministers do not discuss within EPC internal issues that divide member states, such as Northern Ireland.[89] They do, however, consider policy issues directly affecting one member state, rather than the ten. A recent ex-

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[84] *See generally* P. MATHIJSEN, *supra* note 29, at 16-19.

[85] H. Wallheim, *supra* note 7, at 19.

[86] Elles Report, *supra* note 27, at 44.

[87] Von der Gablentz, *supra* note 7, at 690.

[88] H. Wallheim, *supra* note 7, at 7.

[89] *Id.*

ample of this is the intense discussion of the Falkland Island crisis.[90] Other foreign policy issues deemed to be out of bounds for EPC include West Berlin and the role of France and the United Kingdom as permanent members of the United Nations Security Council.

The system of EPC as described in this article has been operating for about ten years, with some unimplemented suggestions for reform, and has functioned reasonably well.[91] Currently, however, there is a proposal under consideration that would alter it radically. In February 1984 the European Parliament approved a draft treaty establishing the European Union by a sizeable margin.[92] The treaty is now to be submitted to the national governments and parliaments of the member states. This treaty and the attainment of a union of the member states, which it purports to achieve, is seen as the fulfillment of an objective of the Treaty of Rome.[93] The text of the Draft Treaty has been under consideration for several years, and support for it, as well as the pressures leading up to it, have existed for quite some time.[94]

In general terms, the Draft Treaty makes citizens of the signatory countries citizens of the Union, which is said to have legal personality. The citizens would enjoy the rights granted by their nation and by the Union.[95] The institutions of the European Communities, including the European Council, would be carried over into the Union and would be transformed so that they might fulfill the roles assigned them by the Draft Treaty.[96]

Articles 63 to 69 of the Draft Treaty allocate responsibility for conduct of the Union's international relations. The Union institutions that are analogous to the Council of the Communities and the Commission would have a more direct involvement in international

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[90] The dispute between the United Kingdom and Argentina in the Falkland Islands was considered extensively both within the Community and EPC. The Council for the Communities adopted a Regulation suspending Argentina's imports into the Community. *See* 25 O.J. EUR. COMM. (No. L102) 1 (1982). The Commission issued a statement and the Parliament adopted a resolution, both condemning the invasion of the Falklands. *See* 15 BULL. OF THE EUR. COMM. (No. 4) (1982). Likewise, the matter was discussed by the Foreign Ministers in EPC. A declaration condemning the invasion was issued, and on April 2, 10, and 20 measures against Argentina were implemented. The governments of the member states banned export of arms and military equipment to Argentina and agreed to take measures to prohibit imports into the Community from Argentina. 15 BULL. OF THE EUR. COMM. (No. 4) 7-8 (1982). The embargo was lifted by the Council of the Communities following a political cooperation meeting June 21, 1982. 15 BULL. OF THE EUR. COMM. (No. 6) 79 (1982).

[91] *See supra* notes 55-56 and accompanying text.

[92] Draft Treaty Establishing the European Union, 27 O.J. EUR. COMM. (No. C 77) 33 (1984), 17 BULL. OF THE EUR. COMM. (No. 2) 1 (1984) [hereinafter cited as Draft Treaty].

[93] *Resolution of the European Parliament on the Draft Treaty Establishing the European Union,* 17 BULL. OF THE EUR. COMM. (No. 2) 8 (1984).

[94] *See, e.g., Tindemans Report on European Union, supra* note 28.

[95] Draft Treaty, *supra* note 92, 270 O.J. EUR. COMM. (No. C 77) at 36-37, 17 BULL. OF THE EUR. COMM. (No. 2) at 9-10.

[96] *Id.* at 38-41, 17 BULL. OF THE EUR. COMM. (No. 2) at 11-14.

relations, and EPC would have a correspondingly less direct involvement. Article 67[97] provides that the European Council and the Council of the Union would be responsible for those aspects of international relations that are to be conducted by cooperation among the signatories. The Commission of the Union would have the right to propose policies or actions that would be implemented at the request of the Council of the Union or the European Council. This Draft Treaty, while surely facing significant opposition within the member states, would alter dramatically the present mechanisms of political cooperation.

[97] *Id.* at 49, 17 BULL OF THE EUR. COMM. (No. 2) at 23.