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Consultation and Political Dialogue in the Permanent Council

Hungary assumed the Chairmanship of the OSCE during a period characterized by the continued evolution of the Organization in both political and institutional terms. The more active involvement of the OSCE in early warning, conflict prevention, crisis management and post-conflict rehabilitation, the relatively rapid differentiation of OSCE participating States in the eastern half of Europe according to their different speeds of transition to democracy and a market economy, the ever-increasing need for closer coordination and cooperation with other organizations and institutions, as well as the continuing organizational and structural changes within the OSCE that have accompanied the aforementioned political processes have been posing a serious challenge to the Chairmanship of the Organization.

As to the political challenges, immediately after the Chairmanship was assumed by Hungary at the Budapest Summit Meeting, the OSCE became intensively involved in the Chechen crisis, which required prompt executive action by the Chair. At the end of the year, just a few weeks before Hungary relinquished its duties as Chairman-in-Office, the OSCE entered the phase of intensive preparations for the biggest mission in its history - in Bosnia and Herzegovina.

As far as the organizational changes are concerned, the Budapest Summit Meeting renamed the CSCE. The new name - Organization for Security and Cooperation in Europe - signalled the long obvious fact that the former conference had become a true international organization with a well established structure. Within that structure the Permanent Council (PC), which was created at the Budapest Summit as the regular consultative and decision-making body of the OSCE at the ambassadorial level, occupies a central place. The Council's weekly meetings serve as a venue for discussing major political events in the OSCE area, providing guidance to the OSCE's field missions and institutions, and adopting political, procedural and major financial and administrative decisions. In the remarks that follow, I shall try to summarize my experience as Chairman of the Permanent Council in 1995, the first year of its existence. I shall not attempt to draw any far-reaching conclusions or to offer a complete, detailed picture, since the Council, like the Organization itself, is continually evolving and adapting itself to new political challenges.

Organization of Work in the Permanent Council

The OSCE, in the form of its Permanent Council meetings, has developed a unique method of consultation and decision-making, which is well suited to the consensus rule. The Council, presided over throughout the year by the Vienna Representative of the Chairman-in-Office, has created a number of subsidiary bodies and established various forms of decision-making.

Formal decisions are adopted by consensus, but in many cases other ways of expressing the opinions and common position of the participating States are used, thus extending the flexibility of the consensus-based decision-making mechanism. The form that has come to be most commonly used is a Chairman's statement (a statement either by the Chairman-in-Office or by the Chairman of the Permanent Council). A Chairman's statement occasionally resembles closely the "consensus-minus-one" practice, which has never been officially endorsed within the Organization (apart from cases of clear, gross and uncorrected violations of OSCE commitments in the field of human rights, democracy and the rule of law). Often a delegation is not in a position to give its consent to a decision, but does not object to the same language if presented as a Chairman's statement. This has been the case with draft decisions on regional conflicts on the territory of the former Soviet Union. Some of the proposed draft decisions were not acceptable to at least one delegation, but that delegation was able to accept the same language when it was read out as a Chairman's statement. An even weaker form for the expression of the position of the majority of delegations is a thorough discussion of an issue, followed by a Chairman's summary.

In addition to the Permanent Council's weekly plenary meetings, a number of regular and ad hoc informal and open-ended meetings are held to discuss specific issues (such as reports by Heads of Mission, the situation in certain regions of the OSCE area, or financial issues). These meetings often prepare decisions to be taken by the Council.

The agenda of Permanent Council meetings is proposed by the Vienna Representative of the Chairman-in-Office (Chairman of the Council) and, in the case of plenary meetings, is adopted by consensus. The weekly schedule of meetings - including the agenda - is circulated by the Chairmanship in advance. The drawing up of the agenda is probably one of the most important tools in the hands of the Chairman-in-Office for directing the work of the OSCE: by placing a particular issue on the Council's agenda he can signal its importance and topicality. For example, during the most intensive period of the Chechen crisis the Council discussed this issue on almost a weekly basis and as early as February 1995 took an important decision on it, which included a series of principles on which the solution of the crisis was to be based.

In 1995 the Hungarian Chairmanship established an intensive pattern of meetings. The Swiss Chairmanship in 1996 has for the most part preserved this working structure but has reduced slightly the number of ad hoc meetings. The weekly plenary meetings of the Permanent Council have a number of permanent and some ad hoc agenda items. The meeting usually starts with a report by the visiting Head of one of the OSCE's permanent missions. A schedule of visits to Vienna is established (usually for a six-month period) that brings every Head of Mission to OSCE Headquarters at least once every half of a year. These visits are used for reporting to the Council as well as for preparing decisions on possible extensions of the mission's mandate. Ad hoc or "emergency" visits by Heads of Mission are also organized if the political situation in the host country so requires. The High Commissioner on National Minorities and the Director of the Office for Democratic Institutions and Human Rights (ODIHR) reports to the Council at least once every quarter.

The next regular agenda item is the discussion of current issues. Under this item every delegation is free to make a statement on any political issue and propose it for discussion. This agenda item provides an opportunity for delegations to raise any question during Permanent Council meetings without previous consultation with the Chair and without securing the consent of each and every delegation to the Council (as is the case with independent agenda items). The effect of these discussions is to increase the flexibility of the Council and shorten its reaction time, since delegations can often avail themselves of this item to raise issues regarding events that are only a few days old.

The next regular agenda item - "Report by the Chairman-in-Office" - was made necessary by the growing room and demand for executive action by the Chairman-in-Office. As a way of "curing" the negative side-effects of the consensus rule, the Chairman-in-Office has been required with increasing frequency to exercise his broad mandate for "executive action", that is, for taking political steps without a previous decision or the authorization of the Permanent Council. (On the other hand, the Chairman-in-Office must be reasonably confident that any executive action he takes is, if not fully supported by every participating State, at least not opposed by any one of them.) Under the above agenda item the Chairman-in-Office informs the Council about his activities and, if any previous "executive action" has been taken, obtains its silent political approval. This item may also be used by the Chair to air the intentions and plans of the Chairman-in-Office so as to "take the temperature of the water", i.e., to determine whether there is any opposition to or criticism of his ideas.

The Permanent Council's next regular item - "Report by the Secretary General" - provides the Secretary General with the opportunity to inform the

Council about his activities, administrative and financial issues, operational problems facing the Organization (e.g., secondment of personnel to the missions) and other topics connected with the work of the Secretariat.

The last regular agenda item before the Permanent Council is a report on the work of the so-called "Watch Group", which is an open-ended ad hoc group that regularly monitors and discusses the situation in Kosovo, Sandjak and Vojvodina.

Ad hoc items on the agenda of the Permanent Council include statements by visiting foreign ministers and other dignitaries (such as the Assistant Secretary General of NATO, the President of the International Committee of the Red Cross, senior representatives of the European Union, the High Representative for Bosnia and Herzegovina, etc.). The Council also discusses important financial questions (such as the adoption of the OSCE's yearly budget and the budgets of the various missions) as well as organizational and personnel matters (e.g., increases in mission personnel strength, etc.).

Subsidiary Bodies of the Permanent Council

The Permanent Council is assisted by several permanent and ad hoc committees. The latter were established at different times as the result of a continuous process of development.

The Informal Financial Committee (IFC), which meets at least weekly, or more often if needed, discusses the financial implications of political decisions, prepares the financial decisions of the Council, provides guidance to the Secretariat on financial and procurement issues, and prepares the financial and staff regulations of the OSCE. It also supervises the preparation of the unified yearly budget. The IFC has traditionally been the object of some controversy, with some people arguing that in the Committee junior diplomats, who may lack a profound financial background, discuss and virtually decide on very complex financial issues. Others maintain that regular political control over the way the money of the participating States is spent by the Organization (through the Secretariat) is essential and helps to minimize costs and preserve the lean and efficient administrative structure of the Organization.

The so-called "Watch Group" was established following the expulsion of the OSCE's long-term missions from Kosovo, Sandjak and Vojvodina. At the Group's weekly meetings interested delegations can discuss the situation in these three regions of Yugoslavia. Information for this group is provided mainly by interested delegations, by a compilation of relevant articles and other publications regularly circulated by the Secretariat, and by the regular visits of the Belgrade-based diplomats of the OSCE Troika to the three re-

gions. The Chairman of the Watch Group regularly reports to the Permanent Council on the Group's discussions. Visiting diplomats of OSCE participating States from Belgrade provide useful first-hand information for the discussions.

Open-ended ad hoc groups, with the participation of Heads of various field missions, are regularly scheduled a day before the weekly meeting of the Permanent Council. The visiting Head of Mission usually delivers an oral report to the participants, after which he answers their questions and comments on their remarks. These ad hoc groups, which are conducted without interpretation and are not authorized to take decisions, provide an ideal forum for a free discussion of political issues brought to the attention of the OSCE by the missions or by interested delegations. These meetings lessen the burden on the Permanent Council, which usually has a crowded agenda, and provide a forum enabling interested delegations to engage in a much more detailed and far-reaching discussion of particular issues than would be possible and desirable at the Council's plenary meeting. Second, these discussions help to forge a consensus on issues on which the Council needs subsequently to take a decision, in addition to which they may even serve as drafting groups.

The discussion of the reports of the missions and, if warranted, the adoption of appropriate decisions is probably the most important form of political support for the field missions of the OSCE. As a rule, the missions monitor the situation in the host country and are in a position to make recommendations to the authorities. But they are not in a position to convey with any force the views and advice of the OSCE community on major issues covered by their mandate. It is the Permanent Council that provides political support to the missions by articulating the position of participating States or by taking a decision. For example, the decision regarding Russian military personnel whose continued sojourn in Latvia was not in accordance with the relevant bilateral agreements, or the December 1995 decision on the situation in Moldova (Trans-Dniester region) are two outstanding examples of how the Council can provide political support for the missions.

The Council may establish a working group to discuss a specific topic. For example, the Security Model Committee was established for a regular and structured discussion of this subject. In 1995 its weekly meetings laid the foundations for a Ministerial Decision in Budapest (December 1995), which has become the basis for the continued discussion of the Model in 1996.

The Role of the Chairman

The Chairman of the Permanent Council prepares the agenda for the plenary meetings and presides over them. It is his responsibility, therefore, to ensure

that the Council conducts its business in the most effective way. The most important guarantee of effectiveness lies in regular consultations with all interested delegations before an issue is placed on the agenda or a draft decision is proposed. Most delegations require instructions before they can express their position on political issues. This is even more true in the case of the European Union, which requires previous consultation before taking the floor with a common position. Accordingly, the Chairman must make sure that all interested delegations are aware of his intention to inscribe an item on the agenda of the Permanent Council at least one day in advance. Informal open-ended ad hoc meetings, which are usually scheduled one or two days before the Council plenary, can also perform this function.

It is more difficult to prepare a draft decision for adoption. All interested delegations have to be consulted in advance (on more difficult issues capitals are also involved through a demarche of a representative or bilateral envoy of the Chairman-in-Office or the members of the Troika). When a draft decision is put forward for consideration by the Council and adoption, the flexibility of interested delegations is very limited (since they have their instructions). The preparatory consultations provide an opportunity for the Chair to gauge exactly how much room for manoeuvre the most interested delegations have and, on that basis, to hammer out a draft decision that has a realistic chance of achieving consensus at the Council's next meeting. Last-minute consultations with interested delegations before the Council convenes may delay the beginning of the meeting by a few minutes, but they can spare the plenary long and usually unproductive formal discussions. In some cases a formal and in-depth discussion at ambassadorial level is unavoidable, but the Permanent Council's efficiency as a drafting body is usually rather low.

Political Issues on the Agenda of the Permanent Council

During the first months after the Council's inception at the Budapest Summit Meeting, its agenda was dominated by the Chechen crisis. The Personal Representative of the Chairman-in-Office, Ambassador Gyarmati, reported frequently to the plenary during the first quarter of that year. The Council took its first major decision on Chechnya on 2 February 1995. While reaffirming its support for the territorial integrity and constitution of the Russian Federation, that decision called for an immediate humanitarian ceasefire and a peaceful solution, and deplored the serious violations of human rights that had occurred. The Permanent Council also supported the continued involvement of the OSCE in the Chechen crisis, including the dispatch of a Personal Representative, a fact-finding mission and an expert group from ODIHR. That decision became the basis for further OSCE action in the region and

also for a decision in April establishing the OSCE Assistance Group in Grozny. It is interesting, however, to note that similar language was read out at the Council's 12 January plenary meeting as a Chairman's statement. The Council Chairman observed at that time that his statement was based on a consensus achieved in the Permanent Council. It took three weeks to get the green light from the most interested capital for the adoption of a decision along the same lines. Regular discussions in the Permanent Council (often followed by summaries by the Chair) continue to provide political support to the Assistance Group in Grozny. These decisions also send a strong signal to all parties to this conflict, urging them to find a peaceful solution and condemning grave violations of human rights.

The Permanent Council has also spent considerable time discussing the situation in other areas where OSCE missions are present. Tajikistan has regularly been discussed in the presence of Tajik representatives. The Council has expressed its support for a peaceful, negotiated solution of the Tajik conflict, on the one hand, while also strongly urging the Tajik authorities to further develop democratic institutions and practices (such as a commitment to free and fair elections), for example, in its 12 January decision on Tajikistan. It also decided on 6 July 1995, to establish three field offices of the Dushanbe Mission and later decided to assist the Tajik Government in the establishment of the institution of an ombudsman.

The situation in Georgia (South Ossetia and Abkhazia) and in Ukraine (the Crimea) has been regularly discussed, but no decision has been taken. The Permanent Council has also heard numerous reports on and discussed the situation of ethnic Russians in Latvia and Estonia. A decision was taken on 23 March 1995 urging a negotiated solution to the Russian-Latvian dispute concerning Russian military personnel remaining in Latvia not in accordance with the relevant bilateral agreements. The Council also established a regime for OSCE inspection of the "Implementation of the Agreement on the Legal Status of the Skrunda Radar Station during its Temporary Operation and Dismantling".

Soon after its establishment, the Permanent Council became actively involved in OSCE efforts aimed at a peaceful solution to the Nagorno-Karabakh conflict, which would involve a peacekeeping operation. The consultations and negotiations on this conflict have always been conducted within the framework of the Minsk Group, established specifically for this purpose (with the participation of nine countries). The Co-Chairmen of the Minsk Conference and the Minsk Group reported regularly to the Permanent Committee of the OSCE, but the latter refrained from becoming more deeply involved in the OSCE's efforts on Nagorno-Karabakh. This situation changed with the decision taken at the Budapest Summit Meeting. The Chairman-in-Office appointed the Head of the High-Level Planning Group (HLPG) and

provided the Group with a mandate. From the time of his appointment, the Head of the HLPG regularly reported to the Council on the preparations for a peacekeeping operation in Nagorno-Karabakh, and an ad hoc group was established to discuss the plans. By regularly discussing the state of the preparations for an OSCE peacekeeping operation in the region, the Permanent Council gave important political support to the Minsk Group, since it expressed in concrete terms the support of the OSCE community for a peaceful solution and its readiness to provide personnel and resources to an eventual peacekeeping operation.

The Trans-Dniester conflict has been a regular item on the agenda of the Permanent Council. An ad hoc working group has been established to discuss the situation in Moldova along with the possibility of a more active OSCE involvement in the search for a negotiated solution to the conflict, including the possible monitoring of the withdrawal of Russian troops, equipment and ammunition.

The reports of the Spillover Monitoring Mission to Skopje received particular attention in the Permanent Council during a short period of heightened tension between the Macedonian Government and the Albanian minority, which erupted in the form of demonstrations organized in connection with the unauthorized opening and subsequent closure of the Tetovo University.

In 1995 the Council, acting through a series of decisions, authorized the OSCE Mission to Sarajevo to open field offices in regional centres. This move increased the ability of the Mission to provide support to the three ombudsmen appointed by the Chairman-in-Office. In the autumn of that year, as the Dayton negotiations began to produce results, the Permanent Council intensified its consultations on Bosnia and Herzegovina. In October, at the Prague Meeting of the Senior Council, the Chairman-in-Office announced the establishment of a Task Force to prepare for a large-scale OSCE involvement in the region. Intensive work by the Task Force, headed by the Chairman of the Permanent Council, enabled the OSCE to dispatch a delegation to Sarajevo and Belgrade, just two days after the Agreement was signed, for the purpose of holding high-level talks on the Organization's involvement in the preparations for the elections, the monitoring of human rights and the negotiation of confidence- and security-building, as well as arms control arrangements.

The Future of the Permanent Council

During its one-and-a-half years of existence the Permanent Council has become the central decision-making body of the OSCE. Following the Budapest Summit, the Senior Council was turned into a body whose task is to give

orientation and guidance to lower-level OSCE bodies. At the same time, this has meant that the Senior Council has lost its decision-making role; all decisions are now prepared and taken by the Permanent Council, with the exception of course of the decisions of the Ministerial Council and the Summit Meetings. An effectively functioning Permanent Council has reduced the need for long and costly preparatory meetings leading up to ministerial and summit-level events; for example, all the decisions of the 1995 Budapest Ministerial Council had been prepared by the Permanent Council and then formally adopted by the ministers.

It is likely that this trend will continue. The OSCE, which is proud of its lean, cost-effective and efficient Secretariat and organizational structure, will continue to concentrate political consultation and decision-making in the Permanent Council. Decisions that had earlier been taken by higher-level organs (e.g., the Committee of Senior Officials), such as the accession of new participating States as full members, are now taken by the Permanent Council (as in the case of Andorra and the former Yugoslav Republic of Macedonia). The permanent availability of this body (extraordinary meetings have been held even on weekends), its flexibility (different purpose-oriented groups, etc.) and its well-tried and efficient working methods (wide-ranging and regular consultations ahead of decision-making) have helped the OSCE to become a successful player within the network of mutually reinforcing institutions in Europe.