

# Growing without a Strategy? The Case of European Security and Defence Policy

Gianni Bonvicini and Elfriede Regelsberger

Since its inclusion in the treaties of the European Union (EU) with the Maastricht Treaty of 1992, the Common Foreign and Security Policy (CFSP) has drawn considerable interest from both the European public<sup>1</sup> and all participating states. The collective framework offers the EU member states a unique chance to play a role in world politics which none of them would be able to play individually. No member state has ever fundamentally questioned participation or even left the system. On the contrary: all EU members – big or small, “old” or “new” – are keen on improving the procedures and the institutional set-up of their collective endeavours as the reform proposals put forward from the time of the Maastricht Treaty onward, through the Amsterdam and Nice Treaties, up to the European Convention and the Constitutional Treaty in 2003, have shown.

This is not to say that there have not been controversies. Proponents of a purely intergovernmental approach, like the United Kingdom, have had difficulty in accepting the way in which European Political Cooperation (EPC – the precursor of today’s CFSP) and CFSP have gradually drawn closer to the Community framework, while more integrationist governments like Belgium, Italy and Germany would long have liked to introduce communitarian methods like majority voting inside the Council of Ministers and European Community (EC) organs like the Commission into the CFSP system.<sup>2</sup>

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*Gianni Bonvicini* is Director of the IAI. *Elfriede Regelsberger* is Deputy Director of the Institut für Europäische Politik (IEP), Berlin. This article is part of the project “The EU as a Global Player – Strengths and Weaknesses of the CFSP and ESDP as seen from an Italian-German Angle”, funded by Compagnia di San Paolo, Turin.

<sup>1</sup> Eurobarometer polls have regularly shown that 75–80% of European citizens support a European foreign, security and defence policy.

<sup>2</sup> This is an old problem, still unlargely unsolved, that arose officially with the 1992 Maastricht Treaty, which divided the European Union structure into three pillars (community – 1st pillar, foreign and security policy – 2nd pillar, and justice and home affairs – 3rd pillar), each with its own decision-making and voting procedures. Although subsequent treaties tried to reduce the differences, CFSP remains fundamentally intergovernmental. Even the Constitutional Treaty, which abolished the pillar structure, did not communitarise the CFSP/ESDP pillar completely.

Even though the past has not been free of doctrinal debates over whether an intergovernmental CFSP would interfere with EC competences, a credible, efficient and consistent EU foreign policy calls for greater cooperation or even fusion of the various actors and pillars.

The Council (of External Relations – Relex), an EC organ with decisive political authority for CFSP and European Security and Defence Policy (ESDP) decisions, can be seen as a step towards the merging and communitarisation of CFSP. It can, in theory, act according to majority voting rules for joint actions or positions, as is the case for those provisions on CFSP financing which strictly follow Community rules, and where important roles are also played by the Council and the European Parliament as the budgetary authorities and the European Commission for budgetary implementation. This is a typical example of communitarian “contamination” into an area that was once strictly intergovernmental, but it is still too limited to make CFSP/ESDP more efficient and credible.

During the drafting of the Constitutional Treaty, the negotiations on CFSP reform were not without tension over specific issues such as the definition of permanent structured cooperation in the area of defence, the principles of enhanced cooperation or the extension of majority voting. Yet all EU member governments were eager to find a compromise on a strengthened CFSP and ESDP.

In terms of scope and strategy, particularly if compared to EPC in the seventies and eighties but also in the early nineties, today’s CFSP is global. New external challenges like failed states or international terrorism require European responses to fulfil the EU’s claims of contributing to international security, democracy, disarmament and the respect of human rights. The instruments at hand have constantly been adjusted and broadened and have moved from “mere” declaratory policy towards more concrete and visible actions. The EU can no longer be accused of being absent from the international stage, as was previously the case. On the contrary, the CFSP disposes of a refined mix of diverse instruments which are already used extensively: a glance at the official data on CFSP procedures and mechanisms in the last two years is enough to show that practical activities are already many and on the increase (Table 1).

More in general, as the numerous texts adopted in the past years demonstrate, a rather impressive *acquis politique* has been achieved on a wide range of issues on the international agenda. Unlike earlier times, the CFSP has become much more substantial and operational<sup>3</sup> – most obviously perhaps in the growing number of military and civilian crisis management

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<sup>3</sup> For further details, see European Council, “Annual Report on CFSP”, and Smith, “CFSP Decisions”.

**Table 1. CFSP instruments and their application**

Year	2004	2005
Declaration	136	153
Demarche	454	292
Political dialogue	123	134
Joint action	22	42
Common viewpoint	23	29
Other CFSP – related Council/PSC decisions		28
International agreements	8	15
Joint mission reports (from third countries)	309	258
Enhanced cooperation	–	–

Source: “Annual report on CFSP”.

**Table 2. CFSP operations (as of January 2007)**

Civil operations	Military operations
<i>Ongoing</i>	
<b>EUPM</b> (Bosnia and Herzegovina)	<b>EUFOR ALTHEA</b> (Bosnia–Herzegovina)
<b>EUPM</b> (Kosovo)	
<b>EUJUST-LEX</b> (Iraq)	
<b>EUBAM Rafah</b> (Palestinian Territories)	
<b>EUPOL COPPS</b> (Palestinian Territories)	
<b>EUPOL</b> (Kinshasa/DR Congo)	
<b>EUSEC DR Congo</b>	
<b>AMIS II Assistance</b> (Sudan/Darfur)	
<b>EU Border Assistance Mission</b> (Moldova, Ukraine)	
<i>Terminated</i>	
<b>Proxima</b> (FYROM)	<b>EUFOR Concordia</b> (FYROM)
<b>EUPAT</b> (FYROM)	<b>EUFOR Congo</b> (DR Congo)
<b>EUJUST THEMIS</b> (Georgia)	<b>ARTEMIS</b> (DR Congo)
<b>AMM Monitoring Mission</b> (ACEH)	<b>EUFOR</b> (DR Congo)

operations taken on since 2003 as a result of the coming into force of the so-called Petersberg Tasks<sup>4</sup> (Table 2).

In terms of personnel, the numbers involved in the missions are not impressive (with the exception of Operation Althea, which reached a total of 7000 troops from 33 countries, including 11 non-EU states), but their tasks are high profile, ranging from police and military to rule-of-law missions. The majority of these operations have been civilian,<sup>5</sup> even though they have progressively moved more into the military field. As the multiplication of these operations confirms, the “force of events” and some successful experience on the ground have contributed to a bottom-up approach towards development

<sup>4</sup> First mentioned in the Maastricht Treaty and described in more detail in art. 17 of the Amsterdam Treaty and the successive Nice Treaty, but never made effective before, due to the political resistance of some member states and the absence of proper instruments for the management of operations.

<sup>5</sup> Nowak, *Civilian Crisis Management*.

of CFSP/ESDP activities and, even, of institutional practices (i.e. for the very first time, a joint action has been decided upon both for the military and civilian aspects of the crisis management operation in Darfur).

It is also interesting to note that the failure of the then 15 member states in 2003 to find a collective response to the Iraq war did not bring CFSP to a complete halt, as some had predicted. On the contrary, the controversies among the 25 – now 27 – and across the Atlantic over “old” and “new” Europe have led to considerable EU coherence in major international issues and have produced a remarkable readiness to improve the existing institutional set-up of the second pillar.

The 2003 European Security Strategy (ESS),<sup>6</sup> the first comprehensive strategic concept for a more outward-looking EU, is proof of this, as are the provisions on CFSP and ESDP set down in the 2004 Treaty Establishing a Constitution for Europe (CT). They contain far-reaching proposals to reduce existing shortcomings in the EU’s external performance: the most prominent one could be the creation of the post of a Union foreign minister who would replace the rotating presidency at the Council for Foreign Affairs, thus offering greater continuity and visibility in the EU’s external representation. The fact that he/she would, at the same time, be vice president of the European Commission and commissioner for external relations and neighbourhood policy (“double-hatted”) would reduce present tensions between the Commission and the High Representative for CFSP and their staffs and could make CFSP instruments more coherent and effective. Similarly, the establishment of an External Action Service composed of diplomats from both national administrations and the EU institutions (Council and Commission) could work towards greater unity in the EU’s external representation.

### **The impasse in the reform debate and consequences for CFSP**

Today, CFSP practitioners and academics are faced with an important question: to what extent will the present impasse in the overall EU reform process brought about by the failed referenda on the Constitutional Treaty in France and the Netherlands in 2005 – even though CFSP provisions were not the cause for rejection – affect the functioning and the policy substance of CFSP and ESDP in the months or years to come. Since the Constitutional Treaty was supposed to solve some of the major shortcomings in CFSP brought to the fore by the reform debate of the past years, one has to ask what will happen if the ratification process is not successfully concluded. Will the EU continue with the present – and sometimes competing – actors

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<sup>6</sup>European Council, *A Secure Europe in a Better World*.

(the rotating Presidency, the Troika, the Commission and the High Representative for the CFSP) as they stand today and make do with the obvious lack of efficiency, visibility, continuity and coherence in CFSP? Or are there ways to “save” at least some elements of the reform package and, if so, how can this be achieved: with a new treaty, through special amendments to the existing TEU, with Council decisions, practical arrangements or something else? How can this rather disorderly growth of instruments and activities at ESDP level be brought into a more rational and efficient framework in the absence of the Constitutional Treaty?

### **Managing CFSP/ESDP without the Constitutional Treaty and its key players**

The 6-monthly rotating presidency is one, if not the biggest, obstacle in the way of greater continuity and visibility for CFSP. The benefits originally attributed to this system (each government would be eager to do its best during its presidency for the sake of collective diplomacy) have become less obvious in a Union of 27. Managing the intricate machine of the EU is an enormous challenge. Even the experienced member states and those with a huge national diplomatic service at their disposal suffer from managerial overload during their presidency, not to speak of the new member states (Slovenia will have the EU Presidency for the first time in 2008). In fact, the constantly growing challenges of CFSP, the complex institutional set-up and the diversification of the CFSP instruments led the intergovernmental conference, which drafted the definitive version of the Constitutional Treaty, to accept two main innovations proposed by the European Convention: the first was an elected president of the European Council for a term of two and half years, thus responding to the need for continuity in external representation, and the second was the post of a Union minister of foreign affairs (art. I-28), aimed at upgrading the role of the High Representative, who would at the same time, in the name of the coherence principle, be the president of the Council for Foreign Affairs and the vice president of the Commission.<sup>7</sup>

Since this construction and, particularly, the “double-hat” approach would impact on the overall EU institutional balance of the present institutional set-up, it seems unlikely that the new function will be created before the relaunch of the Constitutional Treaty in 2007/08 has produced results. Even a more limited version, that is without the portfolio of Commission vice president, would call for a revision of the existing treaty provisions (arts. 18, 26, TEU on the High Representative for the CFSP/Secretary General of the Council) and the convening of at least a “mini IGC” (art. 48 TEU). The same would apply if such a new “figure” were to take over fully or even partially from the rotating

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<sup>7</sup> Ladzik, *A Foreign Minister for Europe*.

presidency (art. 203 EC Treaty),<sup>8</sup> that is if it were to chair all or parts of the External Relations Council, even though some observers seem to assume that secondary law, for example Council decisions<sup>9</sup> or Inter-institutional Agreements,<sup>10</sup> could also be envisaged to move ahead, as has occurred with the president of the Eurogroup, appointed for a term of two and half years on the basis of a Council decision.

Therefore, more modest step-by-step solutions that aim at an upgrading of the High Representative within the existing legal framework seem to be preferable:<sup>11</sup>

- the High Representative could chair the political and security committee (PSC) meetings with NATO;
- the High Representative could be entrusted increasingly by the Presidency with conducting political dialogue with third countries;
- the High Representative might be charged by the acting presidency not only with preparing the Council's deliberations on specific points of the Council agenda and implementing Council decisions, but also with conducting Council negotiations relating to those points.

Linked to the post of a Union foreign minister is the idea that his/her increased tasks would require adequate administrative resources in the form of a European External Action Service (EEAS) (art.III-296 and declaration no. 24 of the CT). In line with the overall positive mood in the immediate aftermath of the signing of the Constitutional Treaty, discussions started as early as October 2004 on the "nature of the beast":<sup>12</sup> should the EEAS become a full-fledged European Foreign Ministry or some sort of advisory Council? What kind of concrete functions should it have? The question of size was another issue, as was the national and EU-level composition of this new apparatus. Not surprisingly, controversies arose among the 25 but also between them and the European Commission, supported in its views by the European Parliament, particularly about "where" to install the EEAS inside the EU machinery. This brought about a revival of the doctrinal debate of earlier times whether the intergovernmental CFSP approach would contaminate and interfere with the Community method and competences, making it effectively intergovernmental. Again, the "no" votes in France and the Netherlands swept

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<sup>8</sup> Donnelly and Haseler, *Decision-making in European External Policy*, 8–10.

<sup>9</sup> Use to create the European Defence Agency and the Policy Unit.

<sup>10</sup> Algieri, Bauer and Brummer (*Entwicklungspotenzial auch ohne Verfassungsvertrag*; Algieri, *Options future development of CFSP and ESDP*) suggest considering an up-graded High Representative with Commission functions defined by an Inter-institutional Agreement. If, however, the assumption is right that Inter-institutional Agreements in the area of CFSP are used by the European Parliament to increase its own powers, this option would be less attractive for the member states. Maurer and Kietz, "Interinstitutional Agreements in CFSP", 225–42.

<sup>11</sup> See Heusgen, "Nach den gescheiterten Referenden", 336–40.

<sup>12</sup> Illustrative here are Grevi and Cameron, *Towards an EU foreign service*; Maurer and Reichel, *Der Europäische Auswärtige Dienst*.

the issue off the official CFSP agenda – most obviously perhaps in June 2005, when the European Council did not even refer to the progress report on the External Action Service that the High Representative and the Commission had been charged with drafting by the heads of state and government some months earlier.<sup>13</sup>

What has happened since then? The original EEAS proposals seem to have disappeared and even marginal adaptations are difficult to find. Against the background of the growing demands for a greater role and more support for the High Representative and his Policy Unit,<sup>14</sup> a minimalist approach would be simply to double the present staff. Since the Policy Unit was established by a decision of the Coreper, the same could now be done rather easily to enlarge its staff.

Along the same practical lines, the European Commission has raised the issue of how to develop its own External Service by improving reporting and analytical capacities in Brussels and in its delegations, “introducing greater flexibility in allocation of resources and expertise in response to evolving needs”.<sup>15</sup> The proposal suggests the possibility of inviting Commission heads of delegations to Council group meetings, that is as part of the CFSP structure. Information-sharing and better coordination between heads of Commission delegations and EU Special Representatives is also proposed. As the appointment of a “double-hatted” EU Representative-Head of the Commission Delegation in Macedonia Erwan Fouéré has demonstrated, far-reaching solutions may be found pragmatically in daily practices.<sup>16</sup>

Similarly, and in order to compensate for the weaknesses of the rotating presidency in internal CFSP management, it might be worth considering introducing new and more flexible arrangements for the chairs of the CFSP Working Parties. Given the expertise that the staff of High Representative Javier Solana has already demonstrated in various areas of key interest to the EU, for example the Balkans, it might be wise to entrust them with the presidency at expert level, thus achieving greater personal continuity and visibility. Whether such a decision could be taken on the basis of the Council’s current Rules of Procedure (art. 20 specifies the role of the High Representative in assisting the Presidency) or whether they would have to be amended is still an open question that will have to be settled at the legal and above all the political level. Alternatively, member states that claim to have special knowledge/special ties with a region/countries might, on a case-by-case basis, take the EU lead for an extended period, thus reducing the burdens of the presidency both in representation towards third parties and

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<sup>13</sup> Ladzik, *A European Diplomatic Service?*

<sup>14</sup> Composed of 27 diplomats from the national capitals, one delegate from the Commission and three from the Council Secretariat.

<sup>15</sup> In its Communication to the European Council of June 2006, *Europe in the World*.

<sup>16</sup> Appointed in October 2005, Fouéré is both Special Representative for the Former Yugoslav Republic of Macedonia and Head of the Commission Delegation in Skopje.

as committee chair (e.g. elected by the committee members for two years).<sup>17</sup> Again one would have to make sure that such new arrangements would be covered by the existing Council Proceedings (arts 19 and 20). Both would, of course, require intense coordination with the country holding the presidency, particularly as the latter might foster suspicions of new *directoires*/coalitions of the willing and able/“ins” and “outs”.

### **Council-Commission relations: ways to improve coherence without “double-hatting”**

Consistency and coherence represent basic requirements for an effective EU external role. There are a number of reasons for this. First, consistency at the horizontal level, that is between EU pillars and/or institutions, has, since the Single European Act of 1986, been one of the main objectives of the EU reform process which, after two decades, led to the drafting of a Constitutional Treaty. Second, consistency at the vertical level, that is between EU institutions and the member states, is crucial for making crisis management work in the CFSP/ESDP field, where intergovernmental/national actors prevail, but where community tools are also needed. Third, progress towards coherence is required if the EU and its member states are to develop a truly European strategic culture of defence. Failure to achieve such a strategic culture at the EU level would prevent Europe from entertaining any political aspirations and acquiring real capabilities in world affairs.<sup>18</sup>

If it is impossible for the moment to set up a Union foreign minister who is also Commission vice president, the EU-27 may have to seek other, more modest but practical steps to improve the coherence and effectiveness of their external action. Unlike the past, when competition between the first and second pillar was strong and fears that the Council and the intergovernmental procedures of CFSP might spill over into the Community sphere and curtail the competences of the European Commission in particular, the focus today is much more on cooperation and mutual recognition of the tasks each pillar has to fulfil. The Commission’s Communication to the Council of June 2006,<sup>19</sup> endorsed by the heads of state and government, largely reflects this approach and offers a number of concrete measures within the existing treaty framework.

In order to use the available instruments and actors more effectively, it would be a good idea to establish more intense contacts between top level figures in Brussels and internationally. Relations between High

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<sup>17</sup> Grant and Leonhard, *How to Strengthen EU Foreign Policy*.

<sup>18</sup> On the issue of an emerging European security culture, see Edwards, *Is There a European Security Culture?*

<sup>19</sup> Communication from the Commission to the European Council of June 2006. COM(2006) 278 final.



Representative Solana and Commissioner for Enlargement Oli Rehn and between Solana and Commissioner for Development and Humanitarian Aid Louis Michel<sup>20</sup> are already said to be particularly intense. A further step might be to envisage Solana's regular participation in the meetings of the Relex Commission. In addition, the Commission Communication suggests regular though informal meetings of the president of the European Council, the president of the External Relations Council, the Commission president, the Commissioner responsible for external relations and the High Representative for CFSP at the beginning of each presidency to discuss the main policy orientations in the CFSP area. This is what the Commission calls "strategic planning", based on the 2003 European Security Strategy, and to be strengthened through a "more systematic approach to setting strategic objectives and political priorities at both geographical and thematic level, so that policy objectives guide the choice of policy instruments".<sup>21</sup>

But equally important is intense networking at lower levels, in particular between the Policy Unit/DG E Council Secretariat, where the CFSP *acquis* is formulated and implemented, and those Commission units that have other concrete instruments at their disposal, one of the most important of which is the Community budget.<sup>22</sup>

Initiatives are also needed to reduce the proliferation of EU "faces" (from the Council, the Commission, the High Representative's staff and the member states) abroad and to improve the degree of mutual information and consultation *in loco*. The Western Balkans have offered examples of both unilateral and collective actions and the presence of national/CFSP diplomats as well as Commission delegations with no real effort made to coordinate or ensure common representation.

As already mentioned, in the absence of the Constitutional Treaty which foresees the creation of EU delegations under the authority of a Union foreign minister (art. III-328), solutions that do not involve treaty revision have to be found. The EU Special Representative to Macedonia, as underlined, could serve as a model. Other, less optimistic suggestions involve the collective use of technical facilities or buildings, or the inclusion of staff members from Solana's Policy Unit or the foreign ministries of the EU member states in Commission delegations, thus broadening the delegations' work in the political sphere. More in general, what is needed is development of a so-called "double-hatted mentality" as a guiding principle for CFSP activities: a mentality that would work at both the Council and the Commission level and then percolate down into the fields of action.

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<sup>20</sup> See the assessment of Solana's former closest collaborator and head of the Policy Unit, Heusgen, "Nach den gescheiterten Referenden", 336.

<sup>21</sup> Communication from the Commission to the European Council of June 2006. COM(2006) 278 final.

<sup>22</sup> On the problems of CFSP financing, see Bendiek, "The Financing of CFSP/ESDP", 8–10.

## Progress in ESDP

The negative impact of the constitutional crisis on further reform is felt less in the area of security and defence than in CFSP.<sup>23</sup> External challenges like weapons of mass destruction, failed states and terrorism have forced the EU to improve both its civil and military capabilities as quickly as possible without waiting for ratification of the new treaty provisions. The tasks mentioned in the CT (art. III-309) are also referred to in the European Security Strategy adopted by the heads of state and government in 2003 and are already part of daily CFSP/ESDP practice.<sup>24</sup>

This is attested to by the steadily increasing number of crisis management operations since 2003 (see Table 2 above). Crisis management operations raise the issue of coherence once again, given that the very nature of EU projection in conflict areas is a mix of civilian and military actions. Purely military operations are not yet considered fully appropriate, and are not envisaged either in the basic CFSP/ESDP texts or by EU policies and institutions.

At the operational level, the picture at present is rather promising. A Civil-Military Cell was set up in 2005 – with the leading role of the big EU member states (“framework nations”) managing somewhat to reconcile the diverging concepts on EU military headquarters that were floated in the aftermath of the Iraq war. Established within the EU Military Staff (EUMS), the CivMil Cell is made up of a director and two sub-units: the Strategic Planning Branch composed of five civil and five military officers and two Commission representatives; and the Operations Centre Permanent Staff comprising eight people.<sup>25</sup> The advantage of the CivMil Cell is that it can provide a better link for civilian and military missions conducted in the same area.

The EU is also examining different ways of improving coordination between its various tools in field operations, as well as between the field and the centre in Brussels. The CivMil Cell promises to be able to support developments to improve this aspect of EU consistency. Although the Cell will not be able, in itself, to solve all the EU’s coherence problems, it is seen as a step in the right direction of promoting more effective and coordinated action aimed at reinforcing the strategic cooperation capabilities inside the EU. In reality, this is still a far cry from building up strategic “command”. Nevertheless the idea of a proper EU headquarters, first proposed by France,

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<sup>23</sup>Jopp and Sandawi, “Europäische Sicherheits- und Verteidigungspolitik”, 241–50; Petersohn and Lang, *Die Zukunft der ESVP*.

<sup>24</sup>Ladzik, *The European Security and Defence Policy*.

<sup>25</sup>For a detailed analysis of the role and tasks of the CivMil Cell, see Pullinger, *New EU Civil-Military Planning Cell*, 31.

Germany, Belgium and Luxembourg in April 2003, is re-emerging. Kurt Beck, the new leader of the German Social Democrats, has declared that Europe should become a “global peace power” with its own military command and goal.<sup>26</sup>

Another provision of the Constitutional Treaty (art. III-310), the one making it possible to entrust groups of countries with the implementation of such operations, is already a reality today. For whatever reasons, one or more member states may not be able to participate in a concrete operation, while others – the willing and able – are ready to act on behalf of the EU. Several peace missions have already been launched on the basis of this *ad hoc* grouping criteria – and with a good degree of success.

Similarly the European Defence Agency (EDA, foreseen in art. I-41 para. 3 and III-311 CT) was given priority and set up by a Council Decision in July 2004 to assist the member states in improving their military requirements for national commitments to joint operations. Despite limited financial resources, its work has been well received by the member states so far.<sup>27</sup> In reality, some concerns remain: the Executive Director, Nick Whitney, has underlined that the EDA’s main target should be to spend money on the right things, to spend more money collectively, and to pool resources increasingly within Europe. It is up to the defence ministers to decide whether or not to spend more money, but the present budgetary restrictions in several member countries clearly deny any real perspective in this direction, making the task for the EDA more difficult.<sup>28</sup>

On the more conceptual and doctrinal level, the solidarity clause – formulated in rather general terms in arts I-43; III-329 CT – was made operational long before it could ever have come into force if it had had to wait for treaty ratification: in the aftermath of the terrorist attacks in Madrid and London, the European Council adopted a text with a wording similar to that of the treaty provisions during its meeting in Brussels on 25 March 2004.<sup>29</sup>

Finally, as concerns pragmatic progress, mention has to be made of the decision to create battlegroups to enhance ESDP military and rapid response capabilities.<sup>30</sup> This move has been strengthened to some extent by the creation on 1 January 2007 of a Full Operational Capability (FOC) to undertake the command of the first two battlegroups. The future use of these groups is not wholly clear and predictable, nor do they provide a complete answer to the request for effective capabilities. Nonetheless, they give an idea of the current willingness to move beyond purely declaratory policy.

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<sup>26</sup> *International Herald Tribune*, 7 November 2006.

<sup>27</sup> See the Conclusions on ESDP, General Affairs Council, 15 May 2006.

<sup>28</sup> Pullinger *New EU Civil-Military Planning Cell*.

<sup>29</sup> European Council, Declaration on Combating Terrorism.

<sup>30</sup> EU Council Secretariat, *Factsheet: EU Battlegroups*.

### The EU-25/27 and variable geometries

The battlegroups, the grouping format for crisis management missions, the concept of leading nation (framework nation) to take primary responsibility in a military operation, all these things lead in the direction of the well known concept of variable geometries. The problem of equality among the member states is as old as CFSP itself. Core groups existed even at the time of European Political Cooperation, the forerunner of today's CFSP. The difference from the past, however, is that such geometries are increasingly accepted as ways to strengthen Europe's international influence. While criticism on the part of those likely to be excluded,<sup>31</sup> was sharp up to the second half of the nineties,<sup>32</sup> the phenomenon of core groups now seems to have become an established feature of the EU-25/27.<sup>33</sup>

The most obvious *directoire* is the EU-3 (France, Germany, the United Kingdom) on Iran.<sup>34</sup> Established informally in autumn 2003, it received the official backing of the 25 through the 2004 European Council.<sup>35</sup> However, this process was not without tensions. On the one hand, the non-participants had to acknowledge that some of their partners were more suited to deliver the expertise needed to play a significant European role in international fora like the International Atomic Energy. On the other hand, they successfully insisted on some sort of transparency and legitimacy of the group of three and claimed some sort of "association" with the negotiations at the international stage. This was achieved through the regular participation of the High Representative for CFSP in EU-3 meetings from 2004 onwards, even though Solana did not always manage to calm the frustration of the states that remain outside.<sup>36</sup>

Similarly the Kosovo Contact Group<sup>37</sup> has been "enlarged" to the participation of Solana and representatives of the Commission, which is in keeping with the leading role the EU as a whole plays towards the stabilisation of the Western Balkans..

Whether or not these core groups can serve as a model for others and become an important CFSP instrument in the future remains to be seen.<sup>38</sup> And whether or not the leadership role of such "contact groups"<sup>39</sup> is accepted by the others depends on various factors: in fact, those who wish to advance take the initiative and develop proposals without, however, fixing the *acquis*

<sup>31</sup> Greco, Padoa-Schioppa and Silvestri, "Fifteen Proposals for Bipartisan European Policy", 7–31.

<sup>32</sup> Open criticism of the participation of some EU member states in the Bosnia Contact Group and the need for established procedures between the "ins" and "outs" was launched by the Benelux countries in 1997/98. See Regelsberger, "Gemeinsame Außen- und Sicherheitspolitik", 237–44.

<sup>33</sup> Hill, "The Directoire and Coherent EU Foreign Policy", 1–4.

<sup>34</sup> Posch, "The EU and Iran", 99–116.

<sup>35</sup> Point 42 of the December 2004 European Council Presidency Conclusions.

<sup>36</sup> Giegerich, "E3 Leadership in Security and Defence", 5–7.

<sup>37</sup> Composed of the US, Russia, Germany, France, UK and Italy.

<sup>38</sup> See for this argument, Schwegmann, "Kontaktgruppen und EU-3-Verhandlungen".

<sup>39</sup> This notion is used by Grant and Leonhard, *How to Strengthen EU Foreign Policy*, 3.

*politique* in advance, which means they have to keep their leadership role transparent and “permeable” to the contribution of the others.<sup>40</sup> Consequently, those remaining outside accept the leading role of their partners but participate fully in the final decision-making. Furthermore it seems that any kind of institutionalisation of core groups would be counterproductive and would emphasise the discrepancy between the “ins” and the “outs”.

The long dispute among the 25 during the reform debate about the modalities of enhanced cooperation (which were finally set down in arts I-44; III-419 CT) suggests less optimism as to the potential of core groups. In fact, it is an open question how the dominance of core groups such as the big three in defence matters will be accepted by the other EU partners in the long run.

Apart from the issue of the “Big Three”, which could become a kind of permanent core for major CFSP/ESDP decisions, the other emerging question relates to the extension of the principle of flexibility to joint actions in the military field. The Constitutional Treaty provided the basis for a variety of different models, from enhanced to permanent structured cooperation (art. III-312), with the aim of setting clear rules and avoiding the risk of extra-Treaty initiatives. Failure to ratify the Constitutional Treaty could pave the way for the multiplication of such initiatives, leading to more “ideological” fragmentation in the EU. To prevent this, would it not be feasible to apply the norms which were set down in the Constitutional Treaty in a pragmatic way? Could the Nice Treaty’s CFSP rules for reinforced cooperation not be extended to ESDP actions or the Constitutional Treaty’s articles be unofficially adopted to form groups of countries for *ad hoc* political-military operations? The future will definitely be marked by growing flexibility, particularly (but not only) in the CFSP/ESDP framework. To come to a timely agreement on certain practical solutions will be essential for both the image and the effectiveness of the Union’s security role in world affairs.

### **Some final considerations**

The failure to ratify the Constitutional Treaty has deprived the Union of those new procedures and institutions designed to meet a widely perceived need to strengthen its international status and role. The most significant institutional innovations provided for in the Constitutional Treaty involved reinforcing the CFSP/ESDP second pillar. An elected president of the European Council with external representation functions, a Union foreign minister, an External Action Service, a European Defence Agency, structured cooperation in the ESDP field, to mention only the most important, were all tools and rules devised to make the EU decisional system more streamlined and effective in both the foreign policy and the defence areas.

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<sup>40</sup> Giegerich, “E3 Leadership in Security and Defence”, 7.

The political and institutional paralysis which has followed the rejection in France and the Netherlands of the Constitutional Treaty has paved the way once again for an old-fashioned bottom-up institutional strategy, largely led by the “force of events”: the pressure exerted on the Union by external security and crisis factors. International terrorism, local conflicts, failing states, natural disasters – threats clearly mentioned in the European Security Strategy and in the solidarity clause of the Constitutional Treaty – have been the driving force behind the initiatives, organs and procedures that have multiplied in these last few years and months.

The panoply of new mechanisms and bodies, particularly in the civil-military field, are a sign of great vitality on the part of the EU at a time of such severe political crisis. This is surely positive, but they also give rise to new questions: how can the disorderly growth of instruments be governed? How can the necessary coherence be brought into this somewhat random institutional development? How can the effectiveness of the EU’s security and defence actions be ensured? How long can this political process last and what are its functional limits?

In light of the foregoing considerations, the answer could well lie in a revitalised Constitutional or Fundamental Treaty, call it what you will, in which the basic mechanisms, procedures and policies remain those drafted by the Convention on the Future of Europe. It is not necessary to re-draft the whole Constitutional Treaty: its substance should be saved. The few early implementations of the Treaty’s provisions, particularly in the CFSP/ESDP area (European Defence Agency, grouping function, military and civilian missions) have shown just how appropriate the CT’s suggestions are. The path remains valid and must be followed in the future.

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