

The International Spectator 2/2002

## More Europe in Foreign and Security Policy: The Institutional Dimension of CFSP

Marta Dassù and Antonio Missiroli\*

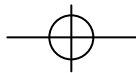
If the European Union aims to be taken seriously as an international actor and a partner to America (the “axis of good”), it has to get its act together, especially as regards its common foreign and security policy (CFSP). According to the opinion polls, this sentiment is widely shared by EU citizens, and reinforces the case for “more Europe” in foreign and security policy. The same conclusion was reached in the initial sessions of the European Convention when the Union’s core missions were being discussed.

Not that the EU has to start from scratch: it has taken almost a decade, but on the Balkans for instance, in the wake of one of the worst failures of European foreign policy, the Fifteen seem to have found common ground and have become the main provider of stability there. On the Middle East, the process of policy convergence is still under way. Yet here, too, the need for more coherence and cohesion – as a condition for effectiveness – is now clearly acknowledged.

Do institutions matter in this respect (and, if so, to what extent)? Or should CFSP be considered first and foremost simply a policy to be agreed upon?<sup>1</sup> All evidence points to the fact that institutions do matter, if only because they can create crucial incentives to reducing divergence and

\* Marta Dassù is Director of Policy Programming at the Aspen Institute, Rome; Antonio Missiroli is Research Fellow at ISS-EU, Paris.

<sup>1</sup> The acronym CFSP identifies, in fact, two different dimensions: a set of institutions and a policy. See K. E. Jorgensen, “Making the CFSP Work”, in Peterson J. and M. Shackleton, *The Institutions of the European Union* (Oxford: Oxford UP, 2002), pp. 210-32.



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inconsistency and to facilitating a common “output”. Indeed, it is not by accident that, of the more than 50 questions on the future of Europe included in the Laeken Declaration, a whole cluster deals with the possible ways in which “a more coherent common foreign policy and defence policy [should] be developed”. As a consequence, this will be one of the main objectives of the European Convention and the following IGC.

### Total consistency is difficult

It should be acknowledged from the outset that absolute and full consistency – in terms of both policies and institutions – is hardly an attainable goal. This is so inside the member states, where a certain amount of bureaucratic infighting, competition, or sheer disjunction is often at work (in the US, incidentally, the lack of consistency is an essential and accepted feature of the foreign policy-making system, in which competing agencies fight for primacy and the president acts as a referee and ultimate enforcer). It is all the more so at the EU level, especially because the Union does not (yet?) have an elected president or the kind of “inter-agency” executive power that enables the US eventually to achieve some consistency and act decisively as a single unit on the international scene. For its part, the EU disposes of a wide array of different policy instruments scattered unequally among both its fifteen members and the common institutions. In this lie both its strength and its weakness.

### Merging the pillars?

In principle, the simplest option to reduce the inconsistency of the Union’s institutional design (including CFSP) would be to dismantle the current “pillar” system. Such an option – put forward, for instance, in the Communication of the Commission on the Future of Europe<sup>2</sup> – would make it possible to do away with the distinction between the community area proper and the treaty provisions concerning the second and third pillars. This would not necessarily imply that community procedure would be applied, as is, to the policy fields currently falling within the second and third pillars, especially as regards “hard” security and defence. Whereas gradual integration into the community pillar seems to be meeting growing consensus for Justice and Home Affairs, a similar shift for CFSP is likely to be caught in the crossfire and the theological disputes between “inter-

<sup>2</sup> Communication from the Commission, A Project for the European Union, Brussels, 22.5.2002, COM (2002), 247 final. See also G. Parker, J. Dempsey, “Patten attacks Prodi’s EU Foreign Policy Plans”, *Financial Times*, 30 May 2002, p. 1.

governmentalists" and "federalists" that have long impaired the development of a coherent and incisive common foreign policy. This is also due to the fact that CFSP and European Security and Defence Policy (ESDP) are not mandated to produce norms and regulations to be enforced internally (which require, almost by definition, approval by vote before being applied uniformly across the entire Union), but rather actions and operations to be carried out externally, which instead require willingness and capabilities (that are unevenly spread among the Fifteen). At any rate, preventing a possible deadlock on this will be crucial for the success of the Convention.

Barring a complete merging of the pillars, it may be useful to try to reinforce those tendencies and bodies that could foster the effectiveness of the Union's overall external "output" and search for ways to make the different institutions work together efficiently. Precisely the complexity and variety of the instruments needed for an effective common foreign policy seem to require an institutional framework that is unlikely to be "architecturally correct" for some time. "Joined-up" security governance, rather than absolute consistency of design, may actually prove to be the most appropriate way forward.

#### The role of the High Representative

Let us start with the growing impact that Javier Solana's activism is having on the international scene. It has been seen in Macedonia, in the Former Yugoslav Republic and, to a lesser extent, in the Middle East. The Secretary General (SG) and High Representative (HR) for CFSP is increasingly identified in the world as "Mr. EU", thus partially responding to the need for a single European voice in international affairs. This is a crucial asset for the Union and may demand further "branding" of Solana's image and function. In turn, however, such "branding" calls for political and institutional consistency: in other words, both the Commission and, above all, the member states should exercise some restraint and leave the SG/HR centre stage. This means doing away with bureaucratic jealousies but especially with self-appointed directores, "triumvirates", clubs or axes of unclear political geometry. Mostly instrumental to short-term domestic objectives, they only weaken the common external image and ultimately cause a divide between large and small member states, large and less large, more and less extroverted, and so forth: last autumn's unfortunate "war dinner" in Downing Street made this all too clear. In foreign and defence policy, what matters is achieving as broad a consensus as possible on principles and guidelines

(which implies that introducing qualified majority voting at that level, even if feasible, is not necessarily beneficial) and putting up the means required for action. That does not necessarily have to do with the sheer size of countries, although ways have to be found for those who contribute more to be heard more, especially on "matters having military and defence implications". Leadership must be identified and fostered, but precisely the existence of recognisable bodies or agents for the formulation and implementation of common policies – rather than just a "concert" of powers – has been the secret of the success of European integration over the past decades.

#### Reforming the rotating presidency

On the one hand, therefore, the Commission has to be fully accepted as a major actor in CFSP, especially as regards long-term conflict prevention, post-conflict rehabilitation and civilian matters. On the other hand, Solana should definitely do much more to set up solid and appropriate structures in Brussels to support and sustain his function. In fact, personalisation entails risks, first and foremost that of a certain volatility: once Solana is gone, in fact, the "brand" could automatically lose its appeal, and may prove difficult to restore in the absence of robust and tested structures. Therefore, the HR's supporting staff should be substantially beefed up, preferably with officials recruited by and for the Council rather than detached from national ministries so as to strengthen their exclusive loyalty to the Union. Moreover, "branding" the function of the HR will inevitably weaken the rotational EU presidency and the troika. This may, however, prove the lesser evil given the negative effects that the present system has on Europe's external image and action. Reforming the current rotational EU presidency is a much needed institutional step and is closely linked, as will be seen later, to the broader reform of the Council.

Accordingly, giving the HR the exclusive external representation of the Union in CFSP matters seems to be the most coherent and effective option. By the same token, s/he should be given a formal right of initiative in foreign policy – similar to the one the Commission has in EC matters, and preferably in conjunction with it – and also substantial own resources, well above the 10 million euros that currently represent CFSP's annual

<sup>3</sup> The overall budgetary line for CFSP is 30 million euros for 2002, down from 36 in 2001. On the innumerable difficulties created by such scarce resources (especially if compared to the sizeable Relex budget) see J. Dempsey, "Budget cuts threaten safety of EU's envoys", *Financial Times*, 17 June 2002; P. Bocev, "La diplomatie des Quinze au bord de la faillite", *Le Figaro*, 18 June 2002.

operational budget.<sup>3</sup> Finally, the HR should be able to resort systematically to the 100-odd offices of the Community's external representation which constitute important "feelers" in third countries: in the short term, some officials in the delegations could be "double-hatted" and answerable also to the HR, while the entire structure should be at the disposal of the HR "in the event of a crisis" (as declared by the Council). In the longer term, however, such residual "pillarisation" should be done away with.

#### Merging the HR and the External Relations Commissioner

Along with the above goes the issue of merging the present SG/HR and the Commissioner for External Relations – a formula that, not unlike the "federation of nation states", seems to meet general consensus precisely because it is open to every possible interpretation, emphasis and twist. In principle, once again, it is not impossible for a EU body to operate according to distinct/separate sets of rules: the COREPER already does. However, applying such logic to policy areas and institutions that are still regulated by different methods – intergovernmental vs. communautaire – may cause more problems than it solves. For instance, who would be "merged" into whom? Would the Commission incorporate the functions of the High Representative or would the Council incorporate the EC's External Relations?

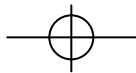
Of course, it is difficult to give a straight and coherent answer without a broader and, above all, agreed vision of the future of Europe, especially regarding the reform of the Council – but also of the Commission, if it is true that the competencies now divided between Chris Patten (Relex proper), Poul Nielson (Development Aid) and Pascal Lamy (Trade) are likely to be regrouped and merged under the authority of a single senior Commissioner.<sup>4</sup>

According to the Commission Communication mentioned earlier,<sup>5</sup> the centre of gravity for policy initiative in CFSP should lie within the Commission. The Communication recommends a step-by-step merger whereby, as a full member of the Commission, the HR/Commissioner for External Relations would enjoy a special status (he would be chosen jointly by the President-designate of the Commission and the European Council) and would operate with different procedures related to the different dimensions and contingencies of the Union's external policy.

The Commission document makes clear that such a merger would be

<sup>4</sup> See G. Parker, "Prodi tries to enlarge his powers", *Financial Times*, 19 June 2002; L. Zecchini, "Romano Prodi veut renforcer la Commission de Bruxelles", *Le Monde*, 20 June 2002.

<sup>5</sup> Communication from the Commission, *A Project for the European Union*.



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phased in gradually, but it is equally clear that it will generate – it already has – strong political reservations, and not only from some member states. In any case, such a “personal union” (rather than merger) between “Mr.CFSP” and the Relex Commissioner should happen preferably after separating the functions of the HR from those of the SG to prevent an institutional and operational overload that would replicate the one presently affecting the General Affairs Council.<sup>6</sup> It remains to be seen precisely what modalities would be most appropriate (and politically acceptable) for the appointment and answerability of such a figure. A possible compromise solution could entail his/her appointment by the European Council, preferably as deputy President of the Commission (and in the same “package”) but without being bound to the body’s collegial discipline on CFSP matters and with a specific right of initiative on foreign and security policy (which would derive also from the role of Commissioner). Needless to say, s/he should be able to draw upon Community resources at any time.

### The alternatives

Possible alternatives can be envisaged in relation to the foreseeable reform of the Council.<sup>7</sup> In the light of the proposals recently put forward by Solana and partially accepted at the European Council in Seville, the General Affairs Council will also incorporate External Relations and split up into two separate formations: one designed to tackle horizontal issues and one to deal specifically and exclusively with CFSP, ESDP and Relex matters, with defence ministers joining in according to the agenda. In the former, member states will be free to send either the foreign minister proper or another cabinet member.<sup>8</sup>

Following this line of thinking, it seems possible to conceive of a system in which, for instance:

- the new foreign policy “head” chairs the Council of EU Foreign (and Defence, when appropriate) Ministers and presides over the entire CFSP - Relex system, acting as its institutional pivot and guaranteeing its overall consistency;
- s/he is supported by two deputies, one being the Relex Commissioner

<sup>6</sup> For a thorough analysis cf. F. Hayes-Renshaw, “The Council of Ministers”, in Peterson and Shackleton, *Institutions of the European Union*, pp. 47-70.

<sup>7</sup> See C. Grant, “Restoring Leadership to the European Council”, *CER Bulletin*, no. 23, April/May 2002, pp. 1-3.

<sup>8</sup> See Presidency Conclusions, Seville, 21-22 June 2002, Annex II (Measures concerning the structure and functioning of the Council).

proper and the other a “Mr. ESDP” in charge of the operational side of crisis management and chairing the Political and Security Committee (PSC/COPS).

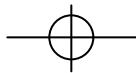
Needless to say, such an “enhanced” HR would take over the external functions of the rotating presidency (the abolition of which would in any case require treaty change). This new foreign policy troika would certainly not solve the traditional theological disputes over CFSP but might have the advantage of requiring limited institutional (and treaty) changes and preserving the distinction (but not separation) between community and intergovernmental procedures.

However, this might give rise to other problems: for instance, the relationship of the future foreign policy head – chairing the new specialised Council – with the national foreign ministers. Some believe that the rule presently used for external trade, whereby the relevant ministers do not interfere with the Union acting on their behalf, should be formally extended to foreign policy. Could a similar solution apply, for instance, when the European Council decides that a certain issue is to be subject to a common policy? The need for a cohesive external representation in CFSP seems to push in this direction<sup>9</sup> – although it would be wrong to abandon the richness of existing bilateral relations entirely – as the recent EU decision to establish trade ties with Iran proves.<sup>10</sup>

Another problem could arise if reform of the Council were to lead to the election by the heads of state and government of a senior figure as “EU President”. Such an outcome, apparently supported by London, Paris and Madrid, would put him/her in direct competition with the President of the Commission but also, to a certain extent, with the new HR (unless it suppresses or just downgrades him/her to an operational deputy). As a result, confusion and rivalry among institutions might further increase, unless a clear division of labour were established between the new “President” of the European Council, the President of the Commission and the new “Foreign Minister” of the Union. At any rate, it is too early to assess the future of a proposal that is seriously contested by the smaller countries which see it as an attempt to weaken the Commission as the body representing and articulating the common/general interest of the Union.

<sup>9</sup> On this point, see the article by G. Amato on the initial work of the Convention, to be published in the forthcoming issue of “Quaderni costituzionali”

<sup>10</sup> See J. Dempsey, “EU backs formal launch of trade ties with Iran”, *Financial Times*, 18 June 2002.



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### Increasing and reforming the CFSP budget

What is certain is that some adjustment to the current budgetary provisions for CFSP (as enshrined in Art. 28 TEU) will prove necessary. In fact, there is currently a distinction between "administrative" expenditures (always charged to the EC budget) and "operational" expenditures, also charged to the EC budget (unless the Council decides otherwise) but with a proviso: operations "having military or defence implications", in principle, are expected to be charged to the member states in accordance with the GDP scale. This means that the operability of ESDP, in particular, is left up to the discretion, goodwill and generosity of individual countries, which have the additional option of abstaining (Art. 23) and thus not paying for common missions.

The main issue is one of means as much as of solidarity, considering also that there is still no *acquis* or precedent to build upon or be constrained by. On the one hand, "administrative" expenditure can be interpreted quite broadly, thus encompassing such preliminary steps as fact-finding missions, pre-planning, and several civilian aspects. Within these limits, resorting to the EC budget would certainly enhance legitimacy and democratic accountability. In order to do so, however, the CFSP budgetary line (as already argued) should be significantly increased.

On the other, there will always be a problem of availability and readiness, and not only on the military side: quite the contrary, it is arguable that EU-led operations will more often than not be "mixed" ones, encompassing varying blends of military and civilian elements and resources. This is why merely applying the NATO formula "costs lie where they fall", whereby participating states cover all the relevant expenses (forces and assets), should not be the first option for EU operations but rather an additional or residual one, limited in particular to the military personnel involved.

Instead, the Union should come up with a concept more in line with its peculiar nature. This implies doing away with the proviso mentioned above and credibly tackling the thorny issue of burdensharing – shorthand for solidarity – inside the EU: in financial terms (contributions), in human terms (forces and assets made available), and in a combination thereof. One scheme to work on in this field would be "mixed pooling": the mix would refer to both civilian and military assets and take into account different aspects of contribution, from the overall capacity to pay to the supply of personnel and other capabilities to prevent allegations of "free-riding" and to



strengthen commonalities and collective responsibility.<sup>11</sup>

#### Enhanced cooperation in the defence field

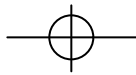
The provisions of the Nice Treaty regarding “enhanced cooperation” (Art. 27 cons. TEU) also require adaptation. First of all, the usual proviso whereby, once again, they should not apply to “matters having military and defence implications” should be eliminated. Indeed, that is a recipe for inconsistency and, in addition, ends up excluding precisely the one CFSP domain in which “enhanced cooperation” would make sense, given the unequal distribution of relevant capabilities – and willingness to engage them – across the Union. If consensual decision-making (including “qualified abstention” as per Art. 23) is preserved, a more flexible “format” for actual crisis management must be envisaged: anchoring it in the treaty would also prevent it from taking shape outside of the common institutional framework. It could also be helpful to finding more effective and better-tailored budgetary solutions for common policies, as explained above.

Accordingly, enhanced cooperation in Title V/Pillar II should be developed through a general “enabling” clause similar to the one agreed upon at Nice but without the above mentioned limitation and with a clearer role for the HR as its institutional and operational pivot (along with the PSC/COPS). Some explicit link should also be established to CFSP “common strategies” as a general framework for enhanced cooperation: such a link would also allow for appropriate use of qualified majority voting (if necessary) in the implementation phase while preserving the consensual method for “triggering” such arrangements.

In addition, a more targeted form of “pre-determined” enhanced cooperation could be introduced *ex novo*.<sup>12</sup> It would apply to arms procurement – the policy area that falls in the hypothetical “one-and-a-half” pillar, lying as it

<sup>11</sup> For some specific proposals in this domain, cf. A. Missiroli, “Paying for EU Crisis Management”, EU-ISS Newsletter, no. 2, May 2002. The Seville European Council agreed on a framework for the “Financing of EU-led crisis management operations having military or defence implications” that also entails a detailed list of “common costs” and relevant definitions that goes relatively far in this direction, although the thorniest issues are to be addressed on a case-by-case basis: see Annex II to the Presidency Report on ESDP.

<sup>12</sup> For the terminology, cf. A. C.-G. Stubb, “A Categorisation of Differentiated Integration”, *Journal of Common Market Studies*, June 1996, pp. 283-96. See also the recent work by A. Warleigh, *Flexible Integration: Which Model for the European Union?* (London-New York: Sheffield Academic Press, 2002). For an analysis of its possible application to Pillar Two, see A. Missiroli, “CFSP, Defence and Flexibility”, *Chaillot Paper 38* (Paris: WEU-ISS, 2000).



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does between community, Union and former WEU competences – and aim to set up a common defence industrial base (and internal market). As such, it could try to bring most of the relevant existing bodies and forums under a common institutional roof and to set up a specifically tailored regulatory framework. Needless to say, this may require a revision of Art. 296 TEC and a special role for the Commission as market regulator.<sup>13</sup>

### Conclusion

In conclusion, fostering leadership along with commonality, and flexibility along with effectiveness seems the most appropriate way to try to respond to the questions being addressed by the European Convention and to strengthen the role of the EU as an international actor, which is what the whole exercise is all about, especially since 11 September. In order to do so, the following would be useful (irrespective of the eventual solution given to the Union's overall institutional set-up):

- overcoming the rigid separation of the current pillars, although some distinction may be preserved, especially between external and internal policies: “joined-up” governance, rather than full cohesion, has to be aimed at;
- strengthening the HR's role, making him/her the pivot of the whole CFSP system by finding innovative and flexible solutions to the relationship with the External Relations Commissioner and other EU structures;
- doing away with the rotational EU presidency, at least in the realm of CFSP, and concentrating common resources (at the EC, EU and member states' level) by making them available to the “new” HR, especially “in the event of a crisis”;
- adapting the treaty provisions on “enhanced cooperation” by including defence/military matters, thus creating an appropriate institutional framework for common operational and industrial efforts;
- last but not least, increasing the common budgetary resources for CFSP and ESDP through solutions capable of reinforcing solidarity among member states: sharing risks and sharing costs should be two sides of the same Euro coin.

<sup>13</sup> See A.Missiroli, B.Schmitt, “More Euros for military capabilities”, *European Voice*, vol.8, no.25, 27 June 2002 (in extended form also in [www.iss-eu.org](http://www.iss-eu.org)).