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The CSDP after Lisbon: Lost Opportunities or Changed Interests?

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Key Points

- The purpose of the European Union's Lisbon Treaty was to enhance the unity of the member states' foreign policies and the coherence of the external action of the European Union (EU). As manifested recently by the lack of unity and delayed action in the wake of the Arab revolutions, the EU still has considerable work to do before it can claim to have become a global heavyweight in foreign and security policy.
- In order to conduct more assertive foreign policy, there is an urgent need for more ambitious arrangements between the member states. Here, the new provisions on Common Security and Defence Policy (CSDP) provided in the Lisbon Treaty could show the way. However, due to national caveats and changed priorities, their implementation remains in its infancy. This is in serious contrast with the requirements posed by reality.
- With the current focus on the development of military and civilian capabilities within the EU, the Permanent Structured Co-operation and the Solidarity Clause have the greatest implementation potential. In the meantime, the more controversial Mutual Assistance Clause as well as the possibility to entrust a crisis management operation to a group of member states, and even conditions for an Enhanced Co-operation – as a last resort – should be kept on the agenda.

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The EU's Lisbon Treaty that entered into force on 1 December 2009 raised great expectations for the EU's enhanced role on the global scene. The new provisions on CSDP were to play an important part in creating a more assertive Union. These include: the Permanent

Structured Co-operation (PESCO); the clause on mutual assistance; the clause on solidarity; and the possibility to entrust a crisis management task to a group of member states. The Treaty also stipulated conditions for an Enhanced Co-operation (see table below).

Table: The New CSDP-related Provisions of the Lisbon Treaty

	The Essential Content of the Provision	The Main Reference in the Treaty¹
Permanent Structured Co-operation	"Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework".	TEU, Art. 42 (6); TEU, Protocol 10
Mutual Assistance Clause	"If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States. Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation".	TEU, Art. 42 (7)
Solidarity Clause	"The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster".	TEU, Art. 222
Possibility to entrust a task to a group of member states	"The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests." "Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task".	TEU, Art. 42(5); TEU, Art. 44(1)
Enhanced Co-operation	"Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences..." "Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States..." "The decision authorising enhanced cooperation shall be adopted by the Council as a last resort..."	TEU, Art. 20; TEU, Art. 326-334

In this context, however, instead of seeking a stouter Common Foreign and Security Policy (CFSP) through rigorous implementation of the provisions, the EU has continued to limit itself to delayed reactions to international crises – exemplified by the confusion and delayed response when faced with the Arab revolutions. Moreover, eighteen months after the entry into force of the Treaty, the newly-born European External Action Service (EEAS) is only taking its first steps. The EU still has considerable work to do before it can claim to have become a global heavyweight able to level with the United States and China and, on many issues, other rising powers.

main novelty in the field of CFSP was administrative, through the creation of the EEAS by bringing parts of the General Secretariat of the Council, the European Commission, and the member states foreign services under the same umbrella. However, the Treaty also introduced the less discussed but potentially highly significant new possibilities for co-operation within the CSDP. These mostly unexploited opportunities have real potential for building a more assertive EU on the global scene; be it through the development of more apt crisis management capabilities or comprehensive support of the democratic aspirations in the Middle East and North Africa (MENA).

The Lisbon Treaty did not present any essential power shifts from the member states to the Union. In fact, the

Permanent Structured Co-operation (PESCO): a Downplayed Opportunity

During the first years of the millennium, when the Constitutional Treaty was being negotiated, a structured co-operation among willing member states in the field of defence seemed the most promising new area of CSDP.² In the first place, it was hoped this would bring together European defence suppliers and strengthen the European defence markets and research, development and industrial base against competition from the United States. By the time the Lisbon Treaty was signed in 2007, the establishment of the European Defence Agency (EDA) in 2004 had already established this cooperation. Many thus saw that the PESCO had already been put in place. The creation of robust multinational military units for crisis management was another desired field of potential cooperation. This target was realised by the establishment of the EU Battle Groups (BGs) that reached full operational capability in 2007.

The existence of the EDA and the BGs did not, nevertheless, prevent the member states from beginning discussions on the PESCO. Perhaps the contrary, as there was pressure in some countries to demonstrate progress in European integration after the long process of bringing the Treaty into force. Among the new CFSP opportunities, the PESCO appeared to be a relatively easy start. Some attempts to address the key aspects such as the scope, criteria, and possible issue areas for PESCO were made already during the Czech EU Presidency in the spring 2009. However, as in all other areas of the Lisbon Treaty, any discussion, not to mention concrete preparation, related to the Treaty implementation was effectively brought to a halt until the positive results of the second Irish referendum on the Treaty on 2 October 2009. Afraid of a negative result, the Irish government did not wish to give voters an image of the EU preparing an enhanced defence co-operation without the consent of the Irish people. After the entry into force of the Treaty, the Irish hesitance towards taking new steps in the CSDP did not essentially change.

Eventually, various seminars and discussions were organised by the subsequent Council presidencies to discuss the implementation of the PESCO. However, to date no consensus has been reached. The main open issues still include questions on:

- the scope of co-operation – whether there should be one all-encompassing or several single issue PESCOs;
- the criteria for participation – restrictive, such as 2% defence spending of GDP, versus inclusive criteria, such as a will to transform armed forces and participate in joint capability development efforts, and;
- the role of the EDA in governing the PESCO and evaluating the candidates' and the participants' performance.

The EU defence ministers have regularly insisted that the financial crisis, which has overshadowed much of the EU work recently, will not hamper the development of the CSDP and investments in common capability development projects. Instead, the scarce resources should foster co-operation. Indeed, there have been intensified efforts in the field of capability development. However, starting an entirely new form of co-operation does not sound appeal-

ing to politicians – or their constituencies – in the times of harsh national budget cuts.

The main factors of the lack of advance in the implementation of the PESCO can thus be traced down to, first, the existence of EDA and the BGs, and, second, the unwillingness or indifference of some member states (especially the newest NATO members) towards new forms of defence cooperation. A third factor is the existing cooperation among a number of member states (outside the EU structures), such as the close cooperation of Belgian and Dutch navies, the joint training of French and Belgian fighter pilots and the defence cooperation between the five Nordic countries (NORDEFECO). Also the EUROCORPS and the European Gendarmerie Force (EGF), for example, represent a form of “permanent structured cooperation” among some EU member states.³

Nevertheless, more and more voices have spoken in favour of bringing exactly these various cooperation patterns together under the PESCO and opening them to all member states. This would present a convenient way to proceed with the development of the CSDP without costly new technical or political arrangements.

Mutual Assistance Clause: A Dead Letter?

The Lisbon Treaty stipulates that in case of armed aggression, every member state has the obligation to assist another by all the means in its power. In spite of the strong obligation to collective security, in some EU countries, notably in the older NATO members, the Mutual Assistance Clause has hardly been noted. The new NATO member states have been appeased by the reference in the Clause to the primacy of NATO obligations. However, in some non-NATO EU member countries such as Finland, the mutual assistance obligation has caused heated public and governmental debate.⁴ The argumentation has largely followed the familiar fronts between the *pro* and *contra* views on military alignment, i.e. NATO membership. For the anti-alignment camp, the Clause has been a red cloth and often played down by referring to the fact that the Clause recognises that it does “not prejudice the specific character of the security and defence policy of certain member states”. The pro-alignment camp, on the other hand, has called for preparations in order for the EU to be ready to implement the Clause in case an attack against a member state would occur. Those looking positively into military alignment have sometimes wanted to interpret the NATO reference to imply an indirect NATO protection by the Alliance members extended to the non-NATO EU member countries.

It is worth remembering that the origin of the rather ambivalent Mutual Assistance Clause is in the Brussels Treaty of 1948 in which Belgium, France, Luxembourg, the Netherlands and the UK committed to common defence.⁵ Although the Western European Union (WEU) did carry out crisis management operations in the 1980s and 1990s, its defence commitment remained symbolic as NATO from early on became the concrete expression of collective defence. The WEU's military structures and tasks were gradually considered to be fulfilled within the EU and finally, in 2010, the WEU member states decided to close down the organisation.

Many of the CSDP activities and structures are legacies of the WEU, including the Petersberg tasks,⁶ the EDA, the Institute of Security Studies and the Satellite Centre. The EU's constitutional agreements have, correspondingly, followed the development in the role of the WEU by first referring to the WEU's role as a defence arm for the EU, eventually incorporating the WEU activities and structures into the EU, and recognizing the NATO commitments of some EU member states and leaving out the WEU reference from the Lisbon Treaty.

The linkage between the EU and the WEU is thus important in understanding the role of the new Mutual Assistance Clause. One may conclude that whereas the WEU's crisis management activities, certain supporting structures, and the political commitment of mutual assistance were transferred to the EU, the defence tasks were entrusted to NATO. This is why, according to the current interpretation of the Clause by the majority of member states, the EU is not to prepare for a practical implementation of mutual assistance in defence. Rather, the Treaty stipulates this obligation to each member state, be it realised nationally (the non-aligned members) or in NATO.

Solidarity Clause Showing the Way in Comprehensive Crisis Management

The commitment to solidarity among the Union and its member states in case of a terrorist attack or a disaster differs from other aspects of the Treaty discussed in this paper as its management falls mostly under the European Commission (EC) competence and in the Area of Freedom Security and Justice (AFSJ). At the same time, it is the most likely new provision of those related to the CSDP to be implemented in the near future.

There are two main reasons for this progress, the first being the fact that the Lisbon Treaty obliges the EC together with the High Representative of the Union for Foreign Affairs and Security Policy – who is also the Vice-President of the EC (HR/VP) – to formulate a proposal to the Council on the arrangements for the implementation. Second, the recent emergencies, both those within the EU, such as the forest fires in Greece in 2009 and the chemical spill in Hungary in 2010, and those in third countries, in particular, the Haiti earthquake and the floods in Pakistan in 2010, have sped up the preparations. It is also noteworthy that EU action in the area of disaster response is firmly supported by EU citizens, with 90% of Europeans wishing for the EU to do more in this field.⁷

The response to the Haiti catastrophe, especially, brought the coherence and division of labour in EU external crisis response under scrutiny. The immense and immediate need for humanitarian assistance urged many countries, not least the United States, but also EU member states, to resort to military means in the aid delivery. The EU even launched a modest military CSDP action, the EUCO Haiti, a cell to co-ordinate member states' military assets for the delivery of humanitarian aid. Importantly, as stipulated by the UN⁸ and agreed in the EU,⁹ the use of military means in support of humanitarian action can only complement other – within the EU, EC-lead – humanitarian efforts.

In its impact assessment, the EC concluded that although

the overall EU assistance after the Haiti earthquake was swift and effective, there were important areas for improvement in the European disaster response.¹⁰ Above all, the EC highlighted the need to increase the effectiveness, including cost-effectiveness, coherence, and visibility of the EU action.

There have also been some other related, over-arching policy projects that cross-cut the EC competence and the CSDP, and may have relevance to the implementation of the Solidarity Clause. Most notable of these are the development of the European Voluntary Humanitarian Aid Corps (EVHAC), also mentioned in the Lisbon Treaty,¹¹ and the Integrated Maritime Policy which touches upon the development of common maritime surveillance, hitherto a military domain in many member countries.¹² Although an independent process, the latter has already given important impetus to closer co-operation between the EC, the Council Secretariat and the EEAS, and the member states.

It is still to be seen whether the EC and the HR/VP will draw these and other related strands together when drafting the proposal on the arrangements for the implementation of the Solidarity Clause. As is often the case in the development of EU policies, small steps forward are easier to achieve than one all-encompassing policy construction. As for now, it seems that the implementation of the Solidarity Clause has suffered from its multi-institutional character and become a sticking point between the EC and the Council, and the EC's Humanitarian Aid department (ECHO) and the EEAS. With the EC in the lead, the implementation is likely to have less contact and relevance to the CSDP.

Entrusting an Operation to a Group of Member States: a Real Option

The provision that gives the Council the possibility to entrust a CSDP task, within the Union framework, to a group of member states resembles the current practice of recognising the role of a lead nation in military CSDP operations. The lead nation role usually falls on a larger member state that is ready to provide the thrust of forces and the operation headquarter (OHQ), as Germany did in the Democratic Republic of Congo in 2006 (operation EUFOR RDC) and France in Chad and the Central African Republic in 2008 (operation EUFOR Tchad/RCA). The implementation thus requires both the decision by the Council to entrust the operation to a group, and a willing and able multilateral force within the EU to execute it.

The arrangement can also be seen as related to the system of BGs formed around lead nations responsible for the training and command of an active BG. Another close relative of the idea of entrusting an operation to a group of member states is the practice of recognising, in Council conclusions, the deployment of a multinational force consisting of some member states' regular contributions in a crisis situation, as with the European Gendarmerie Force (active in theatres such as Bosnia and Herzegovina, Haiti and Afghanistan). Other potential groupings could include formations such as EUROCORPS, EUROFOR, EUROMARFOR, LITPOLBAT, and co-operation under NORDEFCE.¹³

However, in order to implement this Treaty provision, the

Council would need to consider in advance the conduct and responsibilities of such an operation. For example, in which kinds of cases the scope, objectives and conditions of an operation entrusted to a group of member states would have changed to the extent that the Council would need to adjust its decision and interfere with the conduct of the operation? This does not seem to be a question of priority, partly, because the implementation of the clause would not radically change the practice already familiar to the CSDP and, partly, because the member states do not agree on granting a considerable amount of independence to a smaller group of states acting in the name of the entire block. Evidence of this is the discussion around the implementation of the UN Security Council resolution 1973 (2011) on Libya to protect the civilian population from the forces of Muammar Gaddafi. Rather than being ready to entrust the operation to the willing and able member states, the few willing countries in question eventually started the operation as an ad hoc coalition later placed under NATO command.

Enhanced Co-operation Only a Last Resort

The discussions on flexible integration resulted in a general clause allowing a group of willing member states to proceed faster than others in their integration in a specific policy area, including in the CFSP. One may interpret the provision as an incentive for further integration in any area hitherto not covered by the EU – or, perhaps more realistically, an attempt to hinder groups of member states from forming alliances that would discriminate against other EU partners. In either case, the fact that this clause is seen as “a last resort” in the Treaty points to the conclusion that the member states are not likely to actively seek Enhanced Co-operations. Especially, in the CSDP this seems unlikely in the near future, not least because the PESCO is considered as the prior potential framework for deeper integration in the defence field. Instead, the already existing formations within the EU, such as the Euro Group, the “borderless” Schengen Area, and the Prüm Convention on the exchange of information in the field of internal security, could rather show the way to further Enhanced Co-operations.

Conclusion. Has the Time Passed on the Lisbon Treaty?

As often occurs with the EU, policy development has been driven by real-life events, such as the establishment of new crisis management operations (e.g. EUMM Georgia, EU-NAVFOR Somalia), the response to natural disasters (e.g. Haiti) and the work by strong Council presidencies (e.g. France in 2008), rather than a careful design. It follows that CFSP is most likely to be shaped by the 2011 Arab revolutions and the difficulty for the EU to come forward with a meaningful unified stance. If the lesson is learnt, member states will pursue more comprehensive and forward-looking regional strategies.

In this context, the Solidarity Clause is the only one of the new provisions that has the potential to be implemented in the near future, yet, most likely, without a direct impact on the CSDP. On the contrary, the possibility of an Enhanced Co-operation has begun to seem increasingly redundant with several, although faltering, configurations such as the Schengen and the Euro zone – unless, eventually, this clause begins to be considered their legal basis. Similarly, the possibility to entrust an operation to a group of member states has partly been realised in the lead nation concept and in the practice of politically endorsing member states’ deployments in crisis areas.

The establishment of the EDA and the Battle Groups fulfil many of the expectations attached to the Permanent Structured Co-operation. Of course, this does not as such imply the lack of dynamism in the area of capability development where many new co-operations have been established in recent years, from collaboration in countering improvised explosive devices and developing maritime mine counter measures to common training of helicopter pilots and creating a European air transport fleet.

Moreover, the on-going discussion within the EU on the Pooling and Sharing of military capabilities has brought into focus the important question of which capabilities the member states want to maintain nationally; which they are willing to pool together; and where they are ready to proceed to an international task and role sharing framework where the reliance on mutual assistance is the key. True sharing of capabilities without such a trust on assistance appears difficult, as was exemplified by the need for the Nordic countries to adopt a common declaration on solidarity¹⁴ (expanding the Mutual Assistance and the Solidarity Clauses’ responsibilities to Denmark which does not take part in the military CSDP, and Norway and Iceland which are not EU members). The outcomes of the discussion on Pooling and Sharing will not only be relevant to the EU, but to the development of European capabilities also within or in co-operation with NATO.

As has been the case before, it is likely to take years before clauses of treaties are duly implemented and become living Union policies. At the same time, as a treaty-based organisation, the EU is certain to utilise, at some point in the future, these important possibilities for a more coherent and assertive CFSP – most likely, in a way not yet entirely foreseen. Nevertheless, for the EU to become a truly global player in foreign policy there is a need for more ambitious arrangements between the member states. Here, the new CSDP provisions provided in the Lisbon Treaty can show the way.

NB: The views expressed in this paper are entirely and solely those of the author and do not necessarily reflect the views of the GCSP or the Finnish Government.

Endnotes

- 1 *Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union*, Council of the European Union, 6655/2/08 REV 2, Brussels, 28 May 2010.
 - 2 The European Security and Defence Policy (ESDP) was renamed CSDP in the Lisbon Treaty. For the sake of clarity, the term CSDP is used in the text also when referring to ESDP prior to 1 December 2009.
 - 3 Five framework nations (Belgium, France, Germany, Luxembourg and Spain) and five associated nations (Austria, Greece, Italy, Poland and Turkey) participate in the EUROCORPS. The EGF member states are France, Italy, The Netherlands, Portugal, Romania, and Spain.
 - 4 T. Tiilikainen, *The Mutual Assistance Obligation in the European Union's Treaty of Lisbon*, Ministry for Foreign Affairs of Finland, Helsinki, 2008.
 - 5 In 1954, the treaty was modified as Germany and Italy joined the organization which was renamed the WEU. Portugal and Spain joined in 1990 and Greece in 1995.
 - 6 The tasks, in the course of which the Union may use civilian and military means, include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. TEU, Art 43 (1).
 - 7 *Special Eurobarometer: Civil Protection*, European Commission, November 2009, http://ec.europa.eu/public_opinion/archives/ebs/ebs_328_sum_en.pdf (accessed on 21 June 2011).
 - 8 *Oslo Guidelines. Guidelines on the Use of Foreign Military and Civil Defence Assets In Disaster Relief*, Revision 1, United Nations, Geneva 2008.
 - 9 For example, *EU Council Conclusions on EU Emergency and Crisis Response*, 2727th General Affairs Council meeting, Brussels, 15 May 2006.
 - 10 *Communication from the Commission to the European Parliament and the Council: Towards a stronger European Disaster Response: the Role of Civil Protection and Humanitarian Assistance*, European Commission, Brussels, 26 October 2010, COM(2010)600 final.
 - 11 TEU, Art. 214 (5).
 - 12 *Proposal for a Regulation of the European Parliament and of the Council establishing a Programme to support the further Development of an Integrated Maritime Policy*, European Commission, Brussels, 29 September 2010, SEC(2010) 1097 final.
 - 13 Italy, France, Spain and Portugal participate in EUROFOR and EUROMARFOR, and Lithuania and Poland in LITPOLBAT.
 - 14 *The Nordic Declaration on Solidarity*, Ministry for Foreign Affairs of Finland, 5 April 2011, <http://www.formin.fi/public/default.aspx?contentid=217312> (accessed on 21 June 2011).
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- *GCSP Policy Paper n°8* (November 2010): "The European External Action Service: Implications and Challenges" by Gustav Lindstrom, available at: www.gcsp.ch/Euro-Atlantic-Security/Publications/GCSP-Publications/Policy-Papers.

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