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Note from the Editor

Karen E. Smith, London School of Economics, Editor

With this issue, *CFSP Forum* returns to the topic of European defence policy (see also vol. 1, no. 2). By the end of the Intergovernmental Conference (IGC) in December 2003, European Union member states had reached several important agreements on the European Security and Defence Policy (ESDP) – notably on enhanced cooperation and a headquarters – but the failure of the IGC to adopt the draft constitutional treaty left the agreements in legal limbo. The articles here analyse the steps agreed, and consider their implications for EU defence policy in general, for member states left out of initial discussions of *avant-garde* groups, and for relations with the United States.

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Flexibility in the European Security and Defence Policy (ESDP) has been one of the key issues during the Convention on the Future of Europe and the subsequent Intergovernmental Conference.[1] After the disappointing experience of the 2000 IGC, a fresh effort was needed to make ESDP more efficient and operational. As long as unanimity prevails in ESDP decision-making, flexible modes of governance provide the best way of overcoming obstacles to taking action or proceeding with deepening in the field of European defence.

Flexibility in ESDP: the Convention results as an important, but not a final step

While at the December 2000 Nice summit, it proved impossible to modify the rigid forms of decision-making in the EU Treaty on all matters having military or defence implications, the Convention made a surprising and impressive move towards introducing flexibility in defence policy:[2]

- Member states that establish multinational forces may make them available to the common security and defence policy (Art. I-40 (3)).
- The Council may entrust the execution of tasks to a group of countries (Art. 40 (5)

and Art. III-211). This refers in particular to crisis management operations (Art. I-40 (1)); the member states concerned shall agree between themselves on the management of the task (Art. III-211 (1)).
- Member states fulfilling higher criteria for military capabilities and having made more binding commitments with a view to more demanding tasks shall establish structured cooperation within the Union (Art. I-40 (6) and Art. III-213). Those member states will be listed in a Protocol annexed to the constitutional treaty, which shall also contain the military capability criteria and commitments which they have defined (Art. III-213 (1)). The EU Council may ask the countries under structured cooperation to carry out crisis management tasks (Art. III-213 (4)).
- A European Armaments, Research and Military Capabilities Agency should be set up, open to all member states wishing to participate; within the Agency, specific groups of countries engaged in joint projects can be established (Art. I-40 (5) and Art. III-211).
- Until the European Council decides unanimously on a common defence, closer cooperation shall be established as regards mutual assistance (Art. I-40 (7) and Art. III-214). If a member state participating in closer cooperation is 'victim of an armed aggression on its territory, the other participating states shall give aid and assistance by all means in their power, military or other, in accordance with Art. 51 of the UN Charter.'

This menu represented an ambitious programme for the future political and institutional development of ESDP, whose political viability was discussed by the member states at the IGC starting in autumn 2003. It soon became evident that not all EU countries wholeheartedly supported the text elaborated by the Convention. There were two camps of critics: the 'Atlanticists', those EU member states that emphasise NATO's role as the primary organisation responsible for European security (not only with regard to collective defence), and the non-aligned countries, which were trying to block any tendency to bring the EU closer to becoming a military alliance.

Dispute among the EU member states had already been caused by the quadripartite initiative launched by France, Germany, Belgium and Luxembourg in April 2003. The four heads of state and government adopted a declaration expressing their intention to initiate a number of multinational projects on EU defence policy; the most sensitive item concerned the plan to create a nucleus capacity for planning and conducting autonomous EU operations without recourse to NATO.[3] This idea, which became notorious under the label 'Tervuren' (standing for the creation of an autonomous multinational EU headquarters in this quarter of Brussels), provoked severe criticism. Atlanticists and the new member states regarded the establishment of an EU headquarters as an unnecessary duplication of structures that were available either at NATO (SHAPE) or at national level (Operational Headquarters), and countries like Austria, Finland and Sweden disliked the idea of turning the EU into a militarily operational organisation similar to an alliance.

During the IGC, the member states tried to settle the controversies about these issues and arrive at an amended constitutional treaty. Many countries viewed the structured cooperation clause as drafted by the Convention with mistrust because of their fear of possibly being excluded from it. This was true in particular for the candidate countries which disliked the idea of becoming relegated to second-class membership if they were not able to fulfil the required criteria. Additionally, Britain wanted to prevent structured cooperation from being used to create *avant-gardes* or *pioneer groups*, much favoured by French President Jacques Chirac.

The mutual assistance clause also met with considerable resistance. Here again, the UK, as the most prominent torchbearer of Atlanticism, rejected any clause that would undermine NATO's function as the guarantor of collective defence in Europe. The US put considerable pressure on its allies not to harm transatlantic relations, while the non-aligned countries wanted to prevent the EU from turning into a military alliance, which would call into question their traditional foreign and security policy.

Flexibility at the IGC: taking a new turn

At the Naples conclave of the EU foreign ministers in November 2003, a breakthrough was reached on the major issues under discussion, which was modified and refined in the following week. This success resulted to a large extent from the emergence of a Franco-British-German 'deal' that had been prepared in trilateral talks during the preceding weeks. Although the procedure was little attractive to the Presidency and many smaller EU countries, it reflected the growing role of the 'Big Three' in EU foreign and

security policy in solving contentious issues and thus pushing the EU ahead.

The compromise included three key components: a new wording for the provisions on structured cooperation, a reformulation of the mutual assistance clause, and a solution to the 'Tervuren' issue concerning the creation of an autonomous EU headquarters.[4]

Structured cooperation, now renamed 'permanent structured cooperation', was worded in a manner sufficiently open to include all EU member states. The revised Article 40 (6) of the draft constitutional treaty defines the procedure for setting up structured cooperation. Here it is important to note that authorisation will be granted by the Council acting by qualified majority. Any country willing to join at a later stage will need a decision by the Council acting by qualified majority where only the participating member states will be allowed to vote. Another important element lies in the possibility of suspending participation in structured cooperation by qualified majority if a member state no longer fulfils the criteria (only the participating countries shall take part in the vote, excluding the country concerned). Any country wishing to withdraw from structured cooperation may do so without restrictions.

Decisions in the framework of structured cooperation will be taken by the participating member states, while deliberations will be open to all EU member states – this also in contrast to the Convention's draft which had kept the other EU countries out of the deliberations. Thus the creation of a special Council for structured cooperation was avoided.

Concerning the criteria for participation, no obstacles were set up that would *ex ante* exclude a country. Two conditions were formulated in the protocol on permanent structured cooperation agreed at the IGC. First, the member states should be ready to develop more intensively their defence capabilities through national contributions or multinational forms of cooperation and within the EU Agency. Second, they should commit themselves to supply by the year 2007 – either by national contributions or within multinational force groups – targeted combat units for carrying out crisis management missions, which are structured at a tactical level as combat formations and supported by sufficient transport and logistical capabilities. These combat units would have to be deployable within 5 to 30 days, and be sustainable for an initial period of 30 days, extendable up to at least 120 days.[5]

A second set of commitments to be accepted by the member states includes a broad list of activities, like cooperation for achieving improvements in the level of investment in defence equipment; harmonising the identification of military needs; pooling and possibly specialising defence means and capabilities; improving the availability, interoperability, flexibility and deployability of military forces; filling the major capability gaps identified in the 'Capability Development Mechanism'; and participation where appropriate in major joint or European equipment programmes in the context of the EU Agency.

This quite comprehensive list of fields of cooperation for improving military capabilities underlines the will of the member states to regard structured cooperation as the key element of flexibility within ESDP under the constitutional treaty. There is virtually no important sector not covered by the protocol. At the same time, not all participating countries will be engaged in all areas to the same degree. So, even if all EU member states enter structured cooperation as such, most probably a differentiation process will emerge among them.

The second disputed element of the Convention's draft constitutional treaty to be solved by the IGC concerned closer cooperation on mutual defence. The new text drops the idea of a declaration annexed to the Treaty in which the member states wishing to enter closer cooperation are listed, but instead formulates a general obligation for all EU countries to provide aid and assistance by all means in their power if an EU member state is victim of armed aggression on its territory. It also states that the commitments in this area shall not 'prejudice the specific character of the security and defence policy of certain member states' (that is, the non-aligned countries) and shall also be consistent with NATO which remains the foundation for the collective defence of its member states.[6] Furthermore, the IGC completely deleted Article III-214 as drafted by the Convention, which included a specific procedure for implementing the mutual assistance clause.

Thus, closer cooperation will no longer fall under the 'flexibility' provisions (giving a number of countries the opportunity of going ahead without waiting for the rest), but will be applied to all member states; it will also become an obligation of a less binding nature than envisaged in the Convention's draft. In the end this compromise

was acceptable to the non-aligned countries (although they would have preferred a softer version), while the Atlanticists were satisfied with explicit mention of NATO's role.

Finally, the controversial headquarters issue was settled through a compromise, thus 'killing' the Tervuren proposal launched by the 'Gang of Four' in Brussels in April 2003. Instead of creating a fully-fledged headquarters, the IGC agreed to enhance the EU military staff (EUMS) through a cell with civil and military components. This cell would be responsible for planning and running an autonomous EU operation, but should not serve as a permanent headquarters.[7] In addition, the implementation of military operations by the cell was defined as a rather low ranking option. By this formula it was possible to reconcile Europeanist and Atlanticist concerns, as it calmed British fears over an autonomous EU acting on its own, while satisfying French desires for more permanent structures within the EU. In parallel, an EU cell should be established at SHAPE for improving the preparation of EU operations having recourse to NATO assets and capabilities.

The creation of an EU Agency proved to be much less contentious. Initially, it had been received with caution as some countries disliked expensive European procurement programmes managed by a central authority. It was under British pressure that the name and the tasks of the Agency were reformulated, putting emphasis on capability improvement rather than procurement. Furthermore, Germany was pleading for an organisational model which was based upon a network rather than a bureaucratic apparatus, so that existing bodies like Organisation Conjointe de Coopération en matière d'Armement (OCCAR), Western European Armaments Group-Western European Armaments Organisation (WEAG-WEAO) and the Letter of Intent (LoI) Framework Agreement (see p. 9) would be linked together and not absorbed by a European superstructure.

Based upon these considerations, it was possible – with support from all EU countries – to take concrete steps; at the Thessaloniki summit in June 2003, the European Council decided to set up the Agency for Capability Improvement, Research, Procurement and Armament as an intergovernmental body. In November 2003 the Council decided to set up an Agency Establishment Team (AET), while accepting a report by COREPER in which key features of the Agency were defined.[8] It will be under the political responsibility of the Council composed of the defence ministers, who will be supported by COREPER and the Political and Security Committee; the national armaments directors will also be included in decision preparation in a way still to be defined. The main tasks of the Agency will lie in the development of defence capabilities with a view to crisis management missions, promoting armaments cooperation, strengthening the defence industrial base and promoting defence-related research. It is also stated that the Agency shall be open to participation by all EU member states.

Conclusions and options for the future: with or without the constitutional treaty

The provisional results of the IGC so far seem to highlight a number of basic trends. The first one underlines the role of the EU, alongside NATO, as the preferred institutional framework for flexible solutions in defence policy, instead of ad hoc arrangements outside the EU. The member states seemed willing to include as many issues as possible under the constitutional treaty to provide a collective framework for taking initiatives inside the Union. This became evident in the broad range of the areas falling under permanent structured cooperation, but also by solving the headquarters issue.

A second trend hints at a preference by the IGC for softer and more inclusive versions of flexibility compared to the Convention's draft. Flexibility should include as many countries as possible and avoid creating second or third rank membership within the EU; again, this became apparent with structured cooperation held sufficiently open as to include as many countries as possible at the start, but also by the new wording of closer cooperation on mutual defence (which no longer falls under flexible forms of cooperation) and by emphasising that the new Agency shall be open to all EU member states.

Third, a balance between Atlanticist, Europeanist and non-aligned positions was struck among the member states at the IGC. Flexibility should not serve as an instrument for Europeanists to move ahead and thus create problems for the Alliance or for those member states rejecting binding obligations in mutual defence.

Fourth, the major solutions as agreed at Naples had been prepared by a de facto informal directoire including France, Germany and the UK. It can be expected that these three countries will continue to play a major role when fundamental

decisions on ESDP are at stake, although harsh criticism by the other EU countries has been voiced. However, there will be no alternative to an informal directoire among the big three as these countries have the sufficient political, economic and military weight to provide ESDP with the necessary credibility.

The failure of the Brussels summit in December 2003 to reach an agreement on the constitutional treaty also affects the solutions found so far for ESDP. Apart from the Agency and the creation of a civil/military cell attached to the EUMS – which will come true irrespective of agreement on the constitution – it is in particular structured cooperation and the mutual defence clause that might fall victim to the dispute over the weighting of votes in the Council.

Nevertheless, there seems to be a clear will by the member states to save the results of the IGC on ESDP even without a constitution. One idea would be to include the programme of structured cooperation into the new definition of the Headline Goals, so that the member states could follow the different activities defined in the draft protocol within project groups where interested countries would be engaged in specific areas for improving their capabilities. As a last resort, even a Schengen-like solution of establishing structured cooperation outside the EU would be possible - compatible with the Union and always ready to be incorporated in the Treaty framework. But it implies the risk of creating durable structures and alienating insiders and outsiders.

Even more difficult to handle is the issue of mutual defence. Here, it is hardly thinkable that some countries would establish among themselves such a clause outside the Union, detached from any institutional and political framework. The future of the mutual defence clause is therefore closely linked to the fate of the constitutional treaty.

At the moment, it remains unclear which direction will be followed. France hints at the possibility that an *avant-garde* outside the EU could be the outcome if the constitutional treaty fails to be adopted. Germany on the other hand has changed its position: Foreign Minister Fischer declared in a recent newspaper interview that he no longer regards the establishment of core groups outside the EU as a viable option; instead, any effort should be undertaken to strengthen the common institutional framework, whereby enhanced cooperation or structured cooperation could help to advance the integration process.[9]

From this perspective, the search for intra-EU solutions should be taken as a priority even if the constitutional treaty will not soon become a reality. If the agenda of structured cooperation is to be inserted into the new headline goals, it must be assured that it will not be submerged within an inefficient, cumbersome and bureaucratic process, but will be organised in an identifiable, effective and transparent manner. The initiative of the 'Big Three' is crucial for ensuring that the respective commitments are taken seriously. If they agree on a common approach, progress in ESDP will be possible even without the adoption of the constitutional treaty.◇

[1] See Udo Diedrichs and Mathias Jopp, 'Flexible Modes of Governance. Making CFSP and ESDP Work', *The International Spectator*, Issue 3, 2003, pp. 15-30.
[2] See the draft constitutional treaty, adopted on 13 June and 10 July 2003, Brussels, 18 July 2003 (CONV 850/03).
[3] See Meeting of the Heads of State and Government of Germany, France, Luxembourg and Belgium on European Defence, Brussels, 29 April 2003.
[4] See the Note by the Presidency, 9 December 2003, CIG 60/03 ADD 1, pp. 31-35.
[5] Article 1 of the Protocol on permanent structured cooperation, see ibid.
[6] See the wording of Article I-40(7), ibid.
[7] See the Council document, 'European Defence: NATO/EU Consultation, Planning and Operations', Press release, Brussels, 15 December 2003.
[8] See 2541st Council meeting, External Relations, Brussels, 17 November 2003, 14500/03 (Presse 321).
[9] See *Berliner Zeitung*, 28 February 2004; *Frankfurter Allgemeine Zeitung*, 7 March 2004.

CFSP and the Constitutional Hangover

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The failure of the 2003 Intergovernmental Conference (IGC) to reach agreement on the constitution, at least for now, may not have been all negative. A pause may, for instance, allow for measured reflection and hopefully wider public engagement in the various debates surrounding the constitution. For CFSP, however, this pause comes at a rather awkward juncture since there are a number of real world challenges, recently set out in the European Security Strategy, which need to be addressed regardless of the lack of an agreed constitution. Indeed, the chair of the EU Military Committee, Gustav Hägglund, publicly ruminated on why 'other issues having nothing to do with defence' should slow down progress.[1] The events of 2003 have also reinforced the notion that if Europe wishes to be a 'puissance politique' as well as economic, then defence is an indispensable part.[2] What are the implications of this impasse for the development of the CFSP and its integral subset, the European Security and Defence Policy (ESDP)?

Forward, march (anyway)

First, the good news: some notable CFSP reforms do not depend upon approval of the constitution to go ahead. For instance, preparations have started to create an agency in the field of defence capabilities, development, research, acquisition and armaments.[3] The aim is to have the agency, which the head of the European Aeronautic and Space Company, Philip Camus, sees as 'crucial', operational by the end of 2004.[4] Although there are a number of challenges ahead, such as establishing appropriate arrangements with other similar organisations (such as the Organisation Conjointe de Coopération en matière d'Armement [OCCAR], Western European Armaments Group-Western European Armaments Organisation [WEAG-WEAO] and the Letter of Intent [LoI] countries – some of which include non-EU members or are open to non-EU countries; see Table 1, p. 9), the need for such an agency has long been evident. Much will depend upon the willingness of the EU member states to work with the

Deliberations on 'structured cooperation' have been ongoing since June 2003, following an initiative by Belgium, France, Germany and Luxembourg (whom Richard Boucher, US State Department spokesman, derogatively termed the 'chocolate makers'). Initial opposition stemmed both from familiar Atlanticist arguments, as well as more general concerns about the desirability of an *avant-garde* of member states. However structured cooperation was evaluated more positively following the Iraq imbroglio, which threatened to leave CFSP in tatters. In addition, there is a wider realisation that there are circumstances where it may be appropriate, or even desirable, for the EU to act alone even though, for a variety of reasons, not all EU member states will wish to be involved – a point underscored by imminent EU enlargement.

The often confusing language in the draft constitutional treaty on structured cooperation (for instance, references to military capabilities fulfilling 'higher criteria' or to 'the most demanding missions', in Article I-40(6)) was usefully clarified by the Italian Presidency to include more comprehensible procedures, criteria and indication of required military capacities.[6] Under the draft constitutional treaty, the Council could entrust 'the implementation of a task to a group of Member States having the necessary capability and desire to undertake the task' (Articles I-40(5) and III-211). There is little reason why such cooperation cannot be developed in the absence of a constitution. Arguably, the latter already happens in the form of coalitions of the willing, while critical foundations for the former are being laid with the establishment of a closer security dialogue between France, Germany and the UK.[7]

On a practical level, associated with structured and other forms of cooperation, a dispute arose about the need for a dedicated EU Planning Cell which was seen as an 'absolute necessity' by Belgian Prime Minister Guy Verhofstadt.[8] Key to the ongoing debate was the United Kingdom, which, at least in the early days of the debates, appeared to have been irreversibly tarred with a pro-Bush administration brush over Iraq. However, there was also recognition, most notably by French Foreign Minister Dominique de Villepin, that any structured cooperation would depend upon British participation for

military credibility. British participation was also needed to sell it to Washington as something that would not compete with NATO. Under an agreement reached on 11 December 2003 between France, Germany and the UK, the EU will have its own civil-military planning cell. However, provision was also made for lead-nation operations, based primarily around national (or even multi-national) arrangements, as well as close liaison with NATO's headquarters, SHAPE, for Berlin Plus operations (in which NATO assets could be used by the EU).

In many ways the varying forms of cooperation found in the draft constitutional treaty, with the exception of the stipulations on mutual defence, merely codify what is already happening *de facto* as has been seen in recent operations in Bosnia-Herzegovina, the Former Yugoslav Republic of Macedonia and the Democratic Republic of Congo. It is, though, important that the linkage between various forms of cooperation and the aims of the armaments agency (i.e. resource issues for the short and long term) should be made explicit - something the draft constitutional treaty did not do particularly well.

About turn?

The second main consideration applies to those ways in which CFSP may have been weakened in the absence of an agreed constitution. The discussions in the Convention, and even prior to the Convention, identified the need for a Union Minister for Foreign Affairs. The logic is that the Union Minister could enhance consistency in EU external affairs as a whole – accompanied by the assumption of legal identity for the EU. The theme of consistency was underlined in the European Security Strategy, adopted by the European Council on 12 December 2003, which noted that 'the challenge now is to bring together the different instruments and capabilities: European assistance programmes and the European Development Fund, military and civilian capabilities from Member States and other instruments' (p. 13).

It is of course possible to continue with the current system, with all of its imperfections. However, this only prolongs the institutional tensions between the Commission and Council, especially in areas where there are significant joint responsibilities, such as conflict prevention, early warning, defence industrial issues, external representation and strategic guidance. The issue is not only confined to the highest levels since it has implications for the EU's external relations as a whole. For instance, the absence of a legal identity for the EU continues the awkward fiction whereby the Commission's External Service represents the Community's interests through the delegations, while the Presidency and High Representative carry out many of the more political and strategic aspects of external relations. In reality these roles have become increasingly difficult to separate, especially with the pressure on the External Service to address an increasing number of political issues.

The lack of a Union Minister for Foreign Affairs and, as mentioned, a European External Action Service, will stymie the development of a genuine European *corps diplomatique,* which would not only represent the Union's interests, but include member state diplomats as well. Until there is an agreed constitution, it is difficult to see the Commission and Council moving towards anticipatory inter-institutional arrangements, especially when they involve such sensitive 'turf' issues. Representation to third parties will therefore continue to be fragmented and confusing.

Under the draft constitutional treaty, the Union Minister for Foreign Affairs would chair a Foreign Affairs Council which would have been, for the most part, outside a revamped rotating Presidency. In its absence, the current six-month rotating Presidency system continues, as do its inefficiencies, including the temptation of the Presidency to stamp its *imprimatur* on EU external relations, sometimes with fractious results (for instance, the Greek Presidency's well-intentioned efforts to reach agreement on Iraq, which only highlighted intra-EU differences, or Italian Prime Minister Silvio Berlusconi's recent support for Russia over Chechnya – a position not shared by other EU member states).

The absence of suitable funding for operations, beyond the currently inadequate budget, may further hamper CFSP, especially at a time when a follow-on operation to SFOR in Bosnia-Herzegovina and possibly some form of monitoring in Moldova are under consideration. To avoid the financial scrabbling of the type that went on before the launch of the EU Police Mission in Bosnia-Herzegovina (over relatively small amounts), the draft constitutional treaty suggested the need for a 'start-up' fund (Article III-215) while the Convention discussed the need for an emergency fund to be used by the Union Minister for Foreign Affairs. Future funding provisions for CFSP will, in all likelihood, not fall neatly into categories of those 'operations having military and defence operations' and those that do not (Article 28 TEU). Most operations are likely to involve substantial military/police and civilian

components. Even if the funding arrangements have worked thus far, they are unlikely to do so in the event of a major operation, such as a possible EU follow-on to SFOR.

Close ranks

The third main reflection stems from the fact that the Convention was held ostensibly with EU enlargement in mind: what effect will enlargement have on CFSP in the absence of an agreed constitution? The indefinite prolongation of the current system, which has difficulties working at fifteen, may have two main effects.

First, it may encourage more *ad hoc* coalition building outside CFSP, especially by the larger EU member states. Although the need for flexible forms of cooperation is reflected in the draft constitutional treaty, it is not clear how the bewildering array of forms of cooperation - ranging from structured cooperation (discussed above) and enhanced cooperation (Article III-322-329), to entrusting tasks to a 'group of Member States' (Article I-40.5), 'closer cooperation in mutual defence' (Article I-40.7) and a solidarity clause in the event of a terrorist attack or a man-made disaster (Article I-42.1) - will work. While these formulations recognise that flexible arrangements (groups) are increasingly necessary, they also have to be balanced against the needs for coherence and solidarity, and to develop the EU as *an* actor on the international stage. The tensions between the two aims was illustrated by the October 2003 mission to Tehran by France, Germany and the UK: successes may be credited to individual member states or groups, while failures reflect on CFSP, as was the case with Iraq.

Second, although the so-called 'constructive abstention' device (Article 23 TEU/Article III-201) remains untested, it is perhaps more likely to be called upon in decisions involving twenty-five member states. In this case if there is a stated national reason for adoption of a decision, the onus would be on the European Council to decide matters by unanimity which would presumably be rather difficult. On those decisions taken by QMV, the Nice system of weighted votes may also introduce new political dynamics ('not so old' and 'not so new' Europes?) and exacerbate existing tendencies (such as large versus small state divisions) that are especially evident in CFSP.

The problems of operating at twenty-five, absent a constitution, will call for innovation. The special role of the 'Big Three' in CFSP/ESDP issues is an unpleasant fact of life for many smaller member states. Yet, the positive aspects of such a directoire need to be acknowledged. The difficulties of finding consensus at twenty-five or more and the emergence of the *directoire* point to the need for some form of an EU 'Security Council' which would reflect the role of some as *primus inter pares*, whilst allowing participation by others on a rotating basis at less than twenty-five. This could represent significant headway in addressing the twin challenges of leadership and consistency that CFSP currently faces. This might usefully be reflected in the ongoing discussions on the constitution.

Fall out

The context in which the debates on CFSP were conducted in the Convention and IGC is of course crucial. The ramifications of '9-11' continued to shape Washington's security outlook, while the debates prior to the US-UK military intervention in Iraq exposed not only transatlantic rifts, but considerable differences within Europe. However, it is also worth noting that in the midst of its internal disagreement the EU launched a police mission to Bosnia and Herzegovina, a military operation in the Former Yugoslav Republic of Macedonia and a military operation in the Democratic Republic of the Congo. It is of little surprise that these events led to polar conclusions: for some it symbolised CFSP's demise (no common, no security, no policy, but all foreign) while, for others, the divisions over Iraq buttressed determination to make the EU an effective and credible actor on the international stage.

The macro questions regarding what type of relations the EU and individual member states wish to have with the US and others, the extent to which the EU will be proactive, the willingness of the member states to spend more (and more wisely) on defence, and the strengthening of partnerships with other regional and international bodies, are questions that fell beyond the scope of the IGC. These are admittedly complex issues, yet they must be addressed as an integral part of any further moves towards a constitution. Most fundamental of all is the question that the European publics appear to have answered affirmatively, judging by the consistently high public support for CFSP and ESDP, but the political elites less clearly: are the member states serious about creating an effective CFSP as an integral part of the EU's external relations?

Critics of CFSP have long queried where the 'P' part can be found. The *European Security Strategy* is an admirable contribution to a coherent external policy for the Union, while the

creation of a new armaments agency may reinforce the 'S' aspects. The 'F' aspects can certainly be strengthened, which will involve the potentially difficult task of balancing the need for more flexibility with greater consistency in EU external relations. However, the future of CFSP continues to rest upon the extent to which the Member States wish to be 'C'. That is something that does not depend upon the existence of a constitution.◊

[1] *Hufvudstadsbladet*, quoted in http://www.euobserver.com/index.phtml?aid=13914&sid=13 17 December 2003.

[2] See *Allocution du Ministre de la Défense, Michèle Alliot-Marie, sur le projet de loi de finances pour 2004 devant la Commission de la défense nationale et des forces armées*, Paris - Assemblée nationale, le 30 septembre 2003, http://www.defense.gouv.fr/actualites/communiques/2004/d030204/030204.htm

[3] *Council Decision creating a team to prepare for the establishment of the agency in the field of defence capabilities development, research, acquisition and armaments*, 2003/834/EC, 17 November 2003.

[4] Quote appears at http://www.euactiv/com/cgi-bin/cgint.exe, 15 November 2003.

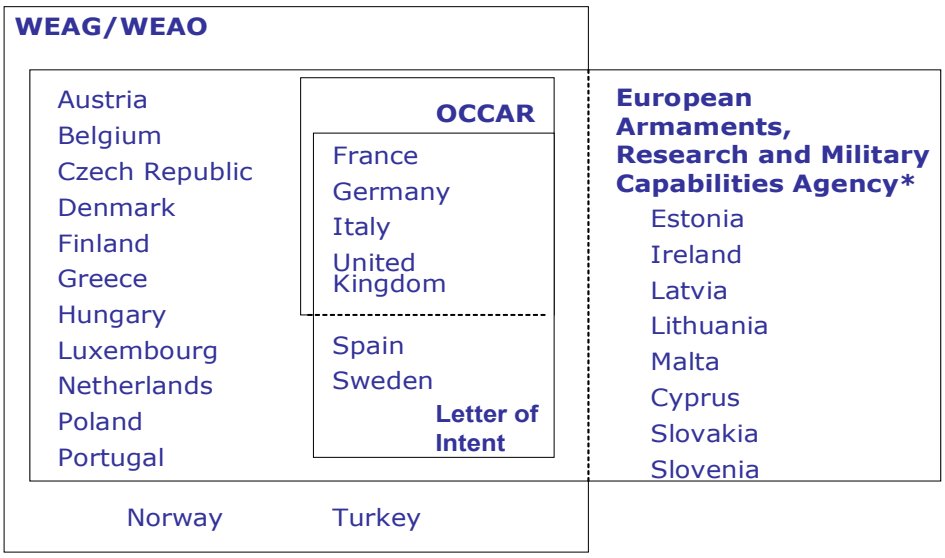
[5] The article does not oblige a member state to supply information 'the disclose of which it considers contrary to the essential interests of its security', and it permits member states to take such measures as they consider necessary 'for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material …'. The same article reappears as Article III-342 in the draft constitutional treaty.

[6] See Conference of the Representatives of the Governments of the Member States, CIG 57/1/03, REV I, Annex II, *Protocol on permanent structured cooperation established by Articles I-40(6) and III-213 of the Constitution*, Brussels, 5 December 2003.

[7] See James Blitz and Christopher Adams, 'UK bolsters ties with Germany and France', *Financial Times*, 21 January 2004.

[8] *Belgium stands firm over EU military HQ plans*, 2 September 2003, http://www.eubusiness.com/afp/030902115525.21u6krb2.

Table 1: EARMCA's potential relations with other Defence Capabilities Agencies



** The Agency is open to all EU Member States wishing to be part of it*

ITALY, ESDP AND THE *AVANT-GARDE*

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On 13 December 2003, the Intergovernmental Conference (IGC), chaired by the Italian Presidency, failed to adopt the draft constitutional treaty, which has led to a stalemate in the European integration process. The Italian Presidency had been actively pursuing changes to the draft constitutional treaty required to achieve a consensus from all governments and claimed to have reached an agreement on defence issues. Unfortunately, the outcome of this diplomatic effort is far from being positive, since what has been agreed upon cannot be considered legally binding and some governments (including Ireland) already question some aspects of the defence agreement. The Italian government, as well as a number of prominent political personalities, including President Carlo Azeglio Ciampi, is now actively stimulating and supporting the Irish Presidency in its effort to create the political conditions for reopening successfully the IGC, probably during the second semester of 2004. In the meantime, the absence of a new institutional framework for defence leaves the EU member states with only the rules established by the Treaty of Nice, which exclude the use of enhanced cooperation in the defence sector.

This institutional vacuum has already had an impact on the strategy that each member state is pursuing *vis-à-vis* the evolution of European defence policy and capabilities. The most visible consequence is probably the setting up of *ad hoc* initiatives of a group of countries, a method backed particularly by France (the so-called *avant-garde*). In any case, the establishment of an advanced party is normal in defence matters, given the present intergovernmental character of the initiatives in this sector. Since the Franco-British meeting at Saint Malo in 1998, there has been a long history of bilateral and intergovernmental meetings and initiatives to facilitate the advancement of ESDP, in which Italy has not often been included. Normally, these initiatives represent an opportunity for the process of European integration, as well as a risk for the countries remaining outside of the hard core, therefore the first reaction from the outsider is usually negative. However, the setting up of groups of countries can also create dangerous divisions between the EU member states, which are particularly difficult to overcome once they are in place.

The Italian reaction to the so-called 'mini defence summit' (between France, Gemany, Belgium and Luxembourg) on 29 April 2003 was quite strong. There were three main reasons for this:

1) The Italian government is rather Atlanticist and wants European defence to be linked to NATO.

2) The summit was called at a time when the EU member states were deeply divided over the US war in Iraq, and the countries participating in the summit happened to be those who were most vocal in their opposition to it.

3) The format and the timing of the summit were considered divisive.

Yet the Italian reaction to the developments in the CFSP and ESDP domains brought about by agreements between the UK, France and Germany during the Italian Presidency was fairly positive. Commenting on the visit by the Foreign Ministers of the 'Big Three' to Teheran on 21 October, which led the Iranian government to agree to put its nuclear reprocessing activities on hold and to declare that it will sign up to more intrusive inspections, Italian Minister of Foreign Affairs Franco Frattini asserted his support for the initiative but said that Italy was 'unable to join them in view of its position as EU President.' With regard to the agreements between the UK, France and Germany on the EU command and planning cells, which led to general EU agreement prior to the Brussels European Council in December 2003, Frattini concluded that the deal on defence demonstrated that unilateral initiatives can easily be extended to all EU member states. Basically, Italy seemed to be satisfied with this agreement which was, after all, struck during its Presidency. Italy's absence, it was thought, had to do with the fact that Italy was in the sensitive position of holding the Union Presidency.

However, Italy continued to be excluded from the 'Big Three' meetings. On 18 February 2004, German Chancellor Schroeder hosted a meeting in Berlin with his colleagues French President

Chirac and UK Prime Minister Blair. The issues that were discussed mainly concerned the economy and the Lisbon strategy and the document issued was rather narrow in scope. Nevertheless, the exclusion prompted strong reactions in Italy. Italian Prime Minister Silvio Berlusconi went so far as to label the meeting a 'mess'. The fear of being excluded from 'core Europe' is deeply rooted in a country that has based its post-war foreign policy on the European and Atlantic pillars. Even though the current Italian government seems more interested in relations with the US than with France and Germany, exclusion from the core group is still looked upon with fear, which accounts for Berlusconi's strong reaction.

With regard to the issue of structured cooperation in the defence field outside the Treaties – this being the only viable option for enhanced cooperation on defence issues given the current stalemate in the adoption of the draft constitutional treaty by the Intergovernmental Conference – Italy is not in principle opposed. Speaking before the Defence Committee of the Italian Senate on 18 February 2004, Defence Minister Antonio Martino said that bi- and multi-lateral initiatives in the defence field, such as the Anglo-French-German reaction force, will not be divisive provided they are open to the participation of all willing and able EU member states. This implies that Italy may want to take part in this or similar initiatives. The minister also referred to a new initiative that Italy is about to launch: the European Police Force (Forza di Gendarmeria Europea, FGE). This initiative involves the creation of a European capacity to integrate police and military police forces, such as the French Gendarmerie, the Italian Carabinieri, the Spanish Guardia Civil, the Dutch Marechaussee Royale Neerlandaise, for stabilisation and conflict prevention missions that would be available not only to the EU, but also to other multinational organisations such as the UN, NATO and the OSCE. Italy also offered to host the multinational headquarters of the FGE. This kind of initiative is extremely important and should be welcomed. Nevertheless, it is not enough. Such intergovernmental initiatives would have a better impact if they were backed by an adequate legal framework, as proposed in the draft constitutional treaty.

To understand the reasons why Italy is not always part of the hard core, it is helpful to examine the criteria for establishing who is in the *avant-garde*: political willingness and operational ability. In term of military capability, Italy lacks some key elements (such as force projectability, sustainability, numbers) compared to the two leading EU military powers, the British and the French, while Italian forces are relatively better off compared to German ones, particularly in terms of usability and experience in missions abroad. Therefore, Italy can give an important contribution to most defence initiatives, but it is not considered indispensable.

The second criteria is less objective and more subject to a different political evaluation: the continuous willingness to engage in further cooperation and provide a positive contribution. In this area Italy probably suffers from a credibility gap, while Germany is understood to have a clear advantage over Italy. There is a widespread perception that in international political terms the added value of Italian participation is low. This (mis)perception could be changed only through a more active policy towards European defence, backed by a credible commitment of military capability to the EU project.

Italy must become proactive at the political level. For example, during the Convention on the Future of Europe, Italy tended to support other countries' initiatives in the defence field, without tabling independent contributions. The same happened during its Presidency of the Union. In this case, the Italian government chose to adopt a low profile on many issues, so as not to be perceived as partial. Now that the Presidency has ended, Italy should be more active at the highest political level in the fields of CFSP and ESDP and, more generally, in the overall process of European integration. For example, Italy should rely more on some of its political assets within the EU. One of these is no doubt the fact that it is a founding member of the European integration process. With political commitment, Italy will be perceived as a credible and reliable partner and can play an important role in European foreign, security and defence policy. After its Presidency, Italy must end its self-inflicted role as honest mediator and assume a far more assertive and positive role as a locomotive of European defence integration, stimulating the participation of other countries.◊

More Heat Than Light: US Reactions to ESDP

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This article argues that the United States needs to adopt a more tolerant and less alarmist attitude towards European Union efforts to construct a meaningful defence capability. The tendency to adopt a hard rhetorical line stems from a lack of certainty on the part of the US about what it wants from the European Security and Defence Policy (ESDP). Does it want a nascent strategic partner with whom it can share burdens in the international system? Amongst all its allies, Europe offers the best prospects for this but it will take some time to develop the necessary strategic culture and military capabilities in the EU. Or does the US prefer militarily weak and dependent allies? If so, its policy must be to constrain the development of ESDP. The argument advanced here is that the latter strategy would be a mistake, but the US may procure this result by default if it continues to treat ESDP as a threat rather than an opportunity.

Both self-interest and self-awareness would counsel the US to be more accommodating to ESDP initiatives. Self-interest in the sense that the US has exhibited an historical tendency to over-react on the subject of European defence. The compromises that evolve in the EU position tend to draw back from the early maximalist proposals and, with the aid of hindsight, the initial US reaction frequently appears overdone. For example, the notorious 'Bartholomew Letter' of February 1991, in response to Franco-German proposals to subordinate the Western European Union to the European Council, illustrated America's exaggeration of the risks to NATO.[1] The vitriol of the US condemnation only serves to confirm the arguments of European detractors that America wants to dominate the continent's security politics.

In terms of self-awareness, the US should heed the words of the parable and extract the plank from its own eye before attempting to remove the splinter from the eyes of the EU. The crisis in US-European relations resulting from the war with Iraq was acknowledged on both sides of the Atlantic as a potentially catastrophic experience. The disagreement represented a 'perfect storm' in transatlantic relations as it was the culmination of long-standing differences between a group of European countries and the US over how to deal with Iraq. No fair-minded commentator could exonerate European countries of all blame in the affair, particularly over France and Germany's veto of support to Turkey. But the principal fault lay with the US, in its determination to oust the regime in Baghdad and the relentless speed with which it pursued that goal. In addition, the manner in which the current US Administration has raised doubts about NATO's future role has played a major role in unsettling the Alliance. In its desire to re-configure the Alliance to address global security concerns, such as terrorism and the proliferation of weapons of mass destruction, the US has called into question the utility of the organisation.

It is worth acknowledging that American concerns about independent European defence efforts have a long heritage and are not restricted to the present administration. US Secretary of State Madeline Albright, in an article in the *Financial Times* on 7 December 1998, responded to the creation of ESDP with a warning against 'discrimination, duplication and de-coupling'. In Washington there is currently a diversity of perspectives on ESDP, but echoes of earlier concerns persist. In 2003, these concerns were exacerbated by two developments. One was the summit between France, Germany, Belgium and Luxembourg in April 2003. This signalled the ambitions of these countries to make strides in defence cooperation that appeared incompatible with NATO. Whereas EU defence efforts were supposed to be subordinated to NATO primacy through the 'Berlin Plus' agreements (where Alliance assets would be made available for European-led operations), the summit talked of creating capabilities that would facilitate greater autonomy. The sensitivity of these proposals was heightened by transatlantic tensions over Iraq.

Second, and linked to the April summit, the EU constitutional debate in 2003 led to substantive proposals on European defence that the US was powerless to influence. The contentious issue of a separate EU planning capacity was raised, which risked both duplicating NATO's own functions and exacerbating the problem of coordinating future operations between the two organisations. The US Ambassador to NATO, Nicholas Burns, reacted angrily and warned of a threat to the very survival of the Alliance.[2] However, the resulting compromise went a long way to reassure the US about EU intentions. Only a token planning 'cell' has been authorised

for the EU to enable civil-military expertise from within the Union to be grafted on to an operation. The cell will stand aside in favour of national planning frameworks – the most likely scenario if NATO did not want to lead in an operation. The cell will only be strengthened and transformed into a full-scale planning centre if all the alternatives have been rejected and even then it would only exist on an *ad hoc* basis until that task had been completed. Counter-balancing the establishment of the planning cell, an important EU-NATO liaison has been authorised which will see military staff from each organisation embedded in the other.[3] It is intended that, over time, this will enable a new *modus operandi* to develop between NATO and the EU.

A second proposal which was raised in the debate over the EU constitution was to allow 'structured cooperation': namely, groups of EU members would be able to proceed on defence issues at a faster pace. This was a significant topic that had been raised previously in the EU, such as at the Nice European Council, but never agreed upon. The April summiteers increased the saliency of the matter by warning that they were willing to pursue cooperation outside the EU if they found their progress blocked. The US feared that the emergence of *directoires* in defence could undermine, rather than bolster, European strength. Yet the real danger is that of European paralysis and lack of effort in defence,[4] rather than countries acting as an *avant-garde*. Britain, despite its traditional sensitivity on these issues, came to embrace structured cooperation because it realised that there was a place for specialist contributions in the building of ESDP. The British government recognised that ESDP had to be built from the bottom up through the accumulation of a variety of contributions from EU members. The UK proviso was that certain reassurances were written into the package, such as the ability of all states to join forms of structured cooperation at any stage.

The sort of pragmatism exhibited by the UK is consistent with the US objective for ESDP – that it should be focused upon capabilities and not distracted with endless institutional posturing. The yardstick the US should employ towards ESDP is whether European initiatives serve to enhance the Union's capacity to act in different types of military operations. Steinberg emphasises the 'crucial necessity for Europe to develop at least some "high–end" military capabilities to allow European forces to operate effectively with the United States'.[5] The US has been right to impress upon its allies the need for improvements both in overall defence expenditure and on priority areas within defence budgets. Washington was a prime motivator behind the Defence Capabilities Initiative in 1999 and the Prague Capabilities Commitment in 2002, which sought to address weaknesses in European armed forces.[6] EU agreement such as the creation of an armaments agency should be welcomed by the US as it is a step towards rationalising the Union's defence research and procurement processes.

The scaremongers in Washington need to appreciate that ESDP will offer the EU, for the foreseeable future, only a modest military capability. To conduct high intensity military operations at any distance from their home territories, the Europeans will need military assets from the United States and will want the reassurance of acting alongside a superpower. Past examples, such as NATO's use of force in Bosnia and Kosovo, bear this out. Recent experiences are also consistent with this view. The EU 'Concordia' mission in Macedonia involved the takeover of a military mission from the Alliance and the borrowing of operational assets. If Concordia were to degenerate into conflict, then the EU would look rapidly to NATO for assistance. Similarly, the proposed follow-on EU peacekeeping force in Bosnia, after the cessation of SFOR, will demand the closest possible liaison between the two organisations. In short, US leadership in major military operations will not be put at risk by ESDP.

This is not to argue that the US is paranoid in relation to ESDP. Washington is only too aware of different ambitions towards ESDP amongst EU members. Countries such as France antagonise America by talking about the need for a multi-polar world to counterbalance the sole superpower. They are also eager to foster developments that would create separate European military options. France has argued for some time that Europe should possess military capabilities that would enable it to act independently of the Alliance. In such circumstances, it would be harder to justify a NATO right of first refusal to stage a military operation and it would undercut the leadership role of the United States. Viewed from this perspective, the de-coupling of the US from European defence could be engineered by a corrosive process rather than a single policy decision.

But it is contended here that the Washington should take a robust and balanced attitude towards EU proposals. The US can take comfort in the knowledge that there is neither the strength in Europe to challenge America nor the prospect of it being developed through increases in European defence spending. There is also a lack of political will amongst all the leading European states to realise such an ambition. Washington can trust the British government to veto any initiatives that would undermine NATO. The British are vital participants in any meaningful ESDP and they act as a brake on developments that would risk alienating the US from European security.◊

[1] See W. Rees, *The Western European Union at the Crossroads: Between Trans-atlantic Solidarity and European Integration*, Westview Press, Boulder, CO, 1998**,** p.80
[2] A. Browne and M. Evans, 'Rumsfeld Attacks EU Defence Plan as Threat to NATO', *The Times*, 1 December 2003, p.13.
[3] *Agence Presse*, 'Agreement on Permanent Units for Planning EU's Military and Civil Operations', No. 8605, 13 December 2003, p.5.
[4] This point is made by I. Daalder and J. Goldgeier, 'Putting Europe First', *Survival*, vol. 43, no. 1, Spring 2001, p.80.
[5] J. Steinberg, 'An Elective Partnership: Salvaging Transatlantic Relations', *Survival*, vol. 45, no. 2, Summer 2003, p.129.
[6] Heads of State and Government participating in the North Atlantic Council, Washington Summit Communique, Washington DC, 24 April 1999, and Declaration by the Heads of State and Government participating in the North Atlantic Council, Prague, 21-22 November 2002.

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