

## Note from the Editor

Karen E. Smith, London School of Economics, Editor

This issue of *CFSP Forum* contains several articles on the EU and international issues, including Iranian nuclear weapons, the International Criminal Court, and international migration. Furthermore, the *Forum* continues to explore the institutional reforms proposed in the draft constitutional treaty, with an article on the Foreign Minister.

Finally, continuing our concern about 'outsiders' and the CFSP/ESDP, this issue contains an article on Denmark and European defence cooperation. Denmark, though formally an EU member state, has a unique relationship with the EU's burgeoning defence structures so can be considered an 'outsider' of sorts.

### Contents

Iran and EU coercive diplomacy	1
The EU and the ICC	4
Migration and EU foreign policy	8
The EU foreign minister 'in context'	10
Denmark and European defence	14

## Iran: a test for EU coercive diplomacy

Tom Sauer, Post-Doctoral Research Fellow of the Flemish Fund for Scientific Research and Lecturer at the Department of Politics, Katholieke Universiteit Leuven, Belgium

As the European Security Strategy (ESS) declared, the EU wants to take up its responsibilities in the world.<sup>1</sup> The ESS basically clarifies two things: it lists five key threats to the EU – terrorism, proliferation of weapons of mass destruction (WMD), ethnic conflicts, organised crime, and state failure – and it describes how the EU is supposed to tackle these threats. This essay focuses on the threat of WMD proliferation, and more in particular Iran. In parallel with the ESS, an EU Strategy against Proliferation of Weapons of Mass Destruction was also agreed in December 2003.<sup>2</sup> What is remarkable in this document is the emphasis on compliance: 'If the multilateral treaty regime is to remain credible it must be made more effective. The EU will place particular emphasis on a policy of reinforcing compliance with the multilateral treaty regime'.

Before, EU non-proliferation policy was basically a series of common declarations, and difficult cases had to be handled by the US. In 2003, the EU shifted into a higher gear, as a result of the intra-European split with respect to Iraq, although the non-compliance cases of North Korea and Iran since 2002 also had an effect. Ironically, President Bush had categorised Iraq, Iran and North Korea as the 'axis of evil' already in his State of the Union address in January 2002. At that time, his speech was heavily criticised by the EU, including by External Relations Commissioner Chris Patten. One and a half years later, the EU strategy is focussed on the same kind of states; the only

difference is that the EU does not call them 'rogue states'.

European states have always been more reluctant to fight nuclear proliferation than the US. The 'Americanization' of the EU's non-proliferation policy, however, has been more evident in recent years.<sup>3</sup> But as American non-proliferation policy has further hardened under the Bush administration, there remains a gap between the objectives and instruments used by the US and Europe. It is for instance hardly imaginable that the EU will unilaterally strike a rogue state pre-emptively, let alone preventively. The instruments available to the EU to contain the threat of proliferation are instead primarily civilian: conflict prevention, diplomacy, strengthening the existing non-proliferation regime (NPT, export control regimes), and economic 'carrots' and 'sticks'.

The rest of this article focuses on the EU's policy with respect to Iran. How is the EU implementing its new strategy vis-à-vis Iran? What instruments has it used? How have decisions been taken? And how effective is the EU's policy?

### **Confronting Teheran**

In the 1980s and 1990s, the EU tried to influence the domestic political debate inside Iran by keeping the communication lines open, through the so-called critical dialogue. Realists could point to the Union's economic interests as motivations for the dialogue, given that the US had been implementing an economic boycott on Iran since 1979. To a certain extent, EU policy may have had a positive effect in influencing the domestic debate in Iran. A shift towards a more pragmatic approach was visible, certainly under Prseident Khatami. On the other hand, the ayatollahs remained in power. Contrary to what many Western experts had predicted, the regime survived.

Worse, in the summer of 2002 and thanks to leaked information by an Iranian opposition movement, the international community became aware of an Iranian secret nuclear weapons programme. After a visit of Mohamed El Baradei to Iran in February 2003, the International Atomic Energy Agency (IAEA) confirmed that the size of Iran's nuclear programme was hard to explain, taking into account its huge reserves of oil and gas. Iran also admitted to having imported uranium. The latter is allowed under the Nuclear Non-Proliferation Treaty (NPT) as long as it is declared to the IAEA, which it was not. Iran would become the first test-case for the

EU's renewed non-proliferation policy.

### **Hide and seek**

The IAEA Board meeting in June 2003 confirmed the suspicions of CFSP critics. The EU refused to agree with the US demand to send the Iranian dossier to the UN Security Council. The transatlantic gap reared up again. Nevertheless, the IAEA stated that Iran had 'failed to meet its obligations'. In addition, the EU suspended the negotiations with Iran on a Trade and Association Agreement that had begun in December 2002. Iran, however, seemed unimpressed. In fact, over the summer, it started to enrich uranium. Three months later, the IAEA Board raised the stakes. In its meeting of September 2003, it asked Iran to provide the IAEA with all the necessary information regarding its programme before 31 October 2003.

To increase the pressure and at the same time to enhance Europe's prestige in the world, Joschka Fischer, Dominique de Villepin and Jack Straw headed for Teheran on 21 October 2003. This proactive attitude was not only a precedent for the external policy of the EU: the way the three big states formed a 'directoire' without coordinating with the other EU member states also raised eyebrows *within* the EU. At first glance, the EU-3's diplomatic demarche succeeded. Consequently, the other EU member states were happy to recognise the initiative as an EU demarche. Teheran promised to suspend the enrichment of uranium and sign and ratify the Additional Protocol of the IAEA, which would make it easier for the IAEA to conduct inspections in undeclared facilities. It also agreed to behave as if the Protocol had already come into effect. In return, the Europeans would head off the moment of bringing the case before the Security Council, and would provide technical assistance to Iran's civilian nuclear programme.

But already right after the plane took off from Teheran, it became clear that both sides interpreted the deal differently. Iran stated that it could end the suspension whenever it wanted. It handed over a large document to the IAEA by the end of October, and actually signed the Additional Protocol in December 2003 (although it has still to ratify it). However, it became quickly clear that Iran was playing hide and seek. It did not always admit international inspectors, and inspectors who succeeded in doing their job found that the declarations of October 2003 were incomplete. In May 2004, Iran provided the IAEA with a new document. The IAEA Board of Governors in June again used strong language, deploring that the

cooperation of Iran had not been what it should have been. Iran did not like the fact that the Europeans joined the US in this regard. As a result, Iran broke off the October deal with the Europeans. Iran immediately started to enrich uranium and build centrifuges. A couple of weeks later, an EU-Iranian reconciliation meeting in Paris failed.

The IAEA Board of Governors in September 2004 decided to start up the 'guillotine' procedure. The IAEA set a deadline and if Iran failed to meet that deadline, the dossier would quasi-automatically be sent to the UN Security Council. This time the EU agreed. The requirements that Iran have to fulfil before 25 November 2004 are substantial. Iran has 'to suspend' all uranium-enrichment and related activities (like building centrifuges) immediately and forever. It is a clear example of coercive diplomacy on behalf of the EU. Iran however has threatened to withdraw from the NPT if the case is sent to the UN Security Council.

In mid-October 2004, France, Germany and the UK (since then joined by Javier Solana) were able to convince the US to offer Iran a last compromise proposal including economic carrots and a civilian nuclear cooperation agreement. Whether this offer will be attractive enough for Teheran remains to be seen. Iran has already said it is not interested in Western nuclear fuel; it wants to build its own fuel in order not to be dependent on others. Furthermore Iran is willing to suspend the enrichment of uranium temporarily, but not forever. It points to the inherent right to build a civilian nuclear energy programme under the NPT (article 4). On 14 November 2004, Iran finally agreed to the EU proposal to suspend uranium enrichment. But the suspension only applies to the period during which an overall agreement is negotiated between the EU and Iran. Talks are to begin on 15 December. Although the deal seems to be in contradiction of the former IAEA Board decision, most international actors (including the EU, Russia and China) agreed that Iran should have another chance. The IAEA is therefore not likely to send the Iran dossier to the UN Security Council on 25 November.

## Two schools of thought

Taking a step back, two schools of thought can be distinguished with respect to resolving the Iranian case. The first school believes that Iran can be convinced to give up its nuclear weapons programme, or at least that it can be made much more difficult for Iran, and thus gain time.

Iran needs time to make technological progress: it is estimated that it needs at least one to three more years in order to obtain the right amount of fissile material, and at least an additional year for weaponising. Time however is also crucial in the eyes of the advocates of the first school because they believe that the regime may collapse before Iran is able to build nuclear weapons. Advocates of this approach also believe that Iran's major interest is an end to its isolation from the US, rather than building nuclear weapons. In short, money instead of weapons count. By linking the nuclear dossier to other issues like stabilising Iraq and halting support to Hezbollah, Iran may open doors in Washington, which in turn may lead to the abandonment of the Iranian nuclear weapons programme.<sup>4</sup>

The second school does not believe that Iran is willing to give up its nuclear weapons programme, in which it has already invested a lot of time, money and risks over the last twenty years. It is not going to give up its crown jewels, now that it is so close to producing nuclear weapons. While the economic situation in Iran can indeed be improved by opening up trade, Iran is currently not completely isolated. Europe only has suspended the negotiations for a Trade and Association Agreement, which would open up additional markets. Furthermore, Iran's oil exports provide it some leverage. In addition, the political situation in Iran is not that conservatives feel pressed into a corner. On the contrary, it seems that they have recently enhanced their power vis-à-vis the moderates, and there are no big indications that the regime is on the brink of collapse, or at least not more than before. The second school also points to the fact that even a post-ayatollah regime might be in favour of nuclear weapons. The popularity of the Indian bomb is an example in this regard. The Indian case also showed to countries like Iran that the international sanctions that were imposed after the nuclear tests in 1998 were lifted not long thereafter. In the meantime, domestic expectations with respect to a nuclear bomb have been raised in Iran. It will therefore be difficult for any regime to give up the nuclear weapons project.

Last but not least, this school points to Iran's security situation. The Middle East is the most volatile region in the world. Iran feels encircled. One of its major neighbours is becoming a de facto protectorate of the US. Both Pakistan and Israel possess nuclear weapons. This school believes that nothing can prevent Iran from becoming a nuclear weapon state, except a preventive strike, executed by the second Bush

administration or by Israel. But because of the size of the Iranian programme, even an air strike will be much more difficult than the one carried out by Israel in 1981 against the Iraqi Osiraq reactor. In addition, it will not be perceived as legitimate by world public opinion. Why should Israel be allowed to possess nuclear weapons and not Iran? Advocates of a preventive strike argue that it may retard the programme for years. But this brings us back to the first school.

It is not surprising to find that all Western governments – including the US and the EU member states – cling to the first school. Democratically-elected governments cannot just sit and wait for more nuclear weapon states to arise. What is more surprising however is that the EU more or less sits on the same line as the US. The major difference between the EU and the US is stylistic: the former is playing the good cop, the latter the bad cop. Three years ago, that level of cooperation between the US and the EU with respect to Iran would have been unthinkable.◊

<sup>1</sup> European Security Strategy, 'A secure Europe in a better world', 12 December 2003.

<sup>2</sup> EU Strategy against the Proliferation of Weapons of Mass Destruction, December 2003. <http://ue.eu.int/uedocs/cmsUpload/st15708.en03.pdf>

<sup>3</sup> Tom Sauer, 'The "Americanization" of EU Nuclear Non-Proliferation Policy', *Defense and Security Analysis*, vol. 20, no. 2 (June 2004), pp. 113-31.

<sup>4</sup> Robert Einhorn, 'A Transatlantic strategy on Iran's nuclear program', *The Washington Quarterly*, Autumn 2004, pp. 21-32; Steven Everts, 'The ultimate test case: can Europe and America forge a joint strategy for the wider Middle East?', *International Affairs*, vol. 80, no. 4 (2004), pp. 665-86.

## The EU as an international actor: the case of the International Criminal Court<sup>1</sup>

Martijn L.P. Groenleer, Ph.D. Fellow, Department of Public Administration, Leiden University, The Netherlands, [groenleer@fsw.leidenuniv.nl](mailto:groenleer@fsw.leidenuniv.nl), and

Louise G. van Schaik, Ph.D. Candidate, Catholic University of Leuven and Research Fellow, Center for European Policy Studies (CEPS), Belgium, [louise.van-schaik@ceps.be](mailto:louise.van-schaik@ceps.be)

Despite the often highlighted discord among EU member states on foreign policy issues, the role of the EU as an international actor has rapidly evolved in recent years. In an earlier issue of *CFSP Forum*, Katie Verlin Laatikainen, for instance, points to 'a strong and steadily growing EU unity within the UN since the early 1990s.'<sup>2</sup>

This contribution examines the international actorness of the EU in the case of the establishment of the International Criminal Court (ICC). Contrary to what one would expect on the basis of the rather intergovernmental way in which the policy-making process on CFSP issues such as the ICC is organised, we find a relatively high degree of EU international actorness on the ICC issue. We argue that this can be explained by both the initial coincidence of member states' similar preferences and the convergence of their divergent preferences over time.

### Assessing EU international actorness: courting consensus on the ICC

EU international actorness is broadly defined here as 'the EU's ability to function actively and deliberately in relation to other actors in the international system.'<sup>3</sup> To assess the degree of international actorness, we use four dimensions of EU actor capacity: cohesion, authority, autonomy and recognition.<sup>4</sup> Cohesion refers to similarity or compatibility of the basic goals and the means to attain these goals. Authority pertains to the policy-making powers that member states have delegated to the EU, while autonomy implies both institutions distinct from the institutions of member states (even if intermingled) and independent goal formation, decision-making and implementation. Recognition, finally, refers to acceptance of and interaction with the EU by other (non-EU) actors.

#### *Cohesion*

The ICC is one of the few CFSP issues on which

EU member states most often agree. All but one of the member states were part of the like-minded group of states that actively lobbied for the creation of an ICC.<sup>5</sup> Although initially the UK and France differed from other member states on a number of controversial issues, EU member states eventually all voted for the Statute during the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court held in Rome in 1998. Within four years the required number of sixty countries, again including all fifteen EU member states, ratified the Statute in order for it to enter into force in 2002. All ten new EU member states, with the notable exception of the Czech Republic, have now also ratified the Statute. Therefore EU member states form one of the largest groups of States Parties from one region and account for the majority of the financial contributions to the ICC. Hence, the ICC has sometimes been dubbed an 'EU Court'.

EU commitment to the ICC is demonstrated by the adoption of a CFSP Common Position to support the effective functioning of the ICC, to advance universal acceptance of the Court and to preserve the integrity of the Statute, as well as by the formulation of an Action Plan that outlines strategies and actions to be undertaken by the EU and its member states to implement the Common Position. In accordance with the Common Position and the Action Plan, the EU and its member states have furthered the issue of the ICC through diplomatic demarches and statements in multilateral forums such as the United Nations, and in negotiations or political dialogues with third states, such as Russia, China and Japan. The Action Plan also makes it possible to deploy EU legal experts to third states that lack the capacity to prosecute the crimes under the Statute.

It was the US that put EU unity to the test. After 'unsigned' the Rome Statute in May 2002, US Secretary of State Colin Powell sent EU foreign ministers a letter asking them to conclude bilateral agreements to exclude US nationals from the ICC's jurisdiction. In response, in September 2002 EU foreign ministers, although disagreeing on the legality of the proposed bilateral agreements, unanimously adopted a set of guiding principles that would restrict the scope for concluding bilateral agreements with the US. These guiding principles were intended to assist member states in deciding on the need for and scope of such agreements. While they are free to negotiate bilateral agreements with the US that are in accordance with these principles, none of the member states has yet done so.<sup>6</sup>

EU member states also reacted against a US-initiated Security Council resolution granting immunity to UN peacekeepers from ICC jurisdiction. In June 2004, the US finally withdrew a draft resolution that would extend such immunity because several Security Council members, including EU member states France and Germany, had signalled that they would abstain on the vote.

### *Authority*

In accordance with the Treaty of European Union, EU policy-making on the ICC is primarily coordinated in the Council of Ministers with a key role for the Council Presidency in setting the agenda and preparing draft EU positions. The supranational EU institutions, i.e. the Commission and the European Parliament, are granted only limited powers.

Although the European Commission is fully associated with CFSP activities, this does not entail the delegation of formal authority by the Council. The actual influence of the Commission in the ICC case therefore largely depends on how it manages to stretch its legal mandate. To that effect, the Commission, within the framework of the European Initiative for Democracy and Human Rights (EIDHR), funds NGO initiatives that support the universal acceptance of the ICC.<sup>7</sup> Moreover, the Commission exerts influence through the mainstreaming of ICC issues into external issues falling under the Community competence, such as its initiative to include a reference to the ICC in the preamble of the Cotonou Agreement.<sup>8</sup>

The European Parliament (EP) is almost absent in the EU policy-making process on the ICC. The Council Presidency and the Commission are supposed to keep the EP updated and to take into account the views of the EP. In practice, the contacts between the Presidency and the Commission on the one hand and the EP on the other hand are rather limited. That being said, the EP has always been a staunch supporter of the EIDHR budget allocations for the ICC (and supports increasing them). Moreover, within the EP a group of like-minded MEPs consistently draws attention to the ICC issue. This has resulted in a number of (activist) resolutions on the ICC and several questions submitted to the Council and the Commission.

### *Autonomy*

International law issues are mainly dealt with in the Council's Public International Law Working Group, the so-called *Comité Juridique* (COJUR),

which is subordinated to the Political and Security Committee (PSC). Until recently, ICC issues were also dealt with by COJUR. In May 2002, however, a special subarea of COJUR devoted to the ICC was created, because the issue of the ICC took too much of COJUR's time and required specific expertise. The ICC subarea consists of senior representatives from foreign ministries or ministries of justice and meets on a frequent basis to coordinate on matters relating to the ICC.

Formally, the mandate of the subarea is limited. It has no powers delegated from COJUR; it merely advises COJUR. Furthermore, when it comes to politically sensitive issues, the PSC and/or the Council of Ministers determine the EU position. This is, of course, not to say that representatives in the subarea do not try to broaden legal issues to also include political matters, such as the proposed bilateral agreements with the US. This is strengthened by the fact that not all representatives are legal experts, but some are policy advisers. Moreover, the recommendations the subarea makes to COJUR are usually adopted by COJUR and endorsed by the PSC without much discussion.

In February 2004, EU member states also established a Focal Point for ICC issues in the Council Secretariat. In practice, this meant designating the official that was already dealing with ICC issues as the Focal Point. Among other tasks, it prepares a list of target countries according to whether they have ratified or implemented the Statute, coordinates demarches carried out with these countries, and assists in drafting policy documents such as the Common Position and Action Plan.

### *Recognition*

Although the Commission does not negotiate on behalf of the member states when it comes to ICC issues, nor is it a State Party to the Rome Statute, the recognition of the EU as an international actor has implicitly been demonstrated by the interaction between the EU and both non-state actors and third states, in particular the US.

Initially, the US tried to conclude bilateral agreements with individual member states that are supportive of US foreign policy objectives, such as the UK, Spain and Italy. Considering that the US approach until now has not been very successful, Under-Secretary of State John Bolton has recently suggested concluding an EU-US bilateral non-surrender agreement.<sup>9</sup>

Also, the US demarche carried out with the Council Secretariat complaining about the EU's diplomatic efforts to prevent third countries from concluding a bilateral agreement with the US may testify for the fact that the US seems to regard the EU not merely as a collection of loosely connected individual states to deal with on ICC matters.

In general, third countries often look to EU member states for guidance on the ICC. Notably, the EU Council Conclusions on bilateral agreements and the guiding principles annexed thereto seem to be considered an important policy direction by many third countries, in particular developing countries. Although the EU Council Conclusions and guiding principles were originally intended for internal policy coordination, their use in external relations has become common practice.

Moreover, that the EU still has been able to keep ranks on the ICC is at least partly due to the interaction with NGOs, particularly the Coalition for an International Criminal Court (CICC). NGOs have played an important role in the creation and promotion of an effective, fair and independent ICC. The EU has acknowledged this role by inviting NGOs to share their views with member states in the margins of the ICC subarea meetings.

Although we find a limited extent of legal authority and formal recognition, we assert that in the case of the ICC the EU can be considered to have a relatively high degree of international actorness on the basis of the high degree of policy cohesion and informal recognition by other state and non-state actors. Despite the institutional 'intermingledness' between the EU and member states and the interdependence (rather than independence) of EU policy-making, the EU appears to be a fairly autonomous actor when it comes to the ICC issue.

### **Explaining EU international actorness: between coincidence and convergence**

To explain the relatively high degree of EU international actorness in the case of the ICC two different perspectives are adopted here: a preference-based and a norm-oriented perspective. The degree of EU international actorness in the ICC case depends first of all on the extent to which the initial preferences of member states coincide. It is, for instance, a common feature of human rights regimes that they are supported by those states that actually are the least affected by these regimes because

they are already in compliance with them. The domestic human rights situation of EU member states is not likely to result in a situation being referred to the Court, so they have nothing to fear from the ICC.<sup>10</sup> Moreover, supporting a human rights institution such as the ICC may be considered to enhance the reputation and credibility of member states in the international arena. The coincidence of preferences, resulting in the ability of the EU to act on the ICC issue in relation to other actors in the international arena, is hardly surprising. However, it does not explain why EU member states, for example, have not compromised on the ICC by concluding bilateral non-surrender agreements with the US.

An additional explanation for the degree of EU international actorness is the level of preference convergence through social interaction processes.<sup>11</sup> Whereas the UK and France could have their own policy positions before and during the 1998 Rome Conference, this has become less accepted by other member states today. As the group of representatives from EU member states dealing with ICC matters remained largely the same also after the Rome conference, representatives developed a close identification with the issue of the ICC. They continued to work together in the framework of the meetings of the preparatory commission for the ICC and later also in the COJUR subarea. Moreover, they had frequent informal contacts, for instance in the margins of the many conferences, workshops and seminars organised mostly by NGOs on the establishment of the ICC. As a result, national representatives developed a common understanding on the issues involved in the establishment of the ICC. This development was reinforced by the novel and pioneering character of the work. Most of the representatives had never dealt with a similar issue before, simply because the ICC was the first ever permanent international criminal court to be created.

In addition, interaction with non-state actors and non-EU member states has had a considerable influence on the behaviour of the EU and its member states. NGOs may be said to have acted as so-called norm entrepreneurs, marketing their view on the appropriate position to adopt by member states. In turn, the EU's policy on the ICC has had a strong impact on third states, which often align themselves with the EU position and also adopt the EU guidelines for dealing with US pressure. Finally, it can be argued that the US opposition to the ICC drove EU member states together in formulating strong statements to defend the Court. Paradoxically perhaps, EU member states seem more willing to

formulate common positions and undertake joint actions *because of* rather than *in spite of* the US (op)position. The EU is thus able to function both actively and deliberately in the international arena.

To summarise the above, while member states may have started to co-ordinate their foreign policies on the ICC on the basis of their own preferences, over time their policies on the ICC have become increasingly 'Europeanised' through processes of social interaction. This has resulted in a relatively high degree of EU international actorness, even though the policy-making process is organised in a rather intergovernmental way. ◊

<sup>1</sup> This contribution builds on a forthcoming article on EU international actorness in the cases of the Kyoto Protocol and the ICC that will be published as a CEPS working paper (see <http://www.ceps.be>). The case study on the ICC is based on empirical research conducted by the first author.

<sup>2</sup> See K.V. Laatikainen, 'Assessing the EU as an Actor at the UN: Authority, Cohesion, Recognition and Autonomy', *CFSP Forum*, vol. 2, no. 1, 2004, pp. 4-7.

<sup>3</sup> See K.E. Smith, *European Union Foreign Policy in a Changing World* (Cambridge: Polity Press, 2003), p. 24.

<sup>4</sup> See J. Jupille and J.A. Caporaso, 'States, Agency, and Rules: The EU in Global Environmental Politics', in C. Rhodes, ed., *The European Union in the World Community* (Boulder: Lynne Rienner, 1998) pp. 213-229.

<sup>5</sup> France only joined during the last week of the Rome Conference when it had effectively negotiated a proposal allowing states the possibility of blocking prosecution of their nationals for a period of seven years after the entry into force of the Statute (see Article 124 of the Rome Statute).

<sup>6</sup> However, the extradition treaty between the UK and the US that was agreed upon earlier this year has been said to grant immunity to US service members by prohibiting the handing over of US service members to the ICC when extradited to the UK. Moreover, applicant country Romania entered into agreement with the US before the EU could even take its stand. At the time of writing, ratification of the agreement is still pending.

<sup>7</sup> This funding is not merely technical, for it implies political support for the ratification and implementation of the Statute in third countries.

<sup>8</sup> Interview with Commission officials.

<sup>9</sup> Interview with Council Secretariat official.

<sup>10</sup> Member states such as the UK and France that apparently fear possible investigation and/or prosecution of their political and military leaders have negotiated the possibility of deferral of investigation or prosecution by the UN Security Council, and opt-out clauses with respect to investigation or prosecution of certain categories of crimes.

<sup>11</sup> See e.g. J. Checkel, 'Social Construction and Integration', *Journal of European Public Policy*, vol. 6, no. 4, 1999, pp. 545-60.

## Migration and foreign policy in the European Union

**Andrew Geddes, Professor of Politics, University of Sheffield, UK**

If it were not for states, their borders and movement between states then there would be no such thing as international migration. States, borders and relations between states – and the ways in which all these are defined – give meaning to international migration as a social and political process that necessarily transcends domestic politics. To view migration management as a domestic issue alone neglects important foreign policy considerations. The foreign policy component of migration is not new. What is new is the EU's role. From this we can analyse the effects of changed relations between European states arising primarily – although not entirely – from European integration on understandings of and response to international migration in its various forms. This question directs our focus towards migration as a foreign policy concern and as reflective of a blurred distinction between domestic and foreign policy and between notions of internal and external security.

### **The meaning of movement**

International migration comes in many forms. People may cross state borders to work, to study, to join with family members or to seek refuge. Each of these forms of movement can be governed by different national, EU and/or international legal frameworks.<sup>1</sup> While there are many different motives for movement, the duration of migration may differ, as too can the mode of migration with an increased salience for those illegal branches of the 'migration industry' that smuggle or traffic people across state borders. Migrants may move because of 'push' factors in their countries of origin such as war, oppression and poverty. There may well also be 'pull' factors from European countries particularly from certain forms of economic activity with labour shortages and where there has traditionally been a large presence of regularly and irregularly employed immigrant workers, such as construction, agriculture and health care. Simple 'push' and 'pull' factors themselves are insufficient because we also know that migration is network based and that migration choices tend to derive from previously established patterns of migration based on kith and kinship ties that

create migration paths linking sending and receiving countries, or more particularly parts of those sending countries with particular areas in receiving states.

Between the early 1970s and the mid-1990s the main emphasis of European immigration policies was control. Since the mid-1990s the emphasis has shifted to 'managed migration' because of the perceived impact of population change and labour market shortages in certain sectors on perceived needs for migrant labour. While there has been a re-opening of the door to labour migration, there is a highly differentiated basis for these new and more positive migration policies with a stark distinction between those forms of migration that European countries through their policies define as wanted, required or sought after, such as skilled labour migration, and those that their policies define as unwanted, superfluous and unnecessary, such as asylum-seekers and illegal immigrants. There has thus been a shift in migration policy in a more positive direction, but on a highly differentiated basis. The most relevant issue for this article is that these attempts to manage both wanted and unwanted migration have acquired a strong EU dimension, to which we now turn.

### **Migration as foreign policy in the EU**

The cross pillar dimensions of migration were made clear in 1999 when the Dutch government initiated a High Level Working Group on Migration with a remit covering foreign and security policy, justice and home affairs, trade and development, as well as the units/departments that must seek to manage these policies. In 1999 the HLWG produced Action Plans in 1999 for Afghanistan, Albania, Iraq, Morocco, Somalia and Sri Lanka that sought to co-ordinate the EU response and bring the interests of security, foreign policy and development to bear on protection of human rights; democratisation and constitutional governance; social and development; combating poverty, conflict prevention and resolution; asylum; and irregular migration. The HLWG was composed of mainly JHA officials with relatively little experience of dealing with third countries or with development aid. The reports were criticised for reflecting EU priorities about migration control, readmission and return rather than the pursuit of partnerships based on real dialogue. The Morocco plan attracted some specific criticisms. First, the proposal for the use of MEDA funds to analyse migration patterns and instruments led to tensions between the HLWG and Commission officials working in the areas of



development and external relations. Second, the Moroccan government was not consulted about the Action Plan and initially refused to discuss the plan with the EU. Third, there was a lack of co-ordination between JHA, external relations and development within the EU, although an effect of the HLWG has been to stimulate agenda-setting activity by Commission officials working on development and external relations. Fourth, the HLWG lacked a financial basis, although this has changed with €15 million allocated for 2003. Since then, for example, the HLWG has funded a programme encouraging Moroccan migrants to set up businesses in Morocco and another project to establish a savings back for the remittances of Moroccan migrants.<sup>2</sup>

EU policy can have very direct effects. Morocco and Tunisia have introduced more rigorous border controls and measures to combat trafficking under pressure from EU member states. Between 2002 and 2004 a programme to combat irregular immigration from Morocco was developed with around €50 million of EU funding.

Since the Amsterdam Treaty a series of agreement and declarations have indicated the political will of the Member States to move towards common migration and asylum policies. The Tampere conclusions of October 1999 called for movement towards common migration and asylum policies with 'partnership with countries of origin' and 'roots causes' among those issues prioritised. Immigration concerns increased after the 9/11 attacks on the USA with the June 2002 Seville summit prioritising the development of common immigration and asylum policies. In response to the Seville summit the Commission produced a Communication that sought to integrate migration into relations with third countries.<sup>3</sup> The Communication outlined four key principles (pp. 4-5):

- Maintain the coherence of external policies and actions through a comprehensive approach, of which a part is migration and which is differentiated by country.
- Address root causes
- Include migration within regional and country strategy papers
- Extend additional funding, initially through budget B7-667 'Co-operation with 3<sup>rd</sup> countries in the field of migration' since replaced for 2004-8 by budget line 'Financial and Technical

#### Assistance to Third Countries in the Areas of Migration and Asylum' (AENEAS).

The May 2003 Council Conclusions on Integrating Migration Issues in the EU's relations with Third Countries: Migration and Development then set the EU agenda in this area. They identify migration as a major strategic priority for the EU; highlight the importance of addressing root causes; establish the strategic framework as the Regional and Country Strategy Papers for Middle East and North African countries; and stress the importance of including dialogue on migration within current and future co-operation and association agreements. The following priorities were identified: managing migration and combating trafficking; improving national legislation; offering migration-related assistance; facilitating 'sustainable return'.

There has also been an increasingly important international component of the asylum with debate about the 'external processing' of asylum claims. During the January-June 2003 Greek presidency the UK government's 'new vision' paper proposed the creation of regional and transit processing centres outside EU territory. In response the UNHCR proposed a 'three pronged' approach that emphasised the core principle of state responsibility, but in a European and regional context. The future of asylum will become clearer during the Tampere II phase and will tell us important things about the relationship between EU member states, the EU as a regional organisation and international human rights standards.

The Tampere II agenda will have a broad focus on regular and irregular migration, but seems likely to have a strong security focus with implications for Europe's international migration relations. The following four initiatives are likely to be central components of the Tampere II agenda.

1. An Agency for the Management of Operational Co-operation at the External Borders which will seek to coordinate member states' border control agencies.
2. The creation of a European border police with powers to check people at the borders, deny entry, board vessels and arrest individuals.
3. Repatriation of illegal immigrants and readmission agreements with countries sending illegal immigrants. Readmission agreements are being negotiated with Morocco, Russia, Ukraine, Algeria, Turkey, China and Albania.

4. Action against human trafficking and smuggling with Commission proposals to grant short-term residence permits to victims of trafficking if their help bring traffickers and smugglers to justice.

## Conclusions

Changed relations between European states arising from EU integration have shifted the understanding of international migration with increased emphasis on the management of migration as a component of the structured relations between European states and neighbouring non-EU states and regions. Many of the developments so far have centred on the projection of EU concerns onto neighbouring states. There is a pressing need for joined-up migration and asylum policies that connect concerns about trade, development, conflict prevention and resolution, and security and do so within a framework of genuine co-operation and partnership with the EU's surrounding states and regions. As a direct result of its economic and political power, EU policy will have an important impact on developments in each of these areas.◊

<sup>1</sup> A. Geddes, *The Politics of Migration and Immigration in Europe* (London: Sage, 2003).

<sup>2</sup> C. Boswell, 'The external dimension of EU co-operation on migration and asylum', *International Affairs*, vol. 73, no. 3, 2003, pp. 619-38.

<sup>3</sup> European Commission, Communication from the Commission to the Council and European Parliament, Integrating Migration Issues in the European Union's Relations with Third Countries, COM (2002) 703 final, 2002.

## Putting the EU foreign minister 'in context'

**Giovanni Grevi, European Policy Centre, Brussels, Belgium**

**Daniela Manca, German Marshall Fund, Transatlantic Centre, Brussels, Belgium**

and

**Gerrard Quille, ISIS Europe, Brussels, Belgium**

Leadership for CFSP and ESDP cannot be provided by institutions, or by isolated individuals, alone but also requires far-sighted individuals embedded in an appropriate institutional framework and working towards the development of a European strategic culture in security matters. Failure to do so will lead, at worst, to a discredited and unrealised European security policy or, at best, underperformance and a growing expectations gap in the eyes of European citizens and international partners. The real question is how to enhance continuity, policy coherence and cohesion in the formulation and implementation of foreign and security policy objectives with 25 member states.

The creation of the new position of the Foreign Minister (FM) does not provide the ultimate answer to this question, but it does go some way in this direction. The job description of the Foreign Minister – as outlined in the constitutional treaty – stretches well beyond mere double-hatting, if the role of this new figure is taken seriously. Whilst remaining in close dialogue with the member states, the Foreign Minister will be sitting in the Commission, coordinating external policies, chairing the new Foreign Affairs Council (FAC), as well as initiating proposals and overseeing their implementation. In short, the Foreign Minister promises to be a major player and locus for EU foreign and security policy. He/she could potentially facilitate the conditions for decisions to be adopted and effectively followed up, thereby improving the track record on common foreign and security policy and developing the strategic culture that has been described as necessary by the member states in the EU Security Strategy.

The successful pursuit of the Union's external relations policy, however, cannot rest only on the personal resources of the FM. In the end, much of the FM's ability to carry out his/her duties will depend on institutional support. Whilst the personality of the first incumbent

matters, it cannot be a substitute for functioning lines of command and appropriate resources. The nature of responding to international security challenges today (such as set out in the European Security Strategy) requires the application of political, diplomatic, developmental, economic and military policy instruments, which have for a long time fallen outside the remit of a Foreign Minister or Foreign Ministry. The very promise of the EU's *added value* as a security provider is in the Union's, along with the member states', potential to apply its wide ranging policy instruments.

A proper assessment of the margins for manoeuvre of the Foreign Minister can only be carried out by looking at the new position in a broader institutional context.<sup>1</sup> The exact shape and extent of the support basis of the Foreign Minister in fulfilling his/her multidimensional tasks remains undefined but, at the present stage of debates, four key aspects could be outlined:

- 1) other Commissioners/Special Representatives
- 2) personal cabinet(s)
- 3) European External Action Service
- 4) financial resources

### **Junior Commissioners and Special Representatives**

No one disputes the fact that the double-hatted FM will have a very heavy workload. In order to carry out the whole range of his/her activities, he/she will interact with other Commissioners and supervise their activities on those matters of external relations falling under the Community method (including some horizontal issues). In parallel, the FM would establish close working relations with Special Representatives/deputies within the Council, each responsible for key policy areas in the framework of CFSP/ESDP. The case for a Mr ESDP (a deputy to the Foreign Minister being responsible for managing all ESDP matters, sitting in the Council and supported by the Military Committee and the Agency in the field of Armaments, Research and Military Capabilities, and possibly chairing the Defence Minister Council if established) has already been made to lessen the overloaded workload of the High Representative.<sup>2</sup> Special Representatives could be appointed to oversee other major priority areas (regional, but also functional). At this level, some form of co-ordinating mechanism between the two executive branches (Commissioners / Special Representatives) would certainly be required, if the aim is to push for

coherent joined-up policy approaches. For example, regular meetings could be envisaged involving both the Commissioners who are part of the Working Group on External Relations within the College and the deputies and personal representatives of the Foreign Minister in the Council.

### **Cabinet(s)**

The support of a small group of outstanding professionals will be essential for the FM to oversee a series of key (thematical and regional) policy areas and to ensure co-ordination with the overall machinery. The existing workload and practices suggest the need for a well-staffed Cabinet composed of representatives from the Commission, the Council and the member states. Members of the cabinet would be responsible for specific key sub-policies (capabilities, arms control, conflict prevention, relations with international organisations, development, including regional portfolios, terrorism and so on) and would relate to further existing support structures such as the Civil-Military Planning Cell, the Situation Centre (SitCen) and WMD Monitoring Unit.

It remains to be seen whether there would be just one single structure under the direct authority of the FM, or rather two separate ones drawn from each institution (Council and Commission). In the latter, the double-hatted FM would be also 'double-cabinetted'. Obviously, the risk here is that what has been unified at the highest political level, remains split at the lower working levels of the hierarchy. The EU Security Strategy identified the need to build a strategic culture in decision making as a priority in order to deliver timely and effective action in pursuit of EU security objectives: it is therefore legitimate to wonder whether this will be adequately supported by a dual institutional structure, based upon the 'double-cabinet' model, at the operational level.

### **European External Action Service (EEAS)**

Along with the Cabinet, the creation of a broader joint administrative and executive structure combining elements from the relevant Council and Commission services, and from the national administrations will be a crucial asset for the FM. Thus, the creation of a 'European External Action Service' has been seen by a majority of member states as the logical consequence in response to the creation of the Foreign Minister's post, in order to ensure 'horizontal' and 'vertical' coherence in the implementation of external relations policies. However, how this service will function in reality in terms of its size, budget,

location and internal structure is still a matter of debate.

At the Convention, the German government championed the establishment of an independent EU diplomatic service under the authority of the FM and made up of civil servants from both the Commission and the Council along with seconded officials from the member states. Widely accepted, the German proposal was translated into the Convention's draft treaty in a declaration on the creation of a joint European External Action Service (EEAS), '*to assist the future Union Minister for Foreign Affairs [...] to perform his or her duties [...]*'. The organisation and functioning of the EEAS would be defined by a European Decision taken by the Council, with the opinion of the European Parliament and the consent of the Commission.<sup>3</sup> However, many legal and practical constraints make the creation of such a service a daunting task. It involves extremely sensitive negotiations within the Commission and between it and the Council on the scope, structure and internal organisation of the service. Ultimately it also implies a broader re-organisation of both the Brussels-based institutions (Commission and Council) and of the EC delegations in third countries, which would become EU delegations.

Current options towards the creation of a EEAS range from a minimalist to a maximalist approach, each striving for different levels of integration of the Commission's and Council's services. While the minimalist view suggests that the FM would simply ring-fence the existing actors within separate and parallel services (the Commission's DG Relex and the Council's DGs on CFSP and ESDP), the maximalist perspective would almost mirror the establishment of a EU Ministry for External Relations, where traditional boundaries between the institutions on policy areas would be eroded. If the minimalist approach is simply an EEAS in name, the latter would have more integrated cross-pillar support for the Foreign Minister, as it would bring together the Commission's DG Relex and the foreign policy services of the Council's secretariat, including the Policy Unit and the Situation Centre, plus member states' civil servants. Clear hierarchical lines of authority would ensure vertical implementation of policies, with the Foreign Minister at the highest level coordinating the different actors and ensuring overall consistency. The maximalist option seems as ambitious as it is unrealistic, at least

in the foreseeable future.

In the short term, a more likely solution would reflect a mixed approach, one that reconciles the political interests of the institutions in preserving existing loyalties and separate '*esprits de corps*', and the member states' concern over their national sovereignty, with the ultimate goal of providing coherence and co-ordination to the EU external action. One can expect that the appointment of the FM and the establishment of the support structures under his/her authority will follow an incremental path. Practical arrangements for the establishment of the EEAS will be negotiated during a transitional phase in the run up to the entry into force of the constitutional treaty and the appointment of the new FM.

### **Finance**

As yet there has not been a serious, focussed debate on the crucial topic of finances in relation to the FM and the EEAS. The constitutional treaty states that, on a proposal from the Foreign Minister, the Council has to adopt a decision establishing '*the procedures for setting up and financing the start up fund*' made up of national contributions, needed to finance EU operations for peace keeping, conflict prevention and strengthening international security (Article III-313.3). The Council can also authorise the Foreign Minister to use the fund when operations under the Petersberg tasks cannot be charged to the EU budget.

The question of who decides what is to be funded lies at the heart of any balance of power. From this standpoint, one of the major problems that the EU presently faces is the inability to apply financial instruments as political *leverage* to support crisis management and conflict prevention. In this context, the Council does not have any budget and relies upon the member states to donate funding for crisis management operations. Whereas the Commission has greater resources, it is very inflexible in its implementation instruments (with the exception of the small Rapid Reaction Mechanism and the potential of the much bigger Africa-focussed African Peace Facility). This is the critical area where reform is needed if the FM, EEAS or any future External Relations Commissioner are to be able to move from the present long-term inflexible approach (multi-annual strategies, and annual programming) towards a flexible instrument for responding to short-term political and security objectives, namely under crisis

management and peacebuilding needs (such as based upon the existing Rapid Reaction Mechanism or an International Peace-Building Facility mirroring the existing Africa Peace Facility). Lines of accountability would have to be pre-defined in order to understand whether the Foreign Minister has direct access to crisis management or peace building funds or whether she or he has to approach the Commission's President or the College to have his/her policies approved.

### **More than double-hatting**

While considerable progress is required to equip the envisaged Foreign Minister with the institutional, bureaucratic and financial instruments required to fulfil its ambitious mandate, a window of opportunity is definitely open. A new position of EU Foreign Minister may help provide a stronger international role for the Union, but failure to do so would undermine hopes and expectations for a credible common foreign policy. The Foreign Minister has been given a broad mandate, including an important role in enhancing an open dialogue on CFSP matters with the European Parliament and national parliaments. Considerable skills have been deployed to carve out a job description for the new top diplomat of the Union, but much will depend on the first incumbent, and on developments in international security. A good deal of political courage and some idealism will be required from the prominent figure who will first take up the challenge. At the same time, the Foreign Minister would be well advised to pay due attention to establishing a smooth working relationship with his or her envisaged top colleagues - the President of the European Council and the President of the Commission - as well as with his/her national peers.

The Foreign Minister is often described as 'double-hatted': in other words, he or she will be both a Vice-President of the Commission and chair of the Foreign Affairs Council (FAC). In fact, the Foreign Minister is better described as standing at the cross-roads of the three branches of the fragmented European executive: the Commission, the Council of Ministers *and* the European Council, formally included in the list of EU institutions by the draft constitutional treaty. The Foreign Minister will wear two hats - one in the Commission and one in the Council - but will frequently require an umbrella too, when working under the authority of the European Council and of its President.

Taking it a step further, the position of the

Foreign Minister as Chairman of the FAC entails a permanent working relationship with his or her 25 colleagues at the national level, both when they meet in the Council, and when they act separately in performing their tasks at home. Given the desire for more convergence between national foreign and security policies, and the potential impact of unilateral action on the progress towards a common foreign policy, the Foreign Minister will have to watch the behaviour or actions of his/her colleagues very closely, and intervene when appropriate by calling extraordinary meetings of the FAC.

The Foreign Minister should not be seen merely from within the EU framework, since he or she should be the central (although by no means exclusive) filter between internal EU politics and the international environment. Supported by a new joint EEAS, the Foreign Minister will speak for the Union and will need to become one of the main interlocutors with world leaders, if this position is to be taken seriously internationally. This may well lead to serious confrontations when crossing the wires of traditional authority in the complicated EU machinery.

Taken together, this is a daunting task, both more complex and risky than usually described. The role of the Foreign Minister potentially goes well beyond the mere sum of its institutional components, namely the Commissioner for External Relations and the HR for CFSP. Here lie both its constraints and opportunities.◊

<sup>1</sup> For an early appraisal of the key institutional questions, see Christopher Hill, 'A Foreign Minister without a Foreign Ministry - or with too many?', *CFSP Forum*, vol 1, no. 1, July 2003.

<sup>2</sup> See Daniel Keohane, 'Time for Mr ESDP?', *CER Bulletin*, Issue 26, October/November 2002, and Marta Dassu' and Antonio Missiroli, 'More Europe in Foreign and Security Policy: the Institutional Dimension of CFSP', *The International Spectator*, 2, 2002.

<sup>3</sup> Art III- 197(3), IGC 60/03 ADD 1. It is worth noting that the original formulation of the declaration on the EEAS drafted by the Convention required agreement between the Council and the Commission.

## Denmark and European Defence Cooperation

**Barbara Engelstoft, European Youth Forum, Brussels, Belgium**

In analysing why a state pursues a particular foreign policy, it helps to consider that state's identity. Nation state identity consists broadly speaking of two interrelated elements: a nucleus of core values and a process of external 'othering'. With regards to Denmark and its nucleus of core values, a characterising feature of Danish society since 1864 has been the degree to which the peasant movement has been able to shape the values and the political system of the Danish state. This development of a consciousness as a class being the backbone of society and supporting free trade (for agricultural products) was possible because of the weakness of the state system and the Danish bourgeoisie. This weakness was a result of the fatal defeat in 1864 to the rising German power, after which Denmark barely survived as sovereign state and only with help from other states. The defeat allowed for the peasant movement and subsequently the worker movement to gain an unprecedented cultural, economic and political hegemony within the state.<sup>1</sup>

The traditional peasant values of community and solidarity were transformed by the scholar and theologian Grundtvig (1783-1872) into symbols and actions relevant for a modern industrialising community. The key concept of his ideology was a common feeling of consensus in the population – a 'popular spirit' which, together with the values of community and solidarity, manifested itself in creating a welfare state distributing universal benefits. What is important is the role that the state as a sovereign entity plays in the strong emotions that the Danes express today when it comes to European integration and defence cooperation. If the sovereign state as a strong and intervening power disappears, it is feared that the values of community and solidarity will disappear as well and the Danish identity has lost its core values.<sup>2</sup>

The problematic issue to be discussed is the meaning of sovereignty. Do the Danes really need to keep their state formally sovereign in order to maintain their welfare state? Even if the Danish state is formally sovereign, the Danish welfare state will be still be under strong pressure both from internal as well as from external sources. And if 'de facto' sovereignty -

meaning real influence by common decision-making in the EU (which implies a lesser degree of 'de jure' sovereignty) - could shield the welfare state from some of the problems coming from the outside, then this argument could be considered as valid. However, in light of the bad economic performance of the euro zone and the rather limited steps ahead in creating a common asylum policy these arguments have not fallen on fruitful soil when discussing the Danish opt-outs on the euro and in justice and home affairs.

Turning to the external identity process of 'othering', the defeat in 1864 to Germany is also closely linked to how the Danes look at European defence cooperation today. The strong and dominating German Empire provoked a national unification in Denmark based on a conscious demarcation from Germany and all things German. This process implied a reorientation away from Europe and towards the North.<sup>3</sup> The Northern part of Europe had been a relatively peaceful area with some of the states including Denmark conducting a neutral foreign policy during World War I. The turn away from Europe towards a neutral, peaceful Nordic/Baltic security community has found strong support among the Danes, and regardless of many years of participation in NATO and the EU, the neutralist ideology still has a strong resonance in the population.<sup>4</sup>

Summing up the characteristics of Denmark after 1864, it could be characterised as a small state – a survivor - defining itself externally against Germany and Europe and based internally on a strong, sovereign state and a welfare system creating the most egalitarian and homogenous society in the world. These features can to a great extent explain the attempts to be neutral after 1864, and the very strong support of the American presence in Europe as a safeguard against Germany. While the American presence was highly appreciated, being in an alliance together with the European states was something else. Only after attempts to create the Scandinavian Defence Union (1948/49) had failed did the Danish Government decide to join the Atlantic Alliance.<sup>5</sup> Indeed the Atlantic option was characterised by Foreign Minister Gustav Rasmussen as the 'lesser of two evils' (the other one being isolated neutrality). And the Danes have been just as sceptical of European integration in the 1990s as they were cautious during the Cold War. At that time there was no talk of opting out, but of footnotes. The footnote policy consisted of not allowing foreign bases on Danish soil, the rejection of the stationing of nuclear weapons in Denmark during peacetime, and defence expenditures falling far short of

alliance requirements.

Danish reactions to the external world were characterised by a deep mistrust of Germany and Europe, a disappointment concerning Scandinavian cooperation, a warm welcome of the Americans in Europe but a lukewarm attitude to NATO and to European integration in general. The only aspect of international security to which Denmark has given wholehearted, strong and consistent support is to the UN and to internationalism.

### **Danish defence policy after the end of the Cold War**

Denmark has seized the opportunities after the Cold War to have a bigger range of foreign policy and defence perspectives than has ever been the case since the Kalmar Union (1397-1523). The country has embarked upon an unprecedented active foreign policy in the Baltic region and in the Balkans. From a Danish point of view this has been backed by armed forces on a hitherto unknown scale, from naval vessels in the Persian Gulf and heavy tanks in Bosnia to military cooperation with Poland, the Baltic countries and from 1999 with France (in Kosovo).

While being willing to invest considerable resources on military personnel and equipment for both UN and NATO operations it is still surprising why Denmark rejects European defence cooperation within the EU framework. The answer is to be found in the national identity characterised by middle-sized landowners. Economic cooperation is considered fine and military alliances necessary, but political cooperation is predominantly perceived as a loss of sovereignty.

The rejection of the Maastricht Treaty with its provisions for a future European defence was followed by a renegotiation first among the Danish yes and no parties and then with the rest of the EU member states. The Edinburgh agreement consisted of Danish opt-outs on justice and home affairs, defence (but not CFSP), the euro and the European citizenship.

The opt-out on defence has had the unintended consequence that Denmark will have to give up its considerable engagement in and commitment to crisis management when some of these tasks are transferred to the EU from NATO or are embarked upon as pure EU military/police operations. This message has apparently not been taken into account by a large part of the Danish population which traditionally strongly supports international engagement. In 2003,

44% of the Danish population favoured maintaining the opt-out on defence, while 45% wanted to abolish it.<sup>6</sup>

It is, however understood by the politicians that in the long run, the CFSP will be an important platform for Danish foreign policy. It is also understood that the EU has to add more capabilities to the ones being developed. But the Danish government is still rather cautious concerning the CFSP. Foreign Minister Per Stig Moeller argues for an increased use of flexibility through the provisions of constructive abstention and enhanced cooperation instead of making QMV the general rule.<sup>7</sup>

Summing up, foreign policy is based on national identity, which consists of an inner core of values and an external shell of 'othering'. This helps to explain Denmark's reluctant attitude to engaging in a military alliance with European powers as well as the European integration process. Denmark has, however been engaged in an increasing number of military operations after the end of the Cold War. But the fact is that when a Danish tank carries a UN flag the Danish population does not feel threatened; if it carries an EU flag, they see their national identity sliding away.

However, for the people whose lives these tanks are supposed to protect it probably would not make much of a difference which flag they carry. Moreover, staying outside the politics of the European defence means that the Danes do not have a say in deciding in which conflict European troops will intervene. The enormous task for the Danish politicians is to make clear to the Danes that the welfare state *is* under pressure – and thereby also the Danish national identity – *EU integration or not*. And that it should not prevent Denmark from assuming its responsibility for international security. But to decouple these two issues implies a redefinition of Danish national identity.◇

<sup>1</sup> U. Østergaard, 'Danish National Identity: Between Multinational Heritage and Small State Nationalism', in H. Branner and M. Kelstrup, eds, *Denmark's Policy towards Europe after 1945: History, Theory and Options* (Odense University Press, 2004), pp. 157-9.

<sup>2</sup> *Ibid.*, pp. 168-9.

<sup>3</sup> *Ibid.*, p. 158.

<sup>4</sup> *Ibid.*, p. 139.

<sup>5</sup> H. Branner, 'Options and Goals in Danish European Policy since 1945: Explaining Small State Behaviour and Foreign Policy Change', in H. Branner and M. Kelstrup, eds, *Denmark's Policy towards Europe after 1945: History, Theory and Options* (Odense University Press, 2004), p. 351

<sup>6</sup> P. Carlsen and H. Mouritzen, in *Danish Foreign Policy Yearbook* (Nordisk Bog Center A/S, Copenhagen, 2004), p. 245.

<sup>7</sup> P.S. Moeller, in *Danish Foreign Policy Yearbook* (Nordisk Bog Center A/S, Copenhagen, 2004), pp. 181, 186-7.