DIIS REPORT

EU GLOBAL POWER?
REFLECTIONS ON THE EUROPEAN
SECURITY AND DEFENCE POLICY
AFTER THE FAILURE OF THE 2004
DRAFT CONSTITUTIONAL TREATY

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Contents

Abstract

This paper reflects on the question of the global power of the EU, with a particular focus on the European Security and Defence Policy (ESDP). The Constitutional Treaty is considered in the light of the 'pause for reflection' declared after the failed referendums in France and the Netherlands in the summer of 2005, which left the EU disoriented for a protracted period. The EU has decided to allow a period for further reflections into 2007, when a major EU member state, Germany, is due to assume the Presidency and will try to drive the process of European integration further forward. The present analysis shows that the optimal solution to the question of positioning the EU as a global power would be for the it to assume a primarily regional role, based on universal values and preferences such as democracy, human rights, solidarity, justice and peace. The way to achieve this is to implement a major legal change to voting rules in connection with the enlargement process and at the same time gradually to dissolve the pillar system in practice via the ESDP missions. One possible but not essential option might be the creation of a social charter to be annexed to the next treaty of enlargement of the EU, presumably when Croatia joins.

Resumé på dansk
Rapporten analyserer EU's potentiale for en global rolle med særligt henblik på den Europæiske Sikkerheds- og Forsvarspolitik (ESDP). Forfatningstraktaten præsenteres i lyset af tænkepausen, erklæret efter de fejlslagne folkeafstemninger i Frankrig og Nederlandene, som efterlod EU desorienteret i en længere periode. EU har besluttet at forlænge overvejelserne ind i 2007, hvor Tyskland overtager Formandskabet og vil forsøge at drive integrationsprocessen videre. Analysen viser, at det bedste svar på spørgsmålet om EU's globale rolle ville være at lade unionen i påtage sig en i første række regional rolle baseret på værdier og fortrin som demokrati, menneskerettigheder, solidaritet, retfærdighed og fred. Midlet hertil er at gennemføre en retslig ændring af afstemningsregler i forbindelse med udvidelsesprocessen og samtidigt ophæve søjlesystemet i praksis i form af ESDP missioner. Muligvis, men ikke nødvendigvis, kunne et Socialt Charter udformes som anneks til næste udvidelse formentlig med Kroatien.

Introduction

A key ambition of the EU draft Constitutional Treaty of 2004 was to strengthen the Union's ability to assume a global role. The EU has for a long time been an economic giant, and irrespective of whether or not it has been able to agree on common positions towards the rest of the world, it does have a considerable impact on world affairs. When, for instance, the EU decides to break new ground in international development cooperation or chooses a certain course in multilateral trade talks, these decisions have an impact on the lives of people across the globe. Conversely, when it is paralysed in the face of civil war in its own neighbourhood, as happened in the western Balkans at the beginning of the 1990s, this has consequences not just for the victims, but for the international community as a whole. Whether the EU likes it or not, its external policies do have large, real-life consequences for the rest of the world. But does that make it a global power?

This paper reflects on the question of the global power of the EU with a particular view to the European Security and Defence Policy (ESDP). The Constitutional Treaty is considered here in the light of the 'pause for reflection' declared after the failed referendums in France and the Netherlands in the summer of 2005, which left the EU disoriented for a protracted period. The EU has decided to allow a period for further considerations into 2007, when a major EU member state, Germany, is due to assume the Presidency and will try to drive the process of European integration further forward.

This timing corresponds to important political events in 2007, in particular presidential elections in France in May and June. Furthermore, decisions by the European Council in June 2006 will bring the EU Presidency to France in the second half of 2008 and envisages new elections to the European Parliament and a new Commission in 2009.[1] In the meantime, not only are Bulgaria and Romania expected to become members of the Union, but Croatia will also be waiting in the wings to join. And, as experience shows, widening and deepening European integration not only tend to go hand in hand, they are organically interlinked.[2]

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[1] BRX European Council 15/16 June 2006, Presidency Conclusions, doc. 10633/06, 16 June 2006.

[2] DIIS Report 2005:7, pp. 7-8.

The Common Foreign and Security Policy deficiencies and the European Security Strategy

The EU has long experienced difficulties in establishing a coherent foreign and security policy, including the ESDP, this being most fundamentally due to the manner in which the EU political system is structured. As a political system, the EU is basically fragmented: there is no over-arching guiding political authority, and decisions are primarily made on the basis of unanimity.[3] Even in fields where the EU may choose to make decisions on the basis of qualified majority voting, due regard is given to the special national interests of particular member states. This institutional fragmentation has been detrimental to efforts to strengthen the coherence of the EU's external policies. For one thing, individual members often have different national interests, for example, the two nuclear powers in relation to the proliferation of weapons of mass destruction, Portugal in East Timor, or Lithuania and Poland as lead nations in relations with Ukraine. Equally, the member states and the EU's common institutions, i.e. the Commission and the Parliament, which are both needed to balance the intergovernmental element represented by the Council, often have very different ideas as to what best serves 'the interests of the Union'. In addition, the functional differences between the individual policy spheres have also made it increasingly difficult to integrate them.

As a political system, moreover, the EU is functionally disaggregated into a number of different sub-systems that pursue different aspects of the EU's political agenda (e.g. trade interests, agricultural interests, policy towards developing countries, international crisis management, policy towards the domestic economy, employment levels etc.). In practice this disaggregation is organized in the EU pillars of (1) Community, (2) Foreign Policy and CFSP and (3) Justice and Home Affairs (see Fig. 1). Like most sovereign states, the EU also has interests that are partly at odds with one another, and there are several examples of contradictory foreign policy initiatives. The Barcelona process was supposed to provide expanded access to the EU market for North African and Middle Eastern economies , thus providing these countries with the prospect of long-term growth. However, at the eleventh hour, special interests within the EU lobbied to obtain exemptions on

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[3] See, e.g., 'Communication from the Commission to the European Council of 15/16 June 2006', doc. COM(2006) 278 final of 8 June 2006.

some of the more interesting products. The conflict between the EU's long-term foreign policy agenda and its shorter-term economic interests has had an impact on a number of EU foreign policies, thus weakening the effect of foreign policy activities and damaging the EU's international reputation. The Maastricht and Amsterdam Treaties tried to address the problem by calling on the Council and the Commission to cooperate in order to ensure a higher degree of consistency in the external policies of the Union.

Figure 1: EU Pillars and Policies

First pillar	Second pillar	Third pillar
European Communities (EC)	Common Foreign and Security Policy (CFSP)	Police and Judicial Co-operation in Criminal Matters (PJCC)
• Customs Union Single market • Common Agricultural Policy • Common Fisheries Policy • EU competition law • Economic and monetary union • EU-Citizenship • Education and Culture • Trans-European Networks • Consumer protection • Healthcare • Research • Environmental law • Social policy • Asylum policy • Schengen treaty • Immigration policy	*Foreign policy:* • Human rights • Democracy • Foreign aid *Security policy:* • European Security and Defence Policy • EU battle groups • European Rapid Reaction Force • Peacekeeping	• Drug trafficking and weapons smuggling • Terrorism • Trafficking in human beings • Organized crime • Bribery and fraud

Since the process of European integration has had an impact on third parties right from the beginning, over the past 35 years, member states have tried to strengthen the coherence of the EU's external policies, not least in multilateral fora such as the CSCE/OSCE (human rights, democracy and peace-keeping) and the UN (security and development). Ever since the establishment of the principle of European political cooperation, an increasing number of formal and informal procedures for cooperation have been evolved in order to strengthen the consistency of external policies. A virtual diplomatic community (the COREU network) has enabled the member states and the Commission to increase their efforts to reconcile the Union's different interests and perspectives in relation to a broad range of functional and geographic aspects. Similarly, over the years a number of EU procedures and practices have evolved, not least at the declaratory level. However, these achievements have not led to the effective coordination of the different external policies – something the Constitutional Treaty was designed to correct. In general, in their national foreign policies, European countries may have come closer to coordination than the USA has.

The EU's 'European Security Strategy' (ESS), 'A Secure Europe in a Better World', adopted in 2003, provides a comprehensive overview of the security threats and challenges facing the European Union, as well as a number of guidelines and principles for coping with the new security agenda.[4] The intention behind the strategy is clear: if the EU is intent on tackling new challenges such as terrorism, regional conflict and organized crime, a stronger coordination of its external policies is imperative. The EU already has a broad range of foreign policy tools, but it must still learn how to handle the different instruments in the 'tool-box'. It cannot rely solely on the carrot and the stick, but needs a broader range of instruments and must be able to employ them when necessary. The ESS places great emphasis on the need for a much more comprehensive combination of diplomatic, economic, trade, legal, police and military interventions. This combination of different foreign-policy instruments clearly reflects the new international security agenda that emerged after September 11th, 2001. Security and Development Policy are becoming increasingly intertwined. Good governance is no longer just a question of developing responsible and efficient state structures in the developing world: it is also, and perhaps even more so, a question of combating terrorist infrastructure, such as money laundering and arms trafficking.

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[4] For a comprehensive discussion of the ESS, see Toje, 2004.

The coupling of military and civilian assets is also reflected in the provisions of the ESDP. The baseline is the so-called 'Petersberg Tasks', which range from humanitarian interventions, through conflict prevention and peace-keeping operations, to actual war fighting operations. Henceforth, these tasks will have to be fitted into a broader matrix, which also includes civilian instruments. It is not enough to win the war; the peace must also be won, so that more long-term stabilization, reconstruction and development assistance may follow military operations. Military units are presumably well suited to separating the warring factions in a conflict, but even if it has been possible to agree on a ceasefire, this will only be the first step. The real challenge is to bring long-term constructive economic and political development to conflict-ridden societies. This presupposes a lot more than just armoured vehicles and heavy artillery.

The 2004 Draft Constitutional Treaty and the constitutional debate

The Constitutional Treaty (CT) proposed to strengthen the coherence between the EU's different external policies by creating a common legal framework. EU foreign, security and defence policies have operated within a distinct and independent 'pillar' of the EU and therefore separated from the Union's other concerns, such as trade and development policy. The CT proposed to do away with the pillar structure and to replace it with a common legal framework. Such a common legal basis is no guarantee that greater coherence will emerge, but as long as the different external policies operate in different closed pillars, the chances are that fragmentation will continue unchallenged. The dismantling of the pillar structure was expected to strengthen both institutional coherence, that is, co-operation between the Council and the Commission, and horizontal coherence, that is, the interplay between the different external policies.

The CT envisages that actual coordination of the different external policies should be the main responsibility of an EU foreign minister. The foreign minister would be the chairperson of an External Relations Council (consisting of the foreign ministers of the different member states) and simultaneously one of the Commission's vice-chairmen, thus strengthening cooperation between the different external policies. In principle, the foreign minister would be expected to manage the Union's common foreign, security, and defence policy on behalf of the member states and to manage the constitutional mechanism of qualified majority voting on the basis of the strategies adopted by the European Council. There are obvious limits to what can be expected of a single human being, but the new minister would have two important assets: the new ESS, which was endorsed by the member states after the 2003 split in the EU over Iraq, and a small staff to support the minister in his or her duties.[5]

The European External Action Service (EEAS), integral part of the CT, is still hanging in the balance.[6] In principle, it will only be endorsed after the ratifica-

[5] Crowe, Sir Brian, 'The Significance of the New European Foreign Minister', *Fornet CFSP Forum*, vol. 2, no. 4, July 2004, pp. 1-4
Kupas, Sebastian, and Justus Schönlau, *Deadlock avoided but sense of mission lost?*, Centre for European Studies Brief No. 92/February 2006

[6] Duke, Simon, 'The European External Action Service: A Diplomatic Service in the Making?', *Fornet CFSP Forum*, vol. 2, no. 4, July 2004, pp. 4-7. Same, 'Commentary', *Europe's World*, Spring 2006, pp. 84-5.

tion of the Treaty, but the basic structures have already been debated on the basis of a joint statement from the current foreign policy chief and would-be foreign minister, Javier Solana, and the Commission President, Manuel Barosso. The present set-up under Solana will presumably inspire the new structures. As the EU's High Representative, Solana can draw upon the department for foreign affairs under the Council Secretariat, as well as the assistance of a number of special representatives or ambassadors, who currently cover areas in the Balkans, the Middle East, Africa, Afghanistan, the Caucasus, Moldova etc. Facing this emerging common European structure are the traditional, national foreign offices, which are primarily engaged in the collection of political, military and economic data, export and investment promotion, development aid and technical cooperation, and consular affairs. A number of these tasks will no doubt remain bilateral under the aegis of the national structures, but not necessarily all of them. Already today, the special representatives do far more than the political reporting that is stipulated in their mandate: they are also engaged in legal and police-related matters, economic reconstruction and general investment promotion, among many other activities.

The tasks that will face the EEAS have yet to be defined, but they are likely to include the information-gathering that is necessary actually to implement a common foreign policy and to strengthen the coherence of the EU's external policies. It would seem plausible to assume that certain aspects of the information- and data-processing will take place in some sort of EU 'foreign office'. This might well encompass parts of the EU's Brussels Joint Situation Center, the Military Staff, the Civilian-Military Cell, and even the EU Defence Agency, to be confirmed under the CT. The Defence Agency would be responsible for furthering the Common Security and Defence Policy of the CT, or ESDP, by improving the instruments available for crisis management, including defence-related hardware, research and military capabilities.

There are clear indications that the institutional development of the Union's foreign policy will continue, regardless of what the future may have in store for the CT. The need for better coordination of external policies is no longer debated, and political agreement has been achieved gradually to develop this aspect the cooperation further, even without the CT. The organizational solution will lie somewhere between the maximalist and minimalist extremes. The minimalist solution would see a common foreign service consisting of a few units in the Council Secretariat, the Commission and the 128 EU delegations

currently present in other countries and organizations. The major drawback with this solution is that foreign-policy generalists (i.e. career diplomats) may not be best suited to handling specific tasks relating to development assistance or humanitarian interventions. The maximalist solution would, in addition to the foreign delegations of the EU, comprise all the units in the Council Secretariat that have external assignments, including those in agriculture, fisheries, industry, energy and the environment, justice and home affairs, as well as similar departments from the Commission and the Directorates General for Development Cooperation, Humanitarian Assistance, and Enlargement. The main problem with a maximalist solution is that it would inevitably lead to internal turf-wars and in the longer run create formidable problems of coordination, as well as negative reactions from national administrations, especially in the larger member states. Foreign ministries are usually rather conservative institutions, and not without a certain institutional pride. It will not be easy to transfer core competencies from national spheres to the common European sphere.

The future role of the EU in international co-operation has yet to be defined. Much would seem to depend on whether the different institutional elements of the CT described above are in fact adopted and implemented, and subsequently the manner in which the different foreign policy instruments are eventually developed. What is certain is that these outstanding institutional changes are only part of the equation. Political will remains an indispensable ingredient. Without effective institutions, co-operation will have an ad-hoc character, but without sufficient political will, even the strongest institutions will fail.

Opinion polls show that a majority of Europeans would support a stronger EU foreign policy as envisaged in the draft CT, and it is therefore hardly surprising that Javier Solana continues to argue for the EU to become a global power. The EU, he states, has a united, comprehensive strategy for the western Balkans, and the same is said to be the case for the wider Middle East, Africa and eastern Europe. In each of these regions the EU has a substantive set of policies, agreed at 25 and backed up by a broad range of instruments, civil as well as military.[7]

Solana sees four main areas in need of improvement: (1) improving defence capabilities by increasing levels of research spending, tackling capability gaps

[7] Solana, Javier, Speech at the Sound of Europe Conference, Salzburg, 27 January 2006.
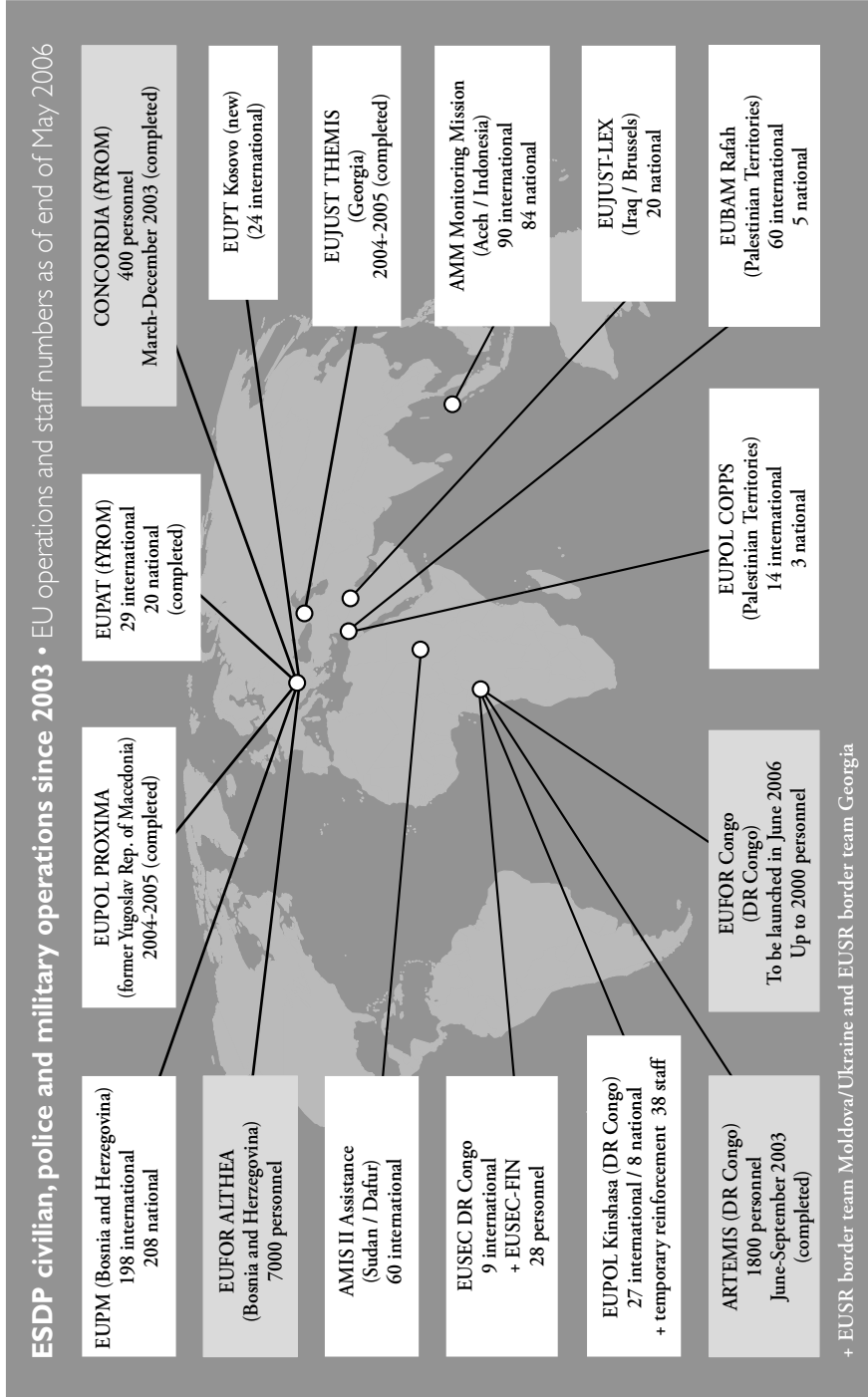
(e.g. strategic lift capacity, as discussed below) and member states collaborating as partners in training; (2) improving management structures to meet new demands, including responding to natural disasters; (3) increasing common foreign-policy funding, especially for civilian operations; and (4) preparing the EU for a major operation in Kosovo – possibly its greatest to date – and improving the co-ordination of EU activities in the western Balkans, especially on organised crime.[8]

As regards the improvement of Europe's defence capabilities, the European Defence Agency included in the CT is already up and running. Unlike NATO, which is a specifically military-political organization, the EU covers a broad range of economic as well as politico-military aspects. At present, however, European research and development is running far behind that in the US, which out-spends the EU by five to one, thereby further increasing America's advantages in the innovative, knowledge-based, globally competitive economy. The Defence Agency has had to begin almost from scratch by collecting statistics on present European data and targets, suggesting joint projects, establishing priorities and considering joint funding mechanisms. Such mechanisms should stimulate investments in tackling capability gaps in command, control and communication, surveillance and reconnaissance, strategic lift, both air and sea, force protection and logistics. Furthermore, the training of military forces within an EU framework – presumably the EU Battle Groups – that is compatible with current NATO training programmes and exercises, would contribute to standardized equipment being used and maintained.

EU management structures for crisis-management operations are relatively fragmentary and – given the Union's current twelve operations, which are being undertaken globally, but with a concentration in and around Europe – already close to the limits of their capacity (see Fig. 2).. The organization needs restructuring in order to achieve integration between military and civilian efforts in the management and control of missions and operations, as well as in the planning and coordination of assistance delivery in response to a number of demands, including natural disasters and associated consular protection, as demonstrated by the 2004/05 tsunami crisis.

[8] Solana, letter to Brussels European Council, doc. S416/05 of 14 December 2005.

Figure 2: ESDP Operations Map

ESDP civilian, police and military operations since 2003 • EU operations and staff numbers as of end of May 2006

CONCORDIA (fYROM)
400 personnel
March-December 2003 (completed)

EUPT Kosovo (new)
(24 international)

EUJUST THEMIS
(Georgia)
2004-2005 (completed)

AMM Monitoring Mission
(Aceh / Indonesia)
90 international
84 national

EUJUST-LEX
(Iraq / Brussels)
20 national

EUBAM Rafah
(Palestinian Territories)
60 international
5 national

EUPOL PROXIMA
(former Yugoslav Rep. of Macedonia)
2004-2005 (completed)

EUPAT (fYROM)
29 international
20 national
(completed)

EUPOL COPPS
(Palestinian Territories)
14 international
3 national

EUFOR Congo
(DR Congo)
To be launched in June 2006
Up to 2000 personnel

EUPM (Bosnia and Herzegovina)
198 international
208 national

EUFOR ALTHEA
(Bosnia and Herzegovina)
7000 personnel

AMIS II Assistance
(Sudan / Dafur)
60 international

EUSEC DR Congo
9 international
+ EUSEC-FIN
28 personnel

EUPOL Kinshasa (DR Congo)
27 international / 8 national
+ temporary reinforcement 38 staff

ARTEMIS (DR Congo)
1800 personnel
June-September 2003
(completed)

+ EUSR border team Moldova/Ukraine and EUSR border team Georgia

Past Operations

- **EUFOR Concordia**: 2003 in the Former Yogoslav Republic of Macedonia (FYROM). This operation made use of NATO assets and capabilities.
- **Operation Artemis**: a military operation in the Democratic Republic of the Congo (DRC), conducted in accordance with UN Security Council Resolution 1484 of 30 May 2003. The mission ended on 1 September 2003. This was the first time the EU conducted a military operation without NATO assistance. France was the 'framework nation' and main contributor of forces.
- **EUJUST Themis**: EU Rule of Law Mission to Georgia. This mission was launched on 16 July 2004 for a duration of twelve months and was designed to support the Georgian authorities in challenges to the criminal justice system and reform process.
- **EUPOL Proxima**: European Union Police Mission in FYROM. This operation was launched on 15 December 2003 and covered an initial period of one year.
- **EU Police Advisory Team in FYROM (EUPAT)**: launched on 15 December 2005 as a follow-on mission to EUPOL Proxima. The EU monitors and mentors border police, public peace and order and accountability, the fight against corruption and organised crime. Terminated June 2006.

Current Operations

- **European Union Police Mission, EUPM**: police mission in Bosnia and Herzegovina (BIH), starting 1 January 2003.
- **EUFOR Althea**: EU military operation in BIH, a transition from the NATO-led SFOR. Transfer of authority from SFOR to EUFOR on 2 December 2004.
- **EUPOL Kinshasa**: launched in October 2003, in the DRC. The EU monitors and mentors the Integrated Police Unit, once trained and operational under a Congolese chain of command.
- **EUJUST Lex**: the objective of this judicial mission to Iraq is to train some 770 judges, investigating magistrates, and senior police and prison officers. Launched on 21 February 2005.
- **EUSEC DR Congo**: launched on 2 May 2005. The EU mission is to provide advice and assistance for security sector reform in the DRC.
- EU support for **AMIS II**: EU support for the mission of the African Union in Darfur.
- **Aceh Monitoring Mission**. In September 2005, the European Union, together with contributing countries from ASEAN, as well as Norway and Switzerland, deployed a monitoring mission in Aceh (Indonesia) to monitor implementation of the peace agreement between the Government of Indonesia and the Free Aceh Movement (GAM).
- **EU COPPS**: EU support to the Palestinian Civil Police, security sector reform and criminal justice.
- **EU BAM Rafah**: a Border Monitoring Mission at the Rafah border-crossing between the Gaza Strip and Egypt.
- **European Border Support Team (BST)** in Georgia, a follow-up to EUJUST THEMIS from 28 February 2006.
- **EUBAM Moldova/Ukraine,** launched 30 November 2005 to assist the local authorities in efforts against illegal trade, trafficking, smuggling, organised crime and corruption.
- **EUFOR DR Congo:** supplement to UN Force (MONUC) during 2006 electoral process.

In 2005, EU funding of common foreign and security policies amounted to less than what the Union spent on office cleaners (€62 m). And although, at the Hampton Court European Council in 2005, there was general agreement on the need for a substantial increase in funds to cover the common costs of EU crisis management operations, and the European Parliament in principle supported an increase, the agreed Financial Framework for 2007-13 failed substantially to reflect these intentions. Estimates for common needs in 2006, not including a possible major operation in Kosovo, represent a significant increase over the previous year, but still lag far behind the sums needed to give the EU anything even remotely resembling a global role.

At the regional level, EU preparations for assuming greater responsibility in Kosovo have progressed steadily. Preparatory fact-finding and initial planning took place in the first half of 2006 for a primarily civilian police and justice operation to be launched after agreement on the question of the future status of Kosovo.[9] In conjunction with the largest EU mission to date, Operation Althea in Bosnia-Herzegovina, involving 7000 military personnel as well as police and other civilian personnel, a future EU presence in Kosovo would greatly improve the potential for international efforts against organized crime in the western Balkans. In the capital of neighbouring Macedonia, the EU has already 'double-hatted' Solana's Special Representative and the Commission Head of Delegation, while in 2007 the international High Representative in Bosnia-Herzegovina will most likely become a new EU Special Representative. In addition, headquarters activities needs to integrate police and justice, border control, the Brussels Situation Centre and Commission activities, notably the CARDS programme (Community Assistance for Reconstruction, Development and Stabilisation), as well as present and future association agreements – exactly as foreseen in the CT.

In sum, Solana remains convinced that Europe badly needs the ideas contained in the Constitution for a more streamlined and effective EU. The EU should help shape the global agenda, not resisting globalisation, but trying to negotiate its terms in accordance with the wishes of its citizens. Europeans want their values – democracy, human rights, solidarity, justice and peace – promoted around the world.[10]

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[9] Brussels European Council, *Presidency Report on ESDP*, doc. 10418/06 of 12 June 2006

[10] *Special Eurobarometer* 251, 'The Future of Europe', pp. 41-2, Brussels, May 2006. *Flash Eurobarometer* 151b, 'Globalisation', pp. 68-9, Brussels, November 2003.

In the constitutional debate in the EU, the political leaders of member countries and the Commission have increasingly spoken out in favour of a 'Europe of projects' to be delivered by the EU, with concrete results to the benefit of their voters, Europe's citizens, as intended by the CT.[11] The failure of the Treaty project has given rise to two main responses to the difficulties that further practical benefits face within the existing treaties: the Maximalists, who want to ignore the French and Dutch rejections; and the Incrementalists, who want to bury the CT and devise a new 'mini-treaty', which would amend the existing treaties but not be called a constitution.[12]

The Maximalist solution is based on the precedent of the Maastricht Treaty, when, in accordance with the Edinburgh Protocol, the Treaty went into force with four Danish reservations relating to the common currency, citizenship, police cooperation and defence. A similar solution was used with the Irish rejection of the Nice Treaty, and some countries suggest that, given sufficient majority support among member countries, French and Dutch electorates should be made to vote again on the CT. Such a procedure would presumably presuppose the CT being supplemented by some sort of 'social declaration' to make the project more attractive to the French electorate.

The majority Incrementalist camp, however, is pursuing the goal of a mini-treaty, which would include important but supposedly less controversial elements of the CT, such as the creation of the posts of council president and foreign minister (probably including the External Action Service), a reduction in the number of commissioners as prescribed in the Nice Treaty and 'double majority' voting. This procedure would not necessarily need to be subject to difficult referendums in member countries if, for example, it were implemented by a protocol linked to the next enlargement of the Union. Streamlining the institutions would mean greater transparency in decision-making, thus strengthening democratic influence in the EU.

Alternatively, one or two countries may argue that no change of treaties is needed at all, but even these, in wanting to keep the Nice Treaty in force unaltered, would have to join in talks on the mini-treaty.

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[11] See, e.g., Maurer, Andreas, *In Detention, Repeating the Year, or Expelled: Perspectives for the Realization of the CT*, Stiftung Wissenschaft und Politik Research Paper, Berlin, February 2006.
[12] Leonard, Mark, *Democracy in Europe: how the EU can survive in an age of referendums*, Centre for European Reform, March 2006.

The EU's enlargement perspective

The EU's enlargement in 2004 was intended to further the process of European integration and establish a post-Cold War security architecture for Europe (see Fig. 3). After the collapse of the economic, political and military division between East and West in Europe, common legislation and internal procedures aimed at the free movement of goods, persons, capital and services were expected to develop the potential to create a substantially new, global player in international relations, i.e. to make the EU a global power of 450 million citizens responsible for a quarter of global production.

However, it is far from certain that this unprecedented enlargement has actually served thus far to strengthen the EU's global role and responsibility. The reason is that the 2004 enlargement included a number of relatively small states that have a comparatively limited foreign-policy infrastructure, plus new member states that are first and foremost pre-occupied with the so-called 'new neighbours' to the East.[13] This enlargement differed markedly from previous enlargements in that the new members were overwhelmingly new or re-established democracies with limited resources. During the Cold War, the states of the eastern bloc were prohibited from participating fully in international co-operation. Their experience, traditions, and networks in this field were consequently less institutionalized than in the older member states. Africa quite obviously occupied a very modest place in the foreign policies of the new member states. In addition, they did not have a strong tradition of international development assistance (at least, not of the type of assistance that is commonly accepted as official development assistance or ODA), and they did not always have the same global outlook as many of the old member states. In terms of foreign policy, most of the newcomers were overwhelmingly preoccupied with regional concerns, especially relations with their dominant Russian neighbour, which incidentally means that they are more interested in the 'hard security guarantees' of NATO than the 'softer' security umbrella offered by the EU.

Indeed, the EU is not offering any hard security guarantee, but is increasingly concerned with national minorities, cross-border trade, visa regulations, energy and environmental issues, stability in the Balkans, relations with Belarus and

[13] DIIS Report 2005:7, pp. 18-20.

Figure 3: 2004 Enlargement Map
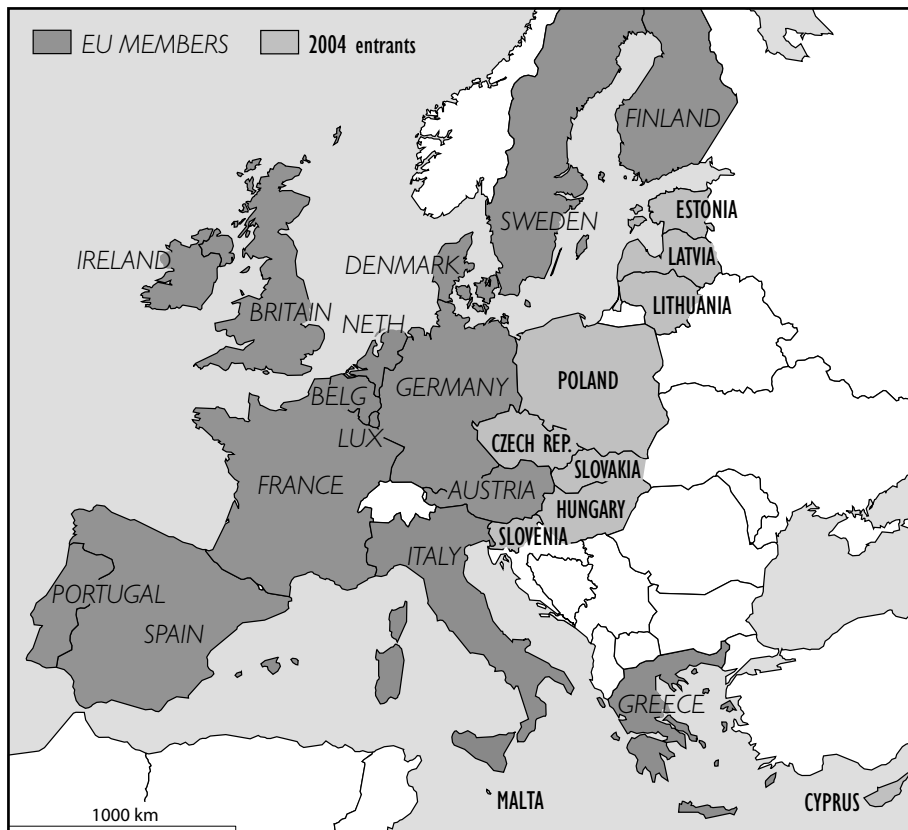
Moldova, and increasingly with Ukraine and, of course, Russia. In all of these areas, the new EU members will be interested in contributing to better security. The threats described in the ESS, such as terrorism, the proliferation of WMDs, regional conflicts, failed states and organized crime, are exactly the challenges confronting particularly the new eastern partners when they look across their – and now the EU's – external borders. The new EU partners therefore wish to be pro-active and to bring a new focus to the area covered by the New Neighbours Policy (ex-Soviet Union and the Mediterranean), but also to the western Balkans. In both areas, the new members will have an immediate and direct interest in creating more democratic and stable regimes. As participants in the common efforts of the Union, most of them will add their own experience of their transitions since communism. In their efforts to promote the New Neighbours Policy,

however, they will also be able to draw on other EU external policies, such as the Northern Dimension and the Barcelona Process, and will see EU's Eastern Dimension as relatively in balance with other EU external policies.[14]

In particular, the new eastern members will add a new focus to relations with Russia, but the enlargement itself, as well as the specific historical experiences of the new member states, may cause concerns and even polarization within EU over relations with Russia. Russia's military intervention in the Kosovo crisis in 1999 was a demonstration of its traditional geopolitical interests and ambitions that could just as well have materialized in relations with other countries of the former Soviet sphere of influence, the so-called 'Near Abroad'. Russian hesitance concerning European and Euro-Atlantic cooperation within the OSCE, particularly in relation to its neighbours, Moldova and Georgia, has given rise to concern among the new EU member states. The sensitive question of transit to and from the Russian exclave of Kaliningrad that arose in 2002 created difficulties for the EU, not only with Russia, but also within the EU itself. Similarly, the extension of the bilateral agreement with Russia to the new members also caused tensions amongst EU members. The EU had substantial difficulties in defining a common attitude to Russian reactions after the Beslan massacre in North Ossetia and again towards the failed presidential elections in neighbouring Ukraine in 2004-5. It is evident that not only the new members, but also neighbouring Finland, have a strong interest in the democratization of Russia and fear Russian efforts at power play within the EU.[15] The Russian attitude towards the war on terror, with its emphasis on governmental control of society, including not least the free press, is being accentuated by the protracted and tragic situation in Chechnya.

Specifically when it comes to matters of ESDP, the EU's crisis-management operations will have their geographical focus constrained by shortfalls in enabling factors, such as strategic mobility, specifically strategic capabilities such as transport and logistics, command and control, and reconnaissance. The EU's global 'Approach on Deployability' is a key element in ESDP development. EU project groups on strategic transport need to address recognized shortfalls and provide solutions for both airlift and sealift. In the medium term, more effective

[14] Ibid. p. 18.
[15] 'We should put the EU's relations with Russia on a new footing; a longer-term framework is needed.' Prime Minister Matti Vanhanen's address to Parliament, 21 June 2006, on Finland's EU Presidency.

use of existing coordination structures and transport assets could extend the EU's baseline for operations beyond their present limitations.[16] The EU Action Plan for ESDP support to peace and security in Africa aims to support the continent in building autonomous conflict prevention and management capabilities, with specific reference to the African Union. At its present capacity, the EU range of operation would have to be stretched to the limits in order to cover the whole of the African continent, but an autonomous and global role for the EU would presuppose an even wider maximum range of operations than the present assumption of 6,000 kilometres.

In sum, the proclaimed global role of the EU depends to a large extent on Europe's ability to generate sufficient resources to overcome shortfalls in the ESDP's enabling factors. The most probable initial consequence of EU enlargement eastwards might, on the other hand, be a higher priority within the ESDP on the new neighbouring areas to the south and southeast, i.e. the western Balkans, the Caucasus and the Mediterranean Middle East. The tendency is thus pointing in the direction of a regional rather than a global role.

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[16] Missiroli, Antonio, 'Central Europe between the EU and NATO', *Survival*, vol. 46, no. 4, Winter 2004-05, IISS, London, 2004.

Institutional options in general and the ESDP in particular

The constitutional debate so far calls for the analysis of future institutional options with particular regard to the external dimensions of EU integration. On the one hand, rhetoric demands a glamorous, global role for most of a continent with 450 million people producing roughly a quarter of global material wealth and constituting one leg of transatlantic co-operation. Such a global role was pursued from the early days of the Communities, not least by President de Gaulle and his political followers. On the other hand, new threats such as terrorism, the proliferation of WMD, failed states, organized crime and regional conflicts, remain matters of great concern to the citizens of the EU, not least the newcomers to the east and south. Even apart from their possible Atlantic orientation and the need – real or perceived – of an American security guarantee within NATO, these member countries, with their more limited resources, are focusing much more on their immediate neighbours than on overseas conflicts. The 2004 enlargement has extended the borders of the EU further in the direction of insecurity in the western Balkans, the Caucasus and the Middle East, expanding its geographical range, but at the same time leaving the EU on average poorer than before.

The CT rejected by France and the Netherlands would not have fundamentally changed the contents and substance of the ESDP. Nevertheless there are several scenarios for future developments.[17]

The first scenario is a continuation or resumption of the temporarily aborted ratification process by the remaining member states, which would be a Maximalist solution with precedent in former situations of rejection of the Maastricht and Nice Treaties.[18] For France and the Netherlands, a renewed ratification would probably require as a minimum variations in the form of supplementary annexes, declarations, protocols or a charter on social, solidarity and economic policy. The risk of such a way forward would be not only renewed failure by

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[17] Grant Charles and Mark Leonard, *How to strengthen EU foreign policy*, Centre for European Reform, May 2006.

[18] See *The future of the Treaty establishing a Constitution for Europe: a strategy for Poland*, The Polish Institute for International Affairs, 2006.

the two existing rejectionist member states, but in addition the risk of failure in old member countries which have yet to ratify as well as in sceptical new member countries.

The second scenario would reduce the main obstacles to ratification in the draft CT but preserve the main institutional reforms and include them in a 'mini-treaty' of supposedly less controversial elements, thus opening the way for parliamentary ratification without referendums. This Incrementalist strategy, which would presumably find favour in a number of member countries, would allow institutional solutions that are beneficial to the external actions of the EU without lengthy negotiations, or, as the case might be, requiring at the most some form of mini-convention. The disadvantage of such a strategy, however, would be that the internal logic of the CT in reflecting political compromises between the member states could hardly be preserved. This is the fundamental argument against so-called 'cherry-picking': hard-won compromises could probably not be left unbroken.

The third scenario is to continue the reform process without implementing the CT by adjusting the existing treaties in order to allow for essential institutional changes, such as the systems of voting in the Council and the division of seats in EU institutions, together with the elimination of the Foreign and Security, and Justice and Home Affairs, pillars. EU policies dealing with external actions and defence could thus be strengthened and qualified majority voting extended to ESDP issues such as battle groups and the European Defence Agency. The main disadvantage would thus logically be the critical and democratic counter-argument of changes that had been rejected by citizens in referendums being brought in by the back door. At the same time, however, this scenario would facilitate further enlargement of the EU as favoured by some member states, not least the new members to the east and south, who are presently guarding the EU's outer perimeter.

The fourth and final scenario would be the preparation and ratification of a new constitution by fundamentally breaking up the present draft CT and preserving only a limited number of the reforms within it. Instead such a constitution might involve some form of reinforced co-operation between a leading group of member states such as the Euro Group. Such a scenario would be time-consuming and repetitive, but also be stabilizing and promising as a new start, with the full involvement of all 27 member countries and better prospects for

ratification. However, further enlargement would remain in suspension until an agreement could be reached.

Historically, the ESDP has already played the role of a project for producing results in the process of political integration in Europe and as an 'energizer' for European integration.

The Maastricht Treaty stated that the Common Foreign and Security Policy should include all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence. This formulation was spelled out in the Petersberg tasks as also including humanitarian and rescue tasks, peacekeeping and the use of combat forces in crisis management, including peace-making. During the rather turbulent first half of the 1990s, this rather declaratory policy was all the EU had until the Petersberg tasks were incorporated into the Common Foreign and Security Policy in the Amsterdam Treaty of 1997 after enlargement with three neutral states, Austria, Finland and Sweden. This Treaty opened up the possibility of integrating the military dimension into the EU, but it also created the position of Secretary General or High Representative for the CFSP.

The Balkan failures of the EU in the 1990s thus made necessary a rethinking of the ESDP framework.[19] This process was initiated by the British government, which, in a series of top level meetings starting in 1998 and continuing in the following years, laid the groundwork for a new start towards a concrete ESDP. It is therefore not out of place to state that the military ESDP was not developed as a theoretical exercise, but rather under pressure of the reality that confronted the EU and its member states in the former Yugoslavia. The EU added another concrete dimension to the ESDP when, in 2000, it reaffirmed its commitment to build a CFSP capable of reinforcing the Union's external activities through the development of, not merely a military crisis management capability, but now also a civilian one. New concrete targets were set for the civilian aspects of crisis management, to be achieved through voluntary contributions.

In sum, the EU is in the middle of a process of developing a minimum of instruments and capabilities, both civilian and military, which are essential for the Union to obtain international credibility. These tools then have to be

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[19] Haine, Yves, 'An historical perspective' in Gnesotto, 2004 (1).

incorporated into a global strategic concept, which has been described as a sort of general philosophy for the Union's activities around the world. This is the ESS, which thus builds on past experience of regional conflicts in the former Yugoslavia, the break-down of states such as Albania, and the fight against large-scale organized crime such as the drugs smuggling and trafficking from neighbouring regions.

At the same time, the internal geometry of the EU is undergoing fundamental changes. Contrary to much public belief, the rift over Iraq between the Elysée states of France and Germany (supplemented by the other Tervuren countries of Belgium and Luxembourg) on the one hand, and the 'group of eight' led by Britain, Spain and Italy, but including the EU newcomers, on the other has not led to a meltdown of the EU decision-making process.[20] Through a series of exclusive working summits with France and Germany, the UK took the initiative in trying to resolve disagreements by adding more power to the ESDP. The strategy seems to have been the same as with the Franco-British entente in connection with the Kosovo crisis in 1998-99. Again the working hypothesis has been that, by concentrating on reality rather than ideological politics, the EU would be able to develop ESDP and thus strengthen European integration. This British strategy, involving the new member states in central and eastern Europe, is very much in line with the historical pattern of Britain's policies in Europe. In respect of NATO too, building up military cooperation involving the smaller European countries seems to have well suited to British interests in ensuring European security.[21] The difference between historical experience and the British initiative in reinvigorating the ESDP is rather that, while historically London has, more often than not, tried to outbalance Paris or Berlin or Moscow as the case might have been, the ESDP, on the contrary, maintains the potential of traditional alliances for historical reasons between Paris, Warsaw and Berlin (the 'Weimar Triangle'), or between Germany and its eastern and southern neighbours. Furthermore, and perhaps equally to the point, the development of the ESDP promises a re-balancing of transatlantic relations, which seem to be high on the agenda of not only British interests, but also those of the present Commission.[22]

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[20] Sedivy, Jiri, and Marcin Zaborowski, 'Old Europe, New Europe and Transatlantic Relations', *European Security*, vol. 13, no. 3, Autumn 2004, pp. 187-213, London, 2004.

[21] Khol, Radek, *Policies of the Visegrad Countries towards CFSP/ESDP*, WP 3/2003, Institute of International Relations, Prague, August 2003.

[22] 'On the EU's role in the World: CFSP/ESDP', *EU-25 Watch*, no. 2 January 2006, Institut für Europäishe Politik, Berlin; Møller, Per Stig (Danish FM), 'The future of Europe', Speech in Copenhagen, 7 April 2006.

Political analysis

The 'pause for reflection' until 2007, agreed at the June 2006 European Council after the French presidential elections, will offer ample opportunity for disagreements within the EU, and not necessarily along traditional lines, that is, between continental supranationalists and transatlantic intergovernmentalists. For the first time in the modern history of European integration after the Treaty of Rome, the failure of the 2004 draft Constitutional Treaty has created a situation which calls for fresh legal as well as geostrategic thinking.

However, the reflections needed for this new thinking cannot proceed in the vacuum left by the political impasse that European political leaders have temporarily accepted. In order for reflections to be productive, they will have to take as their point of departure some construction involving major legal changes in the CT, i.e. the voting rules, the Social Charter, and the abolition of the 'pillar' system that limits the influence of the EU Court and the Commission to 'first pillar issues'. Such a construction would recognize that a considerable part of the CT, namely Part 3, is in reality a codification of existing practices or simply contains renumbered articles from earlier treaties, which will therefore continue to operate without the CT. As for institutional changes regarding the CT – such as the greater advisory role of national parliaments on subsidiarity, the creation of the post of Council President and, for the CFSP/ESDP in particular, the post of Foreign Minister and the European External Action Service – these might come into practice as needed and when receiving political acceptance, on the basis of administrative changes.

In order to understand better the situation created by the failed referendums in France and the Netherlands, attention must be called to the most recent elections to the European Parliament. In the lowest turnout in the history of European elections, less than half the voters cast their votes, which from a democratic point of view is far more worrying than the failure of referendums on the ratification of the CT. The voters of the two countries that had rejected the results of the Intergovernmental Conference in 2005 had already expressed their anxieties about the creation of an enlarged EU in 2004 by following the downward trend experienced since direct elections were established in 1979 and driving voter turnout down to the level of only two thirds of its starting point 25 years earlier. Furthermore, levels of interest in the new central and

east European member states were also strikingly low. The only older member states which maintained voter turnout at levels comparable to earlier elections were those in which voting is mandatory.

The most obvious explanation for this apathy of voters towards the European Prestige project of the European economic elite, partly supported by legal and political elites, appears to be exhaustion about reforms in their lives that are driven by the quest for profit and wealth.[23] It is not that such voters have necessarily become anti-European or Eurosceptic, but at a moment when fears of global warming, degradation of the environment, the risks of illegal immigration, human trafficking and cross-frontier, organized crime are high on the political agendas of Europe's populations, the latter simply want to support a European process that contributes to their safety, peace, social security and freedom.

European integration after the end of the Cold War has already seen the Maastricht, Amsterdam and Nice Treaties. Necessary though these seem to have been to avoid foregoing deepening at the cost of widening or losing speed in the face of enlargement, the ordinary citizen's appetite for symbolism has been lost in competition with the rest of the world under globalization. The outsourcing and off-shoring accompanying globalization and the stagnation of European economies in general has led to concerns over unemployment, the failing protection of social rights and the overall lack of economic progress.[24]

With regard to public expectations, opinion polls report astonishingly high and generally rising support for the ESDP, while European citizens also seem to expect civil action from the EU, including in particular the promotion of democracy in other countries.[25] It is therefore hardly surprising that most Europeans prefer softer policy options to military ones, with election monitoring ranking high in their estimation, as do actions implemented by legitimate and cost-effective means. In this regard the European Security Strategy, 'A Secure Europe in a Better World', seems to have captured rather well the general mood of the European public for improvements under the existing treaties. The ESDP operations

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[23] Vedrine, Hubert, 'Pour un nouvel Eurorealism', *Le Monde*, 9 September 2004.

[24] *Flash Eurobarometer* 151b, 'Globalisation', p. 69, Brussels, November 2003.
Special Eurobarometer 251, "The Future of Europe', p. 35, 40-42, Brussels, May 2006.
Eurobarometer 65, First results, p. 8, Brussels, July 2006.

[25] Vedrine, Hubert, ‚Sortir du dogme Europeiste', *Le Monde*, 9 June 2005; Ahtisaari, Martti, '"Coordination and coherence: how to improve EU civilian crisis management, Speech in Vienna, 12 January 2006.

in Georgia and Aceh are recent examples of the successful implementation of European efforts to counter the risks of failed states and potential terrorism, regional conflicts and organized crime.

The most important improvements to the CT have thus turned out to be the expansion and specification of the measures subsumed under the rubric of the Petersberg Tasks, i.e. humanitarian and rescue tasks, peacekeeping and the use of combat forces in crisis management, including peacemaking. In this respect, the text of the Constitution takes into account the primary threats listed in the ESS. Future EU missions may thus encompass measures and tasks such as joint disarmament operations, humanitarian and rescue missions, military advice and assistance tasks, conflict prevention, peacekeeping and the use of combat forces in crisis management, including peacemaking and post-conflict stabilisation operations.

According to the CT, the objectives, scope and general conditions for the implementation of missions conducted under the expanded spectrum of the Petersberg Tasks are to be stipulated in European decisions adopted unanimously by the Council. As set forth in the Nice Treaty, the Political and Security Committee will exercise political control and strategic direction of crisis-management operations, although in the future this will occur not as the sole responsibility of the Council, but rather as a joint responsibility of the Council and the European foreign minister. In addition, the foreign minister and the Political and Security Committee, acting under the authority of the Council, will be responsible for coordinating the civilian and military aspects of EU missions.

An additional innovation in the CT provides the Council with the authority to allow an unspecified number of willing and capable member states to engage in missions to be conducted under the legal framework of the EU and in its name. Member states acting in this manner would enjoy greater legitimacy by integrating their operations within the framework of the EU, while for its part, the EU could enhance its international profile by authorizing such missions.

A glance at the EU missions conducted to date, however, reveals that they already correspond to the logic laid out in the Constitutional Treaty. Not a single mission conducted under the European flag has involved the participation of all member states (this is necessarily the case, given Denmark's defence opt-out). The Concordia military mission in Macedonia involved the participation

of 13 of the then 15 member states (i.e. excluding Denmark and Ireland), as well as eight of the ten states that joined the EU in 2004 (i.e. excluding Malta and Cyprus). Similarly, 22 of the current 25 EU member states are involved in Operation Althea, the military mission in Bosnia-Herzegovina that commenced in December 2004 (i.e. excluding Denmark, Malta and Cyprus). Thus the conduct of military missions by a group of member states is already a fact of EU policy.

Traditionally, EU integration has been characterized by a federalist, top-down approach, creating constitutional settlements that define relations between several layers of authority (European, national and local) by way of legislation founded on the traditional instruments of international law. According to this view, treaties are means with which to drive integration forward. Integration theory, however, offers another option, that of a transactionalist, bottom-up approach of institutions as the facilitators of international transactions that create freedom of movement for goods, persons, capital and services – an approach that is also well known in EU analysis.[26, 27]

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[26] Rosamond 2000

[27] Blanton, Robert G., 'Bringing the 'Community' back: integration, conflict and cooperation', *Cooperation and Conflict*, vol. 41, no. 1, 2006, pp. 31-52;
Rasmussen, Niels Aadal, 'International transactions: some principal lines', *Cooperation and Conflict*, 2, 1973, pp. 131-43;
Deutsch, Karl W., *Political community at the international level*, Doubleday, New York 1954. In international transactions analysis, the concept of a security community, which is synonymous with the general concept of cooperation, is defined as being a group of people sharing common properties that allow the participants to avoid conflict among themselves. Such properties can be categorized as values, preferences, ways of living, aspirations, solidarity and role identification. A logical consequence of this definition is that the participants in such a community will communicate more among themselves, i.e. interchange values, preferences etc., and less with individuals outside the community who do not share these properties. Such analysis goes on to describe the balance between so-called integration loads, i.e. burdens on the capacity for attention and decision-making measured by the volume of social transactions, and integration capabilities, i.e. resources such as institutions with which peaceful adjustment to the burdens and change can be maintained. From this perspective, EU enlargement and the accompanying increase in flows of goods, persons, capital and services clearly demand a reform of voting rules, such as have been part of all earlier enlargement processes.

Conclusions

The main deficiencies of the CFSP are functional disaggregation and institutional fragmentation. The solution outlined in the CT was to create a common legal framework to strengthen institutional and horizontal coherence. However, this solution will have to be judged against the background of the foreign-policy perspectives of the new member states, which have a regional rather than a global focus. Of course the constitutional debate ranges more widely than the CFSP in general and the ESDP in particular and may be dichotomised into Maximalist versus Incrementalist solutions. The common denominator in the debate is a 'Europe of projects'. The institutional option best reflecting these political priorities seems to be a continuation of reforms without the implementation of the CT, but adjusting the existing treaties in order to allow for essential institutional changes to, for example, the system of voting in the Council and the division of seats in EU institutions, but also the elimination of the pillar system involving Foreign and Security, as well as Justice and Home affairs.

Under pressure of the reality confronting the EU, the ESDP has concentrated more on the concrete targets of streamlining and vitalizing EU decision-making procedures and institutional innovations. The ESDP might again, therefore, become a project and 'energizer' for integration.

In sum, the above analysis shows that the optimal solution to the question of whether the EU is a global power is for the Union to assume a primarily regional role first, based on universal values and preferences, such as democracy, human rights, solidarity, justice and peace.[28] The way to achieve this is to implement the major legal change to voting rules in connection with the enlargement process and at the same time gradually to dissolve the pillar system in practice by means of ESDP missions, such as, immediately, in Kosovo. Possibly, but not necessarily, a further option might be the creation of a social charter to be annexed to the next enlargement treaty of the EU, presumably when Croatia joins.

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[28] See note 14, p. 20, above.

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