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TOWARDS AN EFFECTIVE CFSP: INSTITUTIONAL PROPOSALS

As the European Union's foreign and security policies have developed, so, too, have serious shortcomings in the structures charged with formulating and implementing these policies become apparent. The recent Franco-German paper presented to the Convention on the Future of Europe marked the latest contribution to the debate about how best to address these problems. Though hardly presented in a manner calculated to maximise support amongst Convention members – one was heard to remark that he resented being used by Foreign Ministers as a post box for tomorrow's newspaper headlines, whilst the presentation of governmental proposals by two of the largest member states raised hackles amongst their smaller counterparts – this contribution to the debate promises to be one of the most influential. Its proposals, however, are problematic. In particular, in proposing institutional reforms designed to reinforce the CFSP, it overlooks the fact that tinkering with elements of the EU system in order to enhance one policy sector may well have consequences – and potentially undesirable consequences – in others. Many of the key ideas presented for making the CFSP more effective will have unacceptably deleterious implications for other aspects of the EU system.

The current paper presents a series of proposals for enhancing the *institutional* aspects of CFSP that take issue with the recent Franco-German proposals in several ways. It focuses on identifying realistic ways of reinforcing the external relations capabilities of the major EU institutions, not least by ensuring effective coordination between its institutions and clear leadership of the CFSP. Its major proposals can be briefly summarised:

- Enhancing the effectiveness of the Commission by creating a post of Commissioner for Foreign Affairs formally senior to the other Commissioners holding external relations-related portfolios.

- Building greater convergence between member states in the Council, notably by means of the recreation of the Political Committee and the creation of a permanent Council of Defence Ministers.

- Stripping the Council Presidency with its external representative function

- Making the High Representative the clear locus of leadership for the CFSP and ESDP.

- Creating an EU Security Council to act as a locus for consultation and co-ordination for all those actors with competence over aspects of EU external relations.

I examine in turn means of improving the functioning of individual institutions; ideas for providing effective external policy leadership for the Union; inter-institutional relations and co-ordination.

The Individual Institutions

The Commission

Four Commissioners are currently charged with different aspects of EU external policy: enlargement, development, trade, and external relations. The scope and technical complexity of each task necessitates a significant staff which effectively precludes merging the Directorates General, if only for fear of creating an unwieldy and ineffective bureaucratic structure. However, the collegiate nature of the College means that there is no formal hierarchy amongst these administrations or their Commissioners. Each enjoys formal autonomy and may submit policy initiatives to the college for approval by simple majority vote.

This disaggregation of the external relations portfolio has potentially serious implications for the coherence of EU external policy. A possible solution would be the creation of a hierarchical structure amongst those Commissioners charged with the different external relations-related portfolios. A Commissioner for Foreign Affairs would be formally senior to his three colleagues, who would report to and clear policy initiatives with him. All three would continue to be formally accountable to the College. This would have the effect of increasing the internal coherence of Commission activity in external policy, a coherence which would be further bolstered by regular meetings – formal or informal – between not only the *cabinets*, but also senior officials in each relevant Directorate General.[1]

The Council of Ministers

The European Council at Seville last June agreed to reform the General Affairs Council, renaming it the General Affairs and External Relations Council (GAERC). This will hold separate meetings for each of its allotted tasks – coordination of cross-cutting issues and preparation of European Councils on the one hand, and EU foreign policy on the other. This certainly represents an improvement on the previous situation in that it will allow more time for focussed discussion of foreign policy issues, without the risk of Ministers getting bogged down in the minutiae of internal community business (one can only hope that all Foreign Ministers will bother to turn up).[2]

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[1] Because the focus of this paper is on institutional matters, it does not discuss the other most obvious way of making the Commission a more effective actor in the realm of external relations – increasing the CFSP budget.

[2] There are important questions as to whether the formula adopted at Seville represents the optimal way of ensuring the overall coordination of EU policies and preparing for European Councils, but such a discussion is beyond the scope of this paper

Within the Council itself, unanimity remains the norm for foreign policy decisions, and the rule for defence matters. Certainly, the existence of fifteen – and soon to be twenty five - vetoes does little to inspire faith in the ability of the Union to take effective, timely decisions on these maters, and there are those who have suggested that QMV be introduced for all matters apart from defence. However, wishful thinking should not be allowed to blind us to the realities of the situation. The member states are not yet willing to adopt QMV for major external policy decisions.[3] Moreover, the historical record shows that, even when QMV is available for foreign policy decisions, it is not used. Indeed, if one accepts the fact that the need for rapid decisions is particularly acute over highly sensitive maters, there is a real danger in allowing for QMV as it raises the prospects of creating profound divisions between member states and unrest amongst their publics. Imagine, for instance, if the Greek Presidency had attempted to forge a common position on Iraq through recourse to a vote.

Further, the recommendation of the Convention Working Group on defence that decisions should be based on a `culture of solidarity' (para 52) represents more a declaration of faith than a substantive proposal. It will take time to foster such a culture for foreign policy, and significantly longer for defence, given the real, principled divergences between the member states in this sector.[4] .

Progress in terms of achieving greater decision-making effectiveness will occur only through enhanced coordination and the promotion of convergence between the member states. The Council represents the obvious institution within which to foster such developments. Two reforms in particular can be envisaged which will enhance consultation and coordination, and serve to co-opt significant elements of national foreign and security establishments into the EU process.

One possible initiative, ideally suited to fostering such convergence, would be the recreation of the Political Committee, which brought together the Political Directors from the Foreign Ministries of the member states. This could take the form either of regular meetings chaired by the High Representative, or of regular meetings of the COPS with Political Directors in attendance. Such a move would have several positive consequences: it would ensure that national officials are fully implicated in developments in Brussels, helping to ensure coordination between national capitals and Brussels-based officials.[5] Second, repeated meetings of these highly influential

[3] Ironically, the member states who have historically been most reticent about seeing QMV adopted in foreign and particularly security affairs would quite probably be those who would benefit the most from such a development. Britain and France have always vehemently opposed any suggestion that the veto might be removed from defence policy matters. However, the way the EU takes decisions in this area means that no state can be forced to take military action against its will. And no military intervention is imaginable without either British or French involvement. The veto, therefore, acts as a restraint rather than a recipe for activism, in that it allows member states to prevent military action even if others are in favour of taking it. As Britain and France are likely to be frustrated by this arrangement more than many if not most of their partners, they potentially stand to gain from at least a limited relaxing of the unanimity condition. However domestic political constraints mean that such an initiative would be problematic at best.

[4] See Anand Menon `Playing with Fire: The EU's Defence Policy', Politique Européenne 8, autumn 2002, pp. 32-45

[5] David Allen, of Loughborough University, has written of the phenomenon of 'Brusselization' of foreign policy which leads to potentially harmful splits between national capitals and those national

officials will help foster greater convergence between foreign ministries. Finally, and hardly unimportant given the suspicions with which the smaller member states currently view some of the positions of their larger partners, the reactivation of the Political Committee would provide a reassurance for the smalls, several of which expressed concern about losing the opportunity to have contact with Political Directors from the bigs.

Second, a Council of Defence Ministers should be created. At present, Defence Ministers can meet, under the aegis of the GAC, as and when necessary. Setting up a Council of Ministers specifically for Defence Ministers will have many of the positive implications noted above for the Political Committee. Again it will allow the smaller member states regular access to and conversations with their colleagues from the larger states. It will also help to endow Defence Ministries with a sense of ownership over ESDP which seems somewhat lacking at the moment. Abundant rumours of divergences between foreign and defence ministries across the Union do little to foster confidence in the future of ESDP. Defence Ministers must be directly and routinely involved if the EU is to achieve even more modest defence policy ambitions. For too long, European security initiatives have been purely political initiatives, formulated by Foreign Ministries, which helps to explain their failure to achieve true operational effectiveness.[6]

Leadership in Foreign Policy

Another flaw in the Union's external policy capabilities is the absence of a clear institutional locus of leadership. Many critics have put this down to the multiplicity of actors within the EU foreign policy system. The Franco-German paper implicitly adopts such a perspective in proposing that the Union be endowed with a single Foreign Minster, of which more below. Yet there is no reason why institutional plurality should lead, of itself, to incoherence and ineffectiveness. No-one claimed that the United States lacked direction when Dr. Kissinger was running its foreign policy form the National Security Council, though few had even heard of the man who, as Secretary of State, was formally charged with the task. What matters is not institutional unity, but effective leadership and this is all the more true in an EU system which, because of the specific issues raised by the delegation and pooling of sovereignty by nation states, is necessarily based on a high degree of institutional fragmentation.

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officials based in Brussels. For CFSP to be effective, it is important that convergence extends to the national capitals themselves.

[6] Two examples serve to illustrate this. The Eurocorps, set up around the time of the Maastricht negotiations, was the result of negotiations between the French and German foreign ministries. The absence of Defence Ministry involvement contributed towards the force's relative military ineffectiveness. Similarly, tensions emerged between the UK Foreign Office and Ministry of Defence over plans driven by the former on the basis of discussions within the EU, to ensure EU intervention in Macedonia in the summer of 2002. One senior MOD official complained that his department felt excluded from discussions about the development of the ESDP, which, he felt, were driven by the FCO's political agenda.

The Commission

In many ways the EU institution most appropriate for and capable of ensuring effective leadership in foreign policy matters is the Commission. It possesses unparalleled expertise over all aspects of external relations and the non-military aspects of security. It has, particularly over the course of the last decade, gained plenty of experience in dealing not only with these issues, but also with the challenge of enlargement which is, not unreasonably, seen by many as the greatest single foreign policy achievement of the Union. The Commission, moreover, stands at the apex of the Union's own incipient diplomatic service – its various delegations around the world - and has direct access, under, of course, carefully controlled conditions, to the EC budget.

However, there exists a profound scepticism on the part of some member state governments regarding the prospect of entrusting a leadership role in foreign and security policy to the Commission. Simply put, the larger member states in particular do not want to entrust the Commission with authority over foreign policy (though one can reasonably question the oft-cited reason of the need for national democratic accountability given the minimal role their parliaments play in scrutinising foreign policy decisions). And the fact is that this reluctance is neither temporary nor negotiable. Whatever the intrinsic merits of the notion of providing the Commission with a leadership role in external matters, this is simply not a practical idea.

The Franco-German contribution to the Convention attempts to circumvent this problem by means of the creation of an EU Foreign Minster who would be based simultaneously in both the Council (he would replace the current High Representative) and, with a 'special statute', in the Commission. Yet this kind of institutional meccano is problematic. The Commission has come, in recent years, to focus more on its administrative and regulatory tasks (a function both of the increasing predominance of the European Council as a strategic agenda setter for the Union and its own decreased authority within the system). Consequently, its independence is arguably more important than ever. Introducing into the Commission the kind of 'foreign body' (forgive the pun) foreseen by Paris and Berlin would necessarily raise questions about this independence., Whose interests would the minister represent in College votes on matters other than foreign affairs? Would he take the Commission oath of allegiance? If not, how would it be possible to avoid him being viewed by his colleagues as some kind of intergovernmental Trojan Horse within the Commission? Would there not be an inevitable rivalry between the Foreign Minster and Commission President? Would he enjoy particularly close relations with some member state governments and thus further prejudice Commission independence? Should the explicitly political task of foreign policy leadership be entrusted to an institution depends on its perceived independence? Would he draw on staff from the Commission or the Council Secretariat? Would not the very existence of such a choice further exacerbate the already incipient rivalry between the two institutions that has followed the creation of the High Representative?

Typically, not only does the Franco-German proposal avoid these questions of detail, but it seems highly unlikely that they can be satisfactorily answered at all. The scheme is not only potentially unworkable but risks further undermining an already fragile EU institutional balance. The need for foreign policy leadership, and the fact

that entrusting such a role to the Commission would be unacceptable to some member states leaves us with two alternative candidates: the Presidency of the Council of Ministers, or the High Representative for Foreign policy.

The Council Presidency

Some commentators – and member state governments - have argued that the rotating Presidency should be reformed in order to allow it to provide external policy leadership for the Union. The larger member states in particular have expressed dissatisfaction with the six-monthly rotation of the Presidency, which spawns two major problems in terms of foreign policy:

- A lack of consistency, as each new incumbent imposes its own foreign policy preferences and priorities on the Union as a whole.
- The danger of small states without `international clout' holding the Presidency at crucial moments – just as Belgium held the Presidency on September 11th 2001.

Amongst the various suggestions currently being considered in discussions within the framework of the Future of Europe debate is one for creating a – possibly elected – longer term Presidency of the European Council to provide overall leadership, including in foreign affairs (the need for clear and consistent leadership in foreign affairs has been one of the main justifications for Council Presidency reform). The Franco-German paper proposes an elected (by the European Council) five year chairmanship of the European Council.[7] The post holder will `represent the Union on the international scene at meetings of Heads of State or Government'.

It is hard indeed to understand the purpose of this initiative in purely CFSP terms. Having argued in favour of a single EU Foreign Minister, the French and Germans promptly proposed the creation of a new institution with competence over foreign policy.

More broadly, current proposals for a reform of the Presidency of the Council overlook the invaluable role that the existing rotating Presidency plays within the EU institutional system. For one thing, holding the Presidency represents by far the most effective way of ensuring the effective Europeanization of national administrations. This is not a question of making them pro-European but, rather, of ensuring that they are adequately prepared for the onerous task of ensuring smooth administrative interaction between EU and national levels. Holding the Presidency represents a kind of `shock therapy' which forces national administrations to devise ways of working effectively with Brussels. The final declaration of the European Council at Helsinki in 1999 recognised the importance of effective coordination *within* national administrations for the smooth operation of the EU system as a whole. At a time when the imminent presence of ten administrations with no first hand experience of working with Brussels as members will place huge strains upon that system, the Presidency is more than ever important as a means of socialisation.

[7] A degree of confusion has characterised discussion of this scheme because of the ambiguity of the French term Présidence, which can denote either Presidency or, more simply, chairmanship. Given the limited scope of the current proposal, it seems reasonable to assume that the latter would be a more appropriate designation in English.

Moreover, as alluded to earlier, one of the major fault lines within the Union is that between the large and small member states. This cleavage has been most apparent in discussions over security policy, with the smaller states expressing suspicion as to the desire on the part of London, Paris and Berlin in particular to constitute some kind of security policy directorate. The rotating Presidency is an important symbol of joint ownership of the European integration process. And joint ownership is crucial in a law based, consensus-driven system such as the EU. It should thus come as no surprise that the smaller states tend to see moves away from rotation as a direct challenge to them. The way in which the Franco-German proposals were presented to the Convention hardly served to allay fears about domination by the larger member states. And the notion currently under discussion in several capitals, that the first incumbent of a new elected chairman's post would hail from a small member state simply smacks of tokenism and the worst kind of condescension.

Rather than reforming the structure of the Presidency in order to accommodate its foreign policy role, a more effective solution – in terms of both CFSP and the EU as a whole – would be to remove external representative functions from the European Council chair. Apart from reducing institutional overlaps in the foreign affairs field, this would remove one of the major justifications for abolishing the rotating presidency, which can then be preserved, with all the attendant benefits that this implies. *Faute de mieux*, therefore, the only practicable solution is to reinforce the role of the High Representative.

Reinforcing the High Representative

The post of High Representative, introduced by the Treaty of Amsterdam, has proved to be a successful institutional innovation, providing a single figure to act as spokesman for the EU in international affairs, and a clear leader for developments in the defence sphere.

In order to ensure that future post holders are able to play an equally effective role, and to strengthen the capacity of the High Representative, several reforms should be contemplated.

- The HR should be unambiguously designated as the primary EU actor in external relations.
- The HR should, as a matter of course, chair meetings of the COPS, rather than merely enjoying the possibility of doing so during crises as is currently the case. He should report to and attend all meetings of the General Affairs and Defence Ministers' Councils.
- Rather than experimenting with new forms of chairmanship for the European Council, the HR should be invited to its meetings, and be responsible for representing the Union to the outside world during them.
- For the sake of the effectiveness of internal EU policies, the HR should no longer hold the post of Secretary General of the Council. The HR is currently based, along with the increasing number of staff appointed to assist him, in the Secretariat General of the Council. Recently, however, concerns have been raised that the presence of largely seconded foreign policy staff in the Secretariat has threatened the effectiveness of what has traditionally been one the Union's more effective, and coherent institutions. Given the central importance of the institution to the effective functioning of the EU system, this

link should be broken, with the HR and his staff being relocated in a separate institution, which could perhaps be named the European Security Agency.

- Finally, in the context of a clearer definition of the military ambitions of the EU and consequent more collaborative relationship with NATO, it may well be worth considering the possibility of negotiating observer status for the HR or his representative on the NAC in order to facilitate an open and frank exchange of ideas and information between the two institutions.

Finally, a word of caution is in order concerning the role of EU Special Representatives. Several of these exist already, and there is some talk of using such positions more frequently. The Convention working group on defence suggests using Special Representatives to ensure command on the ground in military operations (para 51c). There is no doubt that, particularly in the case of Bosnia, special representatives have been effective and enjoyed the skills and authority to ensure real progress on the ground, including, crucial, coordination between different agencies. However, such success is based to a significant part on the particular skills of the individuals concerned, and a situation could easily be envisaged where this were not the case. Moreover, the proliferation of Special Representatives is hardly a satisfactory means to resolve the question of the coherence of EU action.

Coordination Between External Policy Actors

Within a system clearly led by the High Representative, there will still be a need to ensure effective coordination and lines of communication between him and the other relevant institutions, notably the Council and the Commission.[8] A lack of effective coordination has been a perennial problem confronting the EU in the external affairs realm. The proliferation of different actors using different policy-making procedures to formulate different aspects of external policy has hardly been a recipe for coherence. As the international role of the EU grows, so this problem promises to become more severe. And given the fact that, as argued above, there is simply no alternative but to allow for a continuation of a situation in which several institutions share external policy prerogatives, it is essential that effective co-ordination mechanisms be put into place.

In order to ensure effective inter-institutional coordination and consultation, an EU Security Council (EUSC) should be created. This would comprise of the HR, the Secretary General of the Council, the Commissioner for External Relations, the Presidency (in order to ensure coherence with EU internal action), the chief of the EU military staff and senior representatives from the troika. The EUSC would meet regularly and thereby ensure that all EU institutions are pursuing a coherent foreign policy agenda. It would be chaired by the HR, and serviced by his staff. The EUSC would report to and advise the GAC and European Council. It would meet regularly,

[8] The fact that relations between the High Representative and the Commission have functioned relatively well to date can be put down, at least in part, to contingent factors, not least the good personal relationship between Solana and Commissioner Patten. It is important, however, to put into place structures that will ensure effective coordination between the various EU institutions with an external policy role even if personal relations are not as close. Note, too, that whilst personality has certainly played a role in this regard, it is important not to over stress this point, as some do, to the point of implying virtual saintliness on the part of either Solana or Patten (or both).

and would be tasked with planning EU reactions to international crises and proposing actions to the Council.

A further crucial role that could be played by the EUSC would be to decide on the shape of EU military interventions. The COPS and European Council are tasked with taking the initial decision concerning EU involvement in crises. After this initial decision, however, a less political and more technocratic process of decision making is necessary in order to decide on contributors to military operations and the nature of the forces to be involved. Whilst member states currently have the right to opt into such operations, it may well be that, in the interests of military efficiency, certain of them are not required to participate. The EUSC would report to the European Council on the nature of the required contribution from member states, as well as the desirability of participation from non-members who have expressed a willingness to be involved.

Summary

The above necessarily provides only a sketch of a possible institutional system for the external relations of the Union. Clearly, much more thought will need to be given to the specifics, regarding the composition, for instance, of the EUSC, and the statutory arrangements for having senior and junior Commission posts.

Moreover, the CFSP will not be rendered efficient simply through institutional fixes. For one thing, member states themselves will need to make greater efforts to ensure the consistency of their own actions with those of the European Union. Equally importantly, urgent steps are needed to address the inadequacy of the present system for financing the CFSP. The current mixture of intergovernmental ad hocery and a palpably insufficient EC external relations budget is hardly up to the task of matching the increasingly ambitious claims made for CFPS in various national capitals.

The ability of Europe to play a significant international role is now a more pressing issue than at any time in the history of European integration for reasons related both to the state of its external environment and to its own internal development. Major international tensions involving trade and finance, along with the prospect of continued instability as the so-called war against terrorism gathers pace all imply the need for such a role. Given that, unlike during the Cold War, there is no other multilateral institution capable of coordinating national responses to these challenges (as NATO did during the Cold War), the EU needs to develop, sooner rather than later, a capacity for effective external action.

Moreover, in a globalising world, the distinction between foreign and domestic policies is becoming ever more blurred. Gone are the days when the external polices of the EU could be seen as simply the 'icing on the cake' of internal integration. In order that the policies adopted internally by the EU are effective, the Union must be in a position to defend its preferences effectively in international organizations such as the WTO, and help shape the international environment in such a way as to promote its own model of liberal democratic capitalism.

Consequently, foreign and security policy can no longer be treated in the kind of cavalier manner that have characterized their discussion throughout much of the 1990s. These policies matter, and hence structures for them must be designed in order to both ensure their effectiveness, and allow for the continued effectiveness of the EU system as a whole. Well considered institutional tinkering may, in this regard, be both more apposite and more effective than high-profile political initiatives proposing wide-reaching reforms.