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THE DUTCH AT THE HELM – NAVIGATING ON A ROUGH SEA

THE NETHERLANDS 2004 PRESIDENCY OF THE EUROPEAN UNION

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FOREWORD

The Netherlands is embarking on its semester of EU presidency in an exceptional context. This will be the first semester of activity for the new, enlarged Europe. The European Council, Parliament and Commission, to name but the main institutions, will be learning to operate with an increased number of members, and therefore according to new rules. The widely contested provisions of the Treaty of Nice will be applied. The current Commission will be dissolved and we will start the long – excessively long – process of setting up a new executive body. Against this backdrop, a significant number of government and parliamentary figures will be coming to terms with the subtle mechanisms that make up European institutional life. There is a tendency to think that the second half of the year, truncated by the summer break, only really counts for those few weeks when "normal" political activity is possible. So what can we say about the forthcoming semester?

There would be less at stake if the European Union could simply get on with business as usual. However, this is far from being the case. Although the adoption of the new draft constitution at the European Council in June has certainly clarified matters, there are still a number of difficult issues to be tackled, such as the negotiations on the new financial perspectives for the European Union, the preparation of a new programme of activity for the creation of an area of freedom, security and justice, the thinking that needs to go into the coordination of economic policies, or the decision to be taken by the end of the year on Turkey's application to join the EU.

The list of deadlines is daunting. However, to extend the metaphor used by Monika Sie Dhian Ho and Mendeltje van Keulen, as the European ship prepares to cross these troubled waters, it is fortunate that it is in the hands of an experienced crew. As one of the founding members of the European Union, with a strong tradition of international cooperation, the Netherlands knows that the success of its presidency will depend on its ability to engineer satisfactory agreements on the issues the Union faces, rather than on its capacity to push through dossiers that meet its own priorities. Furthermore, as the attached study shows, the Netherlands has been updating its European policy over the past few years, and has notably adopted a more favourable attitude to the construction of a political Europe, while continuing to stress the importance of its transatlantic relations. This raises hopes that the Dutch presidency will be keen to relate to the various attitudes that the enlarged Union inspires. Clearly, it will take a lot of work and effort to reconcile the differing points of view of 25 members on the major issues that the Union now faces, and the Dutch presidency's performance in this respect will set the tone for the entire five-year term of the European institutional bodies. With this in mind, I sincerely wish the Dutch presidency every success.

Jacques Delors

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INTRODUCTION

On 1 July 2004, the Netherlands will assume its 11th EU Council Presidency, which will be special both as regards the institutional context and the EU agenda scheduled for the second half of 2004. The Dutch will be the first to deal with 25 Member States throughout their Presidency. They will face a new European Commission as well as a newly elected European Parliament. The legislative period will de facto be limited to some six weeks: from the first of November (when the new European Commission will take office) until the European Council of December seventeenth.

Under these special circumstances, the Dutch Presidency can expect to be in the spotlight with respect to several sensitive issues. Highlight on the agenda of the December European Council will be the decision whether Turkey fulfils the Copenhagen political criteria, a prerequisite for opening accession negotiations. Expectations in candidate countries Bulgaria and Romania are high as well, the first country having concluded entry negotiations in June and the latter hoping to do so at the end of 2004. In the meantime preparations are being made for the '*acquis* screening' of Croatia, announcing yet another wave of aspirant members from the Western Balkan. Apart from this ambitious enlargement agenda, initial deliberations on the new Financial Perspective will start during the Dutch Presidency. Member States are already preparing for the battle about the size and composition of the budget, and Member States contributions for the years up to 2013.

The objective of this paper is to analyse the background of Dutch EU policy, to take stock of the priorities and strategies the Netherlands is likely to adopt while chairing the Union, and to identify crucial challenges for the Dutch Presidency. It will be argued that the 2004 Dutch Presidency comes at a time of domestic debate and uncertainty about the role and position of the Netherlands within the EU and the contents and organisation of Dutch EU policy making. Dealing with a turbulent context both at home and abroad will certainly constitute a difficult task for The Hague. At the same time, the Presidency may come at precisely the right moment for the Netherlands. Increased domestic interest in the EU, as well as the necessity to develop a strategic view and to assume a responsible leadership role might provide the necessary momentum for a new Dutch strategy as regards the EU.

The paper is divided into four sections. Section one analyses the remarkable shift in the content of Dutch EU policies since the 1990s. The end of the Cold War was followed by a continental reorientation of Dutch foreign policy. However, within this general change of direction there is consensus neither on the level of ambition nor on the question of big country leadership, resulting in substantial variation in the way responsible Ministers and successive governments have fleshed out the Dutch European foreign and security policy. The near completion of the internal market and monetary union has marked a second change in Dutch EU policies. Beyond the economic domain, Dutch enthusiasm for further integration on the basis of the community method can no longer be taken for granted. The Dutch government has shown reluctance to sharing competences in areas like criminal and family law, and has pleaded for the usage of 'soft' integration methods like open co-ordination in new fields of European integration. Thirdly, as a consequence of the status change from a net receiver to a net contributor to the EU's budget, the costs of integration have become a hot issue in the domestic debate, which has made Dutch negotiation strategies more confrontational. Moreover, awareness has dawned on Dutch policymakers that after several enlargement rounds, the Netherlands has lost its traditional privileged position as a founding father or 'medium large country', resulting in debates on a new positioning in Europe.

Section two explores the administrative and political process of Dutch EU policy-making and assesses the preparations for the Dutch Presidency to come. As to EU co-ordination at the administrative level, striking features have been the relative degree of fragmentation and the lack of hierarchy in the Dutch system. Relatively autonomous departments with distinct policy-making cultures and a tacit rule of mutual non-intervention dominate the process of formulating EU negotiating positions in The Hague. In case of interdepartmental conflicts, neither the Foreign Affairs Ministry nor the Prime Minister (as *primus inter pares*) have the competencies to arbitrate. Since the mid-1990s there is increased awareness that the Dutch administrative co-ordination process tends to produce partial and reactive policies. Although we have witnessed the ad hoc creation of inter-ministerial co-ordinating taskforces and discussions on a stronger role for the Prime Minister's Department, this awareness has not yet resulted in structural adjustment of the administrative co-ordination process, due to an embeddedness of existing practices in Dutch politico-administrative culture. As to the political side, we witness a trend away from the traditional permissive consensus about the merits of integration mirrored in lacking political interest as regards EU-matters, towards increased domestic salience of European policies. Dutch politicians are clearly less reluctant

to take a deviating stance in European negotiations, and several seem to have realized that they can profit from a confrontational tone. Besides analysing these underlying structures and traditions, section two assesses the special preparations made for the Presidency and presents the results of a survey on Presidency preparations among some 250 Dutch government officials from all thirteen government departments.

Section three will provide insights into the expected Dutch approach of the Presidency agenda. Within the Council's Multi-Annual Strategic Programme 2004-2006 and Operational Programme 2004 for the Irish and Dutch Presidencies, the Dutch government has identified a number of key issues for its six-month period in the chair. These priorities include: (1) further enlargement; (2) sustainable strengthening of the European economy; (3) development of the Area of Freedom, Security and Justice; (4) formulating guidelines and principles for the negotiations on the Financial Perspective; and (5) develop the international role of the European Union. Moreover, the Dutch Presidency will have to deal with the follow-up of the Intergovernmental Conference (IGC) that has reached agreement on the new Constitutional Treaty at the June European Council. We will assess how the domestic background in terms of policy content and administrative-political process outlined in sections one and two is likely to affect the Dutch approach to these issues.

The concluding section will highlight the challenges for the Dutch Presidency, considering the tough external and internal context in which the Netherlands will take over from the Irish Presidency.

I - DUTCH EU POLICIES ADRIFT

Scholars of Dutch foreign policy have identified a number of 'constants' that can be traced back to the beginning of the 17th century. These constants are usually referred to as neutralist abstentionism and aversion to continental power politics; maritime commercialism and free trade; and internationalist idealism and legalism (Boogman 1978; Heldring 1978, Voorhoeve 1979). A certain political-cultural stability, as well as continuity in the material conditions in and around the Netherlands are considered to underlie these foreign policy traditions (Hellema 1995, 9-10). Likewise, Dutch policy vis-à-vis European integration was characterized for decades by constants like an Atlantic orientation in foreign and defence affairs (as a guarantee against dominance by a European power); resistance against the formation of big Member States *directoires*; a sharp distinction between economic and political integration (strong support for intra-European free trade; objection against European political integration); and a strong preference for integration on the basis of the community method (as a safeguard against abuse of power by big Member States) (Scheffer 1988; Rood 2004).

Since the late 1980s, several conditions underlying these traditions have changed dramatically, as a consequence of which Dutch EU policy has started drifting. Fifteen years later it is clear that consensus on the principles identified above has eroded whereas there is no agreement yet on new directions for Dutch EU policy. Consequently, Dutch EU policy has recently shown a more variable course, depending among other variables on the personal views of key policy makers and the issue at stake.

1.1 Post-cold war: a continental turn in foreign and defence policy

The first principles of Dutch European policy that became untenable as a consequence of the dramatic change of circumstances accompanying the end of the Cold War were the exclusive Atlantic orientation in foreign and defence matters and the rejection of European political integration. Many arguments pleaded in favour of a Europeanization of Dutch foreign and defence policies in the beginning of the 1990s: the insight that American commitment to European security could no longer be taken for granted and therefore Europe should take responsibility for its own security and defence; the conviction that European countries will

only be heard in Washington if they speak with one voice; the wish to realize a strong 'Westbindung' of the reunited Germany; and concerns about political and economic instability in Central and Eastern Europe. In the important 'Note on the reassessment of foreign policy', five ministers involved in foreign policy concluded that '... a combination of factors points our country in the direction of a stronger continental commitment: the reunification of the two Europe's, shifts in the power balance within the Union and the more distant American leadership. It is clear that the Netherlands can not turn its back on the continent.' (Ministerie van Buitenlandse Zaken 1995, 8). On the question *how* to Europeanize Dutch foreign and defence policy however, there was less agreement.

The Dutch government initially aimed at embedding the Common Foreign and Security Policy (CFSP) in the community legal order, including the application of qualified majority voting and an important role for the European Commission, European Parliament and European Court of Justice. These ambitions were reflected in the unitary structure of the draft treaty, tabled by the Netherlands Presidency on Monday, 30 September 1991. However, due to lack of political support, the Dutch had to return to an earlier draft by the preceding Luxembourg Presidency, which was characterized by a three-pillar structure and a separate intergovernmental basis for the CFSP and Justice and Home Affairs (JHA) cooperation. Although the idea of a full communitarization of CFSP was abandoned after 'Black Monday', the conviction persisted that an effective foreign policy would be impossible in case of retention of the veto right.

During the early days of the first 'Purple' government (an unprecedented coalition between the social democrat PvdA, liberal conservative VVD, and liberal D66) Dutch EU policy was strongly influenced by Minister of Foreign Affairs Hans Van Mierlo and his belief that the Europe's capacity to act in foreign policy should be strengthened. However, his pleas for adjustment of the CFSP decision-making procedure came up against serious opposition from both European and domestic partners (notably the Dutch Liberal Conservatives), forcing Van Mierlo to lower his ambitions. Moreover, in the run-up to the June 1997 European Council of Amsterdam, Prime Minister Wim Kok considered that the Dutch Presidency should focus on other issues in the immediate Dutch interest such as preparing the final stage of EMU and reaching agreement on the Stability Pact (Harryvan and Van der Harst 1997). Five years later, when Van Mierlo returned to the Dutch foreign policy scene as Government Representative to the European Convention, it turned out that he had remained dedicated to his principles. CFSP

reform was one of his core concerns and upon his resignation several months later he told the press that one of the main reasons was a fundamental disagreement as regards CFSP with the new government (the Balkenende I cabinet, consisting of the Christian Democrat CDA, the VVD and the populist LPF of the murdered Pim Fortuyn).

In 2004 a new consensus on the Dutch European foreign and defence policy still has to take shape. To give one example: after having replaced Van Mierlo from the European Convention with liberal Gijs de Vries, the Dutch government returned to a reticent position as regards CFSP reform, whereas the Dutch Parliamentary Representatives were all in favour of the introduction of QMV.

1.2 Beyond market integration: reticence and pragmatism

Being a relatively small country with an open economy, the Netherlands has always welcomed European market integration on the basis of the Community method. However, now that the internal market is nearing completion and EU initiatives are being launched in many other policy areas, Dutch enthusiasm for further integration can no longer be taken for granted. At the same time, agreement on an alternative strategy as to the new domains of cooperation has not yet taken shape. Generally, on most initiatives with an economic rationale for further integration, the Netherlands expresses support, whereas there has been considerably more reticence, if not resistance concerning sensitive areas like criminal law, drugs policy and family law. In terms of integration methods, State Secretary Dick Benschop has stated that with the completion of the internal market the era of binding Community law has come to an end. He considered new integration instruments like the Open Method of Coordination, based on benchmarks and the comparison of best practices, to be better suited to open up new areas of cooperation.

The recent reticence in some areas of European cooperation, and reluctance to apply the Community method do not constitute a break with a 'Dutch tradition of federalism'. Contrary to the image sketched by some observers of the Netherlands as 'champion of European federalism', Dutch European politics has always been primarily interest-driven and pragmatic (Sie Dhian Ho 1998; Koch 2001). Dutch cabinets have generally refrained from proclaiming federal visions of Europe and Dutch government ministers have not contributed significantly to debates on Europe's *finalité politique*. Instead of thinking of the Community method as a

principle, the Dutch always considered it a useful means to enhance the Dutch position vis-à-vis the larger Member States and to discipline them through binding Community law as long as integration was consistent with Dutch interests. The position of the Dutch government vis-à-vis the European Convention has been illustrative of this pragmatism. In the beginning, Dutch Cabinet Ministers made bantering remarks, warning their fellow politicians not to 'build castles in the air'. As soon as the Cabinet had become aware though that the Convention would be more than a conversation group, increased attention focused on the potential consequences of individual proposals for the Dutch interest. In certain cases, this resulted in support for introducing the legislative procedure and extension of QMV, whereas in other policy domains, the Dutch have protested against such reforms (e.g. the field of criminal and family law, the Financial Perspective) (Pelkmans, Sie Dhian Ho and Limonard 2003).

The landmark speech for the Humboldt University in May 2004 of Dutch Foreign Minister Bernard Bot may serve as a second illustration of increased pragmatism in Dutch thinking about the EU. In this speech, Bot argued how the growing "gap" between the competencies of the EU and its legitimacy may necessitate a certain degree of self-restraint by the EU. Certain competencies could even be transferred back to the Member States, such as structural and cultural policy as well as parts of the common agricultural policy.

1.3 From net-receiver to net-contributor: change of attitude towards Europe

Dutch EU policy since the 1990s has clearly been influenced by the change of status of the Netherlands from a net receiver to a net contributor to the Union's budget. The deterioration of the Dutch net position in the 1990s can be attributed to an increase of the Dutch contribution to the growing European budget (due to an increase of the expenses for the Common Agricultural Policy (CAP) and the Structural funds); a downward trend in CAP-payments to the Netherlands; and relatively stable receipts from the expanding Structural Funds (IOB 2003. 27). Cabinet ministers have stated repeatedly that it is the disproportionality of the Dutch net-position (compared to the contributions by other, relatively more affluent Member States) that causes concern, rather than the mere fact that the Netherlands has become a net-contributor. Or in the words of State Secretary of European Affairs Nicolai on the eve of the Dutch Presidency: 'Dutch citizens still consider peace important (...) However, they do not understand why they have to pay five times as much for it as their Danish fellow Europeans' (Nicolai 2004). Political and strategic debates in the

1990s on enlargement of the European Union, and reform of the CAP and Structural Funds have been overshadowed by discussions on the Dutch net position. Dutch EP Member Hanja Maij-Weggen even expressed the strong opinion that as a consequence of the net-contributor issue the Netherlands has changed from a pro-European country to a Eurosceptic Member State (Het Financieele Dagblad 2003).

Although there might be shared frustration with the net position, consensus on a Dutch strategy to deal with the issue has not yet evolved. First, in reaction to criticism from liberal conservative circles in particular, other political parties (PvdA, CDA) and, government thinktanks have emphasized the fact that a financial calculation of the net-position of a Member State does not take into account the immeasurable benefits of European integration for a small country as the Netherlands. Second, opinions differ as to whether efforts should be directed at measures for short-term improvement of the Dutch net-position (the income side of the EU budget) or should be directed at long-term reforms of the CAP and Structural Funds (the expenses side of the budget). At the Berlin European Council of March 1999, the government clearly gave priority to the first consideration in the negotiations on the Financial Perspective 2000-2006 (Agenda 2000). In order to realize a reduction of the Dutch contribution of more than 1,3 billion guilders (more than 500 million euros) the Dutch agreed to compensate the French by postponing agricultural reforms. Similar disagreement has recently arisen as to the pros and cons of initiating a general correction mechanism for net contributors. Critics argue that such an approach risks focusing the debate solely on the height of the ceiling, rather than on the policies Member States want the Union to conduct. Last but not least the confrontational strategy of the Government is contested. Critics see the repeated Dutch threats to veto EU decision-making as short-sighted and potentially harmful to the reputation of the Netherlands and the goodwill that it enjoys (Van Keulen 2004; Van Grinsven en Rood 2004).

1.4 Enlargement: in search of a new role in the Union

Enlargement of the European Union and related shifts in the relations between big and small Member States have not been without effect on Dutch European policies. A special responsibility in the Union, originating from the Dutch founding father status, and its role as mediator with special access to France, Germany and the UK, have always been important elements of the Dutch self-image in Europe. However, several rounds of enlargement seem to have diluted this special status.

Against the background of enlargement, an important debate in the Netherlands has been how to react to more pronounced big country leadership. In an influential report to the government, the Scientific Council for Government Policy (WRR) pleaded for the acceptance of Franco-German leadership, implying a break with the Dutch traditional rejection of *directoires* in Europe (Wetenschappelijke Raad voor het Regeringsbeleid 1995). Foreign Minister Van Mierlo agreed that affiliation with Franco-German cooperation would enhance Dutch influence and announced the intensification of bilateral relations as one of his priorities. Dutch enthusiasm has dampened though, as a result of a series of diplomatic clashes with the French and Germans (e.g. on the Dutch choice for the American 'Apache' in stead of the French-German 'Tigre'; the unsuccessful candidacy of former Prime Minister Ruud Lubbers for the Presidency of the European Commission; the French insistence on adjustment of Dutch drugs policies; the EU reaction to human rights violations in China, etc.). Former Foreign Minister Hans van den Broek has been pleading consistently for acceptance of a French-British-German *directoire* to relieve Europe from its dwarf status in matters of foreign policy (Van den Broek 2003). However, his position has so far failed to gain broad approval and the reactions to the February 2004 trilateral meeting in Berlin have made clear that the Dutch have not yet fully reconciled themselves to the idea of *directoires* in Europe.

The Netherlands seem to be more open to the idea of enhanced cooperation by a limited number of Member States as a last resort option to further cooperation in case decision-making in a certain policy area would be blocked in the EU-25. Prime Minister Kok even put the issue of the reform of the rigid Amsterdam Treaty procedures for enhanced cooperation on the agenda of the IGC at the 1999 Helsinki European Council. The application of normal Treaty procedures to enhanced cooperation endeavours (including involvement of the Commission, European Parliament and Court in first pillar enhanced co-operations), as well

as their openness to all Member States willing and able to further cooperation, are considered important reassurances compared to the options of exclusive *directoires* or a 'hard core Europe'. In the Treaty of Nice the provisions for enhanced cooperation were indeed made more flexible and workable (Philippart and Sie Dhian Ho 2000).

All in all, adjusting the Dutch self-image from founding father to one of many small Member States of the Union has proven a painful process. In that respect, a successful Presidency would be a welcome balm for the wounded feelings of the Dutch and may even serve as a catalyst in the process of finding a new role in the enlarged European Union.

II - ORGANISING THE PRESIDENCY AT HOME

Besides shifts in terms of content, Dutch EU policies have undergone changes as to their administrative and political organization, partially in reaction to experiences with the 1991 and 1997 Dutch Presidencies of the EU. As to the day-to-day administrative preparation of EU negotiation positions, attempts are being made to strengthen inter-ministerial co-ordination in a process that has traditionally been dominated by expert units in relatively autonomous departments. On the political side, attention for EU policies is still rather incidental and focused on specific issues, such as the costs of integration. However, institutionalization of links with Brussels before and during the Presidency might increase broader awareness and knowledge of EU policies.

This section also discusses the specific preparations for the Dutch 2004 Presidency ‘at home’. For a small administration in particular, the Presidency brings a substantial strain in human resources and costs¹, which explains why small Member States tend to be more pragmatic in their approach to the Presidency, focusing on managing Council business and progress on the EU’s rolling agenda. This section on the organisation of the Presidency is concluded by the results of a written survey among officials of all thirteen government departments.

2.1 Organising Dutch EU policy making

The Dutch administrative organization of EU affairs is primarily a responsibility of expert units within ‘lead’ departments. In day-to-day EU policy preparation, a lead department, assigned by an inter-ministerial assessment committee (BNC), produces a short summary of a new Commission proposal, its financial and legal consequences and the negotiating position for the Council working group. Since 1991, this ‘fiche’ serves to inform Parliament, although it very rarely leads to a pro-active discussion on the stance to take in the EU-level negotiations (it should be noted that Members of Parliament complain that the ‘fiche’ is often only received at a point where the decision has already been taken at EU level). Delivering input for Council working group negotiations is thus left to technical experts at decentralised policy units. How much information exchange takes place with other government departments

¹ The overall costs are estimated to be around 60 million Euro (EuObserver.com, 12 January 2004).

and the Permanent Representation (PermRep) depends to a large extent on personal initiative.²

Dutch inter-ministerial co-ordination tends to be fragmented. It has been boldly stated that this fragmentation of Dutch policy making is nowhere more visible than in comparison with the more unified political systems of other West European countries in the process of EU policy-making (Andeweg and Irwin 2002,169). Only at the Instruction Meeting for the PermRep at the Foreign Ministry, interdepartmental conflicts over EU files may come out in the open. Although the Foreign Ministry was appointed co-ordinating authority for EEC affairs in the early 1960s, congruent to the Dutch 'polder'-culture of consensus, consultation and compromise and a tradition of autonomy of individual government departments, it lacks the competencies to establish priorities and arbitrate between conflicting views. The result of inter-ministerial EU policy co-ordination is thus often a rather vague compromise, giving much leeway to the EU PermRep to adapt instructions to Brussels reality.

The Junior Minister (Dutch: State Secretary) for European Affairs forms the link between the administrative and the political level. He chairs the weekly Co-ordination Committee, the 'antichambre' for Cabinet that sets the negotiating instructions for upcoming Council meetings. Only in case of conflicts, Cabinet discussions may take place. Even at this level the Prime Minister lacks arbitrating power because of his role as 'primus inter pares' in the Dutch Council of Ministers.

Judgments on the quality of the Dutch co-ordinating structure differ. Some national observers criticise the 'poorly organised preparation' of Dutch negotiation positions (Andeweg and Irwin 2001, 170) because of the inherently re-active procedure, only starting at the moment Commission proposals have already been drafted and even then only when conflicts of interest may occur. On the other hand, because of the fairly unique inclusive procedure, which gives all ministries at least the opportunity to be involved, foreign observers judge positively about the capacity to anticipate to new EU policies (Beyers et al 2002, 60) and the level of expertise that the Dutch tend to bring into Council meetings.

² It should be noted that certain sectoral offices at the PermRep are quite actively assisting experts in The Hague in the preparation phases of negotiating instructions.

The EU Presidencies of 1991 and 1997 have triggered an increase in EU awareness and attention within public administration. Especially the events around 'Black Monday', on 30 September 1991, when poor internal co-ordination contributed to the failure of the Dutch proposal for the EU Treaty (Van Hulten 1997), have caused a 'rude awakening' to the realities of European integration (Hoetjes 2003:317). In the post-Maastricht years, government departments have rapidly become more Europeanized. Departmental EU units have been upgraded and there is an increase of attention for EU affairs among the management and political leadership of the government departments. Departments invest in EU training programmes, send their personnel to Brussels for temporary posts and attempt to institutionalize expert EU-networks, for instance by drafting special 'who-is-who' guides. In 2000, driven by worries about under-representation in Brussels and decreasing Dutch influence after EU-enlargement, the Cabinet has initiated a special training programme for the EU entry exams, aimed at getting more Dutch officials into the EU institutions.

Moreover, in the mid-1990s, the practice emerged that in case of horizontal 'history-making' packages such as the Financial Perspective, IGC's on institutional reform and accession negotiations, inter-ministerial task forces are set up to streamline the co-ordination of the Dutch input. Although these task forces suffer as well from the fragmented nature of the Dutch policy-making system, this systemic innovation has certainly proven to have its merits in terms of improving information exchange as well as prioritizing between issues.³

The Prime Ministers office has become much more involved in EU business due to the increasing prominence of the European Council. When horizontal matters are involved, the Prime Minister's office functions on equal footing with the Foreign Affairs Ministry, although at least formally the Prime Minister still needs a Foreign Ministry mandate to discuss matters with his EU colleagues. Thus, 'only a strong Minister of Foreign Affairs or -even better- a coalition between a strong Foreign Affairs Minister and the Prime Minister, can reduce the Dutch problems of co-ordination and control in EU policy-making' (Hoetjes 2003: 323).

As to the political side of Dutch EU policy-making, knowledge of EU politics, policies and procedures still leaves a lot to be desired.⁴ The brave efforts by a handful of MP's in the

³ One success-story as regards Dutch EU policy co-ordination has been the realisation of its financial objectives in the debate on the 2000-2007 Financial Perspective. See (Werts 1997, Van Keulen 2000, IOB 2003).

⁴ A recent newspaper questionnaire revealed that only a few MP's were able to correctly indicate more than five of the EU's new Member States (De Volkskrant, 12 December 2003)

Europe Committee⁵ notwithstanding, parliamentary discussion of EU affairs is still ad hoc and tends to focus on political incidents and the Dutch contribution to the EU budget. The effects on public opinion of selective and predominantly negative political attention are significant. During 2003, the percentage of Dutch citizens thinking EU membership is 'a good thing' decreased from 73 to 64%, while the number of people who think that the Netherlands profits from membership has fallen from 65 to 55%.⁶ Growing Euro-scepticism is also reflected in the Dutch EP elections results where the party of EU whistleblower Paul van Buitenen (Europa Transparant) managed to mobilise voter protest against fraud at EU level. His party will get two seats in the European Parliament, where he is likely to settle in a future eurosceptics group. These numbers are particularly sensitive as regards the upcoming Dutch referendum on the new EU Constitutional Treaty. The Dutch Parliament is thus a long way from taking a pro-active or strategic stance towards developments at the EU level (Hoetjes 2003:326). Neither EU Treaty ratification debates nor the annotated Council agendas attract much political attention. This lack of interest has been attributed among others to the time pressure inflicted by the EU's rolling agenda, MP's limited awareness and knowledge of what happens in Brussels and the lack of political incentives to 'score' on European issues (e.g. Del Grosso 2001).

However, the picture seems less gloomy than in the past. Several Ministers in the current Cabinet with experience in Brussels put much effort in increasing EU awareness in domestic discussions, and the Presidency may play a crucial role here as well. Moreover, the Parliamentary organization is being adapted to deal more effectively with EU matters, examples being the institutionalization of an EU bureau at the Senate; increasing contacts with national Members of the European Parliament as well as the recent appointment of a parliamentary EU liaison officer at the European Parliament.

2.2 Organising and co-ordinating for the chair

Considering the complex Presidency agenda, it needs no clarification that the Dutch 2004 Presidency required a particularly sound preparatory track. Preparations within government departments have started some two years in advance, comprising the creation of special Presidency working groups, recruitment and assignment of extra staff to EU affairs.

⁵ The General Committee on EU Affairs, set up in the 1980s, was one of the last EU committees created in EU Member States.

⁶ Eurobarometer 59 – 61, see http://europa.eu.int/comm/public_opinion/index_en.htm

Experience has shown that organisational innovations made in the context of the Presidency often prove valuable in the longer term. For instance, in the run up to the 1997 Dutch Presidency, the Agricultural Ministry has introduced EU-dossier-teams composed of experts from the Ministry, colleagues of other departments, and Farmer Organisations charged with close monitoring of one particular file during the Presidency. These teams not only enabled a focused and co-ordinated approach to the EU negotiations, but their mere set-up and organisation also implied strategic prioritizing between EU-files. Positive experiences with this structure led the Environmental Ministry to copy this practice, which may fill the co-ordination gap that the formal EU-co-ordination procedure leaves in the Council working group phases.

As to the inter-ministerial co-ordination system, the structures as described in section 2.1 will continue to function. In order to deal with the specific demands of the Presidency, three structural innovations have been added.

(1) Firstly, at the administrative level, an *Interdepartmental Presidency Working Group* has been created, in the fall of 2003. Chaired by the Foreign Ministry and consisting of representatives of all thirteen government departments, this group is in charge of co-ordinating all Presidency preparations in The Hague. A similar group proved its worth in the preparations for the 1997 EU Presidency, in terms of providing a forum for regular co-ordination and information exchange (Keulen and Rood 1997). Preparations in this group started with the question how many and which issues and dossiers were expected on the EU's agenda for the second half of 2004, as the agenda and calendar should be set at an early stage in close co-operation with European Commission and Council Secretariat. A careful tabling of files and issues explains to a large extent the success or failure of a national Presidency.

The selection of issues depends partially on the role a Member State chooses to play during its Presidency: will it be a loyal servant to the rolling agenda or does it strategically use the Presidency for tabling national priorities and hobbyhorses? As for the Dutch, it has been clear from the start that for its 2004 Presidency, as in 1997, the rolling agenda would be leading. Seven years ago, the catchwords for the chair were modesty, avoiding hobbyhorses and positioning the Netherlands as a bridge-builder (reflected in the logo of the 1997 Presidency). This in turn was a reaction to a more agenda-setting approach, which failed so miserably in 1991. The 1997 Presidency triggered a domestic debate about the perceived lack of ambitions

(Van Keulen and Rood 2003, 76). Nonetheless, it seems like the Dutch have opted for a similarly subdued approach to its 11th Presidency in 2004.

In the run up to July 2004, the selection of issues has been a long and tedious process of consultation and compromise similar to 1997 and aimed at limiting the agenda to a manageable number of issues and files. This process has taken place ‘bottom-up’, i.e. from the policy units within government departments, via ministerial co-ordination groups, and finally to the inter-ministerial level. It should be noted that the central identification of the five themes of the Dutch Presidency has not been very helpful in this respect, because of the broad, ‘umbrella-like’ character of each of these ‘priorities’. At the same time, because it has been largely left to the departments to decide which issues to put on the agenda, during the Presidency, there will be a continued risk of turf battles between government departments over priorities, negotiating tactics and strategy.

(2) Secondly, at the political level, a *Ministerial Steering Group* has been created in order to ensure a horizontal overview of progress in the different Council formations and to avoid inconsistencies. This steering group consists of the Prime Minister, the Minister of Foreign Affairs, the two-vice Prime Ministers (the Ministers of the Interior and Finance) as well as the State Secretary of European Affairs, to be supplemented with sectoral government ministers dependent on the agenda. This political committee meets (bi-)weekly during the Presidency under the chairmanship of the MP.

In the run-up to the Presidency, there has been an increase of political attention for EU affairs. Current and new Member States have been visited by a large number of high Dutch officials and politicians, to the extent that reportedly complaints arose in Dublin with the Irish Presidency about the frequency of working visits by the incoming chair. As to the Dutch Parliament, MP’s have been involved in special events in the context of the EU Presidency, including the organisation of a Parliamentary Speakers Conference; a meeting of the chairpersons of European Affairs committees of the present, the previous and the following presidencies and the EP in the context of the Troika; and a COSAC meeting to be held in The Hague.

(3) Finally, a *Central Project Organisation*, in which all departments are represented, has been charged with preparing the Presidency in terms of logistics, communication and

organisation. A smooth organisation of Council meetings, including sufficient attention for public relations and communication; media relations; logistics; transport and catering, has in the past proven to be crucial for the final judgement of any national Presidency. One key worry of Dutch policy-makers in the run up to the Presidency has been the logistical nightmare of effectively dealing with 25 negotiating partners. It has been estimated that during their Council Presidency, the Dutch will be responsible for the organisation and management of some 1000 meetings at different levels and locations. In particular, an astonishingly large number of informal ministerial as well as expert-meetings and conferences will be organised, partly to make up for the relatively small legislative period the Dutch Presidency is confronted with. Although this approach is understandable, it should be noted that these meetings will only prove valuable if adequate *follow-up* of these initiatives by subsequent Presidencies and/or the Commission is ensured.

Management issues for the Chair include dealing with an increasingly complex language regime, providing sufficient translations and interpreters (having 10 pages translated into all 20 official languages may take up to 8 working days) as well as sufficiently large and equipped meeting rooms and organizing and facilitating extensive media coverage of important events. True, the burden of the Presidency has been somewhat reduced by the new reality of most meetings taking place in Brussels (in October: in Luxembourg) instead of at national venues, but particularly the large number of informal Council meetings and conferences poses an enormous (albeit self-inflicted) challenge to the Presidency organisation.

In spring 2004, a special inter-ministerial Presidency training course has been organised on top of many departmental courses specifically aimed at getting ready for the chair and increasing team spirit amongst all involved ('we are the Presidency!'). In these gatherings, Dutch negotiators have been briefed by Council Secretariat officials as to the assistance this institution may bring to the Chair: advice on positions, procedures and legal issues, planning and briefing and reporting from meetings as well as serving as 'the eyes and ears' of any national Presidency in Brussels. Council Secretariat assistance will be all the more important for the Dutch because of the new Council Rules of Procedure after enlargement. EU actors will have to get used to new working realities in an EU-25, in which important procedural innovations include new voting procedures, a new distribution of votes between the Member States; strict limitations of real speaking time to 2 minutes per delegation; the obligation to

formally announce new agenda issues 16 days in advance of the meeting, and, obviously, that tour the tables as well as long discussions are discouraged.⁷

As to preparations at or directed at the EU level, Presidencies may be either national capital- or PermRep driven. The challenge here lies in striking the right balance between domestic organization and overview and the daily 'street-level' working experience of Brussels negotiators. In the run up to 2004, all departments have strengthened their sectoral units at the Dutch PermRep, which houses about 120 staff in 2004. Moreover, efforts directed at the Commission's staffing policy have been seriously heightened, with Dutch END's having been strategically placed within relevant Commission DG units.

2.3 Opinions on Presidency preparations: questionnaire results

The results of a written survey among officials from all thirteen government departments may shed light on how Presidency preparations are experienced by those directly involved at ground level.⁸ The 250 respondents were involved in the aforementioned inter-ministerial Presidency training course organised in spring 2004.

The survey makes clear that, although the Netherlands as a 'founding father' has a long history of chairing the EU, institutional memory in The Hague as regards EU-presidencies is not very high. Only one out of five respondents experienced the previous, 1997 EU Presidency and for more than three-quarters of the respondents, the 2004 Dutch Presidency is the first they participate in. It should be noted, however, that experience with earlier national presidencies will only be valuable to a limited extent, because of the unusual circumstances that the Dutch Presidency is confronted with.

Most respondents judge positively on the effects of the Presidency on the internal organisation of EU business in The Hague. It is felt that in the run up to and during the Presidency, EU related issues and files are dealt with in a more effective way, in the sense that more human and financial capacity is available, political leadership is more involved, units dealing with

⁷ See the new Council Rules of Procedure, Doc CONS 5163/04, 21 January 2004.

⁸ The survey was executed under the responsibility of both the European Institute of Public Administration in Maastricht and the Clingendael Institute. See for more information on the training course and the questionnaire results <http://www.clingendael-eipa.nl>

national dossiers tend to be more aware of possible links with what happens in Brussels, and contacts with the EU institutions, the Commission in particular, are more common.⁹

When asked to rank a number of Presidency tasks, a majority of respondents stress the administrative functions of the chair: mediation and seeking compromise (51%), agenda setting (49%) as well as co-ordination and planning of Council business (47%). These stand in contrast to that other role for which the Presidency provides ample opportunity: tabling specific national initiatives (28%) or actively drafting Presidency papers (22%). It may be concluded that government officials conceive at least this particular Presidency mainly in terms of process-management, whilst they are relatively cautious about the extent to which national ideas may be exported.

However, a majority of respondents indicates that Dutch influence on EU decision-making will be much higher during the six months of the Presidency. It is thought that both the EU agenda and policy compromises can to a certain extent be shaped around existing Dutch positions or preferences. As one of the respondents puts it: ‘the power of the pen should not be underestimated’. Respondents estimate that the Council Presidency, if managed successfully, may increase Dutch standing internationally and build a sound network with EU institutions and bilaterally with the (new) Member States. At the same time, it should be noted that a majority of the participants indicates that their own knowledge of the policy- and communication style of the new Member States still leaves a lot to be desired (55%).

Thus, in line with what may be expected from a small Member State, the conclusion from this survey is that most Dutch respondents stress the importance of Council business and process management. However, it is expected that the Dutch Presidency can exert some influence on the way policies are shaped. A majority of respondents judges positively on the extent to which the Dutch efforts will be evaluated as a success. Applied criteria include whether the

⁹ A clear distinction can be drawn here between different government departments. Where the Foreign and Economic Affairs Ministry seem most ‘Europeanized’, at least measured in terms of the interest that the department management demonstrates for EU affairs, the Ministry of Environment and the Ministry of the Interior both rank fairly low. The personal experience and personal interest in EU affairs of different government ministers could form an important explanation: some Dutch cabinet ministers have their background in EU politics while others are known to be rather euro-skeptical or not really into EU politics.

Dutch will have secured progress on the EU's agenda; whether the Presidency has demonstrated political flexibility and the extent to which it has built goodwill and respect by the EU partners. When asked for the main risks for the Dutch Presidency, respondents mention inconsistencies in the Dutch approach as well as a lack of priorities or vision from The Hague. In this respect, many note that turf battles between government departments are likely to take place because there is so much at stake during the Presidency.

III - A DUTCH PERSPECTIVE ON THE PRESIDENCY AGENDA

A key instrument for influencing EU policy lies in the powers that the chair holds for setting, structuring and, no less important, excluding issues from the EU's agenda (Tallberg 2003). The room of manoeuvre for national Presidencies to shape the agenda strategically has been seriously limited by the recent initiative for multi-annual and operational Presidency working programmes, which should increase coherency and consistency. Thus, at the end of 2003, the Netherlands Presidency committed itself with five more national Presidencies to a strategic programme up to 2006. In this Multi Annual Programme 2004-2006 three main horizontal issues are identified: conclusion and preparation of the application of the new Treaty; effective integration of the new Member States and support to the efforts of candidate and aspirant countries (notably Bulgaria, Romania, Turkey and Croatia); and agreement on the next Financial Perspective 2007-2013. As to the policy agenda, priorities are: sustainable development and progress on the Lisbon Agenda; development of the Area of Freedom, Security and Justice (AFSJ); and in the global arena: implementation of the European Security Strategy and addressing the threats; building security in our neighbourhood; strengthening multilateralism; and following up on development commitments.¹⁰

For 2004, the Irish and Dutch have drafted a combined annual Presidency programme, titled 'The Union in 2004: Seizing the opportunities of the enlarged Union'.¹¹ It is hard to find any policy development within the EU not falling under the objectives that this programme lists under the headings of the six main items of the multi-annual programme, including those identified as the Dutch Presidency priorities: progress in enlargement; sustainable strengthening of the European economy and reducing the administrative burden; developing the AFSJ; progress as regards the future Financial Perspective; and working on the EU's external relations with basically 'the rest of the world'¹².

Moreover, the Dutch Presidency will have to finalize work on the new EU Constitutional Treaty agreed upon at the June European Council. Now that the final treaty provisions, including long-standing bottlenecks on the voting formula for QMV and decision modalities

¹⁰ Council of the European Union, 8 December 2003, 15896/03.

¹¹ Council of the European Union, 19 December 2003, 16195/03.

¹² *The Dutch Presidency of the Council of the EU in 2004: Accents*, Letter of the Minister and State Secretary of Foreign Affairs to Parliament, 28 May 2004, 2003-2004, 29 361 nr 5.

on JHA and budgetary issues have been laid down, technical preparations may get started. These include translation of the final text into all twenty official languages; elaboration of new provisions and rules, such as those on the EU's new Foreign Minister; and preparing for domestic debates and ratification referenda in a number of Member States. As for the latter, the timing of the referendum as foreseen in the Netherlands is yet unclear, pending a decision by Parliaments' First Chamber. However, initial worries about a national referendum to be held a mere fifty days after signature of the new Treaty, i.e. during the Presidency, seem not to be confirmed.

Although it has become much more difficult to add national colours to the EU's rolling programme, it is generally considered legitimate for any chair to push for a small number of national hobbyhorses. These are clearly visible in the extensive lists of 'bread and butter' agenda items to be discussed in the various formal and informal Council meeting. Here again, the rolling agenda has been given some national flavours by individual government departments in The Hague, which has resulted in an intriguing list of issues ranging from a high water and flooding initiative (Environment Council); increasing transparency; promoting the use of modern EU languages; and maritime transport and short sea shipping (Transport Council).

Probably the most prominent Dutch priority concerns the launching of a debate on the values underlying European integration. This debate is to be initiated through a number of high-level meetings on themes such as 'the EU as a community of values' and 'European citizenship'; EU-information campaigns as well as a small number of cultural activities aimed at improving citizen's involvement in the EU. The Dutch values initiative originates in the domestic debate on 'values and norms' initiated by Prime Minister Jan Peter Balkenende himself, a Dutch Reformist Protestant. Explaining the background of the Dutch governments decision to export this debate to the Union, Prime Minister Balkenende has stated that European citizens should be more aware of the fact that European integration comprises more than the free movement of persons, goods, services and capital. European citizens should explore which values they share and think through the consequences of this 'European identity' (Balkenende 2004). The Dutch initiative comes at a particularly sensitive time considering the decision to be taken on the opening of accession negotiations with Turkey. However, Dutch government officials have stressed that the European values initiative will not open new perspectives on the Unions accession criteria, which Turkey -like any other candidate for EU-membership- has to fulfil.

In this section, we will discuss the shortlist of items selected by the Dutch government as Presidency priorities for 2004. These include: further enlargement of the EU; the Lisbon agenda (in which we include the guidelines and principles for the new Financial Perspective, to be set at the December ECOFIN Council); new guidelines for Justice and Home Affairs co-operation; and developing the EU's role in the world.

3.1 Enlargement

During the Netherlands Presidency, the enlargement process will continue. Both Bulgaria and Romania, part of the ongoing fifth enlargement round, have set the end of 2004 as their target date for the closure of accession negotiations with the Union, aspiring to become a Member in 2007. In terms of progress on the ground, though, Romania lags seriously behind. Where, under the Irish Presidency, Bulgaria has managed to provisionally close the last two chapters in its negotiations on EU accession, Romania still has six out of thirty chapters of the *acquis* to negotiate. Moreover, serious problems remain at the more fundamental level of the judiciary and civil service, affecting many aspects of Romania's functioning (Boudewijn and Van Keulen, 2004). Croatia's application for membership heralds another wave of aspirants, this time from the Western Balkans. 'Acquis screening' of Croatia is likely to start during the Dutch Presidency, preparing the ground for the start of accession negotiations early in 2005.

However, the highlight on the enlargement agenda will be the decision of the December European Council on the opening of accession negotiations with Turkey. Turkey received candidate Member status in December 1999, and in December 2002 the European Council announced that if Turkey fulfils the political 'Copenhagen criteria' by the end of 2004, the Union would open negotiations 'without delay'. Since being accorded candidate status, and particularly since the election of the AKP Erdogan government in November 2002, there have been impressive political reforms in Turkey aimed at promoting democratisation, respect for human rights (including minority rights), and civilian control of the military. However, it seems impossible to realize full implementation of these reforms on the ground by the end of 2004. Therefore the European Council decision is likely to be a 'layered' one ('yes, provided that' or 'no, unless'). Complicating factor in this already sensitive context is that, as the decision on Turkey draws closer, political debate around the issue is growing more heated and going far beyond a discussion on Turkey's fulfilment of the political Copenhagen criteria. Broader political and economic effects of Turkish accession to the EU, fundamental questions

as to the compatibility of Islamic and Christian values and even less concrete feelings of unfamiliarity and insecurity enter the public debate.

Against this background, Dutch preparations on the Turkish issue started already in autumn 2003 with a series of visits of Cabinet Ministers to Turkey in order to thoroughly inform them and prepare the ground for Cabinet discussions. Unfortunately, part of these discussions made the front pages, notably the opinion of Vice Prime Minister Remkes (VVD) and Minister of Agriculture Veerman that Turkey does not belong in the EU because of its different culture and religion.¹³ Apart from internal discussions, the Dutch are consulting a wide circle of directly and indirectly involved parties: EU Member States, Turkey, the European Commission, but also the Secretary-Generals of the UN, NATO and government representatives from the United States. Also here, several parties have already expressed their opinion, which was negative as regards Turkish accession in the case of several French politicians and more recently the Austrian government. Austrian Foreign Minister Benita Ferrero-Waldner has recently stated that both Turkey and the EU were unprepared for Turkish membership. These opinions have been aired well ahead of the crucial European Commission progress report and recommendation on Turkey, expected in October, which will form the basis for the European Council decision.

The Dutch Presidency has publicly expressed its firm intentions to reach a European Council decision in December (implying that postponement is not an option) that is both *consensual* (acceptable to both the European Council and Turkey), and *sustainable* (likely to survive ratification by national parliaments and referenda). In case a straight 'yes' or 'no' might be problematic, variables that could be used are the 'layered' decision mentioned above, the factor time (e.g. 'starting the negotiations without delay' could still be interpreted as 'starting the negotiations in several months') and the fact that Turkey announces the sixth wave of enlargement, which would not necessarily be absorbed via the same accession strategy as the fifth wave of Central and Eastern European countries. As to this last point: the upcoming wave could be similar to the trajectory of the Spanish and Portuguese accessions, as these members acceded rather early whereas for certain sectors, long transition periods were negotiated. In this delicate context, much will depend on the political leadership of Prime Minister Balkenende and Foreign Minister Bot. It should be noted, though, that the latter

¹³ 'Onenigheid over toetreden Turkije tot Europese Unie', in: *NRC Handelsblad*, 30 January 2004.

might be hindered by the distrust some political parties have expressed because of his clear sympathy for Turkish accession to the EU, as former Dutch Ambassador in Ankara.

3.2 The Lisbon agenda and the Financial Perspective

At its 2000 summit in Lisbon, the European Council has explicitly committed the EU to become the world's most competitive, dynamic and innovative economy in 2010. However, the bad economic situation EU-wide, as well as diverging national opinions as to how the Lisbon challenge should be met, have brought the Lisbon process into murky waters. Where the Commission has requested an increase in EU spending, for instance on EU-wide R&D, other Member States, including the Netherlands, stress the importance of national measures to curb spending and stimulate growth and innovation. Although the Dutch Presidency agenda does not include a 'Spring Summit' (normally devoted to Lisbon progress), encouraging sustainable growth and competitiveness of EU business by means of structural reforms has been identified as a key Dutch Presidency priority. Before 1 November, a high-level working group led by former Dutch Prime Minister Wim Kok will hand in the fruits of its deliberations on how to get the EU's economy forward, with an eye to the Lisbon mid-term review for the 2005 Spring Council. Taking a clear stance against costly market intervention measures, the Dutch focus on three particular items on the Lisbon agenda: market liberalisation, deregulation and sound financial management.

Improving the functioning of the internal market. In its departmental Presidency Memorandum, the Economic Affairs Ministry has established as priorities in this field: the liberalisation of services, for which a Commission proposal is discussed during the Presidency; a regulation concerning the registration of chemical substances (REACH), up for political agreement in 2005; as well as streamlining the functioning of the Competition Council and possibly upgrading its status to Ecofin-like importance.¹⁴ Moreover, the Dutch have announced to pay attention to timely and correct national implementation of internal market directives. As a matter of fact, the Netherlands is in an awkward position in this respect, as one of the laggards in the EU-wide implementation ranks - to the horror of Economic Affairs Minister and old-time Eurenthusiast Laurens Jan Brinkhorst. The implementation deficit is visible in the internal-market related fields of Environment and

¹⁴ Ministerie van Economische Zaken, Kamerbrief Nederlands EU-voorzitterschap 2004, Den Haag, 21 April 2004.

Transport and has been subject of Cabinet discussions in order to tackle this issue, which is seen as highly embarrassing for the Presidency.

Better regulation and decreasing administrative pressures. The Dutch have tabled an ‘anti-red tape’ initiative aiming at combating over-regulation by means of a European measuring system, by which the administrative burden of EU regulation for businesses can be quantified. Consistent with Commission action plans on improving the regulatory environment, the goal for this Regulatory Reform Initiative has been set at 25% less EU-originated rules. The Dutch government has set the domestic goal of reducing the administrative burden on companies by a quarter and claims that it has managed to realize a decline of 18%.¹⁵ As the problem with this agenda is obviously which rules will have to be tackled, amongst Brussels observers, scepticism reigns about the feasibility of this Dutch initiative, which so clearly originates in a domestic agenda. Moreover, concerns are expressed that putting so much effort in quantifying one type of effects (that is, administrative burden for business) while not quantifying others (e.g. benefits for the environment, societal benefits), would enter a neo-liberal bias in EU policy-making. In the meantime, the Dutch are building quite a reputation for their strong attachment to ‘norms’ in Brussels, stressing the 3% norm of the Stability and Growth Pact, 1% BNP ceiling for the future EU budget as well as the 25% norm on administrative deregulation.

Future EU finances. In December 2004, the ECOFIN Council is set to establish ‘guidelines and principles’ on the main lines of the EU’s multi-annual budget up to 2013. This negotiation marathon -which may drag on well into the second half of 2005- is causing Presidency headaches in The Hague because of the extensive shopping-list that the Netherlands as a delegation holds as regards financial issues. The Presidency brief to parliament announces a ‘careful’ approach of this ‘special challenge’.¹⁶ To begin with, the initial Commission proposal to set the ceiling to EU spending at 1,14% of GDP has been publicly opposed by a coalition of six Member States, including the Netherlands. Moreover, the Netherlands is confronted with domestic controversy between the government position to cut back structural funds and that of regional and local authorities responsible for spending the EU funds. Last but not least, the Dutch delegation has dug in its heels about the issue of

¹⁵ According to a spokeswoman of the Finance Ministry quoted in the EUObserver 14 May 2004.

¹⁶ *The Dutch Presidency of the Council of the EU in 2004: Accents*, Letter of the Minister and State Secretary of Foreign Affairs to Parliament, 28 May 2004, 2003-2004, 29 361 nr 5.

juste retour, advocating the idea of a general correction mechanism for all countries with large net contributions.

In the field of sound financial management, mention should be made of the rather outspoken position of Dutch Finance Minister Gerrit Zalm, set to take control of the EU's finance policy for the next six months. In ECOFIN debates on the Stability and Growth Pact, 'il Duro' has recently caused irritation among EU partners by hammering at financial austerity. Although the Netherlands stood isolated in its support of the Commission's decision to take Member States to the European Court of Justice, a judgement expected in the middle of the Dutch Presidency, Zalm has already announced to take a tough line as to the issue of national budget deficits. This is particularly sensitive, as the Netherlands itself has recently been reprimanded by the Commission for exceeding the 3% budget deficit norm.

3.3 The Area of Freedom, Security and Justice

The development of the Area of Freedom, Security and Justice (AFSJ) will figure as a priority on the Dutch Presidency agenda in two ways. Firstly, the Dutch will put much efforts into stimulating progress on the regular Justice and Home Affairs agenda; and secondly, they are expected to set out political guidelines for the development of the AFSJ in the years to come.

As to the regular agenda, a top priority will be the fight against terrorism, building on the report to the June European Council of counter-terrorism co-ordinator Gijs de Vries. Issues of particular interest include the improvement of cooperation between intelligence-and security services, as well as between these services and police departments; the timely implementation of existing instruments and further strengthening the fight against terrorist financing. In the field of asylum and immigration, the Dutch Presidency will focus on return policies, readmission treaties and the combat of illegal immigration. Special efforts will be made to give an impuls to EU policies to integrate minorities. The Dutch have expressed the view that while legislation in this sphere might be undesirable, it would be useful to share best practices on a European level.¹⁷ In the field of police cooperation, the Netherlands is planning to focus on the sharing of information and intelligence, integrity of police forces and basic cooperation

¹⁷ Speech of HE Tom de Bruijn, Permanent Representative of the Netherlands to the European Union, Brussels, European Policy Centre, 10 June 2004.

on the ground, rather than further development of legislation. The Dutch Presidency will also work on a new Drugs Strategy for the years 2005-2012.

A high-profile event will be the presentation, at the November European Council, of a new programme for future development of the AFSJ. These plans will be the follow-up of the ambitious Tampere agenda, launched at the first special Justice and Home Affairs European Council five years ago, that comprised policy guidelines, practical objectives in combination with an ambitious timetable. In its June 2004 evaluation of the implementation of 'Tampere', the European Commission assesses positively the progress made in most areas, as well as high public support for these actions (see also Eurobarometer, 2003). However, it judges negatively about the current institutional context and decision-making process that '... preclude the effective, rapid and transparent attainment of certain political commitments'. The Commission's critique focuses on the unanimity principle; the shared initiative with the Member States; restrictions on the European Parliament's role as co-legislator; the limited role of the Court of Justice in enforcing implementation of policies; and the restricted powers of the Commission as regards police and judicial cooperation in criminal matters. It also laments the fact that in some cases political commitment is lacking to ensure that European decisions have effect on the ground.¹⁸ Considering the negative effects of these institutional constraints, the Commission states that, instead of waiting for the ratification of the new Constitutional Treaty (comprising substantial institutional reform in the field of JHA), the Council should make use of the possibility provided by the Treaty of Amsterdam (Article 67(2)TEC), to take a decision after 1 May 2004 to introduce the co-decision procedure for all or parts of the areas covered by Title IV TEC.

For the Dutch Presidency, the 5 November European Council deadline for producing a worthy successor to the Tampere programme will be tight, with the European Commission assessment of the Tampere programme and future orientations only published in June, and 24 other Member States to be consulted before issuing new proposals. Apart from building upon the list of future priorities established in the June Communication from the Commission, Minister of Justice Piet Hein Donner might seize the opportunity to breath new life in some Dutch initiatives that previously failed to raise much enthusiasm, e.g. his visionary idea

¹⁸ European Commission, *Communication from the Commission to the Council and the European Parliament. Area of Freedom, Security and Justice: Assessment of the Tampere programme and future orientations*, Brussels, 2.6.2004, COM(2004) 401 final.

presented in the context of the European Convention for a European criminal justice area.¹⁹ On the other hand, officials from the Justice Ministry emphasize they want to avoid the situation as regards the 'Vienna Action plan', which suffered from an overdose of national hobbyhorses.

3.4 External policies

Representing the EU externally and co-ordinating its foreign policy ambitions may well be the most demanding Presidency task, which has grown exponentially over the past decades. This is the domain in which leadership is expected from the Presidency, in order to ensure that the EU's views are correctly, coherently and consistently represented. At the same time, the possibilities for assuming leadership are constrained in two ways. Firstly, the Presidency is faced with the tension between providing strong leadership on behalf of the EU and consensus building *within* the EU. Secondly, because of the multiplicity of actors, varying inter-institutional balances and crosscutting competencies, tensions may emerge with the CFSP High Representative, the new counter-terrorism co-ordinator; and the Commissioners charged with external policy.

These difficulties notwithstanding, an 'active, involved and effective' external policy for the enlarged Union has been identified as a key Dutch Presidency priority.²⁰ The agenda of different co-operation projects, summits and conferences foreseen for the second half of 2004 is daunting. Moreover, the Dutch are trying to prepare - at least mentally - for unexpected developments such as terrorist attacks; natural disasters or international tensions concerning Iraq, the Middle-East or Central Africa. For most of these issues, the Foreign Affairs Ministry will be primarily responsible, albeit in close co-operation with the Prime Ministers Office and related government departments.

¹⁹ Contribution by Mr Gijs de Vries, member of the Convention: The European criminal justice area, 12 May 2003, CONV 733/03.

²⁰ Staat van de Unie 2003-2004: p. 28.

Asia. As regards political relations and dialogue with Asia, a relatively large number of bilateral summits have been scheduled during the Dutch Presidency (South-Korea; China; India). Apart from the economic relations with Asia, which are to be strengthened as a result of these high-level meetings, the Asia-Europe Meeting deserves particular mention, as domestic political reforms in Burma have recently been made conditional for this political meeting. The issue of human rights and the weapons-embargo will also come up in the context of the China-summit in The Hague on 8 December. Added to this, two ASEM ministerial meetings are scheduled for July and September.

Broader Middle East. The EU has expressed the wish to intensify the relations with the Middle East, taking into account the G8 context, transatlantic relations and the situation in Israel. The Dutch have explicitly stated that ‘it will be considered whether efforts will be made’ to overcome the deadlock in the Israeli-Palestinian Peace Process²¹. In this respect, Minister of Foreign Affairs Bernard Bot paid an unannounced visit to Yasser Arafat in May.

Effective multilateralism. During the Presidency, follow-up has to be given to global conferences on sustainable development (Johannesburg; Monterrey) and a number of WTO-related events (designing a new negotiating framework for the Doha Round; Russia's accession to the WTO, and an association agreement with MERCOSUR). Moreover, the Dutch will stress the importance of a stronger multilateral trade and investment system, stressing the importance of the EU-UN relationship in conflict prevention and crisis management.

European Security and Defence policy. Defence and security co-operation will be important agenda items, with two Dutch politicians recently appointed in this field. The transition from NATO- to EU-led forces in the EU's first military crisis-management-operation in Bosnia-Herzegovina has been thoroughly prepared by the Irish. The Dutch will continue to stress good co-ordination between EU and NATO during the further development of military and civil capacities (the so-called ‘Headline Goal 2010’ allowing for action in case of global crisis by the EU in 2010; and ‘Capability Action Plan’) and filling-in by the Member States of the new ‘tactical’ or ‘battle’-groups. The issue of Terrorism will of course remain a top priority, with the new Dutch Terror Tsar initiating new EU co-ordination.

²¹ Dutch EU Presidency, letter to the Second Chamber, 2003-2004; 29 361 nr 5, p.21.

Crosscutting issues will be firstly, the transatlantic relationship (although modesty is proclaimed here because of the Presidential elections; lack of political steering by the Commission and the fact that no EU-US summit has been scheduled) and, secondly, the issue of EU development aid, including review of (parts of) Cotonou and the European Development Fund. The Netherlands spends 0,7% of its GDP on development aid, with an explicit focus on 'good governance', human rights, poverty reduction and fighting HIV/AIDS – an issue to be stressed in the context of the EU-Africa summit. On the one hand, the 'integral approach' advocated by the Dutch (CFSP; trade; development and multi-lateral co-operation) may set the tone for the new Commission from October. However, both Dutch and EU ambitions will most probably be hampered by the new Member States, which are less focused on the external environment when it comes to improving economic and social conditions.

Finally, the new EU flagship 'Neighbourhood Policy' for countries bordering the enlarged EU without immediate membership prospects should be further developed during the Dutch EU Presidency. Here, a number of difficulties arise, such as the case of Ukraine, where Member States are split on the question whether the perspective of EU membership should be outlined.

IV - CHALLENGES FOR THE DUTCH PRESIDENCY

The Netherlands will take over the helm from the Irish on a rough sea. The Union is undergoing a drastic internal transformation and the context in which the Dutch Presidency has to operate will be tough. Widespread public disaffection towards EU integration, a disturbing level of economic growth, continuing pressures of enlargement which are destabilizing for the work of the Union, a transatlantic relationship that is in bad shape, and weakened leadership in the Union are likely to complicate matters for the Dutch (Wallace 2004). Internally, the 2004 Dutch Presidency comes at a time of domestic debate and uncertainty about the role and position of the Netherlands within the EU and the contents and organisation of Dutch EU policy making. It will thus certainly be a rough sea to navigate for the Dutch. At the same time, the Presidency may come at precisely the right moment for the Netherlands. Increased domestic interest in the EU, pooling of talents and resources on EU matters, as well as the necessity to develop a strategic view and to assume a responsible leadership role might provide the necessary impetus for a new domestic strategy as regards the EU.

4.1 Making the EU-25 work

It can be argued that the key challenge for the Dutch EU Presidency will be to show to a critical domestic constituency, its EU partners as well as the outside world, that an EU of 25 members can get any work done at all. Or, in the words of the Irish-Dutch Presidency Programme: 'the key strategic priority for the Council in 2004 is that the Union continues to function effectively while integrating successfully the new Member States'. In the second half of 2004, the Council, Commission and Parliament will be predominantly focused on re-organising internal business. For the Council, the first challenge is to progress its rolling agenda with 25 delegations to be accommodated, while, secondly, the positioning of the ten 'young' Member States regarding many EU policy developments is yet largely unclear.

One expected result of enlargement is that decisions will be even more thoroughly pre-cooked in the Councils administrative channels of working groups and COREPER before being sent to the political level. This will increase the importance of actively participating in these discussions, at the EU-level as well as bi- and multilaterally with possibly new coalition

partners. This may strengthen the plea for a predominantly ‘process-oriented’ Dutch Presidency strategy, in which attention is focused on efficient co-ordination of the Council business. During their Presidency, the Dutch will have to firmly hold on to the new Rules of Procedure, limiting speaking time and interpretation as much as possible. This requires at least the image of authority and more importantly: sound knowledge of positions and procedures, and the flexibility of ‘learning-by-doing’. This rather modest perspective on the Presidency is mirrored in the role expectations of government officials involved in managing the Presidency from The Hague and Brussels, who mention the risk of overestimating the opportunities the Presidency provides for pushing national ambitions.

Secondly, there is the challenge of integrating the new Member States. The Presidency provides the Netherlands with a unique opportunity to position itself strategically and structurally as a loyal partner to the 10 new Member States. The Netherlands may hold a promising position for this role, since it is sufficiently serious and experienced to serve as *opinion leader*, but at the same time small enough not to be threatening. On the other hand, taking into account the overloaded working agenda and the Dutch unease as regards its own stance in EU affairs, one may wonder whether the Dutch can raise patience and empathy during this particular Presidency to keep all delegations satisfied.

4.2 Providing strategic political leadership

Presiding the Council requires political leadership, all the more in the second half of 2004 when both Commission and Parliament will be largely absent for the most part of the Dutch Presidency. Such leadership will be crucial in dealing with the sensitive issues scheduled for autumn 2004: the decision regarding the opening of accession negotiations with Turkey, establishing guiding principles for the financial debate, and a new programme for JHA co-operation. Each of these items is controversial, with key players signalling to distance themselves from whatever common position seems to emerge. Especially in the run up to and during the two European Councils (5 November and 17 December) both the Dutch Prime Minister Jan Peter Balkenende and Foreign Minister and experienced EU diplomat Bernard Bot, will figure prominently at centre-stage. As the success of a national EU-Presidency is easily judged on the basis of the success of these individual summit meetings, a lot depends on the capacities of these two politicians to prevent centrifugal dynamics around politically sensitive issues, forge sustainable compromises on controversial agenda items as well as to

'sell' intricate compromise decisions to the outside world. Balkenende has domestically suffered from criticism of both opposition and government parties on precisely this lack of political leadership. He has faced some constitutional crises as regards the Royal House and has had problems keeping his Cabinet Ministers in line, for instance on the sensitive issue of Turkish accession. Other sources however stress the fact that after many visits to EU capitals and Washington, his image abroad is stronger than at home. Another critical factor will be the position of the liberal party (VVD) that forms part of the coalition government, known for its critical stance towards the EU budget, accession of Turkey, (parts of) the Constitutional Treaty, as well as asylum and immigrant policy.

The starting position of the Dutch, long-time experienced in the Chair, seems rather positive. Small Member States tend to shine during their Presidencies. However, the lack of coordination between divergent views is precisely a key weakness of the Dutch domestic politico-administrative system. Both the Foreign Ministry and the Prime Minister's office lack the power to temper individual ambitions, arbitrate between conflicting issues and to make authoritative decisions if needed. The growing doubts about the contents of Dutch EU policies and the role of the Netherlands in the Union will not contribute to the leadership dimension either. Within the Presidency team at home, there is a considerable danger of inconsistencies, as key players such as the Finance and Justice and Home Affairs Ministries have strong, outlying views regarding dossiers at stake.

4.3 Being prepared for the unexpected

Sound preparations notwithstanding, flexibility will be a key factor for success of the Dutch Presidency. The Dutch have been preparing mentally for unexpected developments, mostly relating to international terrorism. To name only two worries: the Dutch Presidency will see the birthday of '9-11' as well as Olympic Games in Athens. The issue of international terrorism has rapidly risen on the EU's internal agenda, both as regards new policy cooperation initiatives (Action plan on terrorism) as institutionally (the appointment of Dutchman Gijs de Vries as Terrorism Co-ordinator and the upgrading of the EU analysis centre, Sitcen). Although at first sight, the unexpected seems impossible to prepare for, it should be noted that sound preparations may be crucial for effectively dealing with the unknown and striking the right balance between providing suitable responses as well as keeping track of the agenda and internal dynamics. These preparations should consist of co-

ordinating procedures and team-building internally, improving knowledge regarding positions of key actors, working on a broad range of alternative options and scenarios, building a network abroad in order to exchange information regularly and keep a close watch on developments, as well as to engage strategic partners in sudden developments.

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