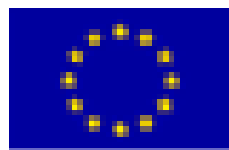


From the Convention to the IGC:
Mapping Cross-National Views
towards an EU-30



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Seminar on

“Capacity and Actor building: Which Instruments and Institutions does the EU need to enhance its Capacity to act with regard to its Trade, economic Cooperation and foreign, Security and defence Policy?”

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PAPER BY

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“CAPACITY AND ACTOR-BUILDING”

The main points of reference for this paper are the Final Reports of Working Groups VII (External Action) and VIII (Defence) of the European Convention, as seen also in the light of the latest international developments. However, special emphasis will be devoted to the fact that CFSP will have to work at 25 already from next month (informally) and next year (formally).

With this in mind, two main approaches seem to deserve attention:

- One that stresses the need for streamlining not only decision-making but also policy implementation by introducing QMV for CFSP, ‘consent’ (rather than ‘consensus’) for ESDP, and more restricted formations of the willing and able for defence-related policies (“Eurozone of defence”, specialised agencies, reformed enhanced cooperation);
- Another one that insists on the need for preserving and even strengthening institutional and policy coherence for CFSP at large (civilian vs. military, Relex vs. crisis management etc.) and between CFSP proper and other EU policies (trade, aid, JHA etc.).

The two approaches are not necessarily incompatible and, in effect, some convergence has already been achieved – at least at a preliminary stage – on the idea of ‘*double-hatting*’ Solana & Patten and of ‘pooling’ (though not ‘merging’) at least bits of the relevant services of Council and Commission. The precise details will matter – starting with his/her role in chairing the GAC - but it seems to be a proposal capable of being backed by an overwhelming majority of the Convention (and the ensuing IGC). The same is not true of the idea of appointing a ‘President’ of the Council: at any rate, the ‘job description’ is likely to be crucial – the weaker his/her attributes and powers, the more acceptable it will be (and compatible with the ‘double-hatted’ HR). More generally, given the old and new divisions over CFSP, the proposal of a “European Foreign Ministry” looks likely to be opposed as such: it could be wiser to aim at a “*EU Security Council*” consisting of a strengthened PSC-like structure backed by a mix of dedicated Relex staff and officials from both the Council (DG-E, Policy Unit, HR’s cabinet) and the national MFAs (5-year detachments). Such a solution would presumably tame bureaucratic opposition from national foreign ministries and significantly reduce complexity and in-fighting inside the current EU bodies (between Council and Commission as well as within the Council itself). At the same time, it would provide a *single* body to run the

administrative and operational side of CFSP. Within such a framework, some flexibility and specialisation are desirable: the system of appointing “*special envoys*” to crisis areas could be made more systematic – with appropriate endowments in terms of human and financial resources – while “*special representatives*” could be appointed to oversee functional areas and policies, including specialised agencies (armaments cooperation, intelligence gathering, strategic analysis and policy planning).

Finally, bigger *budgetary resources* should be devoted to the operational dimension of CFSP: the B-8 line in the EU budget amounted to a ludicrous 30 million EUR in 2002 and has been raised to 47 this year only as a consequence of the Police Mission in Bosnia-Herzegovina, that started in January 2003. For reasons of both transparency and legitimacy it would be advisable that a specific procedure is found in order to mobilise common resources for common operations, thus partially relieving those member States who contribute most and also preventing any intra-EU argument over burden-sharing or free-riding. For instance, the EU budget could cover not only the so-called “common costs” as defined in Seville in June 2002 but also a fraction of the *per diem* of the national personnel (civilian as well as military) engaged in ESDP operations: either a pre-established share thereof or (given the variety of staff provisions across the EU) a *somme forfaitaire* to be reimbursed afterwards – as the UN already does.

The issue of the *rotational presidency* is more delicate in that it involves the role of the *troika* and the chair of CFSP-related meetings. While there is some consensus on the need for simplifying the system and speaking with one voice, some member States hesitate before giving green light to solutions that could have an impact on the whole EU structure by making it ‘inevitable’ to scrap the presidency. This is also why, while the ‘double-hatted’ HR is considered acceptable, the appointed President is not, or only on certain conditions. This said, the recurrent idea of countries ‘*teaming up*’ - while conceivable for the EU system at large (thematic Councils, even the distribution of posts in a reduced Commission) - hardly meets the functional needs of CFSP and ESDP.

Especially after what has happened over the past weeks, the issue of *introducing QMV* for CFSP decisions - as floated in the Dehaene Report - has become extremely delicate. In fact, today virtually no EU country is sure of being part of any qualified majority on any given subject. The EU is split at least in two separate political camps: while, say, one year ago the

main cleavage seemed to be between big and small, now big and small countries are to be found in each and every camp. The outcome of votes is highly unpredictable. In principle, this could be an additional reason to introduce QMV. More realistically, however, member States may be all the more cautious now. Furthermore, CFSP proper – especially its diplomatic and policy formulation dimension – is not necessarily apt to being decided with parliamentary methods: it does legislate, it does not rely on an established *acquis*, and it has to create incentives on producing external actions. On top of that, consensus is all the more necessary if CFSP is to be supported by all and credible internationally: defection by one or more partners (if and when put in a minority) could result in policy failure. This is only to say that resorting to QMV should perhaps be the exception rather than the rule: in other words, the Council presidency (hopefully the ‘double-hatted’ HR) should force a vote based on QMV – but the Nice rules are extremely complicated .. – only when a) a decision is needed, if the Union is to be credible, b) there is a clear majority clinging to a decision, and a small and obstructive minority. More generally, the veto power by one country only should be made impossible or only temporary (as a time-buying device with a view to a later deal). Finally, especially on decisions with operational implications, “constructive abstention” should be made easier – in particular in a Union of 25 with many small countries with limited interests and resources.

Finally, the issue of *enhanced cooperation*, that brings us back to the initial distinction between two different approaches to the complexities of an enlarged Union. The current Treaty allows ‘enhanced cooperation’ in the second pillar, but with two important provisos: 1) it is limited to CFSP joint actions and common positions, and 2) it excludes both common strategies and all “matters having defence or military implications” (art.27 TEU). On the one hand, therefore, it is of little utility: what is the point, in fact, of having enhanced cooperation for common *positions*? On the other hand, it is not applicable to the one policy field, namely ESDP, where it could make sense, given the great diversity and imbalance of capabilities across the EU 15/25. In order to give added value to CFSP and to come to represent an effective policy instrument, therefore, ‘enhanced cooperation’ as laid down in art.27 has to broaden its scope. First, it could well apply to the implementation of ‘common strategies’: insofar as they have a specific geographic/country scope, in fact, they could be decided at 15/25 and then implemented by the Commission in conjunction with those partners who are most interested in it: such ‘joint’ character may also have budgetary spin-offs (‘matching’ funds, joint ventures etc.). Secondly, there are policy areas in which a selective implementation of commonly agreed policies by the willing and able could be a positive-sum game: the Union would incorporate initiatives that

presently lie outside of its institutional framework and enrich its ‘portfolio’ of options and capabilities, while the participating States could resort to the EU’s institutional, human and financial resources. This may well be the case with armaments cooperation, space activities and, perhaps, the development of new strategic capabilities (investment, training, acquisition). Needless to say, the Commission should be adequately involved – both as the ‘guardian of the Treaties’ and, when relevant and useful (single market, research), as an executive body – and appropriate administrative and managerial ‘formats’ be adopted. As for the ‘entry’ requirements, a balance should be found between the interests of the willing and able (who might otherwise prefer to resort to “closer cooperation” outside of the Treaty, as from art.17.4) and those of the potential acceding countries (who might otherwise vote down such initiatives) and the Union itself and its policies, whose overall coherence may be jeopardised. At any rate, some Treaty revision is necessary anyway, and might well include also the general provisions enshrined in artt.43-44 TEU, where at least 8 members must participate in the launch of ‘enhanced cooperation’ schemes. If the goal is to help create, in particular, a “Eurozone of defence”, the threshold might have to be either lowered (OCCAR is at 4, the LoI at 6) or just waived.

Finally, ‘enhanced cooperation’ is intended here as a new tool for policy implementation and not – as sometimes happens in the political and academic debate – as: a) a procedural device, a sort of institutional deterrent (not unlike QMV) to force consensus, as it was partially used by the Belgian EU presidency in October 2001 over the issue of the common European arrest warrant; or b) as a metaphor for ‘avant-garde’ or ‘pioneer group’, namely a restricted group capable of fostering and deepening integration among its members. The former can be achieved by other means, but will never entirely compensate for fundamental disagreements over policy, especially foreign and defence policy. The latter can be pursued through other means, too, primarily bi- or multilaterally - as the Benelux example shows - provided it does not affect the *acquis*. More generally, institutional and procedural reforms may help remove impediments, traps and, arguably, alibis from the decision-making path. They may also help facilitate consensus-shaping and policy implementation. Setting the right incentives at the right stage is crucial, and the current CFSP provisions still lack them. But there are limits to their ability to forge a common approach and to mould 25-plus countries into one single actor.