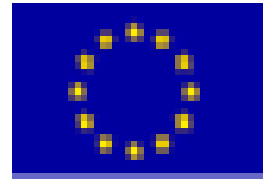
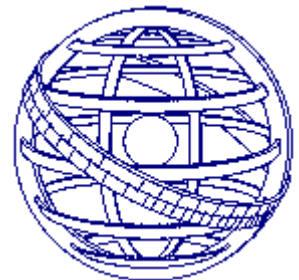


From the Convention to the IGC:
Mapping Cross-National Views
towards an EU-30



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**CONVEU 30 PROJECT
(SEMINAR 3)**

On

Capacity and Actor Building

**STRATEGY PAPER
BY**

**Michele Comelli
IAI, ROME**

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1 Introduction

The shortcomings of EU foreign policy¹ are constantly emphasised in the political debate. The ongoing war in Iraq and the strongly divisive debate that preceded it have shown the deep divisions in foreign policies among EU countries. It seems that 10 years after the start of the Common Foreign and Security Policy (CFSP) no real progress has been made: EU countries are divided over their stance on US foreign policy and on the case for war in Iraq. A common position on Iraq was found at the EU General Affairs Council on 17 February, but what emerged out of the meeting was nothing but the lowest common denominator. In fact, the rift between those EU states that backed or understood US foreign policy on Iraq and those that strongly opposed resorting to military means to solve the issue remained strong. EU Member States have different priorities and interests, different histories and perceptions and find it very difficult to speak with one voice. However, an institutional reform of CFSP and more in general of the EU's external action would enhance the coherence and effectiveness of EU foreign policy.

The problems concerning CFSP and, more generally, EU foreign policies are manifold. First of all, EU foreign policy is the result of complex negotiations among Member States. In this way, it is

¹ By EU foreign policy we mean CFSP, ESDP and the Community actions undertaken within the framework of the first pillar.

mostly based on compromises rather than on a clear strategy. Indeed, Member States find it difficult to establish political objectives.

However, the Commission has often been successful in pursuing an external action focused on the long term and carried out essentially by economic means. This has since the beginning constituted the added value in the Union's foreign policy. On the other hand, the areas where results have been remarkably modest have been diplomatic action focused on the short term. Whenever there has been a crisis on the horizon, the EU has been unable to tackle, let alone prevent it. In the event of an international crisis, as in Iraq, the Member States have taken back their prerogative to manage their political and diplomatic tools themselves. In these situations, foreign counterparts tend to dialogue with the EU Member States on a bilateral basis.

In addition, EU foreign policy is carried out through a plethora of different political, diplomatic and economic means and a number of different institutions. The variety of institutions and actors responsible for EU external action results in an overall incoherence and inconsistency.

All the proposals suggested inside and outside the European Convention to make the EU foreign policy more effective and credible in all its facets have been thoroughly discussed at the 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?”. The seminar was organised by the Istituto Affari Internazionali, in co-operation with the Royal Institute of International Affairs and the Stiftung Wissenschaft und Politik, within the framework of the CONVEU project.

This paper is divided into two parts: the first examines the proposals put forward by the Working Groups of the Convention with regard to EU foreign policy, and notably Working Group VII on External Action and Working Group VIII on Defence. The second part takes into account the results of the discussion on the above-mentioned issues that took place at the seminar.

2 Problems and proposals for reform put forward by the Convention Working Groups

2.1 External action

The EU lacks an overall strategy for its foreign policy and thus tends to be reactive, rather than proactive, to events taking place in the international arena.

Within the European Convention, it was Working Group VII on External Action (WG VII) that dealt with the shortcomings of EU external action and made suggestions to make it work in a more coherent and effective way. The WG VII's final report, submitted on 16 December 2002, was discussed a few days later during a plenary session of the Convention. It proposed that the EU shall clearly define its strategic objectives and interests, as well as the strategies to pursue them. The

European Council is to render precise these objectives and the parameters guiding the EU's and Member States' action. Their implementation would be up to the External Action Council. The European Council would then also be responsible for a periodic examination of the extent to which the objectives have been achieved.

2.1.1 Competencies and legal personality

The EU does not have legal personality, so either the Council or the Commission currently conclude agreements on its behalf. Granting the EU legal personality, as proposed by Working Group III on Legal Personality (WG III), would allow the Union to conclude agreements in the field of its competences. WG VII agreed that the Treaty should indicate that the Union is competent to conclude agreements dealing with issues falling under its internal competences, under the same voting procedure within the Council as the one applied for internal legislative action (normally QMV). Granting the EU legal personality will make it easier to conclude the so-called "cross-pillar mixed agreements", which fall partly within the first pillar and partly within the second or third.

2.1.2 External representation

It has been proposed that the EU replace the Troika system with a single External Representative. According to the Franco-German contribution to the EU's institutional architecture, this role should be attributed to a permanent and elected President of the European Council. However, daily management of the EU's external action would be attributed to the so-called "EU Minister for Foreign Affairs".

Other proposals envisage the creation of an EU External Representative, who would exercise the roles of both the High Representative HR for CFSP and the Commissioner for External Relations.

It is evident that the EU finds it extremely difficult to speak with one voice not only when it comes to international crises where national political positions and interests are often divergent, but even in "normal" matters, that is, where the Member States' co-operation is progressing well. For example, the EU does not have a single seat in international economic and financial organisations, such as the IMF and World Bank. Its role would be strongly increased if it had a single representation in these bodies. This could be achieved for at least the Member States that have adopted the single currency.

Some members of WG VII went so far as to propose a single seat for the EU on the UN Security Council. As this proposal appears too ambitious at the moment, the Working Group made a more modest recommendation: in the case of an agreed EU position, the EU should have a single spokesperson in international fora.

Giscard D'Estaing commented that a provision for an EU common position in international fora was already set down in the Maastricht Treaty and that the Member States had breached it with their

divisive attitudes at the UN Security Council. He also proposed a clause that would provide sanctions for those Member States that do not find a common position in international fora; the Court of Justice should be given competence in this field.

2.1.3 Institutional set-up

The EU carries out its external policies through two institutions (Commission, Council) and a wide range of instruments, such as programmes for technical and economic cooperation with third countries, funds for humanitarian assistance and development co-operation programmes, arrangements to agree upon and undertake joint diplomatic action, actions by the Presidency and the HR, tools aimed at conflict prevention, dispositions to conclude different types of bilateral and multilateral agreements, etc. The EU sometimes uses different institutional and legal procedures even in the same field (for example, conflict prevention falls under both Commission and Council competences). Therefore, it can be difficult to make EU foreign policy coherent and efficient.

The WG VII put forward various proposals aimed at allowing a more co-ordinated use of the different instruments. A large number of members were of the view that the External Action Council to be created should be chaired by the HR for CFSP, who would then no longer exercise the function of Secretary General of the Council.

The most debated issue concerning relations between institutions and actors was certainly the one focusing on the roles of the HR for CFSP and the Commissioner responsible for External Relations. The proposals put forward were essentially four:

1. to further strengthen the role of the HR and reinforce the synergy between his functions and those of the Commissioner for External Relations, while keeping the two functions separate. The HR would in this case be granted some additional powers, such as:
 - the right of proposal (alongside the right of proposal by the Presidency, Member States and the Commission)
 - participation in all meetings of the Commission regarding external action
 - adequate means to implement tasks.
2. to fully merge the functions of the HR into the Commission. In this way, the Union would be endowed with a single centre for policy preparation in the external relations' field, including CFSP. Policy initiation and implementation in the field of external relations would be in the hands of the Commission, which would also hold the EU external representation. The Community method would then be extended to CFSP, but the merger would not cover ESDP-related issues. This option is generally preferred by small Member States, which advocate a stronger role for the Commission and an extension of its competences.
3. creation of a "European External Representative" who would exercise the roles of both the HR for CFSP and the Commissioner for External Relations. He/she would be appointed by

the European Council, meeting at the level of Heads of State or Government, by qualified majority, with the approval of the President of the Commission and endorsement by the European Parliament. The “European External Representative” would be accountable to the Council for CFSP issues, but at the same time would sit in the Commission, preferably as Vice President. The “European External Representative” in the capacity of HR would have the formal, but not exclusive, right of initiative in the Council. When exercising this right in the CFSP field, the Commission should refrain from taking a similar initiative. The European External Representative’s initiatives in this field would not be subject to prior approval by the College of Commissioners. As for issues which falls under the Community competence, the “European External Representative”, in the capacity of Relex Commissioner, would put forward proposals to the College and participate in its decisions.

Finally, the EU External Representative would be responsible for the external representation of the EU instead of the current Troika.

Some members argued that the EU External Representative should be assisted by two deputies, one for CFSP issues and one for Community’s external actions.

4. creation of a “EU Minister for Foreign Affairs”, who would exercise the functions of both the HR and the Commissioner for External Relations, chair the External Action Council and be placed under the authority of the President of the European Council.

A strong case for the creation of a “EU Minister for Foreign Affairs” is made in the Franco-German contribution to the European Convention on the Institutional Architecture of Europe (15 February 2003). According to the Franco-German proposal, the “EU Minister for Foreign Affairs” would also have a right of initiative in CFSP matters. In this case, the external representation of the EU would be the competence of a permanent and elected President of the Council. The Joint Statement presented by Tony Blair of the UK and José María Aznar on 28 February 2003 also endorsed the creation of a EU Minister for Foreign Affairs.

2.1.4 Coherence

One of the sectors most affected by the lack of coherence is development co-operation policy. The absence of coherence is felt in relation to the development co-operation policies of the Member States, as well as to other EU external policies. For this reason the simplification of the administrative and legal instruments for managing EC/EU development programmes was suggested. Poverty eradication was proposed as the central aim of the EU’s development policy and the EC/EU programmes should be refocused to reflect these objectives. Consequently, the decisions concerning resource allocations need to reflect a long-term strategic approach based on objective criteria for the promotion of development. Following this logic of simplification, it was suggested that the European Development Fund (EDF) be integrated into the Community budget.

2.1.5 Decision-making procedures

The current unanimity voting system for CFSP issues constitutes a problem for an effective European foreign policy, which would result in more “CFSP inertia”. The situation is likely to worsen in an enlarged UE.

This is why some think the EU should resort increasingly to the qualified majority voting system in CFSP issues. In its communication on the new institutional structure of the EU presented to the Convention last December, the Commission called for the abolition of the unanimity voting system for CFSP. The request for QMV for CFSP issues, with the exclusion of military and defence issues, was also contained in the Franco-German contribution to the Convention. This document, however, specified that a Member State could claim national interests to oppose a decision, with the issue then being referred up to the European Council, which would vote by qualified majority.

The proposals of the Working Group on External Action were comparatively modest. The conclusions stated that what is required is “maximum use of existing provisions”. The conclusions also mentioned the importance of provisions allowing for some form of flexibility, such as constructive abstention and the possibility for closer co-operation among Member States. Finally, a proposal was put forward that a provision be inserted in the Treaty to make it possible for the European Council to agree by unanimity to extend the use of QMV in the CFSP field.

However, there was broad support in the WG VII for the proposal to extend use of QMV to all areas of commercial policy, including services and intellectual property.

2.1.6 European diplomatic service

The incoherence and ineffectiveness of European foreign policy are also caused by a lack of adequate organisational resources. In practice, the EU does not have an adequate structure to support and implement its policies. Within the Working Group on External Action, a consensus was reached on the creation of a joint diplomatic service, composed of DG Relex, Council Secretariat officials and staff seconded from Member States diplomatic services. The Commission delegations would be transformed into EU embassies. They would depend on the HR for CFSP-related issues, and on the Commissioner for External Relations for other aspects of EU external action. The creation of an EU diplomatic academy was also endorsed.

2.1.7 Financing CFSP

The modest results of the EU’s external actions also have to do with the scarcity of the means at the EU’s disposal. In particular, the budget devoted to CFSP is ridiculous. An increase in the CFSP budget and more budget flexibility have been proposed because it takes adequate funds to tackle

unexpected crises or new political priorities on the international scene. For example, a greater margin of unallocated expenditure (5-10%) would be required in main assistance programmes. It was also proposed that the HR should be granted a certain degree of autonomy in financing activities necessary for his tasks. Some members of WG VII suggested that he should be given autonomy over a specified, limited part of the CFSP budget.

2.1.8 European Parliament

The role of the European Parliament in CFSP is extremely limited and this raises the issue of the accountability of European foreign policy. The Working Group recommended that an annual debate on CFSP priorities be convened in the Parliament. It also requested that the HR appear more often before the European Parliament to inform it on developments in CFSP. Greater involvement of the European Parliament has also been called for in commercial policy.

2.2 Defence

The EU has been progressively shifting the focus from a supranational institution focused on economic co-operation to a supranational political identity. Thus, a military dimension is needed to protect the Union from external threats as well as to support its external action through conflict prevention, peace keeping, peace enforcing, etc.

Moreover, 11 September events have had a strong impact on the EU and have helped make governments aware of the need to co-operate in a deeper way against the proliferation of terrorism.

2.2.1 Solidarity clause

Within the European Convention, the report of the Working Group VIII on Defence (WG VIII) was presented on 16 December 2002 and discussed a few days later in the plenary session. WG VIII proposed the inclusion of a solidarity clause in the Treaty, which would call for the use of all EU instruments (military resources, police and judicial co-operation, civil protection, etc.) for the protection of its civilian population and democratic institutions in the case of a terrorist attack. This proposal gained consensus. On the other hand, the proposal to insert a solidarity clause for collective defence, endorsed by the Franco-German contribution to the Convention on defence, gained very little support.

2.2.2 Petersberg tasks

The latest changes in the international scenario and the terrorist threat require new kinds of responses. WG VIII thus recommended expanding the Petersberg tasks to include conflict prevention, joint disarmament operations, military advice and assistance, post-conflict stabilisation, and support for a third country's authorities, at their request, to combat terrorism.

2.2.3 Decision-making process

The voting system on defence and military issues is and will remain unanimity. For this reason it is highly important that some devices are elaborated to prevent reluctant Member States from blocking further co-operation in the field or even the launching of an operation in which they do not want to take part. The Working Group on defence, as well as the Franco-German contribution on defence, suggested creating enhanced co-operation among the States that would like to go further in defence co-operation. If a majority of Member States were in favour of launching an EU military operation, they are able to do so, even though some Members may abstain. Member States that decided to abstain would not take part in decisions on implementation, but would be free to join at a later stage. In this way, a sort of “Euro defence zone” would be created.

Another suggestion was that decisions should be taken by assent and not unanimity.

Finally, it was proposed that the HR should have the right of initiative in crisis management matters.

2.2.4 Capabilities

Defence issues essentially remain in the hands of national governments and they are not very willing to give up competencies in this field, which lies at the heart of sovereignty. In addition, the EU lacks adequate capabilities for a credible security and defence policy and the European defence market is fragmented.

Most of the members of the Working Group on Defence supported the establishment of a European Arms and Strategic Research Agency charged with ensuring that operational requirements be met by promoting a harmonised procurement policy among Member States and backing research into defence technologies. The Agency would also monitor the implementation of capabilities commitment.

The report of the Working Group on Defence identified some convergence criteria that should be used as parameters to gauge the Member States’ performance in improving their military capabilities. An example is military spending as a proportion of GDP. However, the problem lies with the quality, as well as with the quantity of military spending and capabilities.

2.2.5 Financing

The Seville Council (June 2002) decided that only a small fraction of EU military operations, that is the so-called “common cost”, is financed through the Community budget. Most of the costs, such as logistics and personnel, are normally financed by Member States participating in the operations.

On 25 March 2003, the Foreign Affairs Committee of the European Parliament approved the Morillon report on the New architecture for EU security and defence. It proposed that Article 28 TEU should be modified and that all costs of EU military operations should be financed through the Community budget.

3 Issues discussed at the seminar

The main themes discussed at the seminar were:

1. Which is the model of the EU foreign policy? Is it value or interests-driven?
2. What are the main institutional reforms that would improve CFSP's decision-making? QMV voting? Enhanced cooperation?
3. Is it better to abolish the rotation system and set up a permanent President of the European Council? Who will ensure the EU's external representation?
What will be the functions and lines of dependency of a EU Minister for Foreign Affairs? Will he dispose of a diplomatic structure for his action?
4. What could be done to improve coherence between the various fields of EU external actions, such as development policy, external impact of Justice and Home Affairs (JHA) etc.?
5. What can be done to improve EU defence? Is a procurement agency necessary? And what about convergence criteria? What will the future of EU-NATO relations be like?

3.1 The EU's performance in the international system

The discussion of the first session has highlighted the shortcomings of EU foreign policy and put forward some proposals for reform aimed at enhancing the EU's effectiveness as an international actor.

The Iraq crisis and the war that followed has shown once again that the EU needs to be united in order to be effective, otherwise it will be relegated to take stock of the US' foreign policy decisions.

The causes for a lack of a common European voice on the international scene are manifold and political will is one of the most important. However, it has been noted, "policy without institutions is possible only during revolutions", which is not case for today's Europe. Thus, institutional reforms are all the more necessary to address the shortcoming of EU foreign policy.

First of all, it was suggested that the EU defines long-term (annual or multi-annual) strategic guidelines which would guide its external policy action in all the fields: CFSP, trade, development assistance and external aspects of internal policies, such as Common Agriculture Policy (CAP) and JHA. The instruments currently being used, the common strategies have not fulfilled the expectations. They are both excessively general and reactive. For example, the common strategy on the Mediterranean refers to the EU action in the area after a peace agreement between Israel and Palestine is reached. So, what is the added value of a strategy that has to be implemented once the peace has already been achieved?

Before defining the Union's strategy towards a certain issue or area, values and interests have to be spelled out clearly. A division emerged over whether the EU's action on the international scene should be interest-driven or value-driven. On the one hand, a strong case was made for an EU, which bases its foreign policy on values. In that case, the EU would break with the traditional power politics that have been the most prominent feature of international relations throughout the centuries. Power politics is still the mark of US foreign policy, but the European public opinion, it was suggested, is strongly opposed to this attitude, and it showed during the massive demonstrations against the US intervention in Iraq. On the other hand, it has been noted that an EU external action focusing only on values would risk making the EU similar to the UN, keen on rhetoric statements but completely toothless. To avoid this risk, the EU should try to combine interests and values together.

Defining EU values and interests means also to clearly decide on the EU's position with regard to two fundamental issues: its relationship with the US and the kind of power it would like to become. Concerning the partnership with the US, various suggestions have been put forward. The main alternative was between an EU counterweight to the US and an EU complementary to the US in the international arena. In order for the EU to compete with the US on the world stage, much is required, both in terms of development of capabilities and political will. Thus, it has been noted that it would be better to be a strategic complementary partner to the US. While the US would base their strength on military power and determination to use it, the EU would have to rely upon its "civilian" tools, such as trade, aid, peacekeeping, monitoring and legitimacy. This view is also endorsed in an article by Andrew Moravcsik, published in the Financial Times on 3 April and devoted to the EU's external action. The choice concerning its relationship with the US is strictly linked to the type of power that the EU would like to be. If the EU decides to compete with the US, it will follow the pattern of a traditional power, thus implying that it will also have to be a military might. On the contrary, if the EU decides to be complementary to the US, it will then continue to be a civilian power. In that case, the EU would be neither a "Europe puissance" nor a large free market only.

Finally, regardless of what kind of actor on the international scene the EU decides to be, it is important that its principles are defined in a binding way. A binding "Charter of principles of EU foreign policy" has been proposed. This would also oblige the EU to claim respect for human rights and principles from other countries to which it has special relations, such as the EU Member States' former colonies.

3.2 CFSP's decision-making

Once agreed that the EU external action should be made more effective and that institutions are important in shaping policies, the debate focused on the institutional instruments and procedures in the field of CFSP. It has been often underlined that CFSP is not effective because of its intergovernmental nature and the therefore usual decision-making system being the unanimity vote. At the moment, qualified majority voting (QMV) in the CFSP field is used only for implementing common positions or joint actions on the basis of common strategies that have already been defined

by the European Council acting by consensus. Within the European Convention, WG VII on External Action did not go very far on this issue and limited its proposal to a “maximum use of existing provisions”. On the other hand, the Franco-German contribution to the Convention proposed that decisions in the field of CFSP be generally taken by using QMV.

However, various interventions have downgraded the importance of QMV in the CFSP field. First of all, at the moment no EU country is sure of being part to any qualified majority on any particular issue. While one year ago a split within the EU was to be found between big and small Member States, this does not hold true anymore. As the Iraq crisis has shown, and to a certain extent also the Convention has done, different camps are formed according to the issue. Secondly, it has to be considered that CFSP is a special domain, different from others. CFSP issues are not likely to be decided upon with usual parliamentary methods. A vote in the CFSP domain is in fact aimed at generating external actions. Finally, it is non recommendable to use QMV if the goal is to have a CFSP that wants to be credible. The fact that some countries have voted against an important CFSP decision will in fact to some extent undermine the unity and credibility of the EU at the international level.

It was also noted that decisions by consensus were necessary for issues of high politics, while other types of decision-making might be used for issues of low politics. However, the line dividing the issues of high politics and the issues of low politics is quite blurred. For example, is the EU’s current “Concordia” mission in Macedonia to be considered an issue of high or low politics?

In short, the conclusion was that the use of QMV should be the exception rather than the rule. The underlying rationale behind it is that no decision-making mechanism should generally be set up to force other countries. However, the Council Presidency, or a future “double-hatted” HR should call for QMV vote only in two situations:

- 1) when a decision is strongly needed, because the EU’s international credibility is at stake,
- 2) and when there is a very clear majority willing to make a decision on the one hand, and a small minority opposed to that decision on the other hand.

What should be done is to rule out the veto power by one country or at least make it only temporary.

According to one intervention, finally, the introduction of QMV in the CFSP field would not help the EU to speak with one voice in an Iraq-type crisis. If we imagine that the Iraq crisis had taken place within a 25-member Europe where the use of QMV was possible, what would have been the outcome? It seems evident that no clear majority was likely to be formed in that kind of situation. This is the reason why some advocate the introduction of binding principles for the EU external action into the EU Constitution. Only in that case it is considered possible that the use of QMV makes sense. The limits of a majority voting system when there is a rift inside an institution are not an EU feature only. An intervention noted that the UN Security Council acts by majority, which did not prevent it from being deeply divided inside and not capable of acting.

The debate then focused on other decision-making mechanisms that would help to make CFSP more effective. The most important instrument that was debated was enhanced cooperation. In fact, differently from QMV, enhanced cooperation has been considered as central to the reform of the CFSP institutional set-up and the extension of its use has been advocated.

Preliminarily, it has to be recalled that the current provisions for the use of enhanced cooperation decided by the Treaty of Nice require a minimum of eight country to start an enhanced cooperation. This number represents a majority in the current EU, but it will not represent it any longer in an enlarged Union. In addition, a country can always claim its national interest to prevent an enhanced cooperation from starting within the CFSP field, which is no longer the case within the first and the third pillar.

Within the CFSP field, the resort to enhanced cooperation is subject to further limitations. As well as meeting the general criteria set out in article 43 TEU, enhanced cooperation must be also in accordance with the so called “enabling clause” set out in article 27a. This clause stipulates that enhanced cooperation shall respect the general guidelines of CFSP, the powers of the European Community and the consistency between all the Union’s policies and its external activities.

Finally, enhanced cooperation in the CFSP field are limited to CFSP joint actions and common positions, thus excluding common strategies as well as “matters having defence or military implications”. It was argued that having enhanced cooperation for common positions was not very relevant. In addition, enhanced cooperation was not possible in the field where it would be most useful, that is ESDP. In this area, EU countries differ very much from each other with regard to capabilities and willingness to be engaged in an operation, which would make it logical to resort to enhanced cooperation. In the current situation, the use of enhanced cooperation in the implementation of common strategies would make sense if these have a specific geographic/country scope. For instance, common strategies could be decided by unanimity and then implemented by the Commission together with the “willing” countries. In this case, it was noted, enhanced cooperation would serve the goal assigned to them by the Treaty, that is being a new tool for policy implementation. Sometimes, however, enhanced cooperation is perceived in the political and academic debate as an institutional deterrent to induce a country to conform to a decision, or as a way of building “pioneers group”. An example of enhanced cooperation as an institutional sort of deterrent is the Belgian Presidency that forced Italy to accept the EU arrest warrant in December 2002.

3.3 The EU’s system of external representation

The issue of an EU system of external representation was considered central to the reform of EU foreign policy institutions. It seems that all participants agreed on the need to reform the rotating Presidency system in order to enhance the effectiveness and credibility of EU foreign policy. However, some predicted that the final outcome of the reform of the Council Presidency would be

rather the product of larger package deals among those favouring more integrationist or intergovernmental approaches.

Some interventions emphasised that ensuring a single external representation to the EU is a complex issue and that some aspects should be kept separate. For example it was suggested that while the rotating Presidency system be dismissed at the top level, it should be maintained at working group level in order to guarantee the representation of smaller states, which might feel excluded from a permanent Presidency, considered that the President would in that case be a leader or a former leader of a big EU country.

It was noted that the rotating system has shown considerable limits, especially when the Presidency was held by a small country which ended by being bypassed at international level. That was the case of the Belgian Presidency, who was basically ignored by the US administration after 11 September.

It emerged from the debate that a permanent President of the Council would make EU foreign policy more credible. However, some interventions warned against the risk of a return to intergovernmentalism: in their view, the President of the Council will represent EU Member States rather than the EU itself. This view was challenged by some others, who emphasised that the President of the Council would represent the European interest. He would in fact be a European institution, not the man of the Member States. A strong EU President would not alter the nature of the EU. He would only contribute to giving political impetus to the EU, which is already today the main role of the Council according to the Treaties.

Another issue on which everybody seems to agree was the creation of a EU Minister for Foreign Affairs, who would be double-hatted, meaning that he would take over the role of the HR for CFSP and that of the Commissioner for External Relations. However, it appeared that divisions existed concerning his relations with the other institutions, and above all with the President of the Council. It was noted that the debate on the up-grade of the post of the HR for the CFSP towards a European Foreign Minister was receiving much attention. He is supposed to act as the EU external representative at ministerial level (at the level of Heads of State and Government the function would remain with the President of the Council). He would be granted the right of initiative in CFSP matters and have a say over the CFSP budget. Furthermore, his staff would be increased. Even though the idea of having a EU Foreign Affairs Minister seems widely accepted, there are differences over some important details. First of all, it appears to be difficult for a single person to carry out the task of the EU external representation (even only at ministerial level). The burden might turn out to be excessively heavy, if we consider that in 2001 as many as 93 meetings at ministerial level were held with the third countries in the framework of the regular political dialogues, let alone the other commitments that a EU Foreign Affairs Minister should carry out. In addition, a possible rivalry might arise with regard to the EU external representation between the President of the Council – who would not limit himself to conducting the political dialogue at the level of heads of government – and the EU Foreign Affairs Minister. Moreover, it may be well that

the President of the Council would use the (reinforced) staff of the EU Minister for Foreign Affairs or create his own bureaucracy. An overlap of functions between the two institutions is not likely, given that the former would represent the EU at the top level and would try to achieve consensus, while the latter would be responsible for the daily management of CFSP and for its operative implementation.

What is more, a strengthening of the EU HR for CFSP could result in a downgrade of the Commission's role in CFSP. In the longer term, this could lead to a shift in the institutional triangle to the detriment of the Commission. In fact, a EU Foreign Minister might lead to the disappearance of the Commission from the Trojka. The right of initiative will be in the hands of the EU Foreign Affairs Minister. He will have a special status inside the Commission, perhaps he will also be the Vice President of the Commission, and be nominated by the Council acting by qualified majority, in consultation with the President of the Commission. In this way, the role of the Commission will be clearly diminished, because the EU Minister for Foreign Affairs will report to the President of the Council.

By contrast, the British-Spanish contribution to the Convention presented the 28th February 2003 provided for a separation of competences between the EU Foreign Affairs Minister and the Commission: while the former would take part in the CFSP-related meetings of the Commission as a kind of observer, the latter would keep its right of initiative and its participation in all CFSP related meetings.

Some contributions to the Convention, such as the German proposal to the Working Group VII on External Action suggested that the newly created EU Minister for Foreign Affairs shall appoint two deputies: one who would chair the COPS and in some cases the Council and the other representing him inside the Commission. They would be both confirmed by a Council majority vote and by the President of the Commission. Another role for the deputy Council chair would be to guarantee the EU's external representation at the level of senior officials (COPS). This would a very relevant function – it was noted – if one considers that regular political dialogue meetings at the level of senior officials counted for 66 meetings in 2001, let alone ad hoc consultations with third countries. On the one hand, some interventions emphasised also a possible rivalry between a permanent President of the Council and the President of the Commission. On the other one, it was suggested that if the position of the President of the Council was strengthened and made permanent s, the President of the Commission's position would also profit from this.

As for the administrative support to the EU Minister for Foreign Affairs, the creation of a sort of European Foreign Ministry/European Diplomatic Service was put forward. It would be set up through the integration of DG External Relations and the CFSP staff inside the Council, as well as national diplomats seconded from the Member States. This reinforced staff would also be in charge of conducting the political dialogue towards the outside at expert level, which in 2001 amounted to 140 meetings.

Commenting on the additional structure required for an effective external representation, some questioned its feasibility, considered that substantial resources were needed.

At the administrative level – some interventions pointed out – the principle of rotation could be preserved to some extent. Member States could still chair CFSP working groups (31 at the moment). Chairmen could for example follow the current rotation system or elect their presidents from their own groups for one or more years, as is already the case for the EU Military Committee. Another option that was put forward in the debate was having team presidencies for CFSP working groups, as it was suggested, among others, also by the British-Spanish contribution to the Convention.

Thus, it was envisaged that the reform of the EU external representation would provide for a strong permanent President of the Council on the one hand, and for the representation of every Member States at the working groups' level by keeping the rotation system on the other.

As a consequence of the creation of a double-hatted EU Minister for Foreign Affairs, CFSP external representation in third countries should be reorganised as well. For example, the current Commission delegations should be reinforced with personnel from the newly created European Diplomatic Service. They would both serve as EU spokesman towards the host country and chair the CFSP meetings of the EU Member States' diplomats at place.

In addition, since the staff of the Commission delegations is mainly specialised in economic issues, a European Diplomatic Academy could be created that would give them special training in CFSP and other issues.

Another important function for the EU Minister for Foreign Affairs would be to represent the EU at international organisations, such as OSCE and the United Nations. In particular, he could represent the EU's position in the annual UN General Assembly as well as in the OSCE ministerial meetings. On the other hand, the idea of having a single EU representation at the UN Security Council appears to be excessively ambitious at the moment and would for sure meet the opposition of the Member States holding a permanent seat at the UN Security Council.

3.4 Coherence of EU external action

The debate emphasised that the EU foreign policy had many components, and was not to be reduced to CFSP. Other dimensions of the EU foreign policy include commercial policy, humanitarian and technical assistance, conflict prevention and post-conflict reconstruction, as well as the external dimension of policies such as JHA.

Having many policies and instruments at its disposal for acting in the international context give the EU an added value. However, the multiplicity of policies and instruments results sometimes in a

lack of coherence between the different policies. The Convention emphasised the issue of coherence. In fact, it was mentioned in almost all of the documents submitted to the Convention.. And what is more important, the preliminary draft of the European Constitution devoted an entire chapter in part II entitled “External Action”. Grouping all legal instruments for EU external actions in a single chapter might be seen as a first step in the search for granting the EU external action more coherence.

One of the fields where incoherence has even been more evident is development policy. In order to ensure that the objectives of development policy are taken into account they should be included into the values and objectives of the EU, that are dealt with in articles 2 and 3 of the draft Constitution. Unfortunately, there is no explicit reference to development policies in these two articles. As some of the amendments suggest, and the Working Group on External Action recommends, it would be necessary to mention “the durable economic and social development of developing countries” and/or “the integration of all countries into the world economy”. Alternatively, a sentence like “to create an environment which is conducive to development and to the eradication of poverty” could be inserted.

WG VII also recommends to simplify the administrative and legal tools used for managing EU development programmes, and to enhance them. The main aim of the development policy is fighting against poverty. All development instruments should be organised in a strategic programme around this main objective.

Secondly, the European Development Fund, which is at the moment still funded by the Member States, should be integrated into the general EU budget.

Thirdly, it was called again for the creation of a EU Foreign Affairs Minister, who would contribute to making the EU external action more coherent. Likewise, the creation of a European External Action Service (or European Diplomatic Service) was envisaged.

It was also pointed out that not all the Working Group recommendations are constitutional, some of them being administrative, because coherence is a multi-level issue. Among the administrative measures, the most needed are an administrative reform of the Commission services and a better coordination of all actors (EU institutions and Member States).

Finally, it was suggested that the EU adopt a strategic programming on an annual or bi-annual basis that would constitute the framework of both Union and Member States actions. This document should include the definition of objectives and interests with regard to a specific region, country, situation or issue, the assessment of the impact of internal policies on development cooperation, and the evaluation of the application of the subsidiarity principle. The monitoring of the implementation of the strategic programming should be ensured by a specific mechanism and the open method of coordination should be introduced into the Union’s development policy.

It also emerged that the coherence issue does not only concern the relations between the various EU external policies, but also the relations between external policy and the external impacts of internal policy. One EU internal policy that has since a few years had a strong impact is JHA. The linkage between CFSP and JHA has become evident only after 11 September, when among the main measures taken by the EU to challenge international terrorism were JHA measures. However, the CFSP/JHA relation is much more than a mere matter of internal/external security policy coordination. Tensions between internal and external policies have emerged over various issues, such as border policies, migration conditionality, etc. due to different views on European security. On the one hand, within the JHA a view of European security based on the containment of external threats dominates. On the other, within CFSP and Relex a conception of European security based on dialogue, cooperation and eventually integration is dominant. Each policy has so far prevailed in its own field: for example, with regard to the EU external borders, the “Fortress Europe” has prevailed, while with regard to other issues, the CFSP-Relex logic has been dominant.

In order to help the EU to solve these problems, which limit its effectiveness and credibility as an international actor, some proposals have been put forward. First of all, as it was envisaged by Praesidium of the Convention on 14 March 2003 for the draft articles of the European Constitution on the Area of Freedom, Security and Justice (AFSJ), the third pillar should be abolished. The vote on issues belonging to today’s third pillar should be taken by co-decision and qualified majority. A communitarisation of the third pillar would not only make decision making in the area more effective, it would also contribute to the development of integrated approaches, combining JHA instruments with RELEX and other Community instruments.

The debate also took into account the EU’s role in conflict prevention and post-conflict reconstruction. They are strictly interrelated with crisis management. However, the European Convention appears to focus more on crisis management, while neglecting the dimensions of conflict prevention and post-conflict reconstruction. Article 3 of the Draft EU Constitution fails to mention them among the EU’s objectives.

Concerning the assets and the budget line that are needed for conflict prevention and post-conflict reconstruction, the proposal to integrate CFSP into the Community budget has been made at the Convention. However, this is only a minority view. Thus, at present short term prevention and urgent measures of reconstruction are based on a Rapid Reaction Mechanism, which could be increased and turned into an ad-hoc fund. As for long-term measures, the resources come from geographical programmes such as TACIS or EURO-Med.

Concerning the procedures, it was noted that conflict prevention and post-conflict reconstruction are normally part of CFSP. However, according to the Preliminary Draft Constitutional Treaty, CFSP becomes part of the “External Action” section, and “Defence” becomes a separate section, as though defence was meant to be only territorial defence. That might lead to a misunderstanding: is the civil component of military assets part of defence or not? That is why it would have been better

to combine the section on External Action and that on Defence in the Draft EU Constitution, thus ensuring a better coherence.

Since conflict prevention and post-conflict reconstruction involve the use of many different instruments, it was suggested that the newly created “double-hatted” EU Minister for Foreign Affairs would dispose of the right of initiative (in addition to others) and chair the External Relations Council. In this way, he would be able to combine together short and long-term measures, development policy and diplomatic activities, military and non-military means. This view was shared by most participants in the debate.

Finally, provisions concerning the engagement of other partners, both international and local, are deemed necessary, since prevention and reconstruction programmes require a multilateral approach.

The above-mentioned reforms are all the more necessary as the EU prepares to enlarge. Conflict prevention and post-conflict reconstruction are going to be used more often in a 25-member Union, where achieving the consensus on the launch of a military operation will be more and more difficult.

So, the EU disposes of many policies and instruments for its foreign policy, and what is important, according to some interventions, is that policies should not become hostages of institutions. This plethora of policies and procedures reflects a variety of goals, and it is therefore not always possible to have a coherent foreign policy. Some degree of incoherence is thus inevitable.

3.5 The EU military dimension

Security and Defence Policy is an issue of capital importance today at a time when the EU has on the one hand been so divided over the use of force against Iraq, and on the other is proceeding with its project for a European Rapid Reaction Force. The debate threw light on some issues and showed considerable differences between the participants over the future of European ambitions in this field.

It was noted that the last period was quite contradictory for ESDP, in particular concerning EU-NATO cooperation. The relation between the two institutions has achieved very important results, such as the “Berlin-Plus” accords (December 2002) that gave the EU “assured access” to NATO planning capabilities, and provided NATO support for EU-led operations where the Alliance as a whole was not engaged militarily. As a result, it was possible for the EU to take over from NATO the “Concordia” mission in Macedonia as of 1 April 2003. Nevertheless, the Iraq crisis and the war have emphasised the EU divisions over transatlantic relations, the use of force and European defence.

Some interventions in the debate focused on the need to upgrade EU military capabilities. To do that, more investments are needed, but it seems that EU countries are not willing to spend more on defence.

One of the suggestions for the EU countries to enhance their capabilities is to pool some force elements. Pooling would give a chance to reduce overhead costs, to make the new enabling capabilities more affordable on a shared basis and ensure greater interoperability, as well as common doctrine and equipment. Furthermore, it was suggested that much of the equipment that could be pooled is not to be created, it already exists and is American, such as C130s. That is not a question of preferring American to European weaponry, the point is to get more value for money. That is why the EU should open the defence sector to competition without promoting a preferred European defence industrial base. An EU procurement would be aimed more at keeping jobs than at seeking greater cost-efficiency for defence. This view was challenged by a number of participants, who made the case for a European independent military structure and weaponry. According to them, the EU should aim to develop its own weaponry and an EU arms procurement agency should be created. That would contribute to bridging the gap in military capabilities between the EU and the US. As the EU and the US are increasingly diverging in their foreign policy, what would be the need for Europe to use American weapons and perpetuate its dependency on the US? It was also suggested that the EU shall watch out for US dumping in the defence sector.

Some agreement was found on the need for the establishment of a European Defence Budget. In order to ensure that each Member States fulfils its obligations, a peer pressure mechanism could be set up, which could for instance bind EU countries to a certain level of expenditure on defence. A full audit system would then value and assess Member States' contributions. As for the proposal for the set-up of defence convergence criteria, as suggested by the Working Group on Defence, the opinion was held that it is not yet the right timing. It should be postponed to a time when there will be more agreement on CFSP. It was also suggested that convergence criteria were not very useful, insofar as they were quantitative rather than qualitative.

Other interventions emphasised issues that had been neglected by the proposals coming from the Convention: for example, a reference to the need of defence to protect EU citizens should be made.

The discussion on the reform and future of ESDP inevitably touched upon the currently strained Franco-British relations. France and Germany were the two countries that gave the first impetus to ESDP. Without their agreement we would not even be talking about these issues at the present moment. The absolute need for having the UK as central to European defence, given its special relationship with the US, was, however, questioned..