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Speech Notes

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**NZ and the EU, 12 months after enlargement
Annual Europa Lecture
National Centre for Research on Europe
Old Provincial Chamber, Christchurch
5.30pm, May 9**

Just over 12 months ago, the European Union welcomed ten new members. For eight of those countries, this event had a particular resonance, representing their reunion with the Western democracies after 50 years of Communist oppression.

Today, as we mark the 60th Anniversary of 'Victory in Europe' in the Second World War, and recall New Zealand's involvement in the conflicts that wracked Europe in the last century, we need to recognise the historical significance of EU enlargement.

Enlargement has had important consequences for New Zealand's interests in Europe, and our relations both with European countries and the European Union.

These have been reflected in the Prime Minister opening New Zealand's Embassy in Warsaw just over two weeks ago. The Embassy will have responsibility not just for our relations with Poland, but also with the three Baltic nations of Estonia, Latvia and Lithuania, which I visited in September last year. Poland was chosen for its size and relative weight. It is the largest of the new member states and the sixth largest overall.

The Governor-General's visits to Prague and Budapest last year, and her current visit to Moscow; the Prime Minister's recent visit to Warsaw and Berlin; my own regular visits to European capitals, and visits by other ministers have been part of the government's strategy to ensure that we engage regularly with key European partners, including the EU's newest members, across the broad range of New Zealand interests.

Our task has been made easier by the flow of high-level visitors in the other direction; since the beginning of this year alone, we have seen the Norwegian and Swedish Prime Ministers, and the German Foreign Minister in Wellington.

This evening I would like to focus particularly on one aspect of developments since enlargement: progress towards a common foreign policy for the European Union, and what I think are the implications for New Zealand.

Twelve months ago, there was a fair degree of uncertainty about what would follow enlargement. There was a risk that the EU would be heavily preoccupied with internal concerns, and that it would be harder to make New Zealand's voice heard.

As Foreign Minister I have made a point of visiting most of the accession states over the last few years, and have made regular visits to Brussels, as part of the effort to mitigate that risk.

Enlargement has made the European Union more diverse, bringing in countries with different historical perspectives, and different external linkages. Eight of the ten accession states are former Communist countries; the two others, Malta and Cyprus, are members of the Commonwealth.

Of the eight, Hungary and Poland, and to an extent Lithuania, see themselves as heirs – or more properly part heirs – of the legacy of past European empires. Others, such as the Czech Republic, view themselves as having been oppressed by the same empires. By EU measures, Poland is a large member state. The nine other accession states are small. Some, like Estonia, Cyprus and Malta, are very small.

A factor common to many of the new members, however, is a realism about the nature of the EU, and their reasons for joining. While popular support for membership remains strong, few leaders in the new member states will be heard extolling the virtues of ever-closer union. In part this may be a matter of these countries, having recently escaped from the Soviet yoke, being reluctant to subject themselves to an excessive amount of control from Brussels. These countries do not want to see EU membership resulting in too much weakening of their independence.

Enlargement has changed the older members of the EU as well. There are many in these member states who see a risk that they will end up paying for development in the new member states, and are unwilling to do so. This is part of the reason why there is resistance in some member states towards the admission of Turkey and the Ukraine into the EU.

Perhaps the central upshot of these changes to the EU, however, is that it is now too big, and too diverse, to be driven in large measure by France and

Germany. They, and the member states whose approaches are most closely aligned with those of France and Germany, are no longer able to command a clear majority.

Many of the new member states identify with the more liberal economic approaches preferred by the United Kingdom, and also with its reluctance to cede too much sovereignty to Brussels.

These are, however, generalisations. A basic rule New Zealand applies in dealing with the EU is that the key participants on any particular issue, and the alliances likely to be struck, will often change from issue to issue. We now have in the EU a more complex dynamic, and greater fluidity with respect to such alliances.

Progress with the European Constitutional Treaty has been affected by this more complex dynamic. The Treaty is in part a response to enlargement, and to some extent it has fallen victim to the tensions caused by enlargement.

The Treaty, of course, is subject to national ratification. In some countries this will take the form of a referendum, and it is far from certain, including in France and Britain, that there will be majority electoral support.

The failure to ratify the Constitution, if that happens, might be seen as of limited importance to New Zealand. It would not affect our key economic relationship with the EU, and our political relationship would continue as before. The failure of the Constitution would be unlikely to lead to the dissolution of the Union, or the withdrawal of the UK in the event of a British "no".

One area that would be affected, however, is the EU's foreign policy. From a New Zealand perspective it might appear that the Common Agricultural Policy (CAP) is a more relevant prism through which to view our relations with the EU, particularly given the role of the new member states' under-developed agricultural sectors, and the potential costs for the CAP of subsidising Poland's many small scale farmers.

However, in a number of ways the CAP issue is less immediate. Many of the parameters of the CAP have now been set until 2013. Commissioner Fischler's 2003 reform package charted a clear direction for the CAP. The Franco-German agreement on CAP funding over the 2007-2013 period is also a major factor.

It is possible that further changes will arise from negotiations in the WTO Doha Round. In any event it will be some time before the EU is again faced with significant decisions on the shape of the CAP, and at this point it is too soon to say much about the choices likely to confront member states.

But what happens with the EU's common foreign policy over the next few years will be of far-reaching significance.

One of the main reasons the Treaty of Westphalia is identified as marking the birth of the nation-state is because it gave the small German states the right to determine their own foreign policy. Ever since, control of foreign policy has been a key marker of national sovereignty.

However, European integration has been pushed along by the realisation that if Europe is to expand its strength and influence in the world, it has to act collectively. The idealistic aims of ever-closer Union may be losing some traction in the wider EU, but that coincides with recognition of the pragmatic need of EU member states to have their voice heard on the global stage.

This helps to sustain forward momentum on realising the ideal of a truly common foreign policy.

With its liberal democratic and human rights values, the ability of Europe to be a force in the world is a positive factor for New Zealand. We have a stake in the EU's foreign policy working effectively.

That said, the view that the common foreign policy as yet an ideal that lacks real substance is not without some basis. It tends to be less than the sum of its parts. The primary constraint on the current system is the requirement for detailed decisions to be made by consensus in a formal setting, usually the General Affairs and External Relations Council.

The EU's consensus decision-making procedures are intended to ensure that any decision of the Council will actually be implemented by member states. This is crucial, as it is the member states that have the means at their disposal to implement the policy – the seats at the UN; the diplomatic missions in third countries; the armed forces.

However there are two flaws. First, consensus tends to fudge disagreements and so to produce lowest-common-denominator texts. These texts tend to have insufficient substance to make clear to third parties what implementation means in practice, and what it is that EU member states have in fact committed to.

Secondly, there is no binding obligation on member states individually to follow up texts with action at the member state level – so for example a Council decision might decide that military action was required, but that would not commit individual member states to provide adequate forces.

A further problem is that while common positions are supposed to compel the loyalty of member states, often they will choose the interpretation that they consider best serves their ends. When a common position has deliberately

been created with the flexibility to accommodate various positions, it is quite a simple matter for divergent interpretations to be expressed.

This flexibility has been exploited by third countries on a number of occasions. For instance, EU pressure on Russia over Chechnya has been hampered by a willingness by some of the larger member states to de-emphasise the EU position on Chechnya in their bilateral dealings. This has undermined the EU position by suggesting that the EU as a whole is not as committed to the observance of human rights standards in the Chechnya conflict as its statements would suggest, and that EU concern will not in fact have negative consequences for Russia down the track.

However, it is not solely the need for consensus that is the problem here. EU negotiating positions in the WTO are also based on consensus decision-making. Yet the EU is an effective negotiator in that forum, and wields a greater influence than would EU member states acting alone. But in this context the EU Trade Commissioner is provided with a mandate that provides negotiating flexibility, which he alone interprets.

New Zealand now runs up against the shortcomings of the common foreign policy on a regular basis. On some of the big issues – Iraq is probably the most well known example – the EU has appeared divided and the common foreign policy seems to exist in name only. But in the day-to-day work of New Zealand's diplomats, and in multilateral forums in particular, it is a reality, and a reality that is difficult for New Zealand to influence.

One reason for this is the lack of a single point of contact to engage. Kissinger's question, "who do I call when I want to call Europe?", certainly applies to New Zealand. I might pick up the phone and call Javier Solana. But even if I convince him, I haven't necessarily convinced the EU. Rather, his voice is one among many, and his is not necessarily the final decision.

In effect, calling the EU means calling all the EU member states, and Solana and his European Commission counterpart Benita Ferrero-Waldner. On most issues this is pretty challenging for New Zealand – we don't have, and couldn't have, established dialogues with all EU members on every possible issue. Even if we did, we wouldn't necessarily have the influence to carry the day.

For the US, on the other hand, who the Secretary of State calls is more a problem of efficiency than effectiveness. The US does have the resources to carry on dialogues with all member states if it wishes. What's more, it has sufficient influence in all the member states to make the Secretary of State's phone call count. This has been evident on the issue of the EU's embargo on arms sales to China. The US has been successful in slowing progress towards lifting the embargo, because all EU members recognise the importance of their relationship with the US.

A further difficulty for New Zealand is the manner in which the EU agrees common negotiating positions in multilateral meetings. Often these positions are the result of hard-fought internal negotiation within the EU. To show flexibility in response to a third country's particular concerns could upset the delicate political balance of those internal negotiations. This will always be difficult to justify when that third country is as small as New Zealand, even if our arguments are well founded.

Enlargement is already having an effect on the common foreign policy by greatly increasing the range and diversity of interests engaged in its management. This has been most apparent in the EU's relations with Russia, where the Baltic states in particular have pushed hard for a tougher tone. Poland too, has been active.

This has created a more complex negotiating environment in which it is harder to work out which member states can and will tip the balance in our favour. The increase in demand on our resources is not simply a linear one.

Enlargement has also brought a number of new member states onto the Council Working Group responsible for Asia and Oceania, known in EU parlance as "COASI". Most of these member states have little or no knowledge of the history or particularities of our region, and as a result cannot be expected to have an innate understanding of or sympathy for New Zealand's perspective on what needs to be done.

This subcommittee has already demonstrated its relevance to our interests. During the deployment of the Regional Assistance Mission in Solomon Islands, we were trying to convince the EU to support the mission with Commission funds. This meant ensuring that COASI as a whole was comfortable with the aims and nature of the mission. This is a pattern that is likely to be repeated in future.

If ratified, the European Constitution would result in potentially significant changes to EU foreign policy. These changes could help to alleviate some of the problems created by enlargement. Specifically the Constitution would create the position of a European Foreign Minister, and a 'European External Action Service' – if you like a European Foreign Ministry.

The External Action Service is intended to draw together the Commission's external relations team and the Secretariat to the European Council. This would parallel changes to the role of the Foreign Minister, who would take over the roles of the Commissioner for External Relations, currently Benita Ferrero-Waldner, and the Council High Representative, Javier Solana. The EU Foreign Minister would also replace the rotating EU Presidency as chair of the External

Relations Council. Solana has already been picked as the new Foreign Minister, should the Constitution be ratified.

The goal of the change would be to create a single point of contact for EU foreign policy. This should greatly assist coordination between foreign policy actions mandated by the Council with the means that are at the disposal of the Commission and member states.

The Foreign Minister's chairing of the External Relations Council would also give the position some additional influence. But ultimately an effective EU foreign policy will rely on the Foreign Minister and the External Action Service being mandated to negotiate on behalf of the EU, in a manner binding on member states.

This is not as unlikely as it may appear: already the EU mandates the Commission to negotiate treaties on its behalf. As I noted earlier, this has been particularly successful for the EU in the trade policy context. And this would entail limited loss of sovereignty – mandates would still have to be agreed by consensus. Furthermore the Constitution would also provide for a unified legal personality for the EU, which would allow the EU to sign and ratify treaties as a single entity.

Despite the risk that the Constitution will not be ratified, the European Foreign Minister proposal has not generally been a target of 'no' campaigns in member states. Furthermore, many commentators have suggested that if the Constitution fails, the European External Action Service and the EU Foreign Minister are two innovations that are likely to be resurrected at a new Intergovernmental Conference.

So far I have described a number of challenges for New Zealand arising from the evolution of the EU's foreign policy.

In responding to these challenges we are fortunate that we have well-established dialogues with the EU in the format it calls the troika; namely the Council Presidency, the Council Secretariat, and the Commission. Each six months I meet with the troika, and have the opportunity to exchange views on the full range of international issues. In February I visited Luxembourg, where talks were led on the EU side by Luxembourg Foreign Minister Jean Asselborn.

This regular dialogue has to be backed up by ongoing contact with the relevant EU institutions. Contact with Commissioner Ferrero-Waldner and Council High Representative Solana is important. I made a point of travelling to Brussels from Luxembourg earlier this year to meet with both of them individually. Ministerial-level interaction is supported by the work of our post in Brussels.

Contact with the European Commission has been our Brussels Ambassador's core role for many years. The Commission has long been the key actor in respect of our trade access to the EU.

Last year I took this a step further, by agreeing with Commissioner Patten on a set of priorities for cooperation between New Zealand and the European Union.

This document covers the relationship with the European Union as a whole, and indicates how we plan to work together in key areas such as development cooperation, environment, fisheries, transport, education and science and technology. In effect it is a three-year rolling programme, and one to which we attach considerable importance, as evidenced by the government's decisions to add first a science counsellor, and now an education counsellor, to the staff of the Brussels mission.

In recent years the mission's contact with the Council Secretariat has also increased. It is also playing close attention to the development of the External Action Service. If that is set up, it will be a key partner for our team in Brussels.

We have also sought expert dialogues with the EU on specific areas. Probably the best example of this is the consultations we have with the EU on human rights. These too are held in "troika" format, with officials from the Presidency, the Council Secretariat, and the Commission. These have been particularly successful in preparing for meetings of the Commission on Human Rights and the UN Third Committee, where the EU is always a key player, and our positions are often close.

There may be a case for further dialogues of this nature in future. As part of the human rights dialogue we have consistently lobbied the EU to be more open to the views of like-minded third countries in its approach to the Commission and the Third Committee. Signs from last year's Third Committee, and this year's Commission on Human Rights, suggest that the message is getting through. Ultimately we would hope that this positive experience might create a successful negotiating model that the EU can apply to other forums as well.

The EU member states will continue to play a key role in the development of the common foreign policy, and therefore links with all the EU's members are important. That is why we have expanded our contact with the Central and Eastern European countries, in particular through opening the post in Warsaw.

Our links with the older member states, particularly the United Kingdom, will also remain important. We regularly canvas the views of member states on key international issues. There is no substitute for contact at the political level, which means that high-level interaction with all the member states will remain a priority.

There is also no substitute for well-developed people-to-people contacts, to underpin political relationships, which is why the government has negotiated Working Holiday Schemes with 13 European countries, and is looking to reach agreement with a further five (Hungary, Poland, Greece, Slovenia and Spain).

At the same time, we are looking to build up academic links. In this connection citizens of the EU will be eligible from next year to apply for New Zealand International Doctoral Research Scholarships, the new postgraduate scholarship programme that got underway this year.

I began by observing that the enlargement of the EU has been an event of major historical significance. Not without reason. Since the end of the Cold War, Europe has undergone fundamental changes. Since the Treaty of Maastricht in particular, the EU has moved further along the path towards pooling sovereignty to advance common interests. That process continues, despite the challenges of enlargement, and despite disagreement at times over how far, and how fast, EU integration should go.

For New Zealand, the continual change in the EU over the last 15 years has provided constant challenges. The Union is a new and unique entity – neither a nation-state nor a regional organisation. And it keeps evolving. This will continue to provide challenges for New Zealand foreign policy, as well as opportunities, in the years ahead.

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