

**What's Wrong with the CFSP?
The Politics of Institutional Reform**

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ABSTRACT

Inaugurated with much fanfare in November 1993, the European Union's Common Foreign and Security Policy (CFSP) has not lived up to most expectations. Although many point to a lack of political will and a preoccupation with other problems as reasons for the CFSP's lackluster performance, there is a high degree of consensus that institutional mechanisms might play a role here. This paper focuses on these institutional problems. The first section stresses the fear of member states that they could be locked into future courses of action based on today's decisions. The greater binding nature of CFSP actions (as compared to its predecessor, European Political Cooperation), the clearer specification of CFSP obligations, the more legitimate involvement of EC actors in the CFSP, and the inclusion of controversial areas in the CFSP (chiefly security and defense policy) contribute to this fear, which leads to tense ideological arguments between and within EC actors about the proper functioning of the CFSP. The second section focuses on bureaucratic politics within EC institutions involved in the CFSP, chiefly the Commission and COREPER. The final section of the paper addresses the question of institutional reform for the CFSP, a major priority of the current Intergovernmental Conference of the European Union. It assesses proposals toward this end now circulating in the EU, and the likely outcome given the negotiating positions of the major actors (states and EC actors) involved.

In November 1993, after a difficult ratification process, the Maastricht Treaty on European Union (TEU) finally entered into force. Among its most notable innovations was the replacement of European Political Cooperation (EPC) with a Common Foreign Security Policy (CFSP). This new mechanism was heralded as an improvement over EPC, which for years was little more than a secretive “gentlemen’s club” in the view of those who took part in it. The CFSP was made part of the European Union’s (EU) single institutional framework, its administrative structure in Brussels was strengthened and linked to that of the European Community (EC), and its decisionmaking procedures permitted qualified majority voting under certain conditions. EC-level actors such as the Commission and the European Parliament saw their roles in the CFSP formalized and legitimized, while defense matters were finally included in the CFSP after years as a taboo subject under EPC.

Yet the CFSP has been a serious disappointment, if not a dismal failure, in the view of its practitioners,¹ informed observers,² and even EU citizens.³ CFSP actions have been more modest than anticipated,⁴ and many of these had to be haphazardly improvised as most of the details on the CFSP were ambiguous or unspecified by the TEU. Majority voting for the CFSP has not been successfully attempted, and delays have plagued the implementation or funding of joint actions. The Commission has been attacked by some when it exercises its right of initiative in the CFSP, and criticized by others for not asserting itself more. States seem to decide at whim the extent to which the European Parliament (EP) should be involved in the CFSP, and they have paralyzed the system in some cases (Greece over Macedonia and Turkey) or circumvented it in others (France in Rwanda and the Middle East). In the former Yugoslavia, the supreme test of the new CFSP according to some critics, the EU toiled for years only to see the fruits of its groundwork harvested by the United States with the Dayton accords. Similarly, in the Middle East, the U.S. and Norway claimed credit for peacemaking in the region despite two decades of patient work by the EC under the Euro-Arab Dialogue.

Why has the transition from EPC to the CFSP been so difficult? A number of reasons for

the CFSP's difficulties could be mentioned: a severe shortage of political will, a more complex post-Cold War international environment, the fact that expectations for the CFSP (and for the TEU as well) were raised too high by officials eager to ratify Maastricht, the normal "breaking-in" period required of new procedures, and a preoccupation with other internal and external issues.⁵ These problems are complicated by the different cultures, histories, and foreign policy traditions of 15 member states. However, there is an astonishingly high degree of consensus among EU elites that much of the problem is due to the institutional design of the system itself. Indeed, compared to another TEU goal, Economic and Monetary Union (EMU), the CFSP can hardly be considered a robust mechanism: it lacks a clearly-defined objective, measurement criteria to achieve it, a timetable for institutional change, sanctions for defectors, and a central bureaucracy with a firm mandate for its operations.

Thus, this chapter shows the extent to which institutional characteristics weaken the CFSP as a mechanism for making the EU a more potent global actor, and it examines the potential for institutional reform at the 1996-97 Intergovernmental Conference (IGC) of the EU. Rather than focus on a particular policy outcome, I analyze the CFSP as a policy process involving procedures developed under EPC and, increasingly, EC actors. In general, the Title V provisions on the CFSP emulated the EPC tradition: incremental change based on habits and informal norms. However, the TEU effectively rekindled the decades-old debate between intergovernmental and supranational visions of political cooperation. This controversy is a result of the new potential for more involvement of EC actors in the CFSP, the greater binding nature of the CFSP as compared to EPC, and the deliberate inclusion of difficult issues (namely security and defense) in the CFSP.⁶

More specifically, the Commission and the EP cannot be kept at arm's length as they were under EPC, while the stature of the Committee of Permanent Representatives (COREPER) was also raised after the TEU was ratified. However, the Treaty did not specify in great detail what roles these institutions should play in the CFSP because such cooperation was still a difficult

subject for several member states. Hence the division of labor between and within EC institutions became highly contentious issues after the CFSP was implemented. Since the wording of Title V was imprecise on a number of issues, states increasingly feared that any new procedures would set precedents for the CFSP which could limit their options later, or would empower EC actors to a greater degree than they desired. The result has been much confusion when actors attempt to utilize the CFSP system, whose decisionmaking rules still set it apart from the EC's supranational procedures that have developed over several decades. Moreover, with its weak or unspecified CFSP provisions, the TEU inadvertently encouraged EC actors to change their administrative structures and working habits in ways which now complicate the EU's external political relations.

Since the CFSP is based upon a dual structure - that of EPC and the EC's own institutions - the analysis here requires a sensitivity to both intergovernmental and supranational-institutional theoretical perspectives. Like EPC before it, the CFSP clearly is far from supranational due to the limited involvement of the Commission and the EP, the formal exclusion of the European Court of Justice (ECJ), and the ability of member states to block qualified majority voting in Council (Art. J.3[2]). Governments still dominate the process of setting broad guidelines for the CFSP (and the EU) at the European Council level. But neither is the CFSP as intergovernmental as its EPC legacy might lead one to believe: EC actors do play important roles in the policy process, governments alone do not control all options, and a more complex and binding set of norms than those outlined in the TEU affects state behavior under the CFSP. Particularly where CFSP joint actions involve EC competencies (such as the imposition of economic sanctions), governments must exhibit a respect for EC actors and procedures. Also, the innovative transgovernmental network developed earlier under EPC, which links foreign ministries and the Commission, is still in place and this permits the involvement of foreign policy bureaucrats in national capitals and in Brussels, sometimes to the irritation of governments.⁷

While it would be naive to argue that a mere change in rules could have enabled the EU to

easily resolve situations as complex as Bosnia, it is also true that decisionmaking mechanisms can improve or discourage the prospects for common action. They have a conditioning effect on policy outcomes and state interests, even when they are as loosely articulated as in the CFSP system. Here institutional structures are important for fielding proposals, choosing options, supplying resources for the CFSP (particularly those of the EC), and implementing CFSP actions or representing the CFSP abroad. Further, CFSP insiders consistently stress the value of habitual processes of socialization, trust-building, and the adoption of pragmatic working habits in a decentralized system with no real compliance mechanisms. Indeed, they now complain that the informal “club-like” EPC atmosphere has been changed in two ways. First, several developments brought a number of new officials into the CFSP who are still being socialized to the system: the 1995 enlargement, the confused mergers of EC and EPC working groups, and the increased involvement of (and changes within) COREPER and the Commission with regards to the CFSP. Second, and perhaps more importantly, the CFSP policy process is far more formal, legal, and bureaucratized than EPC ever was, and officials fear being locked into rigid rule systems.⁸

As I discuss in this chapter, the change of policymaking style from EPC to the CFSP, the CFSP’s weak institutional structure (compared to other EC policy areas), and the heightened sensitivity of states to legal precedents make CFSP decisionmaking a far more demanding and combative process than that of EPC. With these difficulties, the 1996-97 IGC reform debate is dominated by a perception that the EU’s external relations (if not the TEU itself) as presently designed cannot work as desired - with enhanced coherence, effectiveness, and visibility⁹ - in an EU of twenty or more states. Recent failures and the prospect of enlargement have lent a sense of urgency to the old question of CFSP institutional reforms, but it seems the most ambitious changes - effective compliance mechanisms, involvement of the ECJ, and true majoritarian decisionmaking procedures - are unlikely at present. Thus the CFSP, like other controversial EU policy areas, will most likely proceed under the banner of “flexibility” so that a continually shifting

group of member states (but not a permanent “hard core”) can proceed with joint actions if and when they desire.

The Modesty of Maastricht: Inter-institutional Dilemmas and the Fear of Precedent

It is not necessary to rehearse all the CFSP’s provisions here; most observers agree there are only four notable differences between it and EPC. First, the CFSP represents a stronger commitment to common policies. Article J.2 requires member states to “ensure that their national positions conform to the common positions of the CFSP.” Second, decisionmaking rules permit CFSP joint actions to be initiated and/or implemented by qualified majority voting (QMV) in Council (Art. J.3). Third, security issues are fully included in the CFSP, including the “framing” of a common defense policy, “which might in time lead to a common defense.” The Western European Union (WEU) is directed to “elaborate and implement” any decisions which have defense implications (Art. J.4). Fourth, the CFSP is part of the single institutional structure of the EU; the Council of Ministers and the Commission must ensure “consistency” between the EC and the CFSP (Articles C and J.8). Hence, the TEU replaces the “High Contracting Parties” language of EPC with terminology that conforms to existing EC usage. Although EC and CFSP procedures still vary, there is no more practical distinction between EC policy and the CFSP (the Single European Act, of course, had maintained such a distinction); the General Affairs Council of EU foreign ministers deals with all issues regardless of the pillar from which they originate.¹⁰

As noted, most of these provisions were codifications of existing practices. There had been no practical distinction between the EC and EPC for years in the view of most officials involved with EPC; Maastricht finally recognized this. The “new” instruments of common positions and joint actions were generally based on tools under the EPC regime; the TEU essentially created a new and far more complicated procedure - with multiple veto points - for taking joint actions. This involves broad guidelines from the European Council, unanimous

decisions by the Council of Ministers on both *specific actions* and the *definition of later decisions* (implementation, timing, funding, etc.) which can be taken by QMV, and final QMV decisions (if any) to complete the joint action. Actions with defense implications are, of course, excluded from this procedure. The change to QMV seems innovative, but again, EPC admonished states not to impede the formation of a consensus.¹¹ Similarly, the use of EC sanctions as a CFSP action now specifically requires a unanimous decision in Council before the EC can act according to its usual procedures (QMV). This already was typical practice (though the decision was taken in EPC, not in Council), but had not been stated so clearly in treaty form. Now it should no longer be necessary, as it often was under EPC, to invoke, say, Article 113 (the common commercial policy) to provide superficial legal justification for the use of EC instruments for political ends.¹²

Other CFSP provisions regarding Commission and EP involvement also reflected EPC traditions. Although the Commission now has a formal “right of initiative” (shared with member states), it had quietly suggested policies under EPC. Significantly, Article J.5 says the CFSP is still directed by the Council Presidency; the Presidency state (or the “Troika” of the Presidency state and the previous and next states to hold the Presidency), not the Commission, also represents the CFSP abroad. Equally, the EP gained no significant powers; it must be “consulted” on CFSP decisions, but the Council largely determines the extent to which the EP can be involved on a practical basis. The EP can also make recommendations, ask questions, and hold an annual debate on the performance of the CFSP - weak powers it already enjoyed under EPC. Finally, and perhaps most significantly, the ECJ is specifically excluded from the CFSP (and Justice and Home Affairs).¹³ In both the second and third pillars, then, states made sure European Court decisions would be unlikely to make political cooperation a supranational or Community affair.

However, when the EU attempted to implement these “innovations,” controversies quickly arose over the division of labor in the CFSP process. Officials soon realized the difficulty of merging two distinct political and legal cultures: the EC and EPC/CFSP. The first task was to set

the agenda for potential CFSP actions. Since the TEU negotiations could not produce agreement on “essential European interests” to be served by the CFSP,¹⁴ a general clause was preferred which allowed the European Council to define the scope of the CFSP as needed (Articles D, J.3, and J.8). In a decision taken soon after Maastricht, the Lisbon European Council (26-27 June 1992) defined a number of specific geographical and functional areas open to joint action in the CFSP.¹⁵ When the CFSP entered into effect in November 1993, these areas became the object of the first CFSP joint actions.¹⁶ Yet as critics and CFSP officials have argued,¹⁷ these broad guidelines, set down only a few times a year at most, provide little substance for policy. Also, the European Council is usually concerned with EC, not CFSP, issues, and its attention does not often focus on the implementation or quality of CFSP actions. Instead, as under EPC, policy details and follow-up are largely left to foreign ministers and the CFSP transgovernmental network involving foreign ministry officials, COREPER, and the Commission. These actors clearly dominate “normal” policymaking in the CFSP; European Council instructions would disappear without their input.

Hence, the Commission and the Council of Ministers, not the European Council, ensure the consistency of the EU’s external relations in terms of economic, development, and security policies under Articles C and J.8[3].¹⁸ Although consistency in foreign affairs has improved compared to EPC, there has hardly been a coherent strategy. As under EPC, a haphazard mix of instruments has been applied: some are regulatory in nature (such as control of dual-use goods, the de-mining initiatives, action against blinding laser weapons), while others involve diplomatic conferences (such as the Stability Pact or the Non-Proliferation Treaty renewal conference), minor temporary operations (monitoring elections, supporting peace plans), or substantial commitments of EC resources (aid to Africa, Bosnia, and Palestine; administering Mostar).

EC actors have not taken the mandate for consistency lightly, however; a striking development is that Council and Commission officials have been paying far greater attention to

the legality of CFSP actions, particularly those which involve EC resources or competencies (such as dealing with international organizations). Officials are drafting CFSP texts with the understanding that legal precedents are being set, even if EC treaty articles are not invoked. This is a significant change from EPC which makes the CFSP a far more bureaucratic, and thus contentious, process, since it can affect future choices. The first “dualist” EC/CFSP legal act, a decision to control the EU’s exports of dual-use goods, required much debate among officials,¹⁹ but this encouraged the establishment of “model common positions” to avoid repetitive legal arguments in the CFSP.²⁰

Since Maastricht, then, EU states have become very sensitive to the implications of this change in political cooperation and ideological debates continually erupt over the wording of texts, which are viewed as more legally binding than those produced under EPC. States fear that any new decisions will set precedents for the CFSP which may bind them later, or which will involve the Commission or EP to a greater degree than they desire. For example, the Commission’s CFSP agenda-setting has been criticized by EU states, particularly its involvement in any security-related areas, such as the de-mining efforts or the Korean Energy Development Organization (KEDO). More so perhaps than under EPC, the Commission serves as a point of access by outsiders for CFSP-related actions; both KEDO and the new Trans-Atlantic Agenda agreed between the EU and the U.S. depended in part on Americans lobbying the Commission.²¹ These successes mean outside pressure on the Commission for CFSP action will only continue. The conniving and procedural debates which most CFSP decisions have provoked reflect a textbook case of what might be called “path-dependency phobia,” or fear of the way current decisions in a complex environment can limit future options.²² The fact that the Commission and Council legal services are deliberately attempting to legalize all CFSP texts with EC language does not ease states’ fear of the “contamination” of the CFSP by EC actors and procedures.

Fear of precedent also affects the choice of CFSP voting rules. Unsurprisingly, QMV for

the CFSP has been strongly resisted; Article J.3[2] allows states to unilaterally veto the definition of which decisions could be taken by QMV, and they often exercise this option. Controversies over decisionmaking and the involvement of EC actors have similarly caused funding headaches for most CFSP actions, particularly the EU's administration of Mostar. Officials attempted to sort out CFSP funding at a Council meeting on 13 June 1994, where they agreed that CFSP "administrative" expenditure would be charged to the EC budget. CFSP "operational" financing would typically come from member states, but a unanimous vote enables them to use EC money instead. If so, France and Britain wanted such funds to be under the "Council" line, but a majority of states (and the EP) held out for a CFSP operational line in the Commission budget (line III-B-8), which now includes funds for CFSP actions previously decided and a small reserve fund.²³ As the CFSP is "non-compulsory" expenditure in the EC budget, the EP has the right (under Art. 203) to approve all CFSP disbursements. These disagreements, and the notorious unreliability of individual member state contributions to fund the CFSP (as in Mostar), resulted in CFSP funds being "illegally" taken from existing EC budgets (for example, development, agriculture, or cooperation) for several months on an *ad hoc* basis to avoid having to create a permanent CFSP line in the budget which the EP can control. These budgets involve hundreds of millions of European Currency Units (ECU), some of which were creatively diverted to pay for CFSP actions, while the CFSP itself had an operational reserve fund of only 32 million ECU in 1995-96.

Besides procedural difficulties, the entire tri-pillar structure of the TEU has been attacked since it is difficult to achieve consistency with separate decisionmaking systems. The CFSP may already be "contaminating" the first pillar; when there is a conflict between the decisionmaking rules of the EC and those of the CFSP, those of the second pillar dominate.²⁴ It seems little attention has been given to the links between the CFSP and EMU as well. After EMU, financial sanctions will fall under the authority of the European Central Bank if the EU's finance ministers have their way. But this is not definite, and there is likely to be a controversy when the first such

case arises.²⁵ There is also the potential discrepancy between an “EMU hard core” and a “CFSP hard core,” which may not consist of the same states. Similarly, coordination between the CFSP and Justice and Home Affairs (JHA) has not been seriously attempted, although some JHA areas (such as asylum policy and cooperation on terrorism) are functionally linked to the CFSP (and both comprise “political union”) and can be manipulated to support it.²⁶ Ironically, in recent years EU polls have revealed an increasing amount of support for the notion that cooperation in foreign policy and crime *above all other policy areas* should be handled at the EU level, and governments will need to confront these demands.²⁷ Other changes in the EU, such as recent developments in European Union citizenship provisions²⁸ and the establishment of the first common EU missions in Nigeria and Tanzania²⁹ may hasten the pressures for intensified CFSP/JHA cooperation (and stronger rules), if not for political union itself. With such limited coordination between pillars, it is clear the European Union still appears to be a “union” in name only.

Intra-institutional Changes: Bureaucratic Politics and the CFSP

Since the TEU’s CFSP decisionmaking rules were so convoluted, they inadvertently stimulated the creation of several new working habits and procedures to improve the implementation of the CFSP. The past several years have seen much policy experimentation as EC actors attempted to determine - and widen - the extent of their authority in the second pillar. A new element of EC-style bureaucratic politics has been introduced in the CFSP: under EPC, bureaucratic politics in individual national capitals led to the dominance of political cooperation by foreign ministries; under the CFSP, bureaucratic politics has changed the Commission and COREPER, who now have their own internal CFSP dynamics and compete to a certain extent with Political Directors in the EU capitals. A duplication of authority now exists between the informal transgovernmental network created under EPC (and retained by the CFSP) and the institutions in Brussels who are involved the CFSP.

For example, in what became an ill-fated attempt to create a quasi-foreign ministry for itself, the outgoing Delors Commission split its Directorate-General I (DG-I) for external economic relations into two parts. All EU external political relations were to be handled by the new DG-IA under a single Commissioner; desk officers for this Directorate were to be taken from other DGs and Commissioners' cabinets.³⁰ Since this created a backlash inside and outside the Commission, a second reorganization under Commission President Jacques Santer redistributed portfolios among several external relations Commissioners along functional and geographic lines so that each Commissioner now handles both economic and political relations for his or her geographic area. The distribution of portfolios has worked as well as it can in a system which involves up to seven Commissioners for external relations, and which is still susceptible to turf battles and confusion.³¹

To improve coordination and avoid such battles, Santer has further instituted regular "Relex group" (for *relations extérieures*) meetings of the six Commissioners (plus himself) who have external relations portfolios, meetings of Commission planning staff, and meetings of cabinet officials involved in the CFSP as well.³² This has been especially helpful in promoting cooperation between, say, DGI for external economic relations and DG-VIII for development, both of which are related to the CFSP (and which did not always share information with each other under EPC). Since the Commission lacks many tangible resources for influencing the CFSP, it has been more creative in the way it makes its administration of external funding (such as the huge PHARE and TACIS programs) and its negotiation of association agreements subject to political criteria, even though some member states strongly oppose this power.³³ Finally, the Commission is permitted a voice in all security and defense matters as well, and was involved in the Non-Proliferation Treaty renewal conference, the EU's initiative on de-mining war torn areas, and KEDO.

Since the CFSP is now formally handled by the Council of (Foreign) Ministers, a number of changes were made in COREPER as well. COREPER is often overlooked by analysts of EU

policymaking who focus instead on governments or the Commission/EP/ECJ, but it has become a far more influential actor in the CFSP process as compared to the EPC regime. CFSP-related changes in COREPER were considered at Maastricht; however, negotiators disagreed on what practical arrangements should be formalized in the TEU, so they wisely left these “details” to be decided during the Treaty’s implementation stage.³⁴ They anticipated that the division of labor between COREPER and the Political Directors in national capitals (who meet as the Political Committee, or “PoCo”) ultimately would have to be addressed. PoCo had dominated the EPC system but it would now have to share some authority with COREPER since EC/CFSP matters were increasingly linked and always meant to be consistent. Over the past few years, three important changes here took place.

First, COREPER prepares all Council meetings now, and technically it has the ability to ensure consistency between the CFSP (prepared by PoCo) and the EC (prepared by COREPER), but it is unclear what would happen if COREPER and PoCo disagreed since neither body has primacy over the other. To clarify this function, a second change involved attaching a new “CFSP counselor” to each permanent representation after a July 1994 agreement. After a year of experimentation, COREPER recommended that CFSP counselors meet as a group on a regular basis (two times a week or more) to contend with the demands of Political Directors who do not always understand the legal and technical links between the CFSP and the EC. More important is that the CFSP counselors (who consider themselves the “CFSP workhorse”) now handle *all matters relating to the imposition of sanctions as a CFSP instrument*, currently the strongest tool the CFSP has. Third, relevant EPC working groups were merged with their EC counterparts into single units in order to improve the coordination between EC and CFSP affairs.³⁵

Thus, if knowledge of a political system’s rules is a source of power, then COREPER and the CFSP counselors in particular are now in a more advantaged position thanks to these changes since they are the primary, day-to-day junction between the EC’s complex political system and the

foreign policy traditions and preferences of individual member states. This is especially true concerning financing the CFSP from the EC budget or using EC economic tools for CFSP ends, domains where COREPER's expertise about what can and cannot be done (and how quickly and efficiently) is crucial. The CFSP counselors have also improved the quick response ability of the CFSP, such as during the November 1995 executions of playwright Ken Saro-Wiwa and eight other Nigerian political activists. Since the African working group meets infrequently, the CFSP counselors and the Commission quickly stepped in to consider proposals on how the CFSP should react.

Finally, the TEU also mandated a small change in the EPC secretariat which might have implications after the IGC. The CFSP secretariat was permanently placed in the Secretariat-General of the Council of Ministers and directed to serve it as well, not just the Presidency. The political functions of the CFSP and the existing external economic functions of the EC unit were established as two departments under a new Director General. These are largely staffed by experts from foreign ministries at the discretion of the Presidency. The new CFSP secretariat is larger than the previous EPC unit, but it is still small, with about 60 staff. It has no hope of competing with the Commission in resources or expertise. It has also been kept on a very short leash; states have "gagged" it, in the words of one official, when it attempts to advance policies.³⁶ However, as I discuss below, it is possible that this unit (or officials from it) will constitute a new CFSP analysis and/or planning unit. Until this happens, *ad hoc* CFSP policy planning will likely be dominated by the Commission's planners and those of member states.

The Politics of CFSP Reform at the Intergovernmental Conference

With these problems of implementation and lingering institutional questions, CFSP reform became a major priority of the 1996-97 IGC. Although, as usual, expectations about the CFSP still vary among states, and the lack of political will is correctly blamed for many of the CFSP's

problems, most actors were convinced that some institutional changes would help improve the CFSP process. It is hard to deny that statements made by officials during the TEU ratification process and the early stages of Yugoslavia raised expectations so much that the CFSP, based as it was on the informal EPC process, could not possibly meet the demands forced on it. And still there have been some successes, such as the Stability Pact with Eastern Europe.

However, many felt the CFSP represented an old solution to internal and external problems bound up in the vague notion of “political integration.” With enlargement looming, the IGC appeared to be the last manageable opportunity the EU had to give itself an effective tool for projecting political power. A diagnosis debate over the CFSP’s problems began in the run-up to the IGC, although many of the issues and options were ones that have been considered for years. Official proposals for CFSP reforms began to circulate in Brussels and among member states, most of which would not have required major treaty changes. A “Reflection Group” under the chairmanship of Carlos Westendorp, Spanish Secretary of State for European Affairs, prepared the IGC agenda between June and December 1995. The Group’s treatment of CFSP reform as a high priority on the IGC agenda was strongly endorsed by the Madrid European Council (15-16 December 1995). Among other goals, the Council committed itself to equipping the EU for external action and common security.³⁷ While the Spanish presidency had much to be proud of, the Italian presidency suffered a shaky start due to domestic economic and political instability and Britain’s policy of “non-cooperation,” a response to the EU’s ban on British beef. This policy did not end until the Florence Summit on 21-22 June 1996, holding up both IGC discussions and regular business in the EU. Italy was also criticized for its timidity about using the CFSP (or encouraging the EU in general) to help resolve the military confrontation between Greece and Turkey over the Aegean island of Imia/Karadak in early 1996.

However, at the formal opening of the IGC at Turin on 29 March 1996, EU foreign ministers specifically directed their representatives to the IGC to:

1. Define principles for the CFSP and the areas it covers;
2. Define the action needed to defend the EU's interests in areas reflecting these principles;
3. Create procedures and structures for taking decisions; and
4. Agree upon suitable budget provisions for joint actions.³⁸

Although the IGC was dominated by talk of EMU, by the start of the Irish Presidency in July 1996 several meetings had been held on the CFSP, and Ireland had further agreed (under pressure from the French) to hold a special IGC summit in mid-October to give more momentum to the reform process. Ireland also managed to produce a draft revision of the Maastricht Treaty, which was welcomed at the Dublin European Council (13-14 December 1996). With the IGC agenda set, what follow are seven general areas of CFSP reform around which consensus had emerged (to varying degrees), based on the positions of EU member states and EC-level actors.

CFSP Policy Analysis and/or Planning Unit

Article J.8, TEU, stipulates that the PoCo is charged with “monitoring” the international situation and providing opinions to the Council at the request of the Council or on its own initiative. Many are not satisfied with this arrangement given the size, power, political ambitions, and problems of the EU. They also blame it in part for failing to anticipate problems such as Yugoslavia or Rwanda, and for failing to encourage a common analysis of (and solution to) such problems. Hence, some type of analysis, planning, early warning, or crisis prevention unit - a “CFSP think tank” - is likely to be created as virtually all member states, the Commission, and the EP support this idea. It was the strongest area of consensus in the Reflection Group, and it was also the *only* area of consensus during the first IGC meeting on CFSP reform held on 6-7 May 1996.³⁹ The Irish draft revision of the TEU reflected this consensus for such a unit.

There was some contention over the extent to which the CFSP analysis unit should be able to *plan* or *initiate* common foreign policies.⁴⁰ This is the most important issue, since the CFSP needs a source of policy ideas which is seen as independent of all member states (as in the role the

Commission plays in the first pillar). There was also controversy over whether a new official should be created to direct this unit (see below). A new unit within the Council Secretariat-General, supported by experts from capitals and the Commission, was the most likely possibility. The extent to which such a unit will actually be permitted to do the work asked of it, and will significantly improve the CFSP, is still open questions. States realize that an effort must be made to tie together all relevant planners and permit them to monitor developments, field proposals, draft texts, and prepare common analyses of major external problems facing the EU. The proposed link with the new Policy Coordination Group in NATO, and the strengthening of links with planners in the WEU, will be especially important. However, if this reform is not complemented by others outlined below, it will be a cosmetic change only. Planners in national foreign ministries, for example, do not always see their concerns addressed by higher officials, so CFSP insiders are not putting much confidence in the planning unit alone.

Reforming CFSP Decisionmaking Rules

Article J.3 of the TEU provides for QMV on certain CFSP matters that have been decided unanimously by the Council, a two-stage (or more) process. Such matters were unspecified by the Treaty. QMV on CFSP actions has not been successfully attempted, although states have “refrained from insisting on a consensus” on several CFSP decisions.⁴¹ There was wide agreement that the CFSP needs to be able to take decisions quickly without being held hostage by obstructive member states, a realization strongly encouraged by the British policy of non-cooperation. Officials were considering a decision process whose rules would vary according to the type of task or tool being considered, such as the so-called “Petersberg tasks” (after a June 1992 WEU meeting where they were discussed): conflict resolution, crisis management, rescue and humanitarian operations, peacemaking and peacekeeping. According to the Irish draft TEU revision, common positions could be taken by QMV, but joint actions or decisions with defense or

military implications would require unanimity. States could abstain from these actions or decisions by formally declaring so, but they would still be required to show “mutual solidarity” with the EU. The new principle of decisionmaking “flexibility” in the Irish draft TEU revision (also known as a coalition of the willing, consensus minus one, reinforced/enhanced cooperation, active/positive/constructive abstention, or differentiated integration) would permit the willing and able EU states to implement Petersberg tasks while avoiding the appearance of a permanent CFSP “hard core.” Stricter changes, such as the loss of voting rights or the imposition of sanctions against states who opt-out of (or defect against) CFSP decisions, were not being seriously considered.

While there may be problems applying QMV to the CFSP (such as measuring compliance or defining CFSP tasks in advance), there was some room for compromise for the EU to strike a balance between consensus and efficiency in the CFSP. Some states (Belgium, Greece, Germany, and France) supported making priorities areas for CFSP action part of the TEU, and linking such priorities to QMV decisionmaking. Also, the Benelux states tentatively accepted that the “big five” could have more voting weight in Council, but only if they surrendered some authority to the CFSP (these states were also unwilling to give up their own Commissioners). On 27 February 1996 France and Germany reached agreement on “Guidelines for the CFSP” in Freiburg: stability in neighboring regions East and South of the EU, stronger trans-Atlantic links, and closer relations with Russia and Ukraine. They further agreed on distinguishing between CFSP “decisions in principle” (requiring unanimity) and “implementation decisions” (QMV or constructive abstention). Like most EU members, they feel abstainers from military action should still provide political, and possibly financial, support for a common action, perhaps through a “political solidarity clause” written into the TEU. Such a clause is included in Article J.1[4] of the Irish draft revision of the TEU; significantly, this revision also eliminates Article J.3[2] so that states cannot unilaterally veto the definition of CFSP decisions which could be taken by QMV. Belgium, the strongest supporter of a Communitarized CFSP, also suggested that QMV should be

required for all Commission proposals on the CFSP. Unexpectedly, Denmark too supported QMV, but on the condition that the present pillar structure of the EU is maintained.

However, Greece still urged consensus in areas where members have a “vital interest,” and France wanted it in “sensitive areas” (foreign, defense, and internal security policy), requirements which could easily neutralize the practical impact of any decisionmaking reforms. Ireland, Finland, Sweden, and Britain were even more opposed to QMV for the CFSP.⁴² At least all but Italy and Sweden were willing to allow exceptions to the implementation of joint actions; most agreed that they must find an institutional way to square the circle: a majority must not be prevented from acting by a minority (or by one), while a minority (particularly neutrals) should not have tough decisions imposed on it. Flexibility appeared to be the only way to achieve this.

Strengthening the External Representation of the EU

There was general agreement that the EU Presidency, despite its useful features, demands more and more of the state who holds it. In addition, there is the usual discrepancy between the status of large EU states and that of small states when they hold the Presidency. The Troika framework is also “ridiculously burdensome” in the words of one Commission official, an attitude shared by many others.⁴³ The Presidency/Troika is also intimidating to non-members; in external matters, often two or three officials from a non-member state have to sit across the table from a dozen or more EU representatives, which inhibits frank discussion. Trust between a horde of rotating negotiators for the EU and any external interlocutors has to be constantly rebuilt.

At the IGC, officials were attempting to clarify two major Presidency functions: managing the EU’s normal business and representing the EU abroad. Representation is highly relevant to the CFSP, and France has strongly supported the creation of a High Permanent Representative to give a “voice and face” to the CFSP. Michel Barnier, French Minister for European Affairs, suggested a “President of the Union” or “Secretary-General of the CFSP” appointed (and

revocable) by the European Council for two to five years to represent the EU's foreign/defense policy. This person would be a "politician acting as an official" for the EU. The idea found little support, although the Germans tentatively approved it during the Franco-German summit at Freiburg and it was still alive after the first few meetings of the IGC.⁴⁴ Kohl's Christian Democratic party, however, later rejected the idea in a policy paper released in September.⁴⁵ Typically, there was much speculation (but little agreement) about who would first hold this office: a Commissioner, the Council Secretary-General, the head of the Council's external relations secretariat, the Director-General of DGI-A, and former French president Valéry Giscard d'Estaing have been mentioned.⁴⁶ Britain, however, preferred that any new official would be lower in rank than desired by France, and the small states feared that the new official would always be someone from the larger EU states.

Naturally, the EP and the Commission strongly opposed the idea of a new high official for the CFSP. Instead, and like most other states, they preferred a Presidency-Commission "tandem," where one official delegated by each actor share responsibility for representing the CFSP.⁴⁷ The Italian Presidency also suggested including a new paragraph 3a in Article J.5 so that the Council could assign "executive authority" to the Presidency, the Troika, or the Commission, on a case by case basis. This is a likely compromise, and it already worked well for the Stability Pact and the Trans-Atlantic Agenda. This remains a difficult area for reform; if agreement is not reached, temporary representatives for the EU/CFSP probably will continue in specific areas,⁴⁸ possibly along with the tandem. Supporters of federalism still want representation to be handled by the Commission President or Vice President, since the Commission could easily take advantage of its vast overseas network of delegations, which is more extensive than that of some member states. And any EU representative must also be provided with more authority, resources, and flexibility to be successful, as both Hans Koschnick and Carl Bildt learned the hard way in the Balkans.

A related issue involving external representation involves creating a "legal personality" for

the EU. Since the EU has no legal personality (unlike the EC, the European Coal and Steel Community, and Euratom), it cannot conclude agreements or join international organizations using the CFSP mechanism alone. Instead, weak “memorandums of understanding” or convoluted “mixed agreements” that refer to EC competencies have to be drafted. These are difficult to negotiate and there are unresolved questions about their enforcement. For example, the EU could not become a board member of KEDO despite its financial contribution of ECU 5 million to that body, and legal advisers are continually reminding CFSP officials that they lack the authority to make a particular agreement.⁴⁹ The Italian Presidency advanced some suggestions to handle this problem, such as giving the EU full legal personality or giving the EU the ability to conclude agreements in certain sectors. The Irish draft revision of the TEU endowed the EU with full legal personality vis-à-vis its member states (where the Commission represents the EU) and external states and organizations (where the Presidency, assisted by the Commission if appropriate, represents the EU). This provision would not apply to agreements involving the use of military means. However, most states were either indifferent or only moderately concerned about this issue; Britain, and to a lesser extent, Denmark, were strongly opposed to such a change (Denmark would also be constitutionally required to submit the IGC agreement to a referendum).

Defense and the CFSP-WEU Relationship

Clarifying the roles of the WEU, the CFSP, and NATO is one of the most contentious issues facing the EU, and the developments in this area are beyond the scope of this chapter.⁵⁰ Only a few comments will be offered here. First, it is clear the CFSP has had very little to do with security or defense. So far, only four minor security-related issues have been directly addressed by the CFSP: the mine-clearing directive, the Non-Proliferation Treaty renewal, the control of exports of dual-use goods, and the goal to prohibit blinding laser weapons. Only one Article J.4[2] WEU/CFSP action has been taken: the Council Decision of 27 June 1996 to have the WEU

prepare contingency plans to support the emergency evacuation of EU citizens from a third country if necessary (WEU support of the EU's administration of Mostar was not an official request by the EU made under Art. J.4[2]). This was as much a symbolic decision for the IGC process (to show critics of reform that all CFSP instruments had been used at least once) as it was a practical CFSP action.⁵¹ In addition to this extremely modest record of joint EU/WEU action, the WEU is rarely if ever present at General Affairs Council CFSP meetings, while links between the Commission and the WEU are poorly developed. Commission relations with NATO are much better than those with the WEU.

Second, there was finally a majority in favor *in principle* of merging the EU with the WEU, but much disagreement over the details. It is obvious that the only compromise will be a gradual, minimalist approach, as on EMU, even though France and Germany are solidly behind the merger.⁵² This would involve a timetable for increasing the lower-level links between the EU-WEU and enhancing the "operability" of the WEU, as it is still deficient in reconnaissance, intelligence, and transport. The WEU is unlikely to be the "army of the EU" soon; instead, this role will be played by the "Eurocorps" for now (although some, such as Denmark and Austria, are still opposed to such a role). This small land force (50,000 troops), which became operational on 30 November 1995, is independent of, but linked to, the WEU, and the two forces began joint exercises in December 1995. More importantly, major decisions by the WEU and NATO during ministerial meetings in mid-1996, following the French *rapprochement* with NATO, finally confirmed that the WEU, and/or "Combined Joint Task Forces" (CJTF) with NATO, could carry out military operations without U.S. involvement but with the logistical support of NATO.⁵³ These developments, while still in their early stages, threaten to eclipse the nascent "European Security and Defense Identity" of the CFSP since the European Union seem neither ready nor able to act more independently of NATO.

Third, it is now possible that a clear, formal distinction will be made between "security"

and “defense” in the IGC treaty revisions. This distinction, which the Commission supports as well, has already been made during domestic ratification debates over the Single European Act (in Ireland and Denmark) and over the TEU (in Germany and Austria) to include these states in security-related collective actions. With this idea, security matters would involve the Petersberg tasks, EC/WEU resources in most cases, and would permit the involvement of all EU states and the Commission (even with military matters). Defense would be strictly limited to territorial defense of the EU/NATO members, which would be handled by NATO states in coordination with the EU. An annex to whatever agreement is produced at the IGC would permit EU states who are not full members of NATO (Austria, Finland, Ireland, and Sweden) to “opt in” to the NATO/WEU defense structure if and when they choose. After Ireland assumed the EU Presidency in July 1996, these four states tentatively agreed to support the inclusion of Petersberg tasks in the TEU (and they appear in the Irish draft revision), an encouraging development to be sure, but one which is still as vague on its details as the CJTF concept. These changes would be linked to new QMV rules noted above, so that security tasks could be taken on by a coalition of the willing, while defense would remain an intergovernmental decision of alliance members. Britain, however, was still opposed to writing these changes into the TEU

Defense Equipment Cooperation

The EU is similarly confounded by the number of *ad hoc* arms production agreements involving small coalitions of its members. There is wide agreement that some sort of coordination - and potentially a formal European Armaments Agency or West European Armaments Organization - should be established among these groups and industries. Article 223 of Maastricht, which permits state protection of domestic arms industries, may be revised or revoked as it effectively discourages mergers or acquisitions of defense manufacturers. Its most important purpose perhaps is as a bargaining chip to obtain a reciprocal pledge from the U.S. to give up its

“Buy American” defense procurement policy, but neither side seems willing or able to directly confront this issue. At present the sensitivity of the issue - not to mention fears of Commission involvement in approving such acquisitions or mergers - means Article 223 will likely be retained in the near future. France and Britain are still the most vocal opponents of revoking Article 223, while the other states are indifferent or only slightly in favor of it.⁵⁴

Predictably, this controversial topic did not see much consensus in the Reflection Group nor during the early IGC talks, but there was recognition that if Europe want to increase its share of the shrinking global arms market it must change its research and procurement practices given the very large economies of scale required by these industries. Opposition to direct Commission involvement or the revocation of Article 223 does not preclude other cooperative measures of course; Britain was approved to join the proposed Franco-German arms agency (set up in 1995) on 4 June 1996, while France and Germany (at their Dijon summit, 6 June 1996) formally agreed to give a new push to defense cooperation and to “review” their 27 bilateral arms programs, which would extend to joint procurement. Similarly, the Commission is already poised to take steps towards improving the competitiveness of the EU’s approximately ECU 50 billion defense industry, having outlined a number of proposals in a January 1996 communication. According to it, between 1984 and 1992 domestic demand in EU defense industries fell by 30%, exports were cut in half, and the industry shed 37% of its workforce. As Martin Bangemann, EU Industry Commissioner, bluntly put it, “If the EU wants a CFSP, then it has to choose between a domestic arms industry or buying military hardware from America.”⁵⁵ The Commission wants to apply single market rules to the defense industry and foster joint armaments research and production, but since France and Britain still fear potential Commission influence in military affairs through the “back door” channel of industrial policy, major change in the near future is unlikely.

Improving the Financing of the CFSP

EU members have also become very sensitive to the need to make the financing of CFSP actions more reliable and consistent. All except Britain support, or at least are not strongly opposed to, permanent funding of the CFSP from the EC budget, instead of placing earmarked CFSP funds under the Commission's budget line. This would involve the Commission and the EP to a much greater degree than the British desire. A possible option is the creation of a "CFSP emergency fund" in the EC budget which could be used at the Council's discretion. A CFSP line in the Council's budget is another option, but the Commission and EP would be strongly opposed to this. CFSP/WEU actions requiring "military means" would be exempt from the EC budget in principle, but there was no further definition of this idea. Any changes will require very tricky language, as the EP must still approve non-obligatory funds and has threatened to use its budgetary control of the CFSP to make states respect its views. Under the current system, delays of up to six weeks occur when the EP must approve the use of CFSP funds in the Commission's budget. The EP has been pressing for an interinstitutional agreement on this issue since December 1993, and may see one following the IGC. Resolving the functional link between the WEU and the CFSP will mean little if member states continually show reluctance or an inability to provide material resources for foreign and security policy.⁵⁶

Enhancing the Role of EC Institutions in the CFSP

Finally, states were split on whether to fully "Communitarize" the CFSP, or to adopt mere procedural changes for it. Only the Benelux, Germany, Italy, Austria, and surprisingly, Greece emerged early in favor of CFSP Communitarization. The ECJ will be left out of the CFSP again for the foreseeable future, since most states were either indifferent or only moderately supportive of its involvement (except Britain and Denmark, who were opposed). For their part, both the Commission and the EP naturally want more EU control of the CFSP. The EP has called for,

among other things, a stronger EU defense policy that includes security guarantees, more use of QMV combined with the ability of states to “opt out” of joint actions, supervision of the CFSP by the EP and national parliaments, an interinstitutional agreement on financing the CFSP, the inclusion of an EP delegation at international conferences, the deletion or revision of Article 223, and some structural changes: a CFSP analysis/assessment unit, an EU diplomatic service and “civilian peace corps,” and EU intelligence-gathering equipment (including satellites).⁵⁷

However, most member states, particularly Britain, Ireland, Finland, and France, opposed the expansion of the EP’s limited CFSP powers. The Commission was somewhat more pragmatic about what it wanted to achieve: an analysis unit, better decisionmaking procedures, an EU legal personality, directing the CFSP with a Presidency-Commission tandem, judicial review of the CFSP, reducing or limiting the number of Commissioners, and more secure funding for the CFSP with an interinstitutional agreement. It has also suggested that the PoCo be permanently moved to Brussels (to the Council), and that a “Council of Defense Ministers” be established.⁵⁸ All states except Britain wanted the Commission to make greater use of its right to make CFSP proposals. Finally, the Council of Ministers was opposed only to a role for the ECJ in the CFSP and to the revision of Article 223; it was generally supportive or indifferent to everything else.⁵⁹

In sum, if twenty years of EPC is any guide, we should not expect dramatic changes to the CFSP at the 1996-97 IGC unless a major crisis stimulates the EU to act. Even after the IGC began it appeared to be in a state of suspended animation due to two factors: very little change of opinion on the part of most actors, and the combination of British opposition and its policy of non-cooperation with the EU/IGC. The period through December 1996 was marked by timid pre-negotiation discussions and reactions to papers put forward by the Italian/Irish Presidencies. The major CFSP bargains were made at Maastricht, and the agenda should not move far beyond what was outlined above. More important perhaps were that Germany and France were reaching agreement on changes they wanted to make, NATO and the EU/WEU had worked out

arrangements to put more teeth in the EU's defense policy, and the neutrals did not seem to be actively blocking such a move. But the negotiations should continue well into 1997, and a few officials were privately hoping that a change in Britain's government after next elections (May 1997 at the latest), would break the deadlock against major institutional reform. Also, the Irish Presidency's draft treaty revision, completed in time for the Dublin European Council of 13-14 December 1996, did not reflect any major departure from the compromises discussed above (although it does include slightly enhanced definitions of "common positions" and "joint actions").

Conclusion

The EU is increasingly desperate to become a potent international political actor, if only to be able to confront the challenges generated by instability in neighboring regions. After twenty years of informal political cooperation, the CFSP is the EU's primary tool for this task, but many officials are profoundly dissatisfied with the way it has worked. Although Yugoslavia has unfortunately - and perhaps unfairly - become the outstanding symbol of the ineffectiveness or irrelevance of the CFSP, it made EU states realize that adherence to a common position could at best impair its bargaining positions during crises, and at worst paralyze the EU into following an action no state would have wanted. The Dayton accords also showed that the EU will only play a supporting role in crisis situations where military force is an option. And even when agreement on a proper action is reached, the lack of a permanent CFSP financial infrastructure delays and erodes the impact of a joint action. Causes of these problems are varied and complex; however, even if the CFSP isn't "broken," EU states are actively looking to an institutional fix for it. This might make them worse off; national solutions are sometimes the only alternative when the EU can't or won't act (or takes too long to act). As weak as EPC was, its participating officials still recall its pragmatism, secrecy, and flexibility with nostalgia.

Despite the obstacles, Europe's obstinate efforts to overcome differences, to find common

interests, and to cooperate politically, have much value - even if primarily symbolic - in world politics. This chapter focused on the expression of these efforts in terms of CFSP procedures and policies. The CFSP's institutional structure is not its only problem, of course; rules are not a substitute for political will. But EU states definitely think that institutions affect cooperation and they are serious about reform. More importantly, they are looking to EC solutions for the CFSP. These include using QMV, delegating to the Commission for negotiations and implementation, establishing a legal personality for the EU, securing EC funding for the CFSP, strengthening the CFSP apparatus in Brussels, and using or adapting EC competencies (trade, development aid, a single market-influenced defense industrial policy, etc.) to support the CFSP. At present only Britain, and to a lesser extent, Denmark, are preventing some of these options from being utilized. Thus the prospects for CFSP reform are better than one might expect given the sensitivity of foreign policy cooperation among independent states. Even without major decisionmaking reform, all states agree that a CFSP "hard core" (such as with *ad hoc* Contact Groups or coalitions of the willing), at least on military questions, is temporarily inevitable, and they are all somewhat pre-disposed to more EC influence in the CFSP.

As a policy process, then, the CFSP still can not be considered in supranational terms, but it is more sensitive to the EC's actors and rules, more consistent, and more binding, than intergovernmentalist theories suggest. To be sure, member governments still exert most influence in the CFSP, the CFSP "executive" in the form of the Presidency or the Commission is still very weak, the EP and ECJ have very limited roles, and domestic politics in the form of public opinion or lobbying rarely intrude on CFSP deliberations in any consistent or significant way. Since member states have not been able to make the symbolic advance to more central direction in foreign political relations, at present they control the policy process. But only a small minority of states is holding up the transfer of more authority to EC institutions, and even these states agree that the system is unworkable if they demand consensus at every stage in the process.

The prospect of enlargement, a “political necessity and a historic opportunity,” according to the December 1995 Madrid European Council, profoundly enhances this fear, as states realize that insistence on unanimity will paralyze a system with 20 or 30 members. EPC was created in part to help the EC cope with its first enlargement, and the next one poses monumental problems. The CFSP is only one of them, but it must be considered a fundamental part of the EU’s enlargement strategy in light of the worst-case scenario of the Balkans. Given the current negotiating positions, and NATO’s creation of CJTF as an insurance policy, a Europe of intersecting hard cores - EMU, social policy, Schengen, etc. - seems inescapable at present, but this should not necessarily dilute the EU if core membership criteria and their associated obligations are very clear. EU members are sensitive to hostage-holding by consensual rules and to free riding on the CFSP; those who consistently choose to “free ride” on the difficult decisions or actions of others may have to pay for such free riding, especially in the areas of security and defence. Critics of the CFSP should recall that it took two decades of work to use QMV for the internal market and to encourage states to bring EPC closer to existing EC structures; the same could happen with other hard core policy areas.

At least the 1995 enlargement of Austria, Finland, and Sweden showed that new member states, even neutral ones, can accept and contribute to the goal of EU foreign and security policy cooperation (although, of course, no demanding security-related actions have been taken under the CFSP). NATO is looking East, and both the Commission and Germany should be able to play leading roles in confronting the problems faced by enlargement. Although “variable geometry” may be the only practical solution to defense cooperation in the near future, more difficult questions, such as the extent to which the new members’ security problems will become the EU’s security problems, will not be addressed at the IGC. These must await the enlargement negotiations, at present scheduled to take place six months after the end of the IGC. Thus, while Yugoslavia and Dayton may have helped focus the EU’s attention on the CFSP’s shortcomings,

the real tests - the CFSP after enlargement, its relationship to the WEU and NATO, and the question of supplying it with material resources in terms of military equipment - are yet to come.

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1. For general official consensus on the shortcomings of the CFSP, see the *Reflection Group's Report for the 1996 IGC*, 39-49; and the *Report of the Council on the Functioning of the Treaty on European Union*, part V.
2. Ginsberg, "Principles and Practices of the European Union's Common Foreign and Security Policy;" Ginsberg, "The European Union's Common Foreign and Security Policy;" and Regelsberger and Wessels, "The CFSP Institutions and Procedures."
3. For example, European citizens' groups complained about the failings of the CFSP (among other things) at public hearings organized by the European Parliament in preparation for the IGC. *European Report* no. 2111, 28 February 1996.
4. Between 1 November 1993 and 1 July 1996 the CFSP produced 26 common positions, 30 joint actions, and nearly 200 declarations. However, nearly half of the positions and actions were related to ex-Yugoslavia and Mostar (11 positions, 13 actions). Most of these are listed in the *Commission Report on the Functioning of the Treaty on European Union*.
5. Some of these reasons are suggested in the *Reflection Group's Report*, paragraph 148.
6. For a more detailed comparison of EPC and CFSP institutional structures, see Smith, *The "Europeanization" of European Political Cooperation*.
7. EPC has usually been analyzed as an intergovernmental process. See Bodenheimer, "The political union debate in Europe;" Wallace, "Political Cooperation: Integration Through Intergovernmentalism;" and Pijpers, "European Political Cooperation and the Realist Paradigm."
8. Interviews with COREPER, Commission, and Council Secretariat-General officials, Brussels, 1995-96.
9. According to the Conference of the Representatives of the Governments of the Member States (IGC), *The European Union Today and Tomorrow: A General Outline for a Draft Revision of the Treaties*, completed during the Irish Presidency, 5 December 1996 (hereafter "Irish draft TEU revision").
10. For more details, see Edwards and Nuttall, "Common Foreign and Security Policy;" Eaton, "Common Foreign and Security Policy;" and Nuttall, "The Foreign and Security Policy Provisions of the Maastricht Treaty."
11. Article 30.3(c), Single European Act.
12. This was accomplished by replacing Article 228, EEC Treaty, with a new Article 228 in the TEU and adding Article 228(a), which specifically applies to CFSP actions which call for the use of EC sanctions.
13. Article L, TEU, specifies that the ECJ enjoys no powers in the second pillar (it is also excluded from the third pillar, JHA). However, thanks to Article M, the ECJ could technically

have jurisdiction over a CFSP (or JHA) decision that runs counter to procedures of the first pillar (EC).

14. The closest they came, perhaps, was during the October 1990 foreign ministers meeting in Asolo, Italy (the so-called "Asolo list") but they could not agree on which items should be included in the final treaty.

15. These areas included Central and Eastern Europe, the Maghreb and the Middle East, and several security issues (CSCE, disarmament and arms control in Europe, nuclear non-proliferation, and controlling the transfer of arms technology to third countries). See the *Report to the European Council in Lisbon on the likely development of the common foreign and security policy (CFSP)*.

16. These included the Stability Pact in Central and Eastern Europe, support for the Middle East and Yugoslavia peace processes, and support for transitions to democracy in South Africa and Russia. See the *Conclusions of the Belgian European Council Presidency*.

17. Monar, "The Foreign Affairs System of the Maastricht Treaty," p. 140; also interviews with Commission and COREPER officials, Brussels, 1995-96.

18. For more on the "consistency" issue, see Neuwahl, "Foreign and Security Policy and the Implementation of the Requirement of 'Consistency.'"

19. Council Decision 94/942/CFSP; OJ L 367 (31 December 1994).

20. See the "Mode d'emploi concernant les positions communes définies sur la base de l'Article J.2 du Traité sur l'Union Européenne," internal Council document 5194/95 of 6 March 1995. Casting combined EC/CFSP agreements as "administrative" in nature has helped to reduce disagreements over the ability of the CFSP to legally use EC tools. Interviews with COREPER officials and officials of the Commission and Council Secretariat legal services, Brussels, 1995-96.

21. Interviews with Commission officials and U.S. diplomatic officials involved in the KEDO and New Trans-Atlantic Agenda negotiations, Brussels, 1995-96.

22. On path-dependency, see Krasner, "Approaches to the State;" and Pierson, "When Effect Becomes Cause."

23. *European Report* no. 1958, 15 June 1994; *Agence Europe*, 15 June 1994; interviews with Commission and COREPER officials, Brussels, 1995-96.

24. For example, QMV could have been used to disburse funds to Mostar, and while states chose to "avoid insisting on unanimity" here, several time-consuming joint actions to disburse funds were still required. Sanctions against Haiti led to confusion over whether EC rules or CFSP rules would dominate; those of the CFSP did. Interviews with COREPER officials, Brussels, 1996. Also see the *Commission Report on the Functioning of the Treaty on European Union*, p. 57.

25. Personal communication with Simon Nuttall, 3 April 1996.
26. For example, note that the common visa policy, which can be manipulated as a policy tool in both the CFSP and JHA areas, is actually an EC competency under Article 100c, TEU. For more on the links between the CFSP and JHA, see Anderson, den Boer, and Miller, "European Citizenship and Cooperation in Justice and Home Affairs."
27. Eurobarometer surveys since June 1993 consistently reveal that out of up to 22 policy areas in which citizens Europe-wide preferred EU decisionmaking to national solutions, three of the top four areas in each survey were components of political union (i.e., CFSP or JHA areas). In the *Standard Eurobarometer of Autumn 1995* (Survey no. 43), the three areas of political union where citizens preferred EU decisionmaking were third world cooperation (78%), the fight against drugs (77%) and foreign policy (70%).
28. For example, a Council Decision of 19 December 1995 (OJ L 314/73/1995) on common protection of EU citizens provides that citizens of any EU state have the right to assistance from the embassies or consulates of any other EU state in a third country if their own consulate is inaccessible.
29. The Council of Foreign Ministers meeting in Luxembourg (6 October 1995) approved a CFSP common position (not published in the Official Journal) favoring the consolidation of the EU's missions and representations. But Britain will not participate, although it shares embassies with other EU states. *European Report* no. 2074, 11 October 1995.
30. Interviews with Commission officials, Brussels, 1995-96. Also see Nuttall, "The European Commission's Internal Arrangements for Foreign Affairs and External Relations," p. 3; and Allen and Smith, "External Policy Developments," p. 68.
31. Besides President Santer, the Commissioners who currently share external relations portfolios are Hans van den Broek (CFSP shared with Santer; oversees DG-IA for external political relations); Leon Brittan (DGI for external economic relations with the developed world); Manuel Marin (DGI-B for external economic relations with the developing world); Joao de Deus Pinheiro (DG-VIII for development); Emma Bonino (European Community Humanitarian Aid Office, an arm of the Commission); and Yves-Thibault de Silguy (DG-II for economic and financial affairs).
32. Interviews with Commission officials and Commissioners' cabinet members, Brussels, 1995-96.
33. The Interim Partnership and Cooperation Agreement with Russia was perhaps the most noted example. Its implementation was temporarily delayed by Commissioner van den Broek during the Chechen rebellion. Interviews with Commission officials, Brussels, 1995-96.
34. "Declaration on Practical Arrangements in the Field of the Common Foreign and Security Policy," annex to the Treaty on European Union (Declaration no. 28).

35. "Creation du groupe de conseillers PESC," internal COREPER document, 26 July 1994; based on a Political Committee decision of 2 July 1994, "Recommendations of the Political Committee to the General Affairs Council," internal Council document, 18 July 1994. Interviews with COREPER officials, Brussels, 1995-96.
36. Interviews with Commission, Council Secretariat-General, and COREPER officials, Brussels, 1995-96.
37. *European Report* no. 2094, 20 December 1995.
38. The Italian Presidency conclusions of the Turin European Council, which opened the IGC on 29 March 1996, are reproduced in *European Report* no. 2121, 3 April 1996.
39. Interviews with Reflection Group members and IGC negotiators, Brussels, 1996. Also see *European Report* no. 2130, 8 May 1996; *Agence Europe*, 8 May 1996; and *Agence Europe*, 15 May 1996.
40. The Reflection Group, for example, was opposed to the idea of allowing the proposed unit to initiate CFSP positions or actions. See their report, paragraphs 152-153. The Irish draft TEU revision suggested the planning unit could prepare "policy options papers" on its own initiative or at the request of the Council or the Presidency.
41. According to interviews with Commission and COREPER officials, member states did not insist on unanimity on the anti-personnel mine clearing directive, financial sanctions against Bosnia-Herzegovina, some disbursement decisions for Mostar, and a decision on the prohibition against making payments under contracts caught by the embargo against Haiti.
42. *Agence Europe*, 8 March 1996; *Agence Europe*, 15 March 1996; *Agence Europe*, 22/23 April 1996.
43. Interviews with Commission and COREPER officials, Brussels, 1995-96. The Irish draft TEU revision suggests that the Troika framework could be amended to include only two member states: the Presidency and the next member state to hold it.
44. *Agence Europe*, 10 February 1996; *Agence Europe*, 15 May 1996; *Agence Europe*, 8 June 1996.
45. The Christian Democrat Union (CDU) paper on the IGC said that the enhanced visibility provided by a new CFSP high official would not offset the risk of "later complications" regarding institutional matters and the breakdown of tasks. The CDU also called for participation by Commission personnel in the proposed CFSP planning unit, an idea opposed by France. *Agence Europe*, 18 September 1996.
46. Interviews with Commission and COREPER officials, Brussels, 1995-96. The Irish draft TEU revision, via a new Article J.8(b), provides for the Secretary-General of the Council to assist with external representation. Also see Lionel Barber, "Dr. K's riddle still awaits an answer," *Financial*

Times, 22 April 1996.

47. See the *Commission Opinion on Reinforcing Political Union and Preparing for Enlargement*, COM(96)90. Also, talk among large states of creating a special “team Presidency” for security and defense matters provoked much criticism from small states, and Belgium publicly stated it was strongly opposed to this idea. *Agence Europe*, 12 June 1996.

48. *Agence Europe*, 8 June 1996. The habit of creating *ad hoc* special representatives for EU (or for the state holding the Presidency) is slowly taking hold. These include, among others, Lords Carrington and Owen, then Carl Bildt, for Bosnia; Hans Koschnick (later Ricardo Perez Casado, then Martin Garrod) for Mostar; Aldo Ajello, for the Great Lakes region of central Africa (Rwanda, Burundi, and Tanzania); and Federico Roberto, then Kester Heaslip, for Cyprus.

49. Interviews with officials of the Commission and Council Secretariat legal services, and with COREPER officials, Brussels, 1996.

50. For a more on the WEU issue, see Martin and Roper, eds., *Towards a Common Defence Policy*; and the chapter by Joseph I. Coffey in this volume.

51. This CFSP decision was not published in the Official Journal, and Denmark “opted out” of this decision, but the Danes also said they would not impede the development of closer cooperation among member states in this area. *Agence Europe*, 29 June 1996; *European Report* no. 2045, 3 July 1996; interview with COREPER official, Brussels, 1996.

52. For example, according to the Irish draft revision of the TEU, the wording of Article J.4 would change to “the *progressive* framing of a common defence policy *in the perspective of a common defence*. . . . The Union *will avail itself of* the WEU to elaborate and implement decisions and actions of the Union which have defence implications” (emphasis added to reflect textual changes).

53. *European Report* no. 2083, 11 November 1995; *European Report* no. 2085, 18 November 1995; *European Report* no. 2131, 11 May 1996; *European Report* no. 2137, 5 June 1996. Also see the “Birmingham Declaration” of the WEU ministerial meeting (7 May 1996); and the final communiqué of the North Atlantic Council ministerial meeting in Berlin (Nato doc. M-NAC 1-96-63), 3 June 1996.

54. For more on this issue, see de Vestel, *Defence markets and industries in Europe*; and Saferworld, *The Future of the European Defence Industry*.

55. The Commission’s ideas for enhancing the competitiveness of EU defense industries are outlined in the *Commission communication on the challenges facing the European defense industry*. The quote is from *European Report* no. 2094, 20 December 1995. Interviews with members of the Reflection Group and IGC negotiators, Brussels, 1996. Also see *European Report* no. 2102, 27 January 1996, and *Agence Europe*, 26 January 1996.

56. CFSP funds still represent only about 0.15% of the total Community budget. In addition, this money has been overwhelmingly devoted to the former Yugoslavia; of 110 million ECU (MECU) for the CFSP in 1995, fully 60 MECU went to Mostar; of about 60 MECU for the CFSP in 1996, about half went to Mostar. See the EP's *Report on the financing of the CFSP* (Willcockx Report).

57. The EP's views are put forth in the *Report of the Committee on Foreign Affairs and Security on shaping the European Community's common foreign policy* (Aldea Report); the *Report on progress made in implementing the common foreign and security policy (November 1993 - December 1994)*; and the *No. 5 Briefing on the CFSP* (Third update).

58. The Commission's official views are found in the *Commission Report on the Functioning of the Treaty on European Union*; and the *Commission Opinion on Reinforcing Political Union and Preparing for Enlargement*, COM(96)90. Also see the (unofficial) report of the Commission's "High-Level Group of Experts on the CFSP" entitled *The foreign and security policy of Europe for the year 2000* (Durieux Report). Interviews with Commission officials, Brussels, 1995-96, and *Agence Europe*, 29 December 1995.

59. See the *Report of the Council on the Functioning of the Treaty on European Union*, part V.