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(In-)Coherence in EU Foreign Policy:

Exploring Sources and Remedies

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Abstract

How does the EU deal with incoherence and coherence? In this paper we try to answer this research question in order to draw conclusions on the specific nature of the EU as a foreign policy actor. We define coherence and incoherence in EU foreign policy as our dependent variable in a first step. Coherence is understood as a principle guiding foreign policies in the EU as well as other international actors. Effectiveness is crucially linked to the principle of coherence, not only in the EU. However, the way in which the principle of coherence is implemented differs in ideal type polities in foreign policy. By analysing how the EU has dealt with coherence on both a constitutional level and substantive policy-level, we can on the one hand explore where the EU locates sources of incoherence and addresses these through institutional change. On the other hand, we analyse how the EU addresses vertical and horizontal coherence in substantive policy-making. Here we rely on EU sanctions and EU crisis-management as examples of coherence in policy-making. We conclude by presenting our findings on a) how the EU addresses the principle of coherence and b) which conclusions about the EU's nature in foreign policy we can draw.

Introduction

How does the EU deal with incoherence and coherence? Over the past years, EU studies have focused ever more often on the obligation of the EU to live up to its self-imposed commitment to ensure the coherence of its policies. Legal scholars have devoted particular attention to the principle of coherence in their studies. Indeed, their interest in coherence arose prior to the creation of the EU's single institutional framework, given that, in its absence, the overall political functioning of the EC rested on the legal obligation of coherence (Curtin 1993: 27). This is also the case in European foreign policy, which is here understood as the foreign policy conducted by the EU. Understanding this policy in the wider framework of European foreign policy means to understand the overlapping spheres between the Community, the Union and the Member States (Jørgensen 2004). How can a polity with different centrifugal and centripetal forces be held together? It was assumed that the principle of coherence, which is enshrined in the Treaties (Tietje 1997; Wessel 2000; Hillion 2008), provides an obligation for the actors of European foreign policy to realize the ideal of a coherent foreign policy. This was supposed to be achieved by addressing three different dimensions of coherence: institutional, horizontal and vertical coherence (Nuttall 2005).

A number of empirical studies have discussed the issue of coherence. Most of them, however, look at incoherence as an independent variable, which they make responsible for unsatisfactory policy outcomes (Portela/Raube 2007). The present paper analyses coherence as a dependent variable. Coherence is considered as a guiding principle which institutions and actors are obliged to implement. In that sense, the EU is no different from other political actors. Similar to the EU, other actors think of coherence as a necessary tool to achieve effectiveness in foreign policy outcomes. How does the nature of the foreign policy actor affect the way in which it implements the principle of coherence in its foreign policies? We consider different ideal types through which we will examine the implementation of coherence in EU foreign policy:

a/ The main ideal type of actor in international relations is the state. The EU already presents state-like features, and it ideally could turn into one. In this view, coherence rests on hierarchical decision-making structures in foreign policy.

b/ A second ideal type is the international intergovernmental organisation. In this case, coherence is achieved by intergovernmental coordination.

c/ Finally, In yet another ideal type of organization, the EU would add a new layer of government functions to the member states; coherence would accordingly be achieved by the institutionalization of coordination.

By analyzing how the EU implements the principle of coherence on both a constitutional level and substantive policy level, we can learn where the EU locates sources of (in)coherence and how these are addressed through institutional reform and in daily policy-making. Whereas the former looks into the way the EU ensures coherence by reforming or interpreting the polity framework through formal constitutional change and judicial interpretation, the latter focuses on actual EU policy-making. Here we rely on studies on EU crisis-management and EU sanctions as cases exemplifying difficulties in vertical and horizontal coherence.

In sum, we expect the EU to ensure coherence both at the constitutional level and in substantive policy fields. We expect to validate this expectation as every international actor would endeavour to ensure coherence in order to maximise (eventually) effectiveness. Our ultimate objective consists in determining what the specific methods used by the EU to ensure coherence reveal about the nature of the EU as a foreign policy actor.

I. The Principle of Coherence

What is coherence? Coherence has been defined in a multitude of ways. Legal scholars and political scientists have been interested in this principle alike (Christiansen 2001; Hillion 2008; Hillion/Wessel 2008; Kronenberger 2008; Nutall 2005; Portela/Raube 2008; Smith 2004; Stetter 2005 and 2007; Tietje 1997; Wessel 2000). Several authors have pointed to the difference between coherence and consistency (Christiansen 2001; Smith 2004). Hillion defines coherence "beyond the assurance that the different policies do not legally contradict each other, [as] a quest for synergy and added value in the different components of EU policies" (Hillion 2008:17). As such, the absence of inconsistency contributes to, but is not identical with, the coherence of the EU's overall external action (Hillion 2008: 17). As Hoffmeister puts it: "the notion of consistency refers to the absence of contradiction, whereas the notion of coherence relates more to creative positive synergies" (2008:161). For Gauttier (2004), coherence is more about synergy than about avoiding contradiction. In the present contribution, we adopt a definition of coherence that does not only refer to the *absence of contradiction*, as the English term "consistency" would suggest, but to the production of synergies.

As noted by Missiroli, this distinction bears significant implications in terms of measurement: The measurement of consistency is straightforward: a policy is coherent or it is not. In contrast, we can

conceive different degrees of coherence: something can be "*more or less* coherent" (Missiroli 2001:4).

Article 3 TEU and Article 13 TEU are the legal bases for coherence in EU foreign policy. According to Article 3 TEU, the Union shall ensure consistency of its external activity and especially the Commission and the Council `shall cooperate´ to this end. Article 13 TEU states that the Council "ensure[s] the unity, consistency and effectiveness of action by the Union". While in the English version "consistency" is mentioned in the treaties scholars agree that consistency has the meaning of coherence, as outlined above. Indeed, as Hoffmeister posits, the terms of "coherence", "Kohärenz" or "cohérence", as they are used in continental languages, "seem to emphasise more a procedural obligation of the institutions to coordinate their relevant action (Hoffmeister 2008: 161)."

Coherence emerges thus as a principle understood as a legal procedural obligation to be followed by political action. It obliges actors in European foreign policy to coordinate their policies so as to give rise to a coherent EU foreign policy. The rationale is that, given that the EU is only a "roof" under which different actors and institutions are responsible for conducting different policies, a formal principle, or "clip", is needed to hold the whole of external competences, decision-making and actions on the ground together. In its absence, this whole might be torn apart by centrifugal forces.

The main concern of the Commission and the Council is that coherence in EU foreign policy constitutes a necessary precondition for efficacy (European Council 2001; European Commission 2006). This belief is generally shared by scholars (Schmalz 1997:4). Coherence is not only a concern to EU foreign policy: the foreign policies of any international actor need to be coherent in order to be effective. As explained by Missiroli, "the assumption is…that, by acting unitarily and with a common purpose, the EU…becomes also, *ipso facto*, more efficient and effective" (Missiroli 2001:4). The idea that states need to follow a single foreign policy approach, even in federated entities, is geared towards ensuring coherence (Rokkan 2000). If coherence cannot be ensured through the singleness of federal policies, the adequacy of such system comes into question. The EU, too, received coordinating powers in the course of the integration process in order to allow it to shape a common foreign policy. In that sense, incoherence undermines the prime objective of EU foreign policy: to provide effective policy outputs which member states could not deliver individually, in accordance with the subsidiarity principle. While the link between coherence and effectiveness has been called into question by highlighting the fact that European foreign policy has often achieved unanimity at the expense of effectiveness (Missiroli 2001), the fact remains that ensuring coherence is perceived as a legitimising element in EU foreign policy.

Optimising coordination of European foreign policies is necessary in order to achieve coherence. Scholars have identified a variety of dimensions where the principle of coherence comes into play. Firstly, both vertical and horizontal coherence must be ensured. Foreign policies of the member states and the EU should be complementary, adding up to each other (Nuttall 2005). Under horizontal coherence, also understood as cross- or inter-pillar coherence, policies between different pillars have to be coordinated. Also towards other third countries the EU must ensure coherence: policies towards third countries must add an added value, shall be proportionate and remain without contradiction over time (Smith 2003:65; Sick 2001). Beyond inter-pillar co-ordination, inter- and intra-institutional coordination concerns the coordination of policies within a specific institution, e.g. Commission policies across different Directorate General (DG)s (Christiansen 2001).

II. The Ideal-Type Polities and Methods to ensure Coherence

The need to ensure coherence is not unique to the EU. Although incoherence in EU foreign policy is often portrayed as hampering its effectiveness, coherence is a concern to many actors in international relations. In the case of the EU, the need for coherence acquires a particular importance as a means to overcome the difficulties posed by its fragmented legal-institutional nature (Smith 2003). In contrast to a state, which relies on one institutional framework of foreign policy and mostly a unitary source of foreign policy authority, EU foreign policy long struggled with differences amongst the member states, between the EU level and the member states as well as between the Community and the Union. Does the EU use the same measures as a state to ensure coherence in EU foreign policy? In order to answer this question, we have to introduce ideal types of polities along with their corresponding methods of accomplishing coherence in their international relations. While coherence is understood as a legal procedural obligation, we have to conceptualize what procedures are expected to look like according to the ideal types of polities.

Ideal Types with an "eye on coherence"

We introduce three ideal types of polities to this study, which are closely related to the notion of a state, an international organisation and a third type being rather understood as an addition to the classical type of a state, but located beyond the state. Our aim is to operationalise each of these ideal types along the obligation to ensure coherence in their international relations, outlining the method used to this end. We assume that the methods employed to accomplish coherence differ from one polity to another.

a/ In the first conception, the EU is viewed as an intergovernmental type of international organisation (Eriksen/Fossum 2007). Its purpose is thus to address problems that its member states cannot resolve when acting independently. In order to handle such issues, the member states would establish politically independent institutions such as specialist agencies and delegate policy-making powers to independent regulatory commissions. The agencies would be held accountable by institutions in which member states are represented. A set of institutions in which member states would have the right to veto would be established, preserving the "intergovernmental character" of the EU level (Hyde-Price 2005). With only certain tasks delegated to the European level, the member states would still steer the Union through modes of hierarchy and intergovernmentalism. Member states would communicate through the traditional means of diplomacy, with national diplomatic missions in Brussels (Sjursen 2007). This would be a European order in which one would have national European foreign, security and defence policies and other competences transferred under the roof of intergovernmental decision-making. Competences would be clear-cut. A competence of the EU would only be seen as being in place when agreed upon. Under this scenario, the member states themselves can regulate the roots for incoherence by means of internal coordination. Coherence would only be achieved on a vertical level by the cooperation and coordination of member states in the institutionalized intergovernmental institutions on the EU level. The member states do not lose their right to conduct foreign policies. However, horizontal coherence would be provided by holding the rather independent agencies of the EU accountable. As such, an intergovernmental hierarchy vis-à-vis the European agencies would be established.

b/ In the second conception, the EU is regarded as a multinational federal European state. The idea here is that of a multinational federal state, where nation building processes at member state and regional levels would have to be accommodated within the overall federal structure. In this conception of the EU, there would be a single foreign, security and defence policy at the federal level. Core criteria of statehood would have to be fulfilled (Sjursen 2007). The competence of foreign-policy making would rest with the EU. It would be an absolute competence ruling out interference with the foreign polices of sub-state actors (Wheare 1963; Egeberg 2001). There is a clear authority and hierarchy of the federal foreign-policy executive. This implies that vertical coherence can be accomplished by a hierarchically higher federal level vis-à-vis a hierarchically lower sublevel, which has to comply with decisions made. In horizontal terms, the federal foreign policy administration has to look for inter- and intra-institutional coherence amongst the different branches of government dealing with foreign relations. This is mainly done by the hierarchical organization of government on the federal level. In the end the head of government will be able to use directives, etc. to make her administration coherent.

c/ The third conception considers the EU as a regional cosmopolitan order, in which government would be separated from the state. It would be a non-state democratic polity with explicit government functions. In such a polity, the concept of government would rest on the moral authority of the procedures established for decision-making and law making (Eriksen and Fossum, 2007: 29). Compliance, in other words, would be ensured as a consequence of decisions following such authorised procedures, and not as a result of coercion (or the threat of coercion). Indeed, while concurrent powers of foreign policy action would be possible to rest on the EU level (Sjursen 2007), coherence in the vertical dimension would be ensured by compliance of the member states. What is envisaged is a polity "with a pyramidal conception of congruence and accountability, i.e. where the global level contains certain fundamental legal guarantees, the EU handles a limited range of functions over which it has final authority" (Eriksen and Fossum 2007: 30). In that sense, the EU policies would not only have to be coherent between the member states and the EU, but also between the EU and the United Nations. On the other hand, the EU would establish institutions at EU level which are not solely held accountable by intergovernmental institutions. If EU in foreign policy is to be conducted in a legitimate framework (Sjursen 2007), the powers of supranational institutions should be enhanced. Indeed, in an ideal type there would be an administration in addition to the national ones consisting of all the different layers of European foreign policy (Raube 2009). Thus, in the horizontal dimension the EU administration has to provide coherence by close coordination in order to fulfil its governmental tasks coherently beyond the member states. There should be responsible institutions legitimated on the European level directing the coordination of the policy. Coordination is not sufficiently provided by intergovernmental institutions; rather independent institutions in charge of a "European" foreign policy should be responsible for coordinating such a process. In that sense, we can expect that the foreign policy will be very closely coordinated between different actors in European foreign policies. These overall conceptions of foreign policy are the background against which we examine the attempts of the EU to accomplish the principle of coherence.

III. The Quest for Coherence in Constitutional Policies

We start by looking into the constitutional policies of the EU. How did institutional reform in the EU foreign policy address the problem of coherence and which way of accomplishing coherence was chosen by the EU reforms. Moreover, how does the judicial review of EU foreign policy proceed and which proposals to coherence in European foreign policy does it make? To which ideal types of polities do the different forms of coordinating foreign policy speak?

Coherence has long been a concern to European policy-makers. Already the Single European Act which formalised the European Political Co-operation (EPC) contained an exhortation to ensure coherence between the external relations of the Community and foreign policy coordination between member states. Its article 30 (5) provided that "external policies of the European Community and the policies agreed in the European Political Co-operation must be consistent". This explicit linkage was hailed by commentators, who acclaimed the fact that two previously unconnected areas were brought together and subjected to the need for consistency (Krenzler and Schneider 1997:134). However, the inclusion of a general exhortation in the treaty largely unaccompanied by supporting institutional arrangements represented little more than a "first step". Over time, subsequent treaty reforms, particularly those of Maastricht and Amsterdam, perfected the arrangements with the help of four different sets of instruments. They notably feature the reform of organisational and bureaucratic structures, not least in the framework of the single institutional framework and the increasing formalisation of the intergovernmental foreign policy coordination structures, in particular through the creation of legal acts under the CFSP, such as the Common Positions, Joint Actions, and later Common Strategies (Nuttall 2005).

The "defining moments" for the configuration of coherence in EU foreign policy famously came with the treaty revisions of the nineties, the treaties of Maastricht and Amsterdam. The single most significant development was the creation of the European Union. As noted by ME Smith, improving the effectiveness of the EU's external capabilities was a key motivation behind the signing of the Treaty on European Union (TEU) in 1991 (Smith ME 2004:209). The central innovation introduced by the Treaty of Maastricht was the creation of a single institutional framework to govern all policies of the Union. In terms of foreign policy, this comprised the external relations of the first pillar under the community method, and the intergovernmental pillars of the Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA). However, the establishment of the single institutional framework did not in itself lead to improved coherence of EU external action. As ME Smith explains, "by attempting to create a closer link between the EC and the EU's other external capabilities, the drafter of the TEU unwittingly created tensions, inconsistencies, and gaps between the rules governing these domains at the organisational and even individual levels" (Smith ME 2004:209). This situation was exacerbated by two further provisions: Firstly, the exhortation to ensure coherence was now addressed to both the Council and the Commission. Secondly, the European Court of Justice was excluded from exercising jurisdiction over the policies produced in the second and third pillars. The combination of entrusting both Council and Commission with the task of ensuring coherence and the lack of ECJ jurisdiction was unable to eliminate the "grey areas" where the competences of

Council and Commission overlapped. Eventually, and in spite of this explicit inclusion, article 46 f TEU served as an indirect gateway for judicial review in the area of coherence. In fact, many of the arrangements contributing to EU foreign policy coherence result from sharpening the delimitation of competences between the Community and the intergovernmental framework. Thus, the unfinished businesses of Maastricht had to be solved through arrangements which were put in place following a series of major inter-institutional conflicts which erupted following the entry into force of the TEU. While the most publicised example was the dispute over the financing of the CFSP due to the European Parliament's activism on the matter, similar struggles characterised the few years following the entry into force of the TEU (Schmalz 1997:22). The outcome of those disputes created many of the mechanisms which ensure coherence in EU foreign policy until our days.

Similarly, a "second wave" of activism among EU actors – especially coming from prominent Commission officials such as Commissioner for External Relations Patten or President Prodi – advocating arrangements for improved coherence emerged with the creation of the European Security and Defence Policy, at the time of the preparation and signing of the Treaty of Nice. While a renewed attempted was made to strengthen provisions on coherence in the treaty, the need for consensus once again brought about mechanisms which were harshly criticised by EU actors and commentators alike. Resenting that the Nice Treaty provisions on enhanced co-operation represented a step backwards as they set ESDP apart from the rest of the CFSP, Missiroli complained that "unless a legally more constraining framework is established…the potential for occasional turf battles and 'malign' initiatives and interpretations is there to stay" (Missiroli 2001:10). Paradoxically, the adoption by the EU of a military operational role through the establishment of the ESDP exacerbated the need for improving coherence, while the sensitive nature of defence issues rendered consensus among member states more difficult. Another example is the creation of a High Representative for the CFSP, a role introduced by the Treaty of Amsterdam and later perfected by the Treaty of Nice. While this post potentially constituted a key instrument for the improvement of vertical coherence, the High Representative was meant to represent the Union externally in a role of subordination to the Presidency, which already had to share its external representation role with the Commission in accordance with article 18(3) of the Amsterdam Treaty. Such an arrangement appeared to complicate the question of external representation of the Union as it added to multiplicity of actors involved rather then reducing it. Only with the progressive enhancement of the powers of the High Representative in subsequent treaty revisions is it developing into a central role to the enhancement of coherence in the CFSP.

Yet, beyond the defining years of the post-Maastricht, and to some extent the post-Amsterdam and post-Nice periods, improved coherence in EU foreign policy has resulted from the increasing

delimitation of competences between the institutions and pillars. As ME Smith puts it, the EU has been ameliorating its coherence mechanisms in a progressive manner: "despite a number of internal and external obstacles, the EU continues to make gradual institutional breakthroughs in this area" (Smith ME 2004:209). The step-by-step, often conflictual elimination of "grey areas" was made possible, among others, by two developments. Firstly, the ECJ became increasingly involved in adjudicating in inter-institutional disputes over competences with major implications for coherence. The so-called "small arms" ruling is but one of the most recent examples. The major role played by EC law in promoting coherence through the ever-sharper delimitation of competences has often been underplayed (Cremona 2008). Secondly, the delineation of competences also resulted from the Commission's tacit acceptance of the loss of a certain portion of autonomy in matters were the Community and CFSP competences overlapped. As Smith puts it, "when a policy action generates a conflict between CFSP and EC decision-making rules…, the procedures of the CFSP tend to dominate…Some CFSP decisions even undermined EC's own competencies, thus contaminating the EC with intergovernmentalism" (Smith ME 2004:215). This development was facilitated by the circumstance that, although both Council and Commission are entrusted with ensuring coherence, it is the Council that is responsible for the CFSP. In this sense, the arrangements were aided by the Commission's selective activism: "Given its institutionalised preoccupation with economic integration, the Commission still chooses its battles carefully and has not emerged as a major enforcer of compliance in external political affairs" (Smith ME 2004:219).

It is significant that the coherence has been enhanced by accentuating the distinction between pillars rather than by devicing collaborative endevours which blur them. The idea of sharpening the delimitation of competences appears to contradict the notion of "creating synergies". The evolution outside the context of treaty reform illustrates this trend. The jurisprudence of the European Court of Justice (ECJ) has been instrumental in delimiting the competences of different EU actors, gradually reducing the legal "grey areas" from which dissonances emerged (Cremona 2008). This reflects a trend towards an increasingly precise delimitation of competences that has characterised EU practice since Maastricht, thus preserving, if not accentuating, the "purity" of the pillars (Poeschke 2008).

Unsurprisingly, all endeavours to ensure coherence conducted at treaty level have been regarded as largely insufficient (Smith ME 2001). What appears interesting about the evolution described in this brief overview is that while scholarly attention has overwhelmingly focused on coherence arrangements through institutional grand-reform in the Intergovernmental Conference context, developments outside the treaty framework appear to be as central to the configuration of policies promoting coherence. Indeed, post-treaty arrangements often served to resolve conflicts created by the cumbersome provisions of the treaties themselves.

In the following section, we will examine two substantive areas in order to illuminate how the EU endeavours to ensure coherence in policy implementation, with a view to relating these practices to one of the ideal types.

IV. The Quest for Coherence in Substantive Policies

1.Sanctions and (In)Coherence

1.A. Sanctions in EU foreign policy

The imposition of sanctions by the EU has long been identified as a classical case of inter-pillar collaboration – indeed, one that precedes the creation of the pillar structure (Smith ME 2004:215). Legal research devoted some attention to EC/EU sanctions since the commencement of this practice due to the legal-technical difficulties emanating from the use of a Community instrument to realise purposes alien to the EC (Lukascheck 2002). The political processes leading to the establishment of a common EC sanctions practice was modelled on the implementation of United Nations Security Council (UNSC) sanctions through a Community instrument. The adoption of this procedure responded to a desire to enhance the uniformity of legislation, facilitating the emergence of an independent practice within the EPC which was eventually formalised by the Treaty of Maastricht (Koutrakos 2001).

The origins of the EC sanctions practice must be traced back to the establishment of the EC as an implementing body of UN mandatory sanctions. When EC Member States were first confronted with the requirement to implement UNSC sanctions – those imposed against Rhodesia in 1965 - they considered themselves free to do so through national legislation. A provision had been included in the Treaty creating the European Community (TEC) to expressly allow Member States to deviate from the Common Commercial Policy (CCP) in order to comply with other international obligations (art.224): The exceptional clause § 297 EC allows Member States to take measures that deviate from Community regulations "in order to carry out obligations…accepted for the purpose of maintaining peace and international security". The method of implementing UN sanctions through national legislation came to be known as the "Rhodesia doctrine". The choice of national measures over the possibility of implementation through Community legislation was clearly motivated by Member States' concern not to jeopardise their freedom to determine their foreign policies. Yet, the realisation that the Rhodesia doctrine worked to the detriment of the efficacy of the embargo prompted a shift towards a different method which involved the Community (Schmalz 1997:22). It consisted in the adoption of a Community Regulation under art. 113 EC preceded by a decision taken in the framework of consultations held under the auspices of the intergovernmental, extra-

communitarian forum of the ECP. Although this method first served as a legal basis when sanctions were imposed against the USSR, it was labelled the "Malvines doctrine" because of its later use in the import ban imposed on Argentina during the Falklands war.

Legal scholarship generally explains the shift from the "Rhodesia" to the "Malvines" doctrine by pragmatic considerations. The Member States' main concern was to achieve the effectiveness of sanctions through uniformity in their implementation (Koutrakos 2001; Lukascheck 2002). They also point to the fact that reluctance to resort to using the Community during the 1970s was justified by the under-developed CCP, and the fact that Member States were wary to implement sanctions through it and thereby broaden its scope. In contrast, the CCP was already well established (Koutrakos 2001). Without contending the centrality of these claims, it seems apparent that the intention to develop a legal basis for autonomous EU sanctions was also an important factor. The first three instances of application of 113 EC mentioned above occurred in the framework of autonomous EC sanctions rather than UN sanctions.

The Treaty on European Union (TEU) codified the procedure for the imposition of sanctions which was already well established at the time. Art. 228a EC sets out what has been labelled the "Two-Steps Procedure" (Bohr 1993). First, Member States agree on the imposition of sanctions within the intergovernmental context of the EPC, later the Common Foreign and Security Policy (CFSP). They are implemented by Community measures based on art. 113 EC, or directly by Member States when the measures fall outside of Community competences, such as arms embargoes or visa bans. The codification of the inter-pillar procedure for the application of sanctions was welcome by legal scholars, which had resented the inconsistency of the Community implementing decisions that had been taken in an extra-communitarian framework. This procedure, a *sui generis* provision in Community Law, served as a model for subsequent "hybrid" legal bases such as the "Dual-use Regulations".

The duplicity of legal acts in the "two-steps procedure"– a CFSP act and a Council Regulation – has drawn attention to the coordination difficulties that may arise in crafting these measures in the CFSP and Community pillars. Indeed, the field of sanctions is identified as one of the areas where problems of horizontal coherence were likely to arise (Hill 2005). Lawyers conceive of the current system as one that preserves Member State sovereignty over foreign policy matters while guaranteeing the uniform application of the law (Bohr 1993). Lukascheck justifies the two-steps procedure as follows: "[The Union] shall confine itself to the adoption of the political decision that economic relations with a third country shall be interrupted or reduced for reasons pertaining to the ambit of foreign policy,

whereas the Community's primary task is to determine…the commercial policy measures which shall be taken to achieve these ends. [T]he Commission…still disposes of sufficient margin of manoeuvre to consider Community concerns" (Lukascheck 2002:344).

1.B. Sources of (In-)coherence

Despite the formalisation of the time-honoured use of the "two-steps" procedure, a number of inconsistencies in the implementation of sanctions can be identified since the establishment of the CFSP.

a/ Horizontal Incoherence in Suspensions of Development Aid: Hurdle Surmounted

Some instances of horizontal incoherence occurred in the post-Maastricht phase described above. They were motivated by a sense of uncertainty concerning which pillar was in charge of deciding on certain sanctions such as the suspension of development aid to third countries. This question was complicated by the fact that sanctions of very different nature, such as arms embargoes, financial measures and interruption of aid were agreed simultaneously and accordingly reflected in a single document. Hence, following the entry into force of the TEU, sanctions were decided concurrently. On the one had, some cut-offs were agreed according to first pillar procedures, while others were decided in the framework of the second pillar despite being identical in character and scope. This concurrent practice even witnessed instances of suspension of development aid decided unilaterally by the Commission and the Council respectively: The Commission unilaterally decided to cut off aid to Rwanda following the Kibeho massacre in 1995, while the Council unilaterally suspended aid to Niger in response to its 1996 coup d'état (Schmalz 1997:31). This obviously led to considerable tensions between the institutions.

Competences were subsequently clarified and have long ceased to constitute a matter of contention, especially as the practice of imposing sanctions has grown more frequent. The accommodation reached consists in submitting measures within different fields of competence to separate procedures. The Commission has abandoned the practice of unilaterally suspending aid. Under the current arrangement, the Community is allocated responsibility for development aid suspensions. This takes place in the framework of consultations which are led by the Commission, a responsibility allocated in view of the Commission's particular expertise in the field of development co-operation (Schmalz 1997:33). In contrast, the "two-steps" procedure is applied to all other forms of sanctions, which are agreed in the framework of the CFSP. Exemplarily, development aid to Zimbabwe was interrupted in 2002 through a fist pillar Regulation, while on the same day a CFSP Common Position imposing a visa ban on the ruling elite was adopted.

b/ Vertical Incoherence: A Persistent Problem

- The lack of recourse to tailor-made instruments

The scholarly debate on coherence is characterised by the belief that inconsistencies can be averted through institutional reforms, even though the modifications introduced by successive treaty revisions have been widely criticised for their insufficiency (Nuttall 2005). The implicit assumption is that instruments facilitating coherence are established because the political will to use them has crystallised. Hence, once adequate institutions and instruments are in place, coherence will be ensured. However, EU implementation practice points in a different direction.

A prime example is the incorporation in the Maastricht Treaty of an article allowing for the joint implementation of financial sanctions (§60 TEC). However, Member States refrained from resorting to this article when applying financial measures in the following years (Sick 2001). Instead, they preferred to implement sanctions individually through national legislation.

This apparent contradiction raises the question of the sources of inconsistency in the formulation of EU foreign policy: If a new instrument to ensure coherence is available, what prevents member states from using it? The origins of the inconsistency reportedly lie with member states' reluctance to strengthen the intergovernmental level by operating through the EU. Thus, this problem unequivocally qualifies as one of vertical rather than horizontal nature.

- The weakening of pre-agreed decisions

A second example of inconsistency can be identified in the framework of the "two-steps" procedure. In the sanctions campaign mounted by the EU against Serbia during the Kosovo conflict of 1999, Buchet de Neuilly found that measures decided in the CFSP Common Positions were watered down in the ensuing EC Regulations. This is counterintuitive given that, since the CFSP phase is intergovernmental while the Community decides by qualified majority, more intense disagreement and negotiation could be expected in the former rather than the latter. Yet, Buchet de Neuilly found that the diverging voting rules applied in each phase were unrelated to that outcome: the same member states that had pushed for harsh sanctions in the CFSP reportedly weakened the measures when negotiating the Regulation in the EC phase (Buchet de Neuilly 2001).

Again, this circumstance presents us with conflicting agendas within identical Member States. If states are not ready to implement far-reaching measures, why agreeing to them in the first place? While this problem does not fit neatly into any of the standard types of incoherence identified so far,

it can be considered as analogous to the previous example: Member States make a decision at EU-level, then back down. Again, this phenomenon points to contradictions in the behaviour of the member states – possibly internal to their bureaucracies - as the source of inconsistency; thus, it qualifies as a vertical problem.

- (Permitted) Non-compliance

A traditional problem of sanctions lies with the challenges posed by member states which do not comply with them. Non-compliance with EU measures is a relatively minor problem in comparison with other multinational sanctions, notably those imposed by the UN. Deviations from CFSP rules have routinely been "legalised" through the inclusion of clauses in the imposing documents allowing states to deviate under specific circumstances. This practice was originally initiated in order to accommodate Greece's refusal to implement the grain embargo imposed against the Soviet Union in 1980 (De Wilde d'Estmael 1998), and has survived to our days. France's decision to invite Zimbabwean President Mugabe to the French African summit in 2002 in defiance of the visa ban compelled the EU to include a clause in ensuing regimes allowing states to grant exemptions. While such deviations are not technically speaking disallowed, they do contravene the spirit of the measures, thus undermining their credibility vis-à-vis their targets and third states. This phenomenon can be categorised as a classical example of vertical inconsistency.

1.C. Assessment

This brief analysis of coherence in the field of sanctions shows suggest that the establishment and institutionalisation of a hybrid instrument embodied in the "two-steps" procedure can largely ensure horizontal coherence. The accommodation found has successfully prevented the emergence of horizontal incoherence, even though it admittedly does so to the detriment of the Community, and especially of Commission prerogatives. The imbalance in favour of the intergovernmental pillar is exarcerbated by the increasing specificity with which the Council drafts CFSP Common Positions imposing sanctions (Poeschke 2008). This observed trend, presumably driven by a desire to reduce the breadth of provisions to be negotiated in the Regulation phase, further limits the Commission's room of manoeuvre in the formulation of the sanctions, effectively reducing it to an implementation agency. At the same time, the fact that CFSP sanctions mostly consist of targeted measures without economic implications renders the possibility of market distortion less likely, and consequently makes the participation of the Community less relevant.

At the same time, the virtual elimination of inter-pillar tension in the field of sanctions has been accompanied by the persistence of vertical inconsistencies. Conspicuously, the power-struggle between Council and Commission labelled as "institutional incoherence" (Christiansen 2001) is absent from the overview, which again raises the question of whether the salience of "turf wars" waged between Council and Commission emphasised in the existing literature (Berger and Bartholome 2007) might have been overstated. The fact that the collective or individual behaviour of the member states is responsible for inconsistencies suggests that institutional provisions are more useful in disciplining the inter-pillar relationship than the relationship between the EU and the member state level. It also insinuates that the coherence literature might suffer from an overemphasis on the legal-institutional framework which overlooks member state behaviour. It is in the relationship between EU level and member states that powerful obstacles to a coherent EU foreign policy practice can be located.

1.D. Which polity?

After having completed our analysis, how does it link back to the question that guides our investigation? The example of sanctions constitutes a relatively harmonious and well-developed method of ensuring coherence. It proves highly successful in ensuring horizontal coherence, if only relatively successful in avoiding vertical incoherence. What does this method reveal about the nature of the EU as an international actor?

The example studied displays some features corresponding to each of the ideal types. The observed trend in the "two-steps" procedure shifting the balance of the decisions in favour of the second pillar to the detriment of the first seems to point to the international organisation type, according to which coherence is ensured by following an intergovernmental decision-making model. Furthermore, many incoherence problems faced by the EU typically correspond to the realm of international organisations, such as member state defection. At the same time, a number of features bear strong resemblance with the state model. The mechanisms for imposition and implementation of sanctions in the EU closely approximate the hierarchical allocation of responsibilities that characterise a federal entity (Coppieters 2007). The model of decision-making follows a hierarchical structure whose phases are characterised by clearly defined competences of the actors involved. The stipulations of the resulting legal acts (Common Position and Regulation) are binding upon member states, and in the case of the Regulation, they impose reporting requirements on public and private financial institutions.

Yet, the ideal type to which it comes closer is the cosmopolitan type. The "two-steps" procedure closely approximates the cosmopolitan entity in which coherence with other international actors is

ensured. In the case of EU sanctions, coordination with the United Nations and with major international partners such as the US is central. This is due to the fact that the EU autonomous sanctions originated with the implementation of UN sanctions, and was accordingly modelled on that practice. Moreover, the EU and UN practice have remained intertwined over the years, with EU sanctions often overlapping with UN practice (Portela 2005). A final similarity resides in the fact that the Commission acts as an implementing agency of the financial and economic measures, while member states are in charge of implementing bans and embargoes of non-economic nature. Thus, these entities discharge government functions in different phases of the formulation and implementation of sanctions, forming a new layer of governance. In conclusion, the EU functions as a cosmopolitan entity in the field of sanctions imposition and implementation.

2. Crisis Management, EU Presence and (in-) coherence

The EU is increasingly active in conflict-management. The growing role of the EU in international relations is often highlighted by pointing to multiple actions taken by the EU to address crises provoked by state failure through state transformation and democracy building (Cameron 2007; Howorth 2007). This suggests that the capability-expectation gap, famously described by Hill in the early 1990's, is closing (Hill 1993). When capable and active, the EU is often labelled as a normative, ethical or even cosmopolitan power (Aggestam 2008; Manners 2004, 2006; Sjursen 2006). It is here where the presence of the EU in international relations becomes most obvious, catching public attention.

It has been argued that the EU's presence in international relations has to be effective, efficient and coherent. As explained above, the latter is a goal that all political systems are concerned with and want to achieve (Vanhoonacker 2008). Incoherence is viewed as malign phenomenon which makes actors look untrustworthy and unreliable. In the EU, the goal to formulate coherent policies is especially difficult to attain since no clear-cut hierarchy exists in foreign relations. There is not one single government deciding over the course to be taken and ruling out conflicts among different branches of government.

Coherent action is a goal that grants legitimacy to the EU as an international actor vis-à-vis the member states. As such coherence confers upon the EU both recognition on the international scene and legitimacy as the "adequate" level of policy-making, an aspect that has to be understood in the light of the subsidiary principle enshrined in the EU Treaty. Member states' collective action under CFSP/ESDP grows when the EU demonstrates problem-solving capacities over time and issues. Yet, one of the main problems to frame coherent action is the member states themselves.

2.A. Sources of (In-)coherence

Sources for incoherence or coherence in crisis-management are manifold. In the following section we outline sources of both phenomena. The hypothesis is that sources of (in-) coherence grows with the acquisition of competences and institutional resources by the EU to conduct crisis-management. The more the obligation to comply with the EU as an actor increases, the more the issue of (in-)coherence come to the fore. Ultimately, in the absence of clear hierarchies, the many actors and institutions in EU external relations have to find arrangements along the imperative "tous pour un, un pour tous" (Hillion 2008).

2.B. Crossing the Bridge: Horizontal Policy Coherence in Crisis-Management

Crisis-management is officially composed by a civilian and military component. Whereas the latter is clearly a matter of ESDP, including the intervention with military forces on the basis of international law, civilian crisis-management consists of a wide pallet of policy instruments ranging from police- and rule-of-law missions to democracy assistance and humanitarian aid. While police mission depend on the distribution of national staff in international conflicts, it clearly falls – like military missions – into the realm of ESDP and thus second pillar decision-making. However, civilian crisis management as such can both fall into the competence of the Union – in the second pillar – or the Community – in the first pillar. Indeed, in many cases outside the military and police-missions, action can fall both into the one or the other decision-making mechanism (Hoffmeister 2008). The problem is one of cross-pillar politics, which is necessary to solve in order to bring about functional unity and coherence in foreign policy (Stetter 2004). It has been pointed out that the problem of coherence starts in defining the competence of action in EU foreign relations (Cremona 2008). Indeed, once competence is related to different actors – such as the Commission and the Council in crisis-management – the likelihood of incoherent action increases.

The Joint Paper of the Commission and the Council addresses the problem of coherent policy-making in crisis-management. In that sense, the two vital institutions of the first and the second pillars show an awareness of the problem of incoherence. At the same time, the institutional set-up itself might prove to be a source for coherence. The more the institutional settings in crisis-management decision-making are interwoven, the more opportunities are gained to coordinate action and prevent uncoordinated action. Hence, the Political and Security Committee (PSC), in which member states, Commission and Council Secretariat frame crisis-management action, constitutes an ideal place for coordination (Vanhoonacker 2008).

In principle, all committees dealing with crisis-management beneath the level of the PSC and reporting to the PSC are mixed institutions, in that they include representatives of the member states, the Commission as well as the Council Secretariat. Potentially, they serve as arenas of coordination. On the one hand, the EU Military Committee (EUMC) is an exception, as it is established on the strategic level of military planning, comprising Chiefs of Defence Staff of the member states or their deputies, and designed to advice the PSC on military crisis management (Duke 2008).

On the other hand, the composition of the Committee on Civilian Aspects of Crisis Management (CivCom) is mixed – including representatives of all member states and the Commission. It reports to Coreper and strategically advices the PSC (Duke 2008). Cross-pillar politics and coherence can be addressed here between the Commission and the member states. The overall divide between military instruments of crisis-management (second pillar) and civil management (first and second pillar) can be addressed in the so-called Civilian-Military Cell, established beneath the level of EUMC and CivCom. Again, its composition reflects the multiple institutions and policy issues involved, comprising "military" and "civilian planners" as well as "Council functioneers" (Duke 2008: 89). Amongst other functions it has to oversee "the development of civilian-military relations within the institutions" (Duke 2008: 89). The complex institutional structure necessitates coherent decision-making. At the same time, as we will see below, the new institutions themselves raise questions of how coordination actually takes place "between civilian and military dimensions" (Vanhoonacker 2008: 146). As Christiansen pointed out, incoherence is also a matter of intra-institutional incoherence (2001). This is not only true for the Commission and the Council Secretariat, but also the newly established system of Council Committee governance in ESDP.

The forthcoming "new" High Representative and its administrative substructure, the External Action Service (Raube 2009), are meant to overcome problems of incoherence by introducing further mechanisms of coordination. Indeed, by fusing existing institutions into the new High Representative (Wessels 2005) and the EEAS (Raube 2009) coordination between institutions is transferred to new institutions. Coherence can be achieved more easily thanks to the emerging hierarchical executive and administrative structures – the High Representative is Vice-President of the Commission and Chairman of the Council and heading the EEAS, which consists of both the CFSP/ESDP branches of the current Council Secretariat and the DG RELEX of the Commission (Raube 2009).

2.C. Taking the obligations seriously: Vertical Policy Coherence

The allocation of competences is but one aspect, one source of incoherence. Amongst the remaining identifiable sources of coherence, vertical policy coordination might be the most prominent example of incoherence. The problem is threefold, featuring

a/ differences amongst member states,

b/ the unwillingness to use EU institutions and

c/ the contribution of personnel in achieving coherence.

In crisis-management the general problem of vertical incoherence arises in the second pillar, where the role of the Commission in steering the policy-process is underdeveloped. Although the High Representative has contributed to positive developments in CFSP/ESDP, member states presiding the Council and European Council are still the two main institutions in CFSP/ESDP. As Stahl has elaborated, the EU's incoherence in the 2003 Iraq war stem from deep-rooted differences amongst member states. Thus, disagreement could not be overcome by the institutions in place (Stahl 2008). Risse has shown that the EU was unable to communicate and make use of the existing institutions, especially the Council and the European Council (Risse 2004). In that sense, following Hillion and Wessel (2008), the member states did not live up to their obligation to formulate a common EU foreign policy. The compliance deficit emanated from vertical incoherence at the level of member states.

At the same time, divergences in the resources of individual member states add to the problem of coherence. During chairmanship of the Council, larger member states often make use of their own resources at home to coordinate their efforts – often with negative effects (Vanhoonacker 2008: 151). The Council Secretariat is most commonly used by smaller member states for policy co-ordination. In turn, the Council Secretariat's institutional capacity for coordinating policies across pillars and within the second pillar is underutilised by large member states. The potential for incoherence increases accordingly.

Another source of incoherence is the fact that due to the lack standing European forces member states contribute their military staff for military crisis-management and police forces for civilian crisis-management only after a decision has been made at the Council level (Duke 2008). Hence, contributions vary across member states according to different interests. As long as sufficiently large contributions are committed to ESDP missions, this does not constitute a problem. However, over

time the asymmetry of European contributions in certain cases might become a problem of incoherence in the eyes of international partners. Also, the lack of contributions might reveal differences – even incoherence – in the EU. This is illustrated in the case in the EULEX police and law mission in Kosovo. Whereas the EU was not able to overcome member state differences over the status of Kosovo in 2008, the EU followed its earlier attempts to contribute to crisis-management in the province. The ESDP-based civilian crisis-management mission was a new attempt of the EU to become the central external force in overseeing the post-conflict crisis-management in Kosovo. However, those member states that did not recognise Kosovo for various reasons also refrained from committing national forces to the EU mission. Thus, the overall EU approach to Kosovo becomes undermined by differences amongst member states. The EU is able to show presence in Kosovo, but the long term goal set out in the Western-Balkan Summit of inviting all states of the Balkans to accede to the EU lacks credibility.

2.D. Increasing Capabilities: Intra-institutional Coherence

There is an inherent paradox in the case of intra-institutional coherence. Institutions on the EU level are built to overcome problem-solving deficits at the national level. The same is true for the pooling of resources in order to extend capabilities of the EU. The EU can only benefit if resources and capabilities are in place *and* incoherent action by individual member states does not undermine collective actions by interfering with EU policies. However, when new competences, capabilities and institutions are built in one particular policy area, e.g. the "new" area of civil crisis management, problems of intra-institutional incoherence are likely to arise. The coherence of actions produced by the EUMC and CivCom, two agencies linked thought the CivMil, is still underexplored. Do the institutions in place contribute to coherence or are they falling into patterns of incoherence? Studies conducted with respect to the Council Secretariat have shown that there are cleavages undermining coherent efforts in the Council Secretariat: "Institutional growth and expansion of competences, generally considered as signs of success, have left their mark on the institution and now threaten the maintenance of coherence, just as they have done in the Council Secretariat" (Christiansen 2001: 758). In that sense, the introduction of the Policy Unit to the Council Secretariat increased tensions with the DG E (Dijstra 2008; Vanhoonacker 2008). The merger of the institutions in some geographical areas with particular relevance to crisis-management such as the Balkans, the Middle East, or the Mediterranean (Vanhoonacker 2008: 151) has not ruled out the conflicts amongst different administrative units. The two components of crisis-management are mirrored also in the Council Secretariat. However, civil crisis-management coordination has been established by a Civilian Planning and Conduct Capability (CPCC) in the Council Secretariat only recently.

2.E. Representing Europe: External Coherence

The representation of the EU in international fora and organisations constitutes an important element of coherence (Hoffmeister 2008; Alcalde/Bouchard 2008). Who represents the EU and how is coherence ensured in the external representation of EU? External representation links into two different aspects of crisis-management: the representation in decision-making bodies in other international organisations as well as the external representation of the EU in crisis-management operations.

The EU is required to "speak with one voice" in other international organizations and their decision-making bodies. The Commission often participates in international organisations alongside the member states, frequently in the capacity of an observer. In the case of the UN Security Council, whose decisions are necessary to launch legitimate military interventions, only France and the UK are permanently represented. The coordination with other member states and the Council Secretariat, which has a liaison office with the UN, is an obligation enshrined in the treaties. In other UN bodies the Commission is present next to the member states. Very often though, when CFSP/ESDP issues are raised in the debates, either a member of the presiding country or of the Council Secretariat would speak on behalf of the "Union", even though officially the Commission is a contributing actor of the debate (Hoffmeister 2008: 178).

In international crisis-management missions the EU deals with the same problem of multiple representations. The worst-case scenario is the lack of coordination of representing actors on the ground. Difficulties in crisis-management implementation exist on the ground (Gross 2007; 2008). However, even if coherent efforts are made by different representatives, e.g. the Special Representatives (of the High Representative), the Commission delegations and the member states, the EU has difficulties in "appearing coherent". Case studies have revealed that exactly this division of representation confuses third actors (Alcalde/Bouchard 2008). If a unitary presence is a requisite for reliability in international affairs, then appearing coherent is one part of it –regardless of whether policies are coherent or not.

The administrative structures of external relations – here: crisis-management – are mirrored in external representation. In that sense, the reform of the High Representative and the creation EEAS will also have an impact on coordinating external relations. As pointed out above, the Commission delegations will merge with the office of the CFSP Special Representative and the acquisition of legal personality by the EU will allow it to appear as EU delegations in international organisations and missions. Coordination with the member states remains a very important task. However, the reforms

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also include the introduction of a permanent European Council President, taking over functions of external representation from the current rotating presidencies (Raube 2009). Again, the introduction and growth of new institutions is likely to undermine the efforts to create coherence by injecting possibilities of new incoherence into the system.

2.F. Assessment: Which polity?

The previous analysis has shown a variety of instruments which are built into crisis-management as a policy. Both vertical and horizontal coherence were addressed in crisis-management. However, incoherence cannot be ruled out. Rather, the establishment of new mechanisms and institutions in the field of crisis-management is in itself likely to lead to incoherence.

The findings point mainly to institutions and mechanisms that are in place because of the absence of a clear hierarchical structure. As such, problems addressed do not resemble the emergence of a state-like polity in CFSP/ESDP. Intergovernmental features of the polity are mainly evident when it comes to vertical coherence and the representation of the EU abroad. Whereas inter-institutional competition for competence characterises the crisis-management field, institutions which tend to solve problems of incoherence are mainly "mixed" in nature. As such, entities like CivCom or CivCell can be located beyond purely intergovernmental institutions as they embody forms of coordination aiming at inter-pillar coherence.

V. Conclusion: Different Quests and the Nature of the EU

Our analysis has discussed sources of coherence and incoherence. In both its constitutional and substantive policies, the EU is introducing institutions and mechanisms to enhance its ability to ensure the coherence of its foreign policy across pillars and levels of governance.

The central finding of our investigation is that the sources of incoherence differ across policies. In crisis-management the sources of incoherence exist in both the horizontal and vertical dimensions of policy-making. Certain specialised bodies created to overcome sources of incoherence can eventually develop into sources of incoherence in themselves. In the field of sanctions, the main source of incoherence lies with the vertical dimension of policy-making, i.e. between the EU level and the member states. At the same time, the decision-making mechanisms on sanctions have considerably diminished the sources of horizontal incoherence.

The two policy areas observed, crisis-management and sanctions, differ in that they are "new" and "old" inter-pillar policies. Given that it originated as a pre-Maastricht policy, in the field of sanctions

the competition for competences has long been solved, whereas the recently created crisis-management policy still displays features of competence quarrels. Despite these differences, the analysis of the two CFSP policy fields demonstrates that the EU has considerably improved its ability to formulate coherent policies, even if it has not succeeded in eradicating incoherence completely.

The analysis presented different sources of coherence and incoherence along with the mechanisms devised to tackle them. In answer to our research question, we conclude that on the basis of the methods through which the EU ensures coherence in the CFSP, the EU does not resemble a state. Remarkably, the study suggests that the mechanisms in place point to two different ideal-types instead. Some mechanisms to overcome incoherence are established on the basis of national coordination, such as in the case of sanctions decision-making. Yet, they can also point to means beyond pure national coordination. In the case of crisis-management coherence was increasingly pursued through the establishment of new bodies, whose composition and function should be located beyond intergovernmental coordination.

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