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**Why the EU's *constitutionalization* and *parliamentarization* are
worsening the existing democratic deficit in European foreign and
defence policies**

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ABSTRACT

One key objective of the EU Constitutional Treaty was to democratize the Union, through the twin process of constitutionalization and parliamentarization. As such, these two developments might be seen as steps in the right direction. But, contrary to their democratizing intention, this paper will argue that both constitutionalization and parliamentarization are in fact aggravating the existing deficits in foreign policy and in defence. This is a dimension that has been much less noticed in the (academic) literature, which has tended to focus on the ratification problems. Thus, by failing to democratize the CFSP, the new Treaty represents a *golden* lost opportunity. In addition, by bringing in the national parliaments, it is worsening the current lack of democratic scrutiny, because national foreign policies also suffer from their own respective democratic gaps. Finally, by extending the CFSP's competence to defence, the situation becomes even more problematic: defence policy is notorious for its lack of democratic scrutiny. It is not the objective of this paper to argue against constitutionalization or parliamentarization. But it is its objective to signal their negative implications for the democratic scrutiny of an expanding EU foreign, security and defence agenda.

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INTRODUCTION

The seismic changes of 1989-1991 have added urgency to the emergence of a powerful European Union (EU) in the international system. An urgency further strengthened by the EU's enlargement process. To those fast moving international developments which have major geo-strategic, geo-political and geo-economic implications, we need to add the 11 September 2001 mega-terrorist attacks, as well as the wars in Afghanistan and Iraq, and more terrorist atrocities in Bali, Casablanca, Istanbul, Madrid, London, to name – unfortunately – but a few. Thus, the end of the Cold War and the emergence of a new order (whatever that might be) make EU foreign policy matter even more than in the past (Jorgensen 2004: 35)².

In the continuing post-referenda trauma context (France and the Netherlands), the European Union appears to be in a profound crisis. There are still those who believe there is no such crisis (as the Spanish Premier José Luis Rodríguez Zapatero). Some even argue that all that is needed is to ask the French and the Dutch to vote again because they cannot go against the will of the other countries³. Others claim that the whole integration process is built on overcoming crises (Taylor 1983: 1-91; 1996: 1-31; Cloos, Reinesch, Vignes, Weyland, 1993: 5-29)⁴. All these approaches fail to consider how grave the situation actually is. This is not just *yet another crisis*. It is a fundamental crisis for the EU 25. To use the words of Laurent Cohen-Tanugi (2005): a 'crisis of unprecedented seriousness'. As Soledad Gallego-Díaz has also put it recently 'everything is blocked and confused'⁵.

The difficulties that the Constitutional Treaty ratification process encounters, as well as the protracted negotiations over the 2007-2013 budgetary provisions, confirm the complexity of the current situation. To a certain extent, the current crisis also reflects concern at the lack of democratic participation in the whole integration process. The recent popular revolts are mainly directed against what is perceived to be largely an elitist process. This dimension is often ignored. Some useful ideas are slowly emerging, such as the setting-up of a parliamentary debate on Europe in the *Assemblée Nationale française* on the eve of each European Council meeting, but they remain in a minority⁶. Instead, most analysts come up with rather empty imagery, such as those drawn from 'cars' or 'food'⁷. There is similar frustration among those who blame the 'unexpected' result almost exclusively to what they see as misplaced populism:

La guillotine du non est tombée, nette, sans appel. Au niveau du débat politique, la campagne avait mis en évidence une véritable régression. Même si l'on oublie les erreurs, les à-peu-près et les mensonges qui ont scandé la discussion autour du

² See also Part 5 below over the increase of military interventions in the world.

³ The EPP/European People's Party leader in the EP, German MEP Hans-Gert Pottering argued on 31 August 2005 that the French and the Dutch could not decide the future of the other European citizens, as reported in *Newsletter of the University of Athens' Institute of European Integration and Policy and EKEM* (Hellenic Centre for European Studies), Vol. 9, 9 August 2005, p.3 [in Greek].

⁴ These are past academic arguments to that effect. It is important to stress that these particular studies do not cover recent events.

⁵ Soledad Gallego-Díaz, 'De vuelta a la crisis europea', *El País*, 04.09.05. See also Loukas Tsoukalis, [in Greek] 'The new European agenda', *Kathimerini*, 10.07.05.

⁶ Proposals made by the French Parliament, as reported in *Le Monde*, 15.10.05.

⁷ Anthony Giddens, 'El coche en el garaje'; Martín Ortega Carcelén, 'Europa en la cocina', both in *El País*, 04.09.05.

traité (plutôt que sur le traité), un fait brutal s'impose : un conservatisme social et de nature populiste s'est exprimé de manière incontestable'.⁸

Others think they know how to 'reach out to the Citizens of Europe', and have made a number of practical proposals to that effect (Torreblanca 2005b). They simply emphasize the need for better information, discussion and debate. Nothing really new in fact, which shows how deep the crisis is. Politicians do not fare any better. See for instance the September 2005 article in the international press by European Commission President José Manuel Durao Barroso where there are no new ideas about how to get out of that crisis. However, his article is also particularly revealing for this study. The Commission President now accepts that '[t]here will not be a constitution in the next couple of years. Let us accept that and get on with business'⁹. His admission must be contrasted to past catastrophic predictions about a negative referendum result in France, including by Barroso himself¹⁰. It shows that there is a clear disjuncture between elites and peoples. This disjuncture forms part of the well-documented EU democratic deficit (see below).

Over the years, there have been efforts at tackling this problem of democracy. The main purpose of the new Treaty establishing a Constitution for Europe was to produce a more efficient and more democratic decision-making process for an enlarged EU. Its method was both a constitutionalization of the process (i.e. a clear definition of powers and competences), and its parliamentarization (thanks to an expansion of the European Parliament's powers together with a greater involvement by national parliaments). Both concepts (constitutionalization and parliamentarization) will inform this study. They are related but distinct phenomena. It is also the claim made in this paper that parliamentarization entails specific problems for EU foreign policy and defence as there are important democratic deficits at the national levels, something that is not necessarily the case in other, internal, policies of the Union.

Thus, this paper will consider the impact of the constitutionalization and parliamentarization process of European integration *on its external perspective*. There are two different angles that will not be developed here. They need to be borne in mind all the same: first, there has always been a direct link between Europe's political unification and its international dimension¹¹. Second, both the internal and the external dimensions of integration deal with the question of a 'European identity' (see Cederman 2001: Manners and Whitman 2003). Principles, values, norms, institutions, and constitutions, as well as politics and policies affect the European Union in its internal workings and in its international projection alike (see Hill 2002).

⁸ Yves Mény, 'L'Europe désorientée, la France déboussolée', *Le Monde*, 01.06.05.

⁹ as cited in Graham Bowley, 'Warnings of decline in growth within the EU', *International Herald Tribune*, www.iht.com, as accessed 22.09.05.

¹⁰ Plenty of such examples were available everyday in major media sources, be they on TV or in the press.

¹¹ There is a plethora of official documents to that effect. To go to its 'source', foreign policy cooperation among the then European Community states under the EPC/European Political Cooperation clearly confirmed that it was 'just' another aspect of the European integration process even if it did not take the same route as the functionalist approach to integration in the European Community. The 1970 Luxembourg Report reads as follows: 'Desirous of making progress in the field of political unification, the Governments decide to cooperate in the sphere of foreign policy'.

The paper consists of 5 parts. Part 1 begins with a discussion of how democratic the EU is. Its objective is to show that, despite the existence of a minority view that claims there is no democratic deficit, there are several democratic gaps in the current EU structure. Part 2 considers the processes of constitutionalization and parliamentarization in order to put this study within its wider context. Part 3 stresses one key dimension of the EU's multi-faceted democratic deficit: the existence of an elite-people disjuncture. More worryingly, it notes that such a disjuncture has been growing over time. Part 4 deals with the key contribution of this work: how, instead of democratizing it, constitutionalization and parliamentarization are adding yet more democratic deficits to EU foreign policy. First, by failing to use the window of opportunity that the Constitutional Treaty did provide for the democratization of the CFSP. Second, by expanding the CFSP's competences into areas that are well known for their lack of democratic scrutiny, such as defence. The latter dimension is further developed in Part 5. Defence is included in this study because the EU has decided to include the ESDP within the CFSP structure.

1 DEMOCRATIC DEFICITS

The question of democratic legitimacy and accountability is subsumed within the huge academic literature on the EU's 'democratic deficit' (Boyce 1993; Featherstone 1994; Lodge 1994b; Weiler, Haltern, Mayer 1995; see also below). It is not the purpose of this particular section to offer a comprehensive review. This section consists of a brief analysis of the question of whether or not there is such a deficit. The majority view is that there is one, the minority being against it. This study falls within the majority view. It also includes a discussion of the various forms that this particular deficit can take, without claiming to be fully exhaustive: institutional, psycho-sociological, and information-wise.

The dominant view in the existing literature is that there is a democratic deficit in the EU. There have been dozens of studies making this point. Generic ones include the works by Dimitris Chrysochoou (1998), Philippe Schmitter (2000), and Alex Warleigh (2003)¹². Collective studies consist, *inter alia*, of a special issue edited by the current author and Amy Verdun for *Current Politics and Economics of Europe* (Stavridis, Verdun 2001), or another more recent one edited by Olivier Costa and others for the *Journal of European Public Policy* (Costa, Jabko, Lequesne, Magnette 2003). There are *at least* three different dimensions to the democratic deficit¹³.

- The first is an institutional one: it refers to the democratic deficit that arises from the transfer of executive competencies from the national level to that of the EU *without* a similar transfer of parliamentary competencies (read: accountability mechanisms) from the national parliaments to the European Parliament. This deficit is further complicated

¹² I do not enter the wider debate about the problem of representation in modern democracies in general, see Seiler (1995); Pharr, Putnam (2000); Mény, Surel (2002). See also Papadopoulos, (2003). Nor do I cover the wider issue of whether or not the so-called "public opinions permissive consensus" that has accompanied European integration for years is now probably over. See for instance Wolfgang Wagner's recent reference to it: "The term "permissive consensus" was coined by V.O. Key and popularised for European integration research by Leon Lindberg and Stuart Scheingold to describe the indifferent attitude in EC member states as regards the efforts of élites to foster European integration. See V.O. Key, *Public Opinion in American Democracy*, (New York: Knopf, 1961), and Leon N. Lindberg and Stuart A. Scheingold, *Europe's Would-Be Polity. Patterns of Change in the European Community* (Englewood Cliffs, NJ: Prentice-Hall, 1970), p. 41', as reproduced in Wagner (2005: 12, note 10).

¹³ What follows draws from Verdun, Stavridis (2001).

by the European Parliament's own lack of legitimacy, a phenomenon in part due to poor voter turn outs, in part to its lack of visibility, and in part to its 'competition' with national parliaments in the mind of many European citizens. All things being equal, national parliaments continue to be regarded as more legitimate than their European-wide counterpart in Strasbourg/Brussels¹⁴.

- The second democratic deficit is socio-psychological. It can be summed up as the absence of a European-wide *demos*. That is to say the absence of a European public space. What continues to matter is the combination of national EU member states public opinions. There is no collective and automatic whole. It is equally vital to stress that despite the fact that an important number of *Eurobarometer* surveys show strong support for the European Union, such a situation should not be confused with the assumption that there is a common European public opinion calling for what has been dubbed 'more Europe'. To a certain extent, this is due to the rather confusing nature of opinion polls when there is an unmistakable and clear bias in favour of a given 'product', in this case for the EU. After all, as most EU states are small, such a result can but only be expected. As for big EU states it is not very 'trendy' nowadays to play a unilateral card. Rather, it is more rewarding to call for a multilateral approach. Provided of course it suits national interests. Thus, a far more realistic representation of what European citizens actually want is that which results from surveys that include a third alternative, i.e. a mixture of three possible approaches: one European, another national, and a third one which combines a mixture of the two. When this approach is taken, overwhelming support for the EU breaks down to roughly a third for a national approach, a third for a European one, and a third for a combination of both (see below for the same point applied to CFSP/ESDP). More simply and less academically put, as the famous British-English phrase goes, everyone is in favour of 'motherhood and apple-pie'. How to achieve those goals is what is rather more complex. The same applies to the question of 'more Europe'. The real issue is what kind of Europe will be accepted. As usual, the devil is in the details.
- Finally, the third deficit is one that has to do with access to information and explanation, as well as a lack of interest of the citizens. There is a lack of public comprehension of what the EU is about, what it does, and how it works¹⁵. It is partly due to the fact that the European decision-making system differs from the more 'understandable' traditional national decision-making processes¹⁶. It is also linked to the difficulty in communicating with the Union's 450 million citizens¹⁷. As for a general lack of public interest in European integration, there is plenty of evidence to that effect: for instance in late 2003, 60% of Europeans had not heard of the European Convention, and 50% declared they did not even intend to read the Constitutional Treaty¹⁸.

¹⁴ 'Average voter turnout was 45% in the 25 nations' for the 2004 EP elections. In the new member states it was '26% (...) 30 points below the turn-out in their national elections', in Graham (2005: 73-74). See also Torreblanca (2004); Arnaud Leparmentier, 'Un revers démocratique européen', *Le Monde*, 14.06.04; Arnaud Leparmentier, Rafaële Rivais, 'Les élections européennes restent marquées par les agendas nationaux', *Le Monde*, 14.04.04.

¹⁵ On the lack of public information, see Lord (2005).

¹⁶ for lack of space I do not enter the question of how democratic is the EU level of technocracy, comitology, expertise or lobbying. See Pech (2002).

¹⁷ See Graham (2005).

¹⁸ 'La mitad de los europeos no piensa leer la Constitución', *El País*, 11.11.03.

The minority opinion ('there is no democratic deficit') contends that if one does not assess the level of democracy within the EU from an 'utopian' perspective but uses instead more 'reasonable and realistic criteria (...), the claim that the EU is democratically illegitimate is simply unsupported by the evidence' (Moravcsik 2005: 5; see also Moravcsik 2002; 2004). Andrew Moravcsik mentions three reasons (indirect democratic accountability, delegation, and deliberation) why the current Constitutional Treaty is the best that could be achieved and that, under current circumstances, that it is acceptable from a democratic legitimacy perspective.

The wider consensus that rejects Moravcsik's argument is more convincing because his claim that only a utopian approach favours a democratically skeptic reading of European integration is a non-starter. All assessments are based on models. This does not mean that they are necessarily utopian. In that respect, there is plenty of evidence in the existing literature to that effect. 'European integration has never been democratic' is the unequivocal assessment that Alex Warleigh makes of it. He continues:

'Most observers of the present day European Union (EU, the Union) agree that the EU suffers from a "democratic deficit" which *it must rectify* in order to justify its continued existence and expansion' (Warleigh 2003: 1, emphasis added).

To use the words of Andreas Follesdal and Simon Hix:

'a democratic polity requires contestation for political leadership and public argument over the direction of the policy agenda. This aspect is an essential element of even the "thinnest" theories of democracy, yet is conspicuously weak in the EU' (Follesdal, Hix 2005).

As for Moravcsik's argument that, when compared to other international institutions the EU does not fare badly¹⁹, it is not convincing because the EU is the *only* one that claims to be based on, and to apply, democratic principles in such an *explicit, consistent, and comprehensive* manner. Of course, the rhetoric and the reality might be inconsistent – and in this case they are clearly so. But that does not make it less serious a deficit. The empirical evidence that confirms that there is a democratic deficit (or better various democratic deficits) is such that it cannot be ignored simply because it is often 'sexy' to offer a diverging view in the academic world (and thus to attract more attention than is actually deserved). Even if it is true that the question of a change in the level of analysis (from a nation-state to a much more difficult to define polity such as the EU) remains a serious problem, it does not mean that the question of democratic control should be ignored all the same. It simply means that an automatic ('mechanical' is the word used by Renaud Dehousse 2003: 137-139) transposition of accountability mechanisms from the national level to the EU level may not be *fully* possible. But, it does not eliminate *as such* the existence of democratic gaps. Otherwise, democracy and nation-state would be the only possible combination. Thus, the democratic deficit remains an important issue in European integration.

2. CONSTITUTIONALIZATION AND PARLIAMENTARIZATION

¹⁹ see also Pech (2003: 133). But the rest of his article is much more convincing, especially his critique of the concept of 'participative democracy' as developed by the European Commission in its White Book on 'governance'. See also Pech (2002).

This section deals first with constitutionalization and parliamentarization, before turning to the link between these two concepts and that of democratization. The debate over the constitutionalization of the EU is rather recent in the literature: the 1993 setting up of the European Union which replaced the existing three communities of the ECSC, Euratom and the EEC²⁰ and the substitution of the EPC/European Political Cooperation by the CFSP/Common Foreign and Security Policy²¹. In recent years, especially since the 1998 Franco-British Saint-Malo summit, a defence dimension has been included in the CFSP. Therefore, the Constitutional Treaty represents the culmination of a process that had begun with the 1990-1991 IGC/Intergovernmental Conference that led to the Maastricht Treaty (Chrysochoou, Tsinisizelis, Stavridis, Ifantis 2003).

There is little doubt that a process of *institutionalization* has taken place throughout the integration process in (what was then) Western Europe. The institutionalization process has been described, analysed and assessed in a huge literature over the years (Lodge 1993: 1-36; Dinan 1994b: 10-24; George 1996: 1-56; Wallace H. 1996: 37-68; Nugent 2003: 3-292). It is not the aim of this paper to deal with it in any detail. The emergence, development and consolidation of institutional arrangements, within or outside a treaty basis, as well as the proliferation of policies coordinated at the European level, represent clear empirical evidence of such a process. Integration theories have also proliferated, in part, as a result of the failure of a single theory to explain wholly the integration process at hand, and in part, as a normative dimension cannot possibly be avoided in such an exercise (Chrysochoou, Tsinisizelis, Stavridis, Ifantis 2003: 1-66).

Due to the sheer sophistication of the whole integration process, the establishment of the EU in the early 1990s, and the subsequent treaty revisions with the Amsterdam and Nice treaties, it was expected that a rationalization, a simplification, and a more efficient organisation of such a process was required. Especially in light of the enlargement process which more than doubled the number of member states in just under ten years (1995-2004). This more advanced level of integration has been dubbed 'constitutionalization'. There is also an element of wishful thinking in the use of the term, in that it is hoped that it would mean the end of a process that has required so many amendments and changes to the existing treaties in recent times. What the new Treaty is supposed to provide are, on the one hand, a clear separation of powers between the various layers of multi-level governance (EU, national states, sub-national entities) and, on the other hand, among EU institutions (Commission, Parliament, Council, and other bodies).

The *constitutionalization* process has been dealt in detail elsewhere (Louis 1995; Craig 2002; Snyder 2003; Closa, Fernández 2005). It is not the objective of this section to deal with it as such. What is however important is that one key element to this process has been the question of, and the need for, democratizing the EU. The democratization of the way EU politics and policies work was explicitly present in all of the new institutional arrangements since Maastricht onwards. The symbolic impact of the 1999 Commission crisis (which led

²⁰ albeit with the 1987 Single European Act these three institutions had come under a common legal umbrella.

²¹ On EPC, see Wallace W. (1983); de Schoutheete (1986); Liñan Nogueras (1988); Nuttall (1992). On the CFSP, see Pappas, Vanhoonacker (1996); Holland (1997); Durand, Vasconcelos (1998); Dumond, Setton (1999); Nuttall (2000); H. Smith (2002); K. Smith (2003); M. E. Smith (2004). See also Hill (1996).

to its first ever resignation²²) should not be underestimated either. The democratization of the EU becomes a key element in the Constitutional Treaty context: be it in the 2001 Laeken Declaration, in the 2002-2003 Convention work, or in the final Text approved in the summer of 2004 and signed in Rome on 29 October 2004²³.

- From the Laeken Declaration:

‘More democracy, transparency and efficiency in the European Union

The European Union derives its legitimacy from the democratic values it projects, the aims it pursues and the powers and instruments it possesses. However, the European project also derives its legitimacy from democratic, transparent and efficient institutions’.

- From the Convention’s work²⁴:

‘The Convention agreed a major enhancement of the democratic nature of the Union’.

- From the Constitutional Treaty text:

‘Article I-2

The Union's values

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail’.

Similarly, another concept has been applied to European integration in recent years. Without developing this point here, there is a clear link between the process of constitutionalization and that of *parliamentarization*. It is not a coincidence that both date back to the Maastricht Treaty. They both deal with the need for political legitimacy in the European integration process. Due to the sophistication of the process, neither appears to be sufficient on its own. Both are now necessary. As Laurent Pech has noted:

‘la seule parlementarisation des institutions européennes n’étant peut-être pas suffisante pour garantir la légitimité politique de l’Union, l’idée d’une Constitution n’en apparaît que plus séduisante’ (Pech 2003: 143).

Since its mere addition to the early institutional structure of the then ECSC as an consultative Assembly in the early 1950s, the increasing role of the European Parliament is one of the main reasons why it is possible to identify such a process. There is little doubt that the EP has gained powers and competencies over the years, from the 1987 Single Act to Maastricht and beyond (see Doutriaux 1992: 165-185; Nickel 1993; Cloos, Reinesch, Vignes, Weyland 1993: 366-403; Lodge 1994a; Dinan 1994a: 257-293; Jacobs, Corbett 1990; Westlake 1994). The Constitutional Treaty arrangements follow the same path. Equally important, there is an increasing parliamentary involvement at the national level. Again, since Maastricht, national parliaments have been recognized as important actors in

²² see ‘Entretien avec Renaud Dehousse et Notis Lebessis: Peut-on démocratiser l’expertise?’, *Raisons Politiques*, No.10, May 2003, pp 107-123, esp. pp 107-108.

²³ Rome was chosen symbolically as the start of a new phase for a process that had initiated in that city back in 1957. All treaties are available at: www.europa.eu.int/abc/treaties_en.htm. For the Convention, see: european-convention.eu.int. For the Constitutional Treaty text, see: europa.eu.int/constitution.

²⁴ *Convention President Giscard’s Report to the President of the Council*, 18.07.03.

the European integration process, be it as institutions for the control of the concept of 'subsidiarity', or as institutions for the democratic accountability of the whole decision-making process, especially for the intergovernmental pillars of the Union. This dimension is particularly important for the CFSP under study in this work. To use an editorial from *Le Monde*, '[c]ette parlementarisation du débat européen est déjà en marche'²⁵. It goes without saying that parliaments have been rightly considered as the institutions for democratic control by excellence, even if during most of the 20th century there was a clear decline in their respective roles, i.e. 'executive dominance' (Chrysochoou, Stavridis, Tsinisizelis 1998). The integration process had reinforced this role for many a decade but it appears that this situation might be reversed²⁶ into a more favourable role for parliamentary inputs in the future (see also Part 4).

Therefore the links between democratization on the one hand and constitutionalization and parliamentarization on the other are quite clear. What remains less clear is how to formulate those links in practice. This paper does not deal with the wider issue of democratization and constitutionalization²⁷, or with that of democratization and parliamentarization. Instead, it concentrates on how these two dimensions (constitutionalization and parliamentarization) affect a specific area of EU policy, namely, foreign policy. Before I turn to this question, it is important to develop further a key element in the democratic debate: the elites-peoples disjuncture. It is equally important to bring this issue up to date with the recent referenda results.

3. **ELITES-PEOPLES DISJUNCTURE AND REFERENDA RESULTS**

This section of the paper reviews of a number of reasons that have been put forward to explain the 2005 French and the Dutch referenda results in two countries considered to be 'pro-European' (whatever that term might actually mean). Although the 1992 Maastricht referendum result in France had shown early signs of dissatisfaction at the popular level, it was still assumed that France would ratify the Constitutional Treaty without any serious problem. Opinion polls continued to show wide support for the Treaty as late as February 2005. Polls began to shift from March onwards (Ricard-Nihoul, Larhant 2005).

Even if the initial schedule and timing of the various referenda were not left to chance²⁸, but were instead supposed to create a momentum in favour of a positive result, the

²⁵ 'Avancée européenne', *Le Monde*, 29.09.04. See also Valéry Giscard d'Estaing, 'La Constitution européenne recommande le débat parlementaire', *Le Monde*, 12.10.04. It is interesting to note that this is not the case for sub-national parliaments. See the papers presented to the Conference on *Parliaments and the democratic deficit in the EU: the role of regional parliaments* organised by the Manuel Giménez Abad Foundation and the University of Zaragoza (PhD programme on the EU) in Zaragoza, 26-27 May 2005, in particular that by Professor Alex Warleigh: www.fundacionmgimenezabad.es, as accessed 08.09.05.

²⁶ Although there is no guarantee of success, see the January 2005 decision in the French *Assemblée* not to increase parliamentary control over EU texts, *Le Monde*, 27.01.05. At that time the French parliamentarians approved the need for a referendum over any future EU enlargements after those of Romania and Bulgaria ('Les députés ont voté l'obligation de recourir à un référendum avant toute adhésion à l'UE', *Ibid*).

²⁷ For a good review, see Rouyer (2003).

²⁸ Christopher Hill also correctly reminds us there are always risks of 'manipulation and populism' in referenda (2003: 266).

situation in early 2006 remains confused²⁹ with two referenda in favour and two against (Spain and Luxembourg versus France and the Netherlands). There are many reasons why elections or referenda produce the results that they do: a combination of factors, some related to domestic politics, and others to European decisions.

The Spanish referendum was supposed to have launched a movement towards positive ratification (see also Whitman 2005). What was missed in the Spanish referendum result was that despite wide agreement among the larger Spanish political parties (Kölling 2005b: 2005a), the abstention was extremely high. The Spanish Premier announcement on the day after the 20 February 2005 referendum that the result was 'a success for Spain and a success for Europe' is rather puzzling. For an exception, see José Ignacio Torreblanca who argued that:

'Despite the huge majority in favour of the European Constitution, the low turnout (42.32%, ie, seventeen points lower than turnout in 1986 when Spain's membership of NATO was at stake) calls into question the Government's two objectives in calling the referendum. The referendum has neither served to open a new space of democratic participation for Spanish society, nor will it serve to export enthusiasm to the rest of the EU in regard to ratification of the Constitutional Treaty. By breaking the psychological barrier of 40% turnout, the referendum cannot be described as a failure, but in view of such low participation the dual purpose can hardly be said to have been fulfilled' (Torreblanca 2005a).

As noted above, there is a general lack of public interest in the integration process in Europe. Spain is no exception. Two months before the referendum date, a poll showed that 89% said they did not know much about it, although 75% said they would take part in the vote³⁰. Another reason for such a lukewarm support might have been the rather cool support that the opposition PP (Popular Party/Partido Popular) gave to the Constitutional Treaty, in part because its former leader PM Aznar had opposed it, and in part because it did not want to fully support a government that had come to power in a surprise electoral result, three days after the most serious terrorist outrage in a country sadly 'used' to terrorist acts³¹. Although all PP leaders, including the former PM, have insisted on the legitimacy of the electoral outcome of 14 March 2004, the ongoing debate over the impact of the terrorist attack – known as the *11M* in Spain – continues to muddle daily Spanish politics. This situation was rendered more complex with a rather important support for the NO vote in several autonomous communities, mainly in Catalonia, the Basque country, and Navarra (Kölling 2005b). The current national political situation in Spain is that the central government depends on Catalan minority parties in Madrid. At the regional level, there appears to be an increasing fragmentation of local politics where past majority governments are being replaced by coalition parties (Catalonia and Galicia). The reasons why Spain so massively (76.73%) supported the Constitutional Treaty (the 'Noes' amounted to merely 17.24%) masked the real problem: that nearly 60% of the Spaniards did not even bother to vote. Most importantly, one must add that after the referendum result, the Spanish Parliament's two chambers voted in favour of the *Constitución europea* by a huge margin: the *Congreso* (on 28.04.05) with 311 votes in favour and 19 against, and the

²⁹ See Graham Bowley, 'Dead or alive? EU leaders taking constitution's pulse', *International Herald Tribune*, 30.01.06.

³⁰ *El País*, 30.12.04.

³¹ As reflected in massive street protests never seen to such a scale before: on the evening of 12 March 2004, throughout Spain, an estimated 11.4 million people (out of a total population of about 42 million) demonstrated against the terrorist atrocities that had occurred in Madrid the day before. See 'Las manifestaciones más multitudinarias en España', *El Mundo*, 13.03.04. www.elmundo.es.

Senado on (18.05.05) with 225 in favour and 6 against. Thus, what was missed in this positive³² result was a clear expression of a democratic disjuncture between elites and populations. This is very important for the current study.

To the above examples, one must also add more instances of disjunctures between elites and populations. Thus, in 2005 in France there were two phases in the Constitutional Treaty parliamentary ratification process. In the first phase, both chambers ratified separately the relevant Constitutional changes, and then together in a special joint session³³, the *Congrès* adopted them (Ricard-Nihoul 2005). When they are contrasted to the referendum result (55% No and 45% Yes, 15.4 million against and 12.8 million in favour, out of 28 million valid votes), the figures speak for themselves.

Assemblée Nationale (27.01.05): 450 in favour, 34 against, 27 abstentions

Sénat (February 2005): 262 in favour, 27 against, 30 abstentions

Congrès (28.02.05): 760 in favour, 66 against, 96 abstentions.

Even in tiny Luxembourg there was a similar disjuncture between the elected and the electors: whereas 56.52% voted in favour and 43.48% against during the referendum on 10 July 2005, less than two weeks earlier, the Luxembourg Parliament had ratified it with 55 votes in favour and 5 not present (28.06.05)³⁴. Surely not a 55-45 division of elite opinion!

It is also useful to refer to a recent *Eurobarometer* survey (summer 2005), and more particularly to the reading of its results made by European Commissioner Margot Wallström³⁵ (Commission Vice-President and Commissioner for Institutional Relations and Communications Strategy). She stated that an effort needs to be made to bring the Union closer to its citizens, because, as the *Eurobarometer* survey showed that 53% said they felt their voice was not heard; and 70% declared they did not understand how the EU works.³⁶ The Commissioner also argued that there was a need to adapt any policy to the needs of each member state. She recognizes not only the existence of democratic deficit and a lack of understanding and information about how the Union institutions work, but also that there is no European *demos* as national *demos* still prevail. It will be interesting to see what the result of this 'listening phase' will be as the Commissioner announced the forthcoming publication of a Commission White Paper on that matter.

This elites-peoples disjuncture is particularly worrying because it has been noted for some time. Recent referenda results show that it has not diminished over the years. There was evidence as far back as in 1992 over the Maastricht Treaty. In Denmark whereas nearly

³² I use 'positive' in a neutral manner, just saying 'yes', and not necessarily that the Treaty is good.

³³ A special joint session for Constitutional reforms of the two Chambers of the French Parliament which is held in Versailles, the sumptuous Palace built by King Louis XIV in the south of Paris.

³⁴ Information from www.unizar.es/euroconstitution, as accessed 29.08.05. See also Cohen-Tanugi (2005: 59).

³⁵ As watched on TV on the morning of 19 August 2005, *EuroNews* programme, www.euronews.net.

³⁶ It has been argued, for instance recently - during a post-graduate examination at the University of Zaragoza (20.09.05) - by Constitutional Law Professor José Martín y Pérez de Nanclares (University of La Rioja) and Political Science Professor Carlos Closa (Centre for Political and Constitutional Studies, Madrid), that as similar figures appear when citizens are asked about their own respective national political systems, the European situation is not different. First, two wrongs do not make it right. Second, if there is ignorance about national politics that does not mean that there are no different degrees of ignorance. Otherwise it would mean that one ignores (sic) the different levels of legitimacy that exist between the national and European parliamentary bodies.

75% of the *Folketing* had backed the Treaty, slightly over 50% of the population rejected it (Stavridis 1993b: 130). Similarly, although not producing a distinct result as was the case in Denmark, the French *Congrès* had ratified the Treaty with a huge majority (87% in favour and a mere 10.75% against, with 592 yes, 73 noes and 14 abstentions), whereas the referendum result was a much closer affair (just over 50%).

This democratic disjuncture is also visible when claims were made after the French and Dutch rejections of the Constitutional Treaty, in particular by Luxembourg's Premier Jean-Claude Juncker, that over 225 millions of Europeans had already ratified the Treaty in Spain and in eleven countries (via the parliamentary route), whereas only 77 millions had said NO in two countries³⁷. I do not question in anyway the representativeness of parliaments but I have little doubt that in that particular case the disjuncture that has been mentioned above is more relevant. Especially when two referenda have produced, with very high turn outs, such a clear and massive NO vote.

It is important to stress why the above is relevant to this study: first, it confirms that there is an important democratic disjuncture between elites and public opinions. It is a phenomenon that dates back to at least the Maastricht referenda. That thirteen years have elapsed since then make the disjuncture all the more worrying. Second, even in countries traditionally considered to be 'pro-European', there is popular discontent. Thirdly, there is a need to democratize the Union, if only in order to give it the necessary legitimacy it is currently lacking.

4. THE NEGATIVE IMPACT OF CONSTITUTIONALIZATION AND PARLIAMENTARIZATION ON THE DEMOCRATIC SCRUTINY OF EUROPEAN FOREIGN POLICY

The term 'democratic control' is used as 'parliamentary control'. There is little doubt that there is more to democracy than parliaments but '[p]arliaments play a central role in any representative democracy' (Born 2004: 197). This study considers it as a key element of democratic accountability. It does not deal with all its dimensions, for instance with public opinion(s)³⁸, or the role of political parties³⁹. This is a deliberate choice due mainly to the short time frame of this study. Suffice it to note that although it has been argued that public opinion opposition to the Iraq war in most EU states might be seen as an emerging European *demos* (Reynié 2004)⁴⁰, it remains to be seen if this is the start of a new trend, evidence of pacifist European publics, an exception to the rule, or simply a demonstration of cheap and easy anti-Americanism. For instance, a recent opinion poll shows that 72% of

³⁷ Respectively in alphabetical order: Austria, Cyprus, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Slovakia, Slovenia. Population figures taken from www.cia.gov, as accessed 02.09.05, and 22.09.05.

³⁸ For a general discussion of the role of public opinion in foreign policy, see Hill (2003: 262-278).

³⁹ For more on the role of political parties in general, see the papers from the workshop on *Democracy and Political Parties*, ECPR's 33rd Session, Granada, 14-19 April 2005: www.essex.ac.uk/ECPR or www.ecprnet.org as accessed 23.09.05. On the political parties in the European Parliament and foreign policy, see Viola (2000).

⁴⁰ see also Emilio Menéndez del Valle, 'EEUU ¿qué valores comunes?', *El País*, 22.02.03. See also Weisbein (2003: 125-130).

Europeans reject President Bush's foreign policy⁴¹. This last point is very important for the constitutionalization of the CFSP because it is easier to be 'anti-something' than in favour of 'something else' (i.e. to present an alternative). Thus, this European figure is reminiscent to those that can be found in the 'Arab streets'. Moreover, as Niedermayer and Sinnott (1995) have noted, public support for NATO during the Cold War years should not be taken to mean automatic support for EU defence policies since the end of the East-West conflict. Furthermore, as was noted above, when opinion polls respondents are offered a choice of three, and not two, options (European, national, and a combination of both), instead of overwhelming results in favour of the European option (in the high 70%), the returns show all three options down to around 30% each (Stavridis 2001: 299). Many studies keep missing that particular point (Seabra 1998; Mittag 2002).

The question of democratic accountability/control of foreign policy and that, related, of democratic legitimacy have been dealt in the FPA (Foreign Policy Analysis) of democratic states. The main case study has been US foreign policy, but also comparative FP studies on a similar theme (Waltz 1967; Steiner 1987). This is the wider context. I will now turn to a more theoretical discussion of why the EU's foreign policy is traditionally considered to be a particularly difficult case for democratic control (Part 4.1), before assessing the impact of constitutionalization and parliamentarization on the democratic scrutiny of the CFSP (Part 4.2).

4.1 Why European foreign policy is considered to be a particularly difficult case for democratic control

4.1.1. defining EU foreign policy: an ongoing debate

This constant debate on what *is* EU foreign policy actually brings implications for the topic under study in this paper, its democratic scrutiny. Indeed, if one does not even know how to define it, why does it matter to bother about its democratic dimension? Most works dealing with EU and its external dimension do either try and cover all its various facets (commercial policy, development and aid, foreign policy, etc) or concentrate on one of them. For instance, any textbook on European foreign policy will try and cover as many aspects of the EU's external relations as it possibly can⁴². Similarly, research-based studies have faced the same problem (Regelsberger, de Schoutheete, Wessels 1997; Peterson, Sjursen 1998; Jorgensen 2004). In this study, the focus is on the CFSP. European foreign policy is more than the CFSP but it is not very much without it. It must therefore be given the attention it deserves. Equally important is the fact that, as the CFSP is emerging, it is 'easier' to ensure it possesses accountability mechanisms. Once it has developed fully, it would be more difficult to do so. But, equally, there will be no emergence of a common foreign policy *without* a democratization process. This question falls beyond the scope of this paper but it forms part of the overall premises of this work.

If one does not believe that there is such a thing as a European foreign policy, the same non-interest about its (lack of) democratic scrutiny becomes apparent: why bother about how democratic it is? It goes without saying that when the above is linked to the

⁴¹ As reported in *El País*, 08.09.05 from a study entitled 'Transatlantic Trends', which was carried out by a number of institutes and foundations. For details see www.transatlantictrends.org, as accessed in September 2005.

⁴² For an example see Barbé (2000). It covers external economic relations, development and aid policy, human rights, CFSP, defence plus three specific geographical case studies.

‘democratic incompatibility thesis’ (see below), there is a lot of cynicism around. Equally, as some observers have noted, if parliamentarians themselves do not show any interest in foreign policy – be it national or European – why should we bother about how democratically accountable it is. Thus, in a recent study, it is argued that:

‘Most of the [French] MPs assume that currently CFSP and ESDP are not developed enough to justify an important parliamentary oversight’ (Rozenberg 2002: 134).

4.1.2. *the traditional approach to democracy and FP: the “parliamentary decline/executive dominance” and “democratic incompatibility” theses*

There are two distinct ways of denying the relevance of democratic politics to FP making: the ‘parliamentary decline’ thesis, and the more fundamental claim that there is an ‘incompatibility’ between democracy and foreign policy. We will see below that international democratic theory has challenged both these approaches. Even if only in a telegraphic style, we need to mention them in order to provide a more comprehensive review of the topic under study.

The ‘parliamentary decline’ thesis argues that in the 20th century parliaments have lost power to the executive branch of government. This is so especially since the end of World War Two. The Cold War reinforced that trend further, especially in the realm of foreign and defence policies. This thesis has been substantiated at length in most if not all Western liberal democracies, from the USA (‘imperial presidency’) to France (‘nuclear monarchy’).

The ‘democratic incompatibility’ thesis is not ‘limited in time’ in the way the parliamentary decline thesis appears to be. It is more fundamental in the sense that it argues that foreign policy and democracy do not mix (Goldmann 1986: 1-17; Smith S. 1986a). It is based on empirical evidence. Foreign policy, let alone defence policy, remains in the hands of the executive branch of government because it needs expertise, secrecy and urgency in decision-making.

4.1.3. *the “international democratic theory” alternative*

A number of developments in national and international politics offer a good explanation of why parliamentary accountability in foreign policy is slowly becoming a subject of (still limited) interest and concern. One can sum up those developments under the following headings.

- [i] democratisation of politics
- [ii] domestication of foreign policy
- [iii] integration process (in Europe)
- [iv] technological developments.

It is not possible here to analyse the above developments in any detail. This is not in fact the purpose of this study. Suffice it to point out that the democratisation of politics both at the national level (universal adult suffrage, mass political parties) and at the international level (decolonisation, end of Fascism and Communist rules in many parts of the world, emergence of international human rights) have led to a blurring of the traditional division between domestic and foreign policy issues. The integration process in Europe (initially Western Europe) has further strengthened this domestication of foreign policy, a process which has now started to encompass the whole continent. Technological developments, such as major advances in (tele-)communications (satellite, internet) have also made the

dream of mass democracy a possibility. This trend towards democratic politics has not been easy, nor is it complete by any stretch of the imagination. But its importance cannot and should not be underestimated either.

Why the 'parliamentary decline' thesis might have entered a phase of reverse? The end of the Cold War appears to have reversed this trend. There is now more talk of a 'parliamentarization' of politics, including in systems where there had been a conscious effort in the past to move away from parliamentary forms of government (France: Fourth to Fifth Republics), or where intergovernmental cooperation among elites had replaced/restricted the traditional influence of parliamentary inputs (it is the case of the democratic deficit under its institutionalised guise in the European Union as discussed above for instance).

Although it is true to say that there was some evidence of a reversal to that trend in the USA well before the end of the Cold War with Vietnam, Watergate and the War Powers Act, one should not forget the important differences that exist between the European and the American models of governance. Yet, the current debate in Europe has led to a number of initiatives where the national and European parliaments have increased their influence to the point where one observer/practitioner (Greek MEP and Constitutional Law Professor Dimitrios Tsatsos) has argued that the EU itself is entering a phase of parliamentarization (see also above)⁴³. He referred to the number of parliamentarians who were involved in the 'Convention on the Future of Europe' to support his point. Indeed, not only were representatives from national EU parliaments actively engaged in the process, but there were also MPs from the 13 applicant countries whether at that time engaged in accession negotiations (12) or not (Turkey).

There is a strong counter-argument to the 'incompatibility thesis', known as International Democratic Theory. Instead of claiming that democracy and foreign policy do not mix, the main tenets of international democratic theory are as follows:

- all public policies must be as democratic as possible, be they domestic or international;
- democratic politics do not stop at the borders of the state;
- democratic regimes behave differently in the international system.

The fact that some policy areas require more secrecy does not mean that there can be no accountability mechanisms or open debate at all. It simply means that there is less openness. From *if* democratic accountability is possible, to *how* is it going to be organised. As Finn Laursen has argued,

[I]t is therefore in accordance with democratic doctrine that the Parliament as the representative of the people should get involved in foreign affairs' (Laursen 2002: 107).

Although he referred to the Danish case, its validity can be applied to all democratic states and systems.

⁴³ remarks made during the 21st Cyprus-EU Joint Parliamentary Committee meeting (Nicosia, 22-24 May 2002).

International democratic theory has a long pedigree, which dates back to at least the early 18th century (Battistella 1996: 117-124; Stavridis 1991: 48-96; Goldmann 1986: 1-42). It establishes a strong link between democracy and foreign policy behaviour. International democratic theorists now point to the existence of a 'democratic peace' in the world. 'James Madison (1792) believed that in order to prevent conflict, governments should be subject to the will of the people' (Archibugi 2004: 441). So did Thomas Paine:

'Why are not Republics plunged into war, but because the nature of their Government does not admit of an interest distinct from that of the Nation? (...) If universal peace, civilization, and commerce are ever to be the happy lot of man, it cannot be accomplished but by a Revolution in the systems of Governments. All the monarchical Governments are military'.⁴⁴

Much more recently, democratic peace theorists make the point that empirically speaking democracies do not fight each other (Russett 1993). The main example now is that of Western Europe, but also Trans-Atlantic relations, and more generally relations among OECD states. This important dimension will not be developed here any further as this study concentrates on decision-making in FP and not on its output (peaceful democratic relations). What matters is that this approach refutes the Realists' general scepticism (Beitz 1979). As Michael Doyle (1983: 218) has pointed out:

'The Realist model of international relations, which provides a plausible explanation of the general insecurity of states, offers little guidance in explaining the pacification of the liberal world'.

4.1.4. *Deficits in European foreign policy: the national and EU levels*

There has also been growing interest in recent times over the accountability and legitimacy of international institutions and organizations. Because the EU is also, among other things, an international organization/institution, there has been some interest in that aspect. But as I noted before, the EU is *more* than just another international institution or organization. Therefore it is more appropriate to deal with the question of democratic accountability and legitimacy from a different perspective. It is a literature worth bearing in mind all the same as it does offer some insight (Archibugi 2004: 448-450), especially on the complexity of international organizations but also on that of the international system (Held 1996: 335-369). The fact remains that 'the EU is actually the most democratic of all present international organizations' (Archibugi 2004: 458), in spite of its many democratic shortcomings (see Part 1 above).

From a democratic gap perspective, the case of European Union foreign policy is different from the 'traditional' democratic deficits that were discussed above in Part 1. There exist not only democratic deficits and disjunctures in EU foreign policy but also in the way *national* foreign and defence policies are made. Thus, whereas the 'internal EU policies' democratic deficit could be bridged in a more traditional and conventional manner by extending the powers of the EP (Dehousse 2003: 146-150), or by 'importing' other traditional or innovative national means of control⁴⁵, in the case of the CFSP/ESDP the EU-level deficit would not be bridged *unless and until* it is accompanied by the bridging of all national democratic deficits. The role of national parliaments will be vital in that respect. To bridge that particular democratic gap, the 'usual' remedy of strengthening or expanding the powers of the European Parliament is not sufficient because it would only deal with the

⁴⁴ Thomas Paine (written in 1791-1792), *Rights of Man*, JM Deut and Sons, London, 19XX, respectively pp 136-137 and 153.

⁴⁵ such as Constitutional Courts, Courts of Auditors, or the Ombudsman as models 'directly inspired by the model of member states' (Magnette, Lequesne, Jabko, Costa 2003: 834-840; quote on p. 837).

EU level. It would ignore the vast gaps that exist at the national level of the member states. As there are areas where not all EU members participate in EU external action, such as the current EU3 negotiations with Iran over its nuclear programme (see Zamit Borda 2005), the national member state dimension remains crucial in this equation. But there exists an EU level all the same. It is therefore necessary to examine both the question of the democratic control of EU foreign policy at the national and the European levels.

- National FPs of EU member states

There has been little interest in the question of how democratic the decision making process of any given EU state has been. There are few references to the role of parliamentary bodies in the existing literature. FPA (Foreign Policy Analysis) represents an exception to the rule, but it tends to deal with parliaments as just another 'domestic source' of foreign policy (Hill 1976; Smith S. 1986b; Clarke 1996; Hill 2003: 219-307). The democratic concern is not its main priority. Most work has been done on the USA, and not on EU states. It is not the objective of this study to deal with the American example (Martin 2000; see also Spanier, Uslaner 1985). Just to note two important points all the same: first, by showing that democratic control is possible – but not, of course, perfect – the US example allows to discredit empirically the 'democratic accountability' thesis. Second, it is only one aspect of democracy that is assessed when one deals – as is the case with US foreign policy – with the question of democratic control. There is another dimension that is much wider and far reaching: how democratic is the FP output? This remains beyond the scope of this study, but the example of US foreign policy raises an important point that can also be applied to the EU or to its member states. More generally, if a democratic control is needed for foreign policy to be democratic, it is only a necessary but not a sufficient condition. The output must also reflect, defend and promote democratic principles⁴⁶.

All the national foreign policies of EU member states suffer, overall, from a democratic deficit. Some states suffer from bigger deficits than other but there is no state that does not suffer from one. Even Denmark, which is the archetype of a 'good' parliamentary scrutiny case in EU affairs, does not possess similar arrangements for the CFSP. All studies tend to agree on that point. Thus, in the past, several descriptions of the way national foreign policy is scrutinized have come up with *interesting* qualifications such as 'grotesque', 'amusing', or 'decorative'⁴⁷. In the more recent past, a comparative study of national EU foreign policies only mentioned explicitly the question of parliamentary accountability in just four (out of fifteen) contributions. Furthermore, all these references stress their negative dimension in EU foreign and defence policy: a 'limited role', a 'rather ineffective', and a 'very modest policy influence'⁴⁸. There are a variety of reasons why this is the case, ranging from constitutional arrangements (executive dominance in France), a confrontational majority system (UK), or the rather banal excuse of anti-patriotic behaviour in case of criticism. It will be one of the conclusions of this work that more systematic work is needed in order to offer a comprehensive *état des lieux* of democratic scrutiny of national foreign policy.

⁴⁶ For specific studies on the EU's external promotion of democracy, see, *inter alia*, Marantanis (1994); Decaux (1995); Alston (2001); Youngs (2001); Feliú (2001); Crawford (2001); Anastathakis, Bechev (2003); Smith K. (2003: 122-144); Aliboni (2004).

⁴⁷ for Italy, France and Greece respectively, see Stavridis (1993) for details.

⁴⁸ The above citations refer respectively to the French, British, and Irish cases (see Manners, Whitman 2000).

But the key point is the overall lack of democratic scrutiny of foreign policy. As Christopher Hill has noted, even when there are domestic inputs,

‘this is not at all to say that even in established democracies the processes of foreign policy scrutiny work well. They do not’ (Hill 2003: 282).

- EU foreign policy

Until very recently there was little interest in the question of the democratic control of European foreign policy. There were of course isolated exceptions (Beiber 1990; Penders 1988; Stavridis 1991; 1993; 1997; 2001)⁴⁹. There is now more widespread attention to the problem. More recently, various attempts at studying the democratic dimension of the CFSP have materialized, including a specialized network⁵⁰. The constitutionalization process has attracted more attention (Stavridis, Vallianatou 2003; 2005; see also Stavridis 2001). The FORNET working group has just published a collective volume that addresses some of the questions raised by the current lack of accountability and legitimacy in the EU’s foreign policy (Barbé, Herranz 2005). Although this edited volume concentrates more on legitimacy than on accountability, and although there is more on other external relations issues than the CFSP (commercial policy; enlargement; military operations; EP activities), it has some merit in showing how important the relationship between accountability and legitimacy is. This was a point I raised in my doctoral thesis back in 1991: as long as there is an unaccountable system, there would be no legitimate - and therefore no effective - European Union foreign policy.

The European level of accountability consists of the national levels (see preceding subsection) and the European level, which consists mainly of the European Parliament. There is plenty of interest in foreign policy issues at the level of MEPs. For many years the EP tried to achieve an independent stance on international affairs from that of the Commission or the Council. More recently, it has developed a number of bodies and mechanisms that play a role in the EU’s foreign policy. But they all represent elements of indirect influence rather than direct scrutiny. There are MEPs questions (both written and oral), EP reports, resolutions, recommendations, hearings, committees, delegations (Herranz 2005), and informal friendship groups. The EP has also tried to use the power of the purse to get more influence on foreign policy than it had been granted institutionally (Corbett 1989). The fact remains that all academic observers agree that the current level of parliamentary accountability in CFSP continues to raise important problems of democratic legitimacy and accountability. As Christopher Hill points out:

‘the problem of democracy affects the substance as well as the procedures of the CFSP. The voice of the people needs to be heard, and the executive made subject to checks and balances, by a rather more extensive and transparent combination of national and European parliamentary measures than is currently the case’ (Hill 2002).

As we will see below (4.2), the current processes of constitutionalization and parliamentarization have addressed but not redressed the existing democratic deficit in EU foreign policy. At the national level, the democratic accountability situation also continues to be disappointing.

4.2 Constitutionalization, parliamentarization and European foreign policy

⁴⁹ although Bieber emphasized the legal dimension and Penders was speaking as an MEP.

This sub-section deals with the impact of constitutionalization and parliamentarization on the way EU foreign policy is democratically controlled – or not. Its main argument is that nothing has been really done to bridge the CFSP democratic deficit. In fact, it will be argued that the Constitutional Treaty represents a golden missed opportunity for bridging that particular gap. Therefore the Treaty ratification problems might open a door for trying to deal seriously with that issue. Although, on past record, it is difficult to see why this would be the case now. As for parliamentarization, the argument goes as follows: parliamentarization might be a good development for the EU in general as it brings in national parliaments. But as far as the CFSP is concerned, because, as we have seen, there are national deficits, parliamentarization *without* democratization at the national levels will not solve the EU's democratic deficit in foreign policy. In fact it will aggravate it.

The 2002-2003 Convention on the Future of Europe did specify that the democratization of the Union's foreign policy was one of its main objectives⁵¹. Two working groups dealt directly with 'external action' and 'defence'⁵². Also the high number of parliamentarians in their midst could augur for a better result⁵³. Succinctly, one could stress the fact that despite so much work, very little attention was given to the question of democratic accountability in, and the need for democratization of, the CFSP. Time and time again, there were proposals for reforms but not dealing with the question of the lack of democratic control. There were few exceptions: the Final Report of the Working Group on External Action called for 'regular exchange of views between the EP and national parliaments on CFSP issues'. It also suggested that 'to make the person holding the function of High Representative formally involved in these tasks 'of informing the EP'. The latter was included in several suggestions made by two Convention representatives from the European Parliament (Elmar Brok and John Cushnahanon), which contained more ambitious provisions concerning the parliamentary accountability of CFSP than the final draft itself. Brok and Cushnahanon argued that the person who would combine the functions of High Representative and External Relations Commissioner (the new EU foreign minister) should have his/her appointment approved by the European Parliament.

In addition, they proposed that the new minister should be answerable to the EP for CFSP issues:

'the person holding the function of European External Representative will be answerable in writing to the EP for the whole range of his responsibilities'.

Gijs de Vries, the Dutch government representative to the Convention, also proposed that the European Parliament should acquire policy influence on the operational activities of the CFSP by attributing it a formal role in the CFSP decision-making process (consultation, cooperation or co-decision procedure). However, he made it clear that the involvement of the European Parliament should not lead to any delay in the decision making process and

⁵⁰ in fact one of its five working groups, entitled 'Evolution and Accountability of CFSP Institutions', see www.fornet.info (A network of research and teaching on European foreign policy).

⁵¹ This part of the study draws from Stavridis, Vallianatou (2003), which also includes a long reference list of Convention documents relevant to the current study but it will not be reproduced here for reasons of space. See also the Convention's website: www.european-convention.eu.int.

⁵² There were also other groups dealing indirectly with the same question, for instance the one on the role of national parliaments.

⁵³ Although it falls beyond the scope of this paper, it is equally important to note that the Convention method is usually considered to be more 'democratic' (because more representative) than the traditional IGC approach. See Pollak, Slominski (2004).

foresaw an emergency procedure for special circumstances. Antonio Nazare Pereira, the alternate Portuguese Convention member, made the following proposals:

- the creation of an interparliamentary forum composed of representatives from the national member states parliaments;
- interparliamentary conferences inspired from the model of the COSAC (Conference of Community and European Affairs Committees) that would extend to the foreign policy and defence committees of the national parliaments;
- a consultative forum that would consist of representatives of the national parliaments:
‘Since the forum should represent the interests of the National Parliaments, it should be independent of and complementary to the European Parliament so as to avoid any confusion between their respective responsibilities. That does not preclude cooperation between the forum and the EP and, possibly, the holding of joint meetings or the participation of MEPs in meetings of the forum and viceversa’⁵⁴.

Joachim Wuermeling had also stated that:

‘The reinforcement of the European Union's international role has to be accompanied by an improvement of its parliamentary responsibility. Without such responsibility, European actions would permanently lack democratic legitimisation and authority towards the Member States and the citizen. This might provoke more complicated and longer procedures for external relations actions. But the American example proves that the ability to act does in no way suffer from a strong involvement of the Parliament.’⁵⁵

His suggested provisions were more ambitious than the draft articles themselves. What remains important is that the final draft (of the Convention) did not include any of them. Foreign policy remained a touchy subject during its workings. In fact, in the spring of 2003, the Convention as a whole nearly collapsed over EU divisions on Iraq⁵⁶.

As for the Constitutional Treaty, it has failed again to bridge the democratic accountability gap mainly for *six reasons*⁵⁷:

* First, it does not add anything substantial to the already existing powers of information that the European Parliament possesses. These are still rather insignificant. Indeed, the relevant new treaty article simply repeats existing practice:

‘The European Parliament shall be regularly consulted on the main aspects and basic choices of the common foreign and security policy. It shall be kept informed of how it evolves’⁵⁸.

⁵⁴ Antonio Nazare Pereira, written contribution, CONV 606/03, 11.03.2003.

⁵⁵ Dr. Wuermeling Joachim, Contribution, ‘International Agreements of the EU - Proposals to reinforce parliamentary control’: CONV 362/02, 23/10/2002.

⁵⁶ Alain Lamassoure (2004) characteristically calls the impact of the war as the reason for the masks to fall (‘les masques tombent’, chapter 12). During the TV programme on the ‘Convention’, *TV5 Europe*, as watched on 30.04.04: The EU split in at least three groups, one led by France and Germany, the other by the UK, Italy and Spain, and the third consisting of small countries which received – unwelcomed – pressures from all quarters. As a result, ‘le processus de la Convention va mal’ was the assessment made in early 2003, before the start of the war (general commentary). Valéry Giscard d’Estaing declared that there were ‘une ombre et une angoisse sur nos travaux’, and Jean-Luc Dehaene described the work of the Convention at that time as ‘un spectacle pitoyable pour l’Europe’.

⁵⁷ This draws from Stavridis, Vallianatou (2005).

⁵⁸ Article I-40-8.

* Second, although its consultative/advisory role is being extended to the future development of a European External Action Service (i.e. a kind of EU diplomatic service)⁵⁹, there is no formal role for the appointment of the new EU foreign minister. This is important because this new post (which will combine with that of Commissioner for External Relations) has been presented as one of the major Treaty breakthroughs⁶⁰.

* Therefore, and this is the third criticism, there is only a reference to the new minister's information and consultation role. Nothing more than the traditional phrase that he/she 'shall ensure that the views of the European Parliament are duly taken into consideration' is reproduced in Article III-304-1/2. Which can mean everything and nothing.

* Fourthly, as for the 'special representatives', a function already institutionalized since the Maastricht Treaty, they 'may be involved in briefing the European Parliament' according to the same article. There are no new obligations or procedures for more democratic scrutiny⁶¹.

* Fifthly, a paragraph that was included in the draft treaty (the text presented by Convention President Valéry Giscard d'Estaing in the summer of 2003) is dropped. This might appear tautological but it included an obligation for the new EU foreign minister to keep the EP regularly informed.

* Sixth, and last but not least, the possibility of regular meetings of specialized FP committees is envisaged. The Protocol on the role of national parliaments attached to the final Treaty calls for a conference of Parliamentary Committees for Union Affairs and which specifically mentions CFSP (and ESDP) matters. *However*, it remains to be seen how it will be implemented. That is to say, how much real power would these inter-parliamentary committees really be granted? Moreover, the term used is "may". Such a provision is not legally binding and such a development is mentioned in the Protocol, not in the main body of the new text.

One might but concur with the view that 'the mechanisms for accountability in the area of foreign action (...) remain almost the same' (Barbé, Zapater, 2003). An assessment made when the draft treaty was being finalized but which is still applicable to the final text. Also equally important, one must contrast such a negative assessment with an 'official view' from the EP. In the words of the European People's Party President at the EP, and a

⁵⁹ Article III-296-3.

⁶⁰ Although it has been argued elsewhere that the EP is using its own rules of procedures to gain a say in the appointment of Mr PESC and other CFSP Special Representatives, there is a fundamental difference between what is done in practice and what is institutionalized in a treaty or other arrangements. Similarly, the claim that the selection of the new EU foreign minister cannot be completed until the EP confirms him/her as Commissioner tends to give too much weight to procedure (see Diedrichs 2004: 37-38 and 44). Moreover, very little attention has been paid to the impact that this new double-hatted appointment might have for the independence of the Commission.

⁶¹ Nor is there for their appointment. A long-standing practice in the USA is for Senate confirmation of diplomatic appointments. See also the proposal of the current Spanish foreign minister to do the same for Spanish ambassadors in the new law, which is scheduled to be presented to the Spanish *Cortes* during 2006 ('Moratinos quiere que el Parlamento apruebe a los embajadores', *El País*, 30.11.05). The main argument put forward is interestingly that such a measure would 'fortalecer la legitimidad democrática' [strengthen democratic legitimacy].

former (1984-94) Chair of the EP Subcommittee on Security and Disarmament, Hans-Gert Pöttering:

‘One of the European Parliament’s most important concerns – the need to reduce the democratic deficit in the Common Foreign and Security Policy – was also addressed by the draft constitution. In future, the European Parliament will be regularly and routinely informed and consulted (Pöttering 2004: 79-80)’.

Although it is revealing that Pöttering qualified his view when he added that

‘there must be grounds for optimism that, some day, other recommendations, once viewed as Utopian, will translate into reality’.

The fact of the matter is that there has been no democratization of the CFSP, be it in the Draft Treaty or in the final text of the European Constitutional Treaty. In brief, the agreed Constitutional Treaty represents not only a lost opportunity, but a *golden* lost opportunity. By codifying the rules of the game, the new Constitutional Treaty means that the democratic deficit in EU foreign policy will continue for the time being.

5. AGGRAVATING THE DEFICIT: AN EMERGING EUROPEAN DEFENCE POLICY WITHOUT DEMOCRATIC SCRUTINY

What follows covers briefly a number of relevant issues. It is important to stress that a separate section on defence is needed all the same for the following reasons⁶²: the ESDP is emerging and developing as part of the CFSP but within its own dynamic; security and defence issues in Europe entail concerns that go beyond the EU (NATO, OSCE etc); there is more academic interest in questions democratic scrutiny of military operations⁶³ than on foreign policy, both generally speaking, and in particular over the EU’s actions (see below). For all these reasons it is necessary to devote some attention to this question. But there will be no exhaustive study of what are very complex phenomena.

Although this study does not deal with public opinion for reasons of space, there appears to be some consensus in the existing literature about the need to achieve public support for the ESDP. Practitioners also agree with such a view. For instance, during the Convention debates, Pavol Hamzik (Polish representative to the Convention)’s contribution⁶⁴ considered a drawback:

‘the fact that in the process of establishing the ESDP the pragmatic functional approach continues to prevail with progress being made by technical agreements without greater public involvement. This was probably convenient during the initial stages, however, from a long-term perspective even this part of the European integration cannot successfully continue without larger public involvement. The gradual pressure exerted to maintain, and eventually even slightly increase defence expenses, which is not simple in any country, will certainly be politically sensitive’.

⁶² It is equally important to stress that foreign policy cohesion will be required before a common defence policy, let alone a common defence, emerges. For more, see Fernández, Stavridis (forthcoming), part 3 [in press]. For different views, see de Schoutheete (2004); Guy Verhofstadt, ‘la défense européenne n’est pas une garantie pour une politique cohérente et commune des affaires étrangères, mais c’est une condition préalable’, in his interview ‘L’affirmation de nos opinions n’est pas un acte hostile’, *Le Monde*, 28.04.03.

⁶³ for instance on Germany, see Nolte (2003); on France, Boyer, Sur, Fleurence (2003); on Britain, White (2003); on Italy and the UK, Bono (2005); on Spain, Gamarra Chopo (2003); Ortega Santiago (2004).

⁶⁴ “The European Security and Defence Policy as part of the European Union's Common Foreign and Security Policy”, CONV 194/02, 17/07/2002.

As noted above, the international relations of the EU will become more important. Similarly, more military interventions will take place in this post-Cold War and now post-11 September world (Ku, Jacobson 2003a; Ortega 2001). There has been a clear increase in UN-led deployments: 'nineteen times from 1945 to 1989 and thirty-five times from 1990 to 2000' (Ku, Jacobson 2003b: 25). In addition, 'European governments collectively have doubled the number of troops deployed abroad within the past decade' (Giegerich, Wallace 2004: 179). Many an EU deployment have materialized in recent years: the most important ones being those in FYROM Macedonia, and in the Congo (respectively operations Concordia and Artemis) in 2003 with 1400 and 500 soldiers respectively. Operation Concordia was the first EU military operation where the EU used NATO assets (Carrión Ramírez 2004; Bono 2005; Lindstrom 2005: 27-59). Current EU operations consist take place in Bosnia-Herzegovina, FYROM, Kinshasa, Iraq, Congo, Darfur, the Aceh province, and Rafah⁶⁵.

In fact, in spite of the open disagreement over Iraq and more lately the problems with the Constitutional, progress on defence has continued⁶⁶. There is now more integration in European defence than since the ones planned by the eventually aborted EDC (the so-called Pléven Plan) in the early 1950s⁶⁷. A number of new arrangements and bodies have been set up (Deighton 2002; García Perez 2003; Casajuana, 2004; Gnesotto 2004):

- strengthening military capabilities, including rapid reaction forces, the way these forces are financed, and how to deploy them faster;
- the creation of an Armaments and Military Capabilities Agency, and general progress towards a common defence procurement market.

As for democratic scrutiny, again, proposals made to or during the European Convention have not been included. The Treaty itself does not even allow for a consultative role on the new European Armaments, Research, and Military Capabilities Agency. Neither was accepted an EP proposal which called for 'a separate Council of Ministers for Defence (...) be created for ESDP matters'⁶⁸. Nor a proposal made by academic observers for the creation of a post of Defense Deputy for the ESDP (Everts, Keohane 2003: 174). It would have allowed for a specific person to be responsible for informing, among other things, the EP. In short, European 'defence policy continues to remain immune to parliamentary control' (Fernández Sola 2003).

As other existing parliamentary bodies dealing with European defence issues continue to have very little powers (North Atlantic Assembly, or the Interim European Security and Defence Assembly, formerly, the WEU Parliamentary Assembly), the whole picture remains one of a clear democratic deficit. Still, there is a need for more systematic research on the subject. As Giovanna Bono (2005) has recently argued, if a national MP also belongs to one of the existing interparliamentary bodies, there is better access to

⁶⁵ www.europa.int.

⁶⁶ I do not address the question of whether or not constitutionalization is indeed necessary for the further development of an ESDP. See Stavridis, Fernández (2004).

⁶⁷ Chueca (1979: 50-77); Furdson (1980); Salmon and Shepherd (2003: 22-26).

⁶⁸ Elmar Brok Report, *Report on the progress achieved in the implementation of the common foreign and security policy*, Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, A5-0296/2002, 11 September 2002, PE 309.702, p. 6.

information and more opportunities to debate EU operations such as Operation Concordia than would otherwise be the case⁶⁹.

There have been some recent studies all the same, in particular about the EU's first military operations. In fact, there is more interest for questions of democratic accountability and legitimacy in the ESDP than there is in the CFSP. Recent studies include the work of an academic network financed by the European Commission⁷⁰, as well as those from the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Bonn International Center for Conversion (BICC)⁷¹. There have also been more general studies about democratic accountability and the use of force in International Law. They are relevant because some of the case studies include EU states (Ku, Jacobson 2003a), although I will not develop this dimension in the current study.

One should also add that at the national defence policy level, there exists even a bigger democratic gap than that of foreign policy. This is particularly true of big states and even more so for those that possess nuclear weapons. Thus, *by adding a defence dimension to its foreign policy, the EU has aggravated substantially its democratic deficit*. The adding by itself of defence to EU competences is not a negative development, but the fact that it was not accompanied by any democratization was a mistake. The Constitutional Treaty failed to address the problem of a democratic deficit in defence, concentrating instead on how to try and produce a more efficient system for a future defence policy (and eventually a common defence) at the EU level. It is also important to note that many of the studies on the democratic control of EU defence fail to mention the existence of a democratic deficit at the national foreign policy level.

CONCLUSIONS

There are two key points that deserve repetition: first, to democratize the way national foreign policy is made does not solely depend on the EU. There is a national dimension that needs to be addressed as well. Second, EU foreign policy and defence developments will take place (indeed they are already taking place), *irrespective* of the Constitutional Treaty ratification process. As we have noted, a number of new bodies and arrangements have already materialized. Therefore, the importance of democratizing the CFSP/ESDP should not be underestimated.

It is hoped that the 'pause' in the Constitutional Treaty announced in June 2005 for about a year (until the first half of 2006)⁷² will indeed allow for a renegotiation of sorts. Although it is going to be difficult, such an option should not be totally excluded. Will this be the opportunity to reform the Treaty provisions on the CFSP/ESDP? It is hoped this will be the case but one should note that there still is no real debate about the CFSP and its democratic deficit; and, there still is no debate about national democratic deficits in foreign policy either. These are worrying signs.

⁶⁹ Her example was that of Italian MPs who are also members of the WEU Assembly.

⁷⁰ See 'Bridging the Accountability Gap in European Security and Defence Policy, ESDP Democracy': www.esdpdemocracy.net.

⁷¹ respectively, Born, Hänggi (2004); Ioannides (2002).

⁷² See Annex: 16-17 June 2005 European Council Conclusions, www.eu2005.lu; Council Conclusions: European Council, 15-16 December 2005, www.eu2005.gov.uk. See also the External Affairs Commissioner Benita Ferrero-Waldner's interview, 'La Constitución no ha muerto, la hemos congelado' [The Constitution has not died, we have frozen it], *El País*, 01.07.05.

Any reasons for optimism all the same? It is always possible that theorists and practitioners alike finally come to realize that there might be *after all* some link between the lack of progress towards a truly European foreign and security policy, and the existence of various existing democratic deficits at national and at EU levels. Democratization in general, and in foreign policy in particular, are required because a democratic decision-making process is a necessary (although not sufficient) condition for the emergence of independent European voice in the world. As a common EU foreign policy will have to be based on democratic principles (but this is the topic of another study altogether). The EU needs to begin by applying democratic principles to its own decision-making system because it is a Union of democracies and because it cannot fuse existing national interests as they are not the result of a democratic process. This is not the case right now as I have shown.

Having said that, it is not my intention to argue that constitutionalization and parliamentarization are not positive developments in the EU's history. But as they stand now, both constitutionalization and parliamentarization are not helping the necessary democratization of the EU's foreign policy. In fact, as this paper shows, they are hindering it. Which is surprising -to say the least- as both processes are supposed to produce a more democratic EU. It is equally surprising that the ratification phase of such a process has not led to a real debate about key issues: what kind of Europe do we want? What kind of international actor do we want the EU to become? ('we' here refers to all EU citizens and not only to the elites).

As this paper still represents work in progress, more research is needed on the subject. This paper does not enter the realm of possible, ideal, or other solutions to these deficits. I have dealt with these issues at some length in the past (Stavridis 1993; 1997; 2001. See also Stavridis, Vallianatou 2003; 2005; TEPSA Report 2002). There is no need to repeat them here. The main objective of this paper is to address the negative implications of the constitutionalization and parliamentarization process. But there is plenty of additional work to be done. Here are some possible avenues for future academic research:

- a more systematic and comprehensive comparative study of accountability mechanisms in all 25 EU states, including the role of public opinion(s).
- A number of comparative case studies either horizontally (a specific foreign policy issue or a specific crisis) or vertically (different levels of accountability in one given situation).
- There is another dimension that should be included in any wholly comprehensive study of the subject: Europe's responses to global terrorism. For obvious reasons of space, this was not done in this study. Suffice it to say that important moral, political and democratic issues are at stake when, for instance in Spain, it is the Secretary of State for Defence who is responsible for ordering a possible shooting down of a hijacked civilian airliner⁷³. The link between freedom and justice at the interior (domestic) level and the foreign dimension of the EU is quite clear (Weyembergh 2002; Echeverría Jesús 2002; Thieux 2004; Aldecoa Luzarraga 2004; Temboursy 2004; Díaz, Revenga, Jaime, Martínez 2005; see also Smith K. 2003: 174-177).
- More work is needed on 'parliamentary diplomacy' generally defined (Stavridis 2002; Elorriaga, 2004), i.e. the international relations of parliaments because, although distinct from parliamentary accountability: [a] it is a related topic as any additional information gained by parliamentarians can help their improving parliamentary accountability; [b] there is a clear link between formal and informal means of accountability and of

⁷³ *El País*, 28.06.05.

parliamentary diplomacy; [c] the personal dimension can be important, especially in small countries which now form the bulk of the EU. The confusion between accountability and diplomacy at the parliamentary level should not be made all the same.

It is hoped that this study has shown what the negative implications of Constitutionalization and Parliamentarization are for the democratic scrutiny of EU foreign and defence policy. It is time to react.

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ANNEX:

Council Conclusions

Declaration by the heads of State or Government of the Member States of the European Union on the ratification of the treaty establishing a Constitution for Europe - European Council, 16 and 17 June 2005

Date of release : 17-06-2005

Policy area : General Affairs and External Relations

Event : European Council

We have held a wide-ranging review of the process of ratification of the Treaty establishing a Constitution for Europe. This Treaty is the fruit of a collective process, designed to provide the appropriate response to ensure that an enlarged European Union functions more democratically, more transparently and more effectively.

Our European ambition, which has served us so well for over 50 years and which has allowed Europe to unite around the same vision, remains more relevant than ever. It has enabled us to ensure the well-being of citizens, the defence of our values and our interests, and to assume our responsibilities as a leading international player. In order to fight unemployment and social exclusion more effectively, to promote sustainable economic growth, to respond to the challenges of globalisation, to safeguard internal and external security, and to protect the environment, we need Europe, a more united Europe presenting greater solidarity.

To date, 10 Member States have successfully concluded ratification procedures, thereby expressing their commitment to the Constitutional Treaty. We have noted the outcome of the referendums in France and the Netherlands. We consider that these results do not call into question citizens' attachment to the construction of Europe. Citizens have nevertheless expressed concerns and worries which need to be taken into account. Hence the need for us to reflect together on this situation.

This period of reflection will be used to enable a broad debate to take place in each of our countries, involving citizens, civil society, social partners, national parliaments and political parties. This debate, designed to generate interest, which is already under way in many Member States, must be intensified and broadened. The European institutions will also have to make their contribution, with the Commission playing a special role in this regard.

The recent developments do not call into question the validity of continuing with the ratification processes. We are agreed that the timetable for the ratification in different Member States will be altered if necessary in response to these developments and according to the circumstances in these Member States.

We have agreed to come back to this matter in the first half of 2006 to make an overall assessment of the national debates and agree on how to proceed.

**Council Conclusions: European Council, 15 - 16 December 2005 (17/12/05) 15914/05
CONCL 3**

Delegations will find attached the Presidency Conclusions of the Brussels European Council (15/16 December 2005).

1. (...)

I. FUTURE OF EUROPE

4. Following the Hampton Court Informal Heads of State or Government meeting, the European Council notes the reports from the President of the Commission and the Secretary General/High Representative and agrees to return to these issues under the Austrian Presidency.
5. The European Council notes the joint UK-Austrian interim report on national debates on the future of Europe underway in all Member States, further to the Declaration by the Heads of State or Government at the June 2005 European Council on this issue. The European Council will return to the issue in the first half of 2006 under the Austrian Presidency on the basis of preparatory work in the General Affairs and External Relations Council. The European Council also takes note of the discussion held at the conference "Sharing power in Europe" co-organised by the Presidency and the Netherlands in The Hague on 17 November 2005, and notes the Austrian Presidency's intention to come back to this issue.