EUROPEAN UNION STUDIES ASSOCIATION
Vol. 16, No.1 ISSN 1535-7031
Winter 2003 www.eustudies.org

EUSA REVIEW

## *EUSA Review* Forum

### European Foreign, Security, and Defense Policy

This *EUSA Review* Forum examines an increasingly important aspect of the EU's global role: its pursuit of a common foreign, security, and (potentially) defense policy. Although the EU has made great strides in foreign policy cooperation over the past few decades, especially when compared to similar efforts in other regional organizations, it still faces a number of challenges in attempting to enhance its foreign policy capabilities in light of the current debate on the EU's constitutional structure. The following essays by four EUSA members provide various perspectives on some of these challenges, focusing on the complex interplay between policy outcomes, institutional arrangements, and the EU's growing ambitions in security/defense affairs.

### European Security and Defense Policy: The State of Play
**Roy H. Ginsberg**

HOW CAN THE EUROPEAN UNION (EU) work better abroad, and why ask now? Although European foreign policy has considerable political impact on many international actors and issues, the world's richest group of democracies does not have the influence in international security that it does in international economics. It under-funds the Common Foreign and Security Policy (CFSP) and its offspring, the European Security and Defense Policy (ESDP). The jewel in the crown of ESDP will be the Rapid Reaction Force (RRF) to conduct such tasks as peacekeeping and conflict prevention when NATO does not wish to be involved. Yet the gap between goals and capabilities is, well, legion. This cause of alarm is exacerbated by two new, related external developments. Counterterrorism requires an international response to a primarily transnational phenomenon. President Bush's foreign policy, which stresses military dominance in a unipolar world of ubiquitous security threats, challenges practices of U.S.-EU foreign policy cooperation established by the first Bush and Clinton Administrations.

The Constitutional Convention is considering proposals to make the EU more efficient and democratic at home ahead of enlargement. The better the EU works at home, the better it works abroad. The more operational ESDP is, the more it fastens the missing link of CFSP. The sooner the EU begins to reduce some of the transatlantic military capabilities gaps, the more likely what the EU does in international security will matter and create conditions for more balance with the U.S. The more the EU responds to changes in international security, the more it will influence U.S. security policy. The EU needs political will and resources to make ESDP work to its, and NATO's, advantage.

ESDP is not new. The Europeans asked in the 1950s and again in the 1990s how they could best enhance their own and international security without American dominance. Efforts to forge foreign policy cooperation in the 1970s led to passage of the Maastricht Treaty, which established CFSP in 1993.

Whereas the "F" in CFSP continued to develop as overall EU influence in international politics grew, the "S" in CFSP weakened—nay, punished—European foreign policy during the wars of national dissolution in Yugoslavia. There, in a "baptism by fire," the EU got burned for employing civilian diplomacy to proffer peace in a zone of war while American air power brought the Bosnian and Kosovo wars to an end (Ginsberg, 2001). This sense of European powerlessness, which compared unfavorably with American capabilities, and the specter of American pre-emptiveness, set off developments that launched ESDP. The Amsterdam Treaty gave the CFSP a High Representative and codified the Petersburg Tasks (peacekeeping, humanitarian tasks, conflict prevention, peace enforcement). The United Kingdom supported an EU capacity for independent security action linked with NATO at St. Malo. Between 1999 and 2001, the EU established ESDP and announced the goals by 2003 to deploy the RRF and a police force of 5,000 officers for crisis management operations to perform Petersburg Tasks.

The EU exerts considerable influence in international affairs even in the absence of a fully formed CFSP/ESDP. The external relations *acquis* provides the base and frame for further refinement and growth in European foreign policy . The EU has considerable political impact on U.S. foreign policy/security interests. For example, U.S.-EU counterterrorism cooperation is stunning—witness the deployment of officials of the FBI in Brussels and of Europol in Washington; the EU definition of terrorism and freezing of terrorist assets; the EU-wide arrest warrant; and U.S.-EU negotiations to expand cooperation on extradition, prosecution of criminal/terrorist suspects, money laundering, and intelligence sharing.

Enlargement is already reshaping polities, economies, and societies of applicant states while exerting enormous influence over vital interests of nonmembers in the wider neighborhood. EU diplomacy played a key role in Milosevic's decision to

end the Kosovo war when he did. EU participation in the "Mid-East Quartet" underlines its importance in reaching and implementing a final settlement. The EU is critical to postwar reconstruction in Bosnia and Afghanistan. Dialogues with states Washington considers rogue give the EU access to capitals where there is little U.S. influence. The EU is forging new links in East Asia and the Western Hemisphere to open trade and support democracy. Participation in and funding for multilateral institutions and nongovernmental organizations allow the EU to shape the outcome of international negotiations.

Although the EU matters in international politics, there are numerous instances when it could have acted but did not (Iraq), and thus lost opportunity for influence. National foreign policy preferences cannot always be melded into one. There are limits to civilian diplomacy. Still, most Europeans generally express support for ESDP to influence U.S. foreign policy and NATO, curtail preemptory American leadership, and/or take responsibility for international peace and security. With uncharacteristic speed the EU has now set up a new institutional structure for CFSP/ESDP.

The Political and Security Committee (PSC)—members' ambassadors and the Commission—exercises political control and strategic direction for EU military responses to a crisis. The Crisis Situation Center provides the PSC with intelligence in crisis management. The Policy Planning Unit identifies potential crisis situations. The EU Military Committee (Chiefs of Defense) is the forum for military cooperation in conflict prevention/crisis management. It gives military advice to the PSC and provides military direction to the EU Military Staff. The Military Staff, which provides expertise and advice to the Military Committee and PSC on defense issues, is responsible for early warning, situation assessment, strategic planning for Petersburg Tasks, and implementation of policies determined by the Military Committee. The Joint Situation Center analyzes and makes use of intelligence. The Committee for Civilian Aspects of Crisis Management provides support for nonmilitary responses to crisis management and the Police Unit plans/conducts police operations.

Since the EU depends on NATO to implement many Petersburg Tasks, EU-NATO cooperation is critical. The two held their first ministerial in Budapest in 2001. The cease-fire between rebel forces and the Macedonian government in summer 2001 was brokered and enforced by the EU and NATO. EU and NATO Foreign Ministers met in December 2001 to affirm joint cooperation in the fight against terrorism. The long-delayed EU-NATO accord on EU use of NATO assets when NATO does not wish to be involved is expected to be finalized soon, which could pave the way for deployment of an EU conflict prevention force to Macedonia to replace the NATO force.

In 2002, the EU incorporated the WEU into its remit, funded its satellite navigation project, held its first crisis management exercise, and held its first meeting of Defense Ministers. The Commission established the Rapid Reaction Mechanism, enabling it to respond expeditiously to international crises. France and Britain announced increases in defense spending. Germany and Sweden began to restructure armed forces for peacekeeping. The commitment of several members to order the Airbus A400M transport carrier is a barometer of support for ESDP, although the green light to begin production hinges on the size of the German order. The EU declared some aspects of ESDP partly operational in December 2001. It has a sufficient commitment of troops to staff the future RRF and civilian police missions. The first litmus test for EU crisis management comes in 2003 with deployment of the EU Police Mission (EUPM) to Bosnia to help establish the rule of law, promote stability, and deny terrorist organizations the opportunity to take root.

Germany's role in ESDP is growing by virtue of its willingness to deploy out of area. Its soldiers have been deployed to the Balkans. The Germans and Dutch will assume command over the international security force in Kabul in 2003. The more Germany is at home abroad, the more ESDP benefits from an increased political will and capability.

ESDP will have to evolve well beyond the year ahead to activate the RRF. It took three decades to develop monetary union from vision to reality. National defense industries remain protected, subsidized, and unable to enjoy economies of scale and profitability. More standardization, cross-border mergers, role specialization, and EU-wide defense procurement would reduce duplication and yield cost savings to fund ESDP capabilities. Given sluggish economic growth, cost savings need to come from non-defense areas and from changes within defense spending categories. Additional funding could result from a more flexible interpretation of Stability Pact spending limits. The paltry annual CFSP budget is lamentable. Members still do not agree on the formula for financing ESDP operations.

The EU has identified shortfalls in capabilities: command and control, air and sea lift, intelligence, precision guided airplanes, electronic warfare, logistics, combat support units, precision guided munitions, communications equipment and headquarters, suppression of enemy air defense, and combat search and rescue. The RAND Corporation predicts that the EU members will need to spend $24 to $56 billion to meet capabilities shortfalls and suggests ESDP will not be fully operational until 2007.

The world will not wait for the EU to respond to changes in international security. The EU has often been catalyzed by outside events to shape new policy initiatives. The EU should make the EUPM a success and Germany should fund the Airbus A400M. Members should make faster progress in reorganizing European defense and procurement markets and increase spending on R&D in defense technologies. Here the United States can help by easing up on certain export controls.

The need for the EU to back diplomacy with lower-end security tasks, the specter of continued terrorism, and the prospect of EU marginalization in U.S. foreign policy deliberations together ought to weigh heavily on the EU leadership. Recommitment to ESDP at the highest political levels (a St. Malo II, including Berlin) can break the logjam of resistance to reforms necessary to make ESDP operational. The Cassandras who speak of transatlantic drift because of the U.S.-EU military imbalances ought to note the results of the recent poll of Americans and Europeans conducted by the Chicago Council on Foreign Relations and the German Marshall Fund. Respondents want

good transatlantic relations as well as bilateral and multilateral cooperation to help solve global problems like terrorism.

*Roy Ginsberg is professor of government at Skidmore College.*

## Institutional Moments, Policy Performance, and the Future of EU Security/Defense Policy
**Michael E. Smith**

THE EU'S AGGRESSIVE PURSUIT of a global political role over the past several decades is a unique ambition for a regional economic organization. A combination of exogenous and endogenous factors has further encouraged the institutionalization of these efforts at the EU level (Smith, forthcoming). Enlargements in particular can serve as key "institutional moments" during which EU member states reconsider the ends and means of their cooperation. As the EU faces yet another such moment, combined with its first-ever Constitutional Convention, it may be helpful to revisit some general lessons about how the EU adapts to pressures for institutional change for insights into the prospects for reforms in this domain.

Since the creation of European Political Cooperation in the 1970s, change in this policy domain can be understood in terms of a sequential process of institutional development involving intergovernmental, transgovernmental, and supranational elements guided by several more general principles. First, exogenous forces, such as enlargements, typically provide only a window of opportunity for debate over institutional change; they do not determine the specific outcome. Second, endogenous processes within EU foreign policy structures (chiefly learning-by-doing and imitation) generally provide the range of possible options. Third, reforms tend to reflect a balance between pragmatic operational concerns and enduring ideological/legal debates within the EU. As a result, specific choices codified by EU member states are almost always incremental and progressive rather than revolutionary. In other words, the EU's pursuit of a coherent, high-profile external relations capability is predicated on the respect of both the functional track record of foreign policy rules and the legitimacy those rules have earned based on that track record.

At present, the EU is again attempting to strike a workable balance between institutional stability (to promote a coherent global identity) and flexibility (to allow a variety of responses and participants). At the same time, however, it is attempting to develop a European Security and Defense Policy (ESDP) that provides for the application of deadly force. The question here is whether this approach will suffice in light of the EU's ambitions as a global *military* actor and the high political and economic costs surrounding enlargement. In my view, although the EU has reached a high level of civilian and economic foreign policy cooperation (Ginsberg, 2001), there are reasons to be concerned about the pursuit of an ESDP based on the EU's performance since the Nice Treaty. Leaving aside the issues of involving non-EU states (like Turkey) in EU foreign policy and harmonizing the ESDP with NATO, Nice and its immediate aftermath did little to enhance ESDP capabilities beyond a slight clarification and expansion of existing procedures. In line with the principles noted above, Nice in particular failed to extend the notion of "enhanced cooperation" to the ESDP. This is a crippling limitation; if there is any area of the CFSP that might require a "coalition of willing" to take charge, it is in the area of military/defense issues. Given the limited reforms under Nice, the EU will have to resort, as usual, to selective learning-by-doing (and thus institution-building) in the ESDP domain. However, we cannot fully assess this possibility until several EU states actually attempt an independent military operation. Two recent examples demonstrate the practical limits of achieving a consensus on such an operation.

In Macedonia, the EU revealed a division between those willing to lead (France and the UK), others preferring to hold back or let NATO lead (Germany) and the smaller and/or neutral EU states concerned about being left out or dominated by the larger ones. France, with some support from Germany, proposed a 1,500-person multinational peace force for Macedonia to remain beyond NATO's self-imposed 30-day limit. Instead, EU foreign ministers backed a NATO-led follow-on force to protect up to 200 monitors after the main force left. At this point, French foreign minister Hubert Vedrine admitted that the EU was still not yet ready to lead its own force. Thus, due to the opposition of one or more member states, the EU seems to have failed at least four times (Croatia, Bosnia, Kosovo, and Macedonia) to play an independent military role in the Balkans. This does not suggest a potential for true operational independence from NATO even in an area of strategic significance for the EU. Even when EU states deploy troops, they are hobbled by concerns about mission creep, public opposition to the use of military force, and open-ended troop commitments. These issues will further constrain the operational capability of the ESDP.

The September 11 terrorist attacks revealed a similar dynamic. Here the EU was extremely quick to speak with a common voice in its initial response to the attacks. However, as Howorth recently reported (2002), EU states expressed support for the U.S. and offered troops to the effort, but on a bilateral and national basis rather than collectively on behalf of the EU. Equally problematic for the ESDP, the bulk of operational support for the U.S. was provided by the UK, which further reinforced perceptions of an unfair or inappropriate special relationship between these countries. Even more embarrassing for the EU, in December 2001 the Belgian EU presidency prematurely announced at the Laeken summit that the ESDP was "operational" and that the EU would provide up to 4,000 troops for the peacekeeping force in Afghanistan. This could have been the first deployment of the EU's new Rapid Reaction Force, yet France, Germany, and the UK (among others) quickly denied the announcement and insisted that they would deploy troops on their own accord, not under the institutional umbrella of the EU. These missed opportunities show that exogenous problems alone do not prompt significant institutional changes in the EU (at least in terms of CFSP/ESDP). Moreover, it still seems all too easy for other actors (whether allies or enemies) to divide the EU on security/defense issues where perceptions of a direct, major threat

to common European interests are absent. The current situation with Iraq, like Afghanistan and Macedonia, also clearly exhibits these dynamics.

These episodes, and past experience in EPC/CFSP, also suggest that the EU may have reached the limits of a consensus-driven approach to CFSP in light of the pending stresses of enlargement. EU states will have to delegate more responsibilities to the Commission and/or allow a Council of Defense Ministers to govern this domain, while also possibly instituting compliance mechanisms. EU states still seem unable to agree on a fundamental justification for the ESDP: as a support arm for NATO (UK), as an independent EU force (France), or solely as a peace-keeping/humanitarian force (Germany and Sweden). Even with these changes, the ESDP is likely to be operational only in situations where NATO (i.e., the U.S.) clearly refuses to participate. NATO is still better organized and equipped for operational action, and shows far more dynamism in terms of mission expansion, enlargement, and cooperating with key non-EU states (Turkey, Russia). How the ESDP will develop while upholding equally important principles of subsidiarity, transparency, and democracy also remains to be seen. And unless the ESDP provides for a more robust decision-making mechanism (even through "enhanced cooperation" or "differentiated integration") with more resources, it is highly doubtful it could be used to compel other actors to change their behavior in line with EU policies. There is a huge conceptual and operational gap between well-developed "normal" CFSP activities and military-related actions, and it may be that only a major external crisis and/or a major change of U.S. policy (such as withdrawing from NATO) would lead the EU to transform its weak ESDP plans into a truly effective independent military force. In short, limited institutional reforms, tight defense budgets, and uncertain political will, coupled with the challenge of enlargement and the presence of NATO as an alternative, suggest that ESDP may be little more than a psychological insurance policy to back up NATO.

However, recent experience, particularly in Macedonia, suggests a potential, though still evolving, division of labor between the EU and NATO: NATO threatens military force while the EU simultaneously offers economic rewards. This could be the future model, assuming both institutions agree on the political priorities in such cases (i.e., to deter, compel, or punish; to support fragmentation or unification; etc.) and on the same balance between carrots and sticks. If ultimately successful, Macedonia might also demonstrate how an early, smaller deployment could prevent long, open-ended missions as in Kosovo and Bosnia. Still, unless major institutional reforms can overcome the problems noted above, the ESDP will remain a passive symbol of collective identity rather than an active behavioral expression of it. The history of institutional change in this domain, however, suggests that the former, rather than the latter, is the most likely outcome.

*Michael E. Smith is assistant professor of political science at Georgia State University.*

## Giving Peace a Chance: What the EU Can Teach the U.S.

**Hazel Smith**

IN THIS ESSAY, I REVIEW how the European Union deals with "anti-systemic" states and groups, focusing on the examples of Central America in the 1980s and the Democratic People's Republic of Korea (DPRK), more commonly known as North Korea, in the 1990s and 2000s. I argue that although the EU shared common objectives with the United States, it adopted policy instruments at variance with those used by the U.S. and, as a result, was more successful than that of the U.S. in achieving foreign policy goals. I further argue that the United States should learn from the European Union in devising and implementing policies designed to cope with the proliferation of anti-systemic movements in the twenty-first century.

EU philosophy, policy and instruments towards anti-systemic states and movements

In this essay, anti-systemic states and movements are understood as being underpinned by radical anti-liberal ideologies —whether these be motivated by religious, nationalist or political rationales. The Union's approach towards anti-systemic states and movements was shaped by the historical, political and geographical interrelationship with the Communist states of East Europe and the former Soviet Union that was constitutive of its political and institutional ontology. During the Cold War, the Community and the member states learned the art of peaceful coexistence as well as judicious engagement while, at the same time, avoiding military conflict that could spill over into its territory. The Community also learned that its coordination with the United States was essential but that did not mean that there would never be distinct "European" interests and sometimes conflict with its most important partner as to what should be the appropriate instruments of foreign policy. Its resistance, for instance, to the imposition of sanctions on the USSR in 1979 and Poland in 1981 caused both irritation and anger in the United States.

A distinct European *modus operandi* was further molded by its global policies towards discrete conflicts and particular anti-systemic states and social movements—starting with the first extra-European activity in the 1960s and 1970s as the Community developed a policy towards the Middle East, including the Palestine Liberation Organization (PLO). The Community's shared objectives with its major partner, the United States, were to promote peace and stability in the region. Where it differed was in its willingness to recognize the PLO as a legitimate partner in the process of peace-making, its reliance on economic instruments including the promotion of trade agreements and associations and the allocation of aid, its emphasis on the promotion of political dialogue with all actors and its rejection of the use of military and security instruments as a method of "peace-building." This was not just a case of making a virtue out of necessity of the Community's civilian character attributes. After all, France and the United Kingdom (after its accession in 1973) had capable military forces—as demonstrated in military interventions in the Sinai in 1981 and in the Balkans in the 1990s,

when both nations used their military forces in support of policies closely coordinated with the Community/Union.

Mitigating revolution in Central America

The Community finessed its philosophy and instruments in the Central American conflicts of the 1980s as it developed a comprehensive strategy towards the armed revolutionary movement, the FMLN, in El Salvador, and the revolutionary government of Sandinista Nicaragua (1979-1990). The Community offered positive inducements in return for demonstrable commitments to building institutions embedded in liberal democratic norms. Inducements included aid, diplomatic recognition, support for intra and inter-regional cooperation and a willingness to act as a diplomatic interlocutor with the United States government. By contrast, the United States relied almost wholly on a strategy of militarization of the conflicts—becoming the most substantial financier and trainer of counter-revolutionary governmental forces in El Salvador and the *contra* mercenaries that brought destruction to Nicaraguan border regions, resulting in the killing and maiming of Sandinista soldiers and Nicaraguan civilians. Neither the Salvadorean FMLN nor the Sandinista military were defeated by military forces and yet both El Salvador and Nicaragua achieved transitions to democracy through political negotiation and electoral processes. This outcome owed much to international efforts, including the EU's active diplomacy, that both encouraged peaceful solutions and delegitimized the military options favored by the United States.

Dealing with the DPRK

More recently, the European Union has demonstrated a renewed commitment to its tried and tested approach to anti-systemic states. In the wake of the North-South Korea summit of June 2000, EU member states and the EU, at the behest of South Korean president and now Nobel Peace prize-winner Kim Dae Jung, engaged in a round of diplomacy that ended with diplomatic recognition of the DPRK by 13 of the 15 member states and the Union itself. Diplomatic recognition was accompanied by tough dialogue on security and human rights along with aid designed specifically to support a transition to a market economy. DPRK officials received training on human rights in Sweden and the UK, the principles and practices of market economies, as well as in less politically sensitive areas such as agriculture and English language studies. Moves towards imposing restrictions on technical assistance after the revelations of late 2002 that the DPRK has acquired uranium enrichment technology, a prerequisite for a nuclear arms program, demonstrate the use of another civilian instrument, that of aid withdrawal, as part of the armory of EU instruments.

The common objectives of U.S. and Union policy towards the DPRK are the promotion of stability and the transition to the market economy and democracy. The belligerent policies of the Bush administration have noticeably failed to achieve progress towards any of these goals. The refusal to continue the negotiations on the security/missile deal that took Madeleine Albright to Pyongyang in October 2000 and the subsequent inability to craft a policy other than at the level of rhetoric have left the administration in policy paralysis. By contrast, the EU is engaged in active diplomacy and, given the market reforms of September 2002, may be contributing to the slow transformation towards marketization in the DPRK. The European Union, however, unlike the United States, has only indirect interests in security issues on the Korean peninsula and it is the latter which must craft a policy to resolve security tensions. The United States could usefully learn from the Union and develop a comprehensive policy that combines vigorous diplomacy with carefully employed inducements, close monitoring of agreements and the encouragement of intra-regional cooperation as a means of integrating this most anti-systemic of anti-systemic states into the international system.

Learning from the European Union

The Union cannot achieve foreign policy success in all arenas with its supercession by U.S. diplomacy in the Balkans in the mid-1990s still a powerful reminder that the United States can sometimes achieve results when the Union cannot. Lack of EU capacity in one conflict, however, should not mask the enormous achievements in other areas, not the least being the transformation of East and Central Europe towards democracy, largely assisted by an intensive Union involvement designed to support common Western goals of peace, stability and economic renewal in the wider Europe.

The philosophy and methods developed by the EU are more than ever relevant today given the variety of difficult relations with anti-systemic states and groups that major powers must manage in order to achieve global stability. The most immediate challenge to both the United States and the European Union is to build a strategy that can convince the poor and disenfranchised of the Muslim world that Western capitalism has more to offer than fundamentalist Islam. This policy cannot be based on belligerent rhetoric, disrespect (perceived or actual) of Islam, or inattention to the extraordinary economic and political deprivation and extreme inequality facing these populations.

A strategy based on a tough but nuanced and mutually respectful dialogue may initially appear unappealing because of its implicit understanding that compromise may be needed on all sides. Provided compromise is not on matters of principle, however, this is what successful diplomacy is all about. The United States is the most powerful military power on earth yet preponderant military power, as the U.S. knows from its experiences in Korea and Vietnam, does not always translate into the ability to control outcomes. The United States should learn lessons from European Union success in dealing with anti-systemic states and movements and apply these lessons in its approaches to dealing with countries whose objectives it does not share. This way the United States, might achieve the foreign policy goals it has set itself. Like the European Union, the United States should "give peace a chance."

*Hazel Smith is reader in international relations at the University of Warwick.*

## An Effective and Legitimate CFSP: Challenges Faced by the Constitutional Convention and the Next IGC

**Walter Carlsnaes**

ALTHOUGH THE CONVENTION ON THE Future of Europe established at the Laeken Summit in 2001 was initially set up in response to a general unease with the functioning of the EU, especially in anticipation of enlargement and the decision-making problems that would inevitably follow in its wake, it has also come to embrace foreign policy issues and attempts at reforming Pillar II structures. The latter has come as something of a surprise, since CFSP/ESDP issues were scarcely mentioned either in the Treaty of Nice or in the Laeken Declaration. In any event, as recently noted by Christopher Hill, the question whether reform of the CFSP is necessary or not has been quickly answered in the affirmative by the Convention, with the result that already at this point in its deliberations, "some quite serious measures are on the table" (Hill, 2002: 25).

However, the Convention is not simply faced with the task of coming to grips with problems of size and effective decision-making procedures within the context of enlargement, but was also given a broad mandate to show the way toward "a clear, open, effective, democratically controlled Community approach." In short, underlying its creation lies not only a concern with the future problem-solving effectiveness of EU institutions, even though these are clearly of an overriding nature. Of equal importance, Fritz Scharpf recently argued in a talk given in Stockholm, is the normative appropriateness of EU institutions and processes, especially in the light of the increased demand within Europe for a greater clarity of competencies, a greater transparency of decision processes, and a greater democratic accountability of decision-makers (Scharpf, 2002: 2). The question is how the Convention will be able to contribute to both aims without compromising either. In the past successful institutional reforms – such as those adopted in the Single European Act or at Maastricht – were focused almost exclusively on substantive policy issues or on goals on which prior agreement had been reached, whereas present concerns seem less preoccupied with questions of policy effectiveness and more with criteria pertaining to institutional appropriateness and democratic legitimacy.

Although the tension between these two aims affects the future of the EU as a whole, particularly in view of the challenge posed by the upcoming integration of the new accession states, it also complicates the ambition of making the CFSP more effective. This increased concern with foreign policy and security issues was already evident prior to the events of 11 September 2001 (particularly in connection with the launch of the ESDP in 1998), and has become even more pronounced subsequently as the U.S. has expanded—mainly in a unilateralist and militarist mode—its all-out campaign against international terrorism and Saddam Hussein's regime. However, here I will confine myself to a single aspect, albeit a central one if the ambition of the Convention of reforming the intergovernmental Pillar II structures will have any chance of success: the issue of how foreign policy should be made in future.

At present, as Scharpf has argued, EU policy-making is conducted in terms of three different modes of governance differing substantially with respect to the criteria of effectiveness and legitimacy. The first and most fundamental is that of *intergovernmental negotiation*, based essentially on the principle of unanimity. Its polar opposite is *supranational centralization*, requiring—as, e.g., with the European Central Bank—no agreement whatsoever on the part of national governments. However, the most frequently employed mode is what Scharpf has called *joint-decision making*, in Brussels often referred to as "the Community method." It has a number of procedural variants (one of the tasks of the Convention is in fact to simplify these), but the dominant mode is that policy proposals must originate in the Commission, and in order to become effectuated, they need to be approved by a qualified majority vote in the Council of Ministers and by an absolute majority of the members of the European Parliament.

All three modes differ on how they balance the dual desiderata of effectiveness and legitimacy. Based on the power (both positive and negative) of the veto, the first scores high on legitimacy but considerably less on its problem-solving effectiveness. The second, not dependent on national agreement or preferences, is potentially very effective, but achieves legitimacy only within the narrow boundaries of its specific mandate, premised on earlier joint and essentially irrevocable commitments. The third mode produces considerably better effectiveness than intergovernmentalism, and—given its beholdenness to support from both national governments and the European Parliament—has a broader foundation underwriting its legitimacy than the supranational model.

Why, given the availability of these three types of governance, and especially the advantages of the joint-decision mode, is there nevertheless a perceived need to reform the institutional framework for making EU foreign policy decisions? If these have worked in the past, why has the Convention come to feel that reform is now necessary? The answer is clearly anything but straightforward, but the following factors hint at the dilemma involved.

Given the establishment and rapid development of the ESDP as an integral part of the CFSP, including the Rapid Reaction Force (RRF), intended to consist of national armed forces ready for swift deployment to high-risk conflict areas, any decisions made in its name will, of necessity, achieve high political salience within member states. As a result it will be well nigh impossible for their governments to be bound by *majority decisions* involving the sending of national contingents of RRF troops to combat zones. As W. Wessels noted recently, "[O]nly national authorities are legitimated to send out soldiers with the risk to be killed" (Wessels, 2002: 5). At the same time it will be very difficult—for all kinds of historical, ideological and other reasons—to attain *unanimity* on European missions of this nature. Instead, any attempts to do so will undoubtedly provoke both divisive national debates and sticky negotiations on the European level, none of which is conducive to constructive diplomatic behavior in crisis situations or, if the need arises, the kind of fleet-footed capability envisaged by the architects of RRF.

In the light of this dilemma and the need for high levels of consensus on foreign policy issues, essentially two options are available within the Community framework. The first is to downgrade the influence of member governments in favour of upgrading the role of the Commission and the European Parliament. However, as Scharpf has argued, proposals along these lines are "based on an inadequate understanding of the normative preconditions of legitimate majority rule" (Scharpf, 2002: 11). There is in any case little reason to expect the upcoming Intergovernmental Conference to move in this direction, and any attempts by the Convention to propel European institutions towards a more majoritarian system could very well backfire by provoking current European debate and opinion to go against such change.

The second option, advocated by Scharpf, is to accept the legitimacy of divergent national interests and preferences, and hence also the continued functionality of the current three modes of governing within the Union. The crucial issue then becomes how to cope with legitimate diversity in the pursuit of European foreign and security policy. If the Union is not to become wholly impotent in its foreign and security policy-making, this means that its members have to be willing to compromise on the requirement of uniformity.

The magic words here are "differentiated integration," opportunities for which already exist within the framework of the Treaties. In theory, this means that it would be "possible for some governments to pool their military resources and to integrate their foreign policy even if such initiatives were not supported by all members states … In short, differentiated integration could facilitate European solutions in policy areas where unilateral national solutions are no longer effective while uniform European solutions could not be agreed upon" (Scharpf, 2002: 14). However, this solution has one major drawback: while "in theory" possible, this type of proposal is highly circumscribed by the Amsterdam Treaty, and policies promulgated in its name cannot challenge the existing body of European law. Also, it has never been tried.

The underlying scepticism—even hostility—towards differentiated integration emanates from a deep-rooted ideological commitment to uniform law as a precondition for full integration. Scharpf's conclusion, and one which I find persuasive, is not only that a distinction should be made in the ongoing constitutional debate in Europe between legitimate and illegitimate diversity, but also that the Convention and the upcoming IGC should take upon themselves the task of trying to override this negative frame of mind and, instead, to base their deliberations on an acceptance of the reality of a multi-level European polity. If this task is taken seriously, we can perhaps also look forward to European foreign and security policy in due course becoming both more effective and more legitimate.

*Walter Carlsnaes is professor of government at Uppsala University and the Norwegian Institute of International Affairs.*

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