From Maastricht to Amsterdam: Was it Worth the Journey for CFSP?

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As in 1991, the question of the further development of Europe's foreign policy capacities has once again been high on the agenda of the 1996-1997 Intergovernmental Conference. The high expectations of 1991 following the transformation in Maastricht of European Political Cooperation (EPC) into CFSP had not been fulfilled and following Europe's poor performance in the Yugoslavian crisis, European citizens did not hide their disappointment. They have increasingly seen the European Union as a paper tiger incapable of acting and not able to take care of its own security. Whether the amendments introduced in Amsterdam will be able to change that image, remains however very much the question.

During the fifteen months of negotiations, the IGC in the area of foreign and security policy has primarily focused on four questions: the issue of introducing Qualified Majority Voting (QMV); the introduction of the principle of flexibility; amendments with regard to security and defence; and the question of institutional changes.

The debate on the use of unanimity versus QMV is as old as that on European foreign policy cooperation itself. While for some countries like France and the United Kingdom, the area of foreign policy is considered too sensitive to transfer full sovereignty to the European level, others like Germany, Italy and the Benelux countries for example, judge that the intergovernmental approach only constitutes an intermediary phase, and estimate that the only way to overcome the paralysis in CFSP is to move to decision-making by QMV .

The Treaty of Amsterdam leaves no doubt as to which school of thought has prevailed. Decision-making by unanimity remains the general rule in the field of CFSP (Art. J.13). A special or reinforced Qualified Majority (at least 10 Member States in favour) is possible but only for implementing common strategies, joint actions or common positions which, before, have already been adopted by unanimity. There is an additional safeguard providing the possibility for a Member State to oppose a decision by QMV 'for important and stated reasons of national policy'. The Council can then bring the matter before the European Council which has to decide by unanimity. In practice this means that a Member State which opposes a decision by QMV can always use its veto. Member States also maintain their veto for decisions having military or defence implications (Art. J.13.2).

The most important novelty for the decision-making process in the Second Pillar is the possibility for Member States to abstain, i.e. not to participate in certain decisions under CFSP. In the event of such positive or constructive abstention, the Member State(s) in question are not bound by the EU decision, but the Treaty asks them not undertake any action conflicting with or impeding EU action. For flexibility to apply, there has however to be a critical mass of countries supporting the decision in question and the Treaty stipulates that those abstaining should not represent

more than one third of the votes weighted. Contrary to the first and the Third Pillar where flexibility consists of a majority of Member States moving ahead, in the Second Pillar it is the result of one or more Member States not participating in a decision. Whether this new possibility will make it more easy to act in the area of CFSP, will very much depend on the willingness of the Member States to make use of constructive abstention.

In the area of security and defence, the most important achievement is undoubtedly the introduction of the so-called Petersberg tasks into the Treaty (Art.J.7.2). The European Union, in cooperation with the Western European Union (WEU), can undertake humanitarian and rescue tasks, peacekeeping tasks and tasks involving combat forces in crisis management including peacekeeping. This is undoubtedly a positive development since these types of mission are most apt to address the security challenges of the post-cold war period and also the neutral countries can participate in their implementation. It has however to be added that the WEU still has a long way to go in further developing its operational capacities before it has the potential to fulfil the whole range of Petersberg tasks.

Further developments in the security area will, to a large extent, also depend on the future relationship between the EU and the WEU. The proposal by France, Germany, the Benelux countries and Spain to gradually integrate the WEU into the EU has not been maintained. Due to the firm resistance of the United Kingdom for whom NATO should remain the principal forum for discussing European security and defence questions, the text of the Treaty only refers to the possibility of integrating the WEU into the Union, making such a merger dependent on a unanimous decision of the European Council. Such a decision should be adopted in accordance with the Member States' respective constitutional requirements.

Another controversial issue was that of the reformulation of the Treaty's Article on defence (former Art. J.4.1). The new Treaty speaks of a 'progressive' instead of a 'gradual' framing of a Common Defence Policy, but there is still no firm commitment to a common defence. Several Member States continue to favour the Atlantic framework to discuss security and defence issues and the presence of four neutral countries in the negotiations presented a further stumbling block.

Lastly, the new article J.7 for the first time also includes a reference to possible cooperation in the armaments field. There is an increasing awareness that European firms are losing their competitiveness *vis-à-vis* the American giants and that unless there is increased cooperation, they might not be able to survive. Whether this vague clause will lead to any concrete results remains to be seen and depends entirely on the Member States who in the past have been extremely reticent to combine forces.

Some of the most visible results in the Second Pillar are a number of institutional novelties. The widely discussed function of Mr or Mrs CFSP has been created, but his/her tasks will not be performed by a political personality as initially proposed by the French, but by the Secretary General of the Council. The primary tasks of this High Representative for CFSP will consist in helping to formulate, prepare and implement foreign policy decisions. Only if asked specifically by the Presidency, the High Representative can also perform representational tasks. This is probably all the better since the addition of another player into the existing 'troupe' might only increase the confusion, rather than helping lead to the solution.

The Secretary General is helped in his tasks by a newly established policy planning and early warning unit, composed of experts from the General Secretariat, the Member States, the Commission and the WEU. The aim of this unit is to be a pool of information and to help CFSP to become more pro-active, preventing situations like Yugoslavia where the Member States were totally taken by surprise.

Furthermore it is explicitly stated that the EU, in the area of CFSP, can conclude international agreements and there has also been concluded an interinstitutional agreement between the European Parliament, the Council and the European Commission concerning the financing of CFSP, which should smooth the implementation of CFSP decisions with financial implications.

Whether the new Treaty of Amsterdam will succeed in realizing the objectives defined by the Reflection Group to make the external policies of the Union 'more coherent, more effective and visible' remains very much the question.

Undoubtedly, the intergovernmental character of CFSP has been maintained and even been reinforced. Decisions will continue to be taken by unanimity and the role of the European Council which defines the general principles, the common strategies, and decides whether to move towards a common defence has been strengthened. Decisions by QMV are only possible where there is basic unanimous agreement.

In the sensitive area of security and defence, no major progress has been made. Member States continue to have divergent views in this field, and the fact that the EU has been enlarged with three neutral countries has not made it easier to come to any consensus. Contrary to the last IGC, where there was substantial uncertainty with regard to the future of NATO and the continuing commitment of the US to European security, there was, this time, less pressure on the Member States to make real progress. More and more countries seem to have accepted the fact that in the years to come NATO will continue to be the principal player on the European security scene. With its recent rapprochement with NATO's military structures, even a staunch Europeanist like France seems to be willing to admit that the development of a fully independent European security and defence identity outside the Atlantic framework is not a realistic option. Germany, together with France one of the most active supporters of a fully-fledged CFSP, has been putting all its eggs in the

EMU-basket and in Amsterdam the rescuing of the Stability Pact became a more important priority than further developing CFSP. The agreement on Combined Joint Task Forces (CJTF) being reached last year at the Atlantic Council in Berlin is undoubtedly much more important for European security than the amendments to Article J.7 of the Treaty on European Union.

The most interesting novelty in the Second Pillar is probably the increased emphasis on flexibility, made concrete through the possibility of constructive abstention. Further enlargement will make it increasingly difficult, if not impossible for the EU Member States to speak with one voice. Through constructive abstention, it should become easier to take into account the different historical and geographic interests of the Member States. It is however clear that when Member States have a vital interest at stake, they will not resort to abstention but will use their veto. Constructive abstention can therefore not be expected to provide a solution for situations of deadlock such as the one surrounding the recognition of Croatia or Macedonia. In many cases, it will therefore continue to be extremely difficult for the Fifteen to agree to action.

In conclusion, it can be said that despite a number of institutional adjustments, the Treaty of Amsterdam in the Second Pillar to a large extent maintains the status-quo. Increased flexibility might constitute a step forward but very much will depend on its implementation. CFSP will continue to be an interesting forum for cooperation and exchange of views in the foreign policy area, but it is very doubtful whether following Amsterdam it will be better prepared for the type of crises like Yugoslavia or Albania.