

**The Common Foreign and Security Policy of the European Union:  
Conventions, Constitutions and Consequentiality<sup>1</sup>**

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The European Union is in the midst of a highly self-conscious period of constitutional rearrangement. The policy of enlargement has made the need for reform inescapable where it was previously simply pressing. It is natural in such circumstances to seize the opportunity to take a holistic view and to throw into the ring all areas of EU activity for possible change.

The Common Foreign and Security Policy (CFSP) of the Union is just as much in the eyeline of those concerned with the current Convention as are the more obvious institutional issues of subsidiarity or the role of the Commission. And since one of the key current problems in the EU's evolution is whether a 'European foreign policy' is embodied in the CFSP, or needs to be understood in a wider sense, the 'external relations' of the Union (largely Pillar I matters), the European Security and Defence Policy (the ESDP, which is either part of Pillar II or a *de facto* Pillar IV) and the burgeoning international aspects of Justice and Home Affairs (Pillar III) must all also be brought into the analysis. These important questions have their own logics and dynamics but it would make no sense either for the Convention or for international relations if they were to be excluded from the agenda. Fortunately the members of the Convention, notably Vice-President Amato, have been alert to this need and on 11 July new Working Groups were set up on 'External Action' and on Defence. On the other hand neither of the two group chairs is known for their foreign policy expertise, and this could be interpreted as a signal that the Convention will only be going through the motions in the external dimension, perhaps because the key Member States are known to have their own Convention agendas, and vetoes.<sup>2</sup>

The Convention is closely associated with the idea of the need for a European Constitution is required and that this is as good a 'constitutional moment' for Europe as any, with the putative enlargement of the EU to 25 states or more. Whether a proper Constitution emerges, as opposed to the further incremental refinement of the Treaties, is at present impossible to know. If it does then there will certainly be important ramifications in the area of CFSP. If it does not, the Convention will still be perceived, both in Europe and outside, as consequential for foreign policy, whether in terms of consolidation, fundamental change or missed opportunities. This is the more so given the portentous international events in which the Convention and any IGC will be embedded. The 'war on terrorism' is ongoing, and may soon be transmuted into a more conventional war if the United States attacks Iraq. It will be a test of the EU's stable institutions and capacity for political single-mindedness, if nothing else, to be able to carry through the projects of enlargement and constitutional reform while the international system is in turmoil. If major terrorist attacks were to occur on EU soil (sic) it would be a miracle if the process of reform were not halted altogether.

The Convention and the need for reform which it represents have arisen specifically out of the logic of enlargement and the negotiations over accession. But they also derive from relentless ratcheting of institutional change which began with the Genscher-Colombo Plan in 1981 and continued through the Stuttgart Declaration, the Single European Act, and the Treaties of Maastricht, Amsterdam and Nice. This change has taken the form of a process of endless compromise, deal-making and ad hocery, with the result that no single set of interests has been satisfied, but nor has any been wholly alienated. In other words, pluralist democracy – of a rough and ready kind – has functioned at the European, as well as the national, levels. For twenty years those responsible for European governance have been part of a *fuite en avant*, in an uneasy coalition of those who wanted to see progressive change by

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<sup>2</sup> Jean-Luc Dehaene is the Chair of the External Action Working Group. He was twice Belgian Prime Minister, but has never held a portfolio in the external area. The same is true of Michel Barnier, Chair of the Defence group. He is currently the Commissioner responsible for Regional Policy.

whatever means lay to hand, those who wished to anticipate new criticisms of Eurosclerosis, and those who simply wanted to deal with the evident efficiency-deficit in key policies and institutions. Indeed, we may conclude that both the Convention and the emerging interest in a Constitution, are a natural part of the overall process of European integration, which has been historically driven by four factors and/or sets of motives. These can be summarised as:

- The state-building imperative
- The pressure for institutional reform
- Issues of democracy and accountability
- The (super) power-building imperative in international relations

This short article considers the interplay of CFSP, Convention and Constitution in the light of each of these historical pressures, with particular reference to the two-way flow of consequences: the impact of international change on the EU's own evolution; and the meaning of the processes of constitutional revision for the EU's relations with the rest of the world. By the end of the discussion some preliminary view should be possible as to (i) whether the CFSP needs either root and branch reform or locating in a Constitution (the two things are far from being the same); (ii) conversely, if the EU is fundamentally revised/placed on a constitutional basis, whether the efficacy of the CFSP/EU foreign policy will be significantly affected.

### **State-building**

Few observers currently see the EU as going down a path towards single, federal statehood, and enlargement seems to make the prospect even more remote – which is why British Eurosceptics continue to trumpet their support for the new members despite their reservations about migration, Schengen and the budgetary impact. From this perspective it is remarkable that those who genuinely wish to see a more state-like European entity have been so muted in their concerns about enlargement. With some French exceptions, the tendency to assume that more means better in the European context has drowned out the small voices of concern over the consequences for the whole integrationist project. This is either an admirable form of positive thinking, or panglossian myopia, according to taste. It is true that few even among the optimists – except the less serious players – think that a real European state is possible except in the long run, and even fewer still claim (publicly) that it is desirable. Nonetheless, it is worth giving some attention to this perspective on CFSP. It can be argued that if the effectiveness of *European* foreign policy is the criterion, then it will never be achieved by any amount of institutional tinkering and normative high-mindedness; the only way to make Europe more than the sum of member-state diplomacies is to make it into a real state. Multi-level governance may be just about satisfactory for managing mountains of butter but it is barely suitable for making decisions about guns.

There are many who will say that international relations is changing, and that wielding a gun is not the only way of exerting influence – although they were more vocal before September 11. To them, the maxims of realism seem less relevant, and the EU is already the future which works, a model for both peace between states and for the management of complex interdependence. There is some truth in this response, but not enough. The critics of European foreign policy, within the EU and from outside, from leftist anti-globalists and right-wing anti-Americans, from human rights activists and those concerned about the EU's unstable borders, say that the EU cannot act, that it is too divided, that it cannot translate its massive potential power into impact, and that it lives perpetually in the shadow of its great

ally. All these critics expect the EU and its Member States to be able to do more than shuffle their various identities in some kind of post-modern ballet, decentring authorial responsibility and fragmenting the narrative of political action.

After more than two decades of observing the development of a European foreign policy presence in the world I have come to the conclusion that there are many things to be said for the present system of divided labour and interlocking processes. It represents a distinct advance on a Europe of atomised national positions, coordinated only under the umbrella of NATO, quite apart from the further boost it gives to the working peace system within the EU. What cannot be said for it, however, even with the striking new interest in a defence dimension, is that it confers the capacity to act in the world, as the United States or Israel can act – ie with plausible threats of military action, but more importantly through the decisive exercise of a collective will. The system may be refined endlessly, and the Treaties (or a Constitution) may resound to exhortations about solidarity and international commitment, but only the creation of a legitimate executive with the authority to commit the peoples of Europe to war, or even to a clear line on subjects like the Middle East, will make much impact on the problem of (in)action.

It may not be at all a bad thing that the EU cannot act like Israel or the United States. Many observers and citizens prefer the current condition of civilian power overlaying national diversity, not least because the latter implies the ultimate right to opt out of a particular foreign policy decision which is anathema to public opinion, as we see with Germany and Iraq at present.<sup>3</sup> Furthermore it is far from being the case that the EU currently lacks any capacity for significant foreign policy action. The policy of enlargement is an example of a sustained and highly complex series of activities with major international effects. Yet this same example demonstrates the EU's weaknesses. Enlargement was never presented as an act of foreign policy and the thinking through of strategic consequences never went further than a generalised belief in the stabilising effects of inclusion.<sup>4</sup> The kind of enlargement which it might be best to go for has never been subject to serious public debate, but has rolled forwards through disjointed incrementalism, sometimes driven by US pressure, with key decisions (such as that on Cyprus) often emerging in a hasty and ill-judged manner. The consequences of this kind of behaviour are yet to be seen, and they may be far from positive. Finally, enlargement is evidently the opposite of the kind of problems presented by actual conflicts – at best it is long-term conflict prevention, and important for that so long as we can be sure that the underlying assumptions are sound. It demonstrates that the EU is best at long-term, proactive system-modification, not at dramatic, reactive, short-term crisis-management, which unfortunately major powers often have to face up to.

The conclusion to be drawn from a state-building perspective has to be that the attempt to drive the CFSP on to the point where it bestows real actorness on EU foreign policy is doomed to failure without some real movement towards an overall federal structure. While the current baroque system obtains, tuned more to harmonisation than action, and more to coordination than decision, foreign policy will be limited in its effectiveness, and mostly to

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<sup>3</sup> For the virtues of civilian power status, see Jan Zielonka, *Explaining Euro-Paralysis: Why Europe is Unable to Act in International Politics* (London: Macmillan in association with St. Antony's College, Oxford), pp226-229; and Karen E. Smith, 'The end of civilian power EU: a welcome demise or a cause for concern?', *The International Spectator*, Vol.XXXV, No.2, April-June 2000, pp11-28.

<sup>4</sup> This point is developed in Christopher Hill, 'The geopolitical implications of enlargement', in Jan Zielonka (Ed.), *Europe Unbound: Enlarging and reshaping the Boundaries of the European Union* (London: Routledge, 2002), pp95-116.

policies which impact on the 'milieu' rather than promote immediate EU concerns.<sup>5</sup> Equally, the CFSP cannot run ahead of general integration; it relies on domestic support and resources, as well as the ability to mobilise a wide range of instruments. Indeed, in terms of decision-making it has historically been more conservative than the general EU *modus operandi*. It is just imaginable that a major international crisis might reverse this trend and turn foreign policy into the motor of integration through the vital need to act and to mobilise major resources – just as the Second World War greatly enhanced the power of the federal government in the US over the succeeding three decades. But unless Europe is to break dramatically with the United States, this does not seem a very plausible scenario. Far more likely are drift and piecemeal adjustment.

### **The pressure for institutional reform**

Whatever the merits of the argument made above there is no doubt that the pressure for institutional reform will continue to be felt across the European Union for the foreseeable future. It is an 'unfinished' construction, and it is difficult to imagine how, given its complexities, it can reach the point where the institutional status quo will be regarded as satisfactory – hence the paradoxical interest of some British observers in drafting a Constitution, in the hope that this might finally call a halt to the process of integration by small, but seemingly endless, steps. In particular, both the evident weaknesses in the foreign policy-making process, and the continuing widespread belief that procedural change will improve outputs, will fuel demands for reform. In terms of the latter, the Convention probably will – and should – make proposals about the rotating Presidency, the legal personality of the Union, the relationship of ESDP to CFSP, the democratic deficit, and most basic of all, the whole pillared structure of the Union.<sup>6</sup>

Changes in the Presidency or the Pillars are structural EU matters which will be decided on the basis of wider considerations than the CFSP, but they will certainly have an impact on the conduct of foreign and defence policy. The specific issues of the latter are naturally shaped by international as well as 'domestic' EU factors. Indeed, through measures to grant formal legal personality to the Union, to increase foreign policy accountability or to strengthen external representation, changes in the EU's general character may occur as the result of perceived foreign policy requirements. The current constitutional upheaval has, indeed, been brought about by the need to cope with enlargement, which is as much a foreign policy question as an internal one. Yet the external consequences of enlargement will have to be dealt with by a foreign policy-making system whose recent improvements – a defence dimension, a High Representative – have complicated as much as they have streamlined the EU's capacity to act. Some further changes are necessary in this area, and my own views on what might be feasible are to be found in the Conclusions to this article.

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<sup>5</sup> 'Milieu' is a reference to the idea of Arnold Wolfers, in his *Discord and Collaboration: Essays on International Politics* (Baltimore: the Johns Hopkins Press, 1962), that some goals entail change in the wider international system (the 'milieu'), as opposed to the conventional foreign policy concern with defending or increasing particular interests.

<sup>6</sup> Ramses A. Wessel argues that the EU already has legal personality, *de facto*, and that the necessary formal acknowledgement of this must call into question the pillared structure of the Union. See Ramses A. Wessel, 'Revisiting the International Legal Status of the EU', *European Foreign Affairs Review*, Vol.5, 4, Winter 2000, pp 507-537.

The inherent connections between the governance of foreign policy and the operation of the whole EU system in the long term do not mean that the former could not be delinked to some degree from the current constitutional upheaval, especially since many changes in foreign policy-making do not depend on Treaty amendments<sup>7</sup>. The immediate priorities, if a large number of countries is to join in the next few years are clearly to sort out: (1) the problems of a presidency whose rotation in an EU-25 will become as imperceptible as that of the London Eye; (2) voting in the Council; (3) the potential overloads of Commissioners and MEPs. Given the urgent timetable, it may well be that foreign policy changes can wait, and/or that any consequences for foreign policy will have to be managed on the hoof. It would in fact be disastrous if structural matters were to be neglected through over-excitement about the problem of international actorness. There is a natural tendency once started on the portentous discourse of Conventions and Constitutions, to look for a holistic and rational 'solution' to the problems of the Union's structure, but the exigencies of international politics may simply not allow this, any more than they did for the Single European Act or during the Maastricht negotiations. In this case the need will be to focus clearly on the attainable priorities, and to avoid a last-minute, clock-stopped political fudge.

### **Issues of democracy and accountability**

The issue of democracy in the context of European foreign policy is given fuller treatment elsewhere in this issue (????). There are, however, two points to make in connection with the present argument. The first is that 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. But European foreign policy is also inherently a normative project. This is partly because any foreign policy – even a realist approach – is rooted in a particular set of values. Yet it is also because European Political Cooperation, even before the CFSP, had as one of its central concerns the expression of moral concern about events in non-democratic states, especially those of the Third World. With the end of the Cold War this has crystallised into a full-blown paradigm stressing the importance of human rights and democratisation, taking support and impetus from the army of non-governmental organisations which have grown up in Europe and which have heightened expectations of EU foreign policy.

The second issue which arises in relation to the idea of a democratic foreign policy is the extent to which its values should be laid down in explicit form, and whether they should be inscribed in a Constitution, should one be forthcoming. This immediately raises the question of how far Europe needs to follow – or to avoid – the example of the American Constitution, in which foreign policy has a prominent part, arguably providing the basis of the sense of exceptionalism and self-reliance which has been so important in the evolution of the United States' role in the world. Yet the *text* of the US Constitution actually says little about the content or values of foreign policy. By contrast, the EU, to judge by the founding documents of European integration from the Schuman Declaration of May 1950 on, could hardly avoid such a statement, and this would have significant behavioural consequences in the long run. Modern International Relations theory tends to emphasise the importance of norms, values

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<sup>7</sup> As, for instance, with the new Foreign Policy Council set up, *de facto*, by the Seville Council, but so far not widely noticed. See Annex II, 'Measures concerning the structure and functioning of the Council', *Presidency Conclusions*, Seville Council 21-22 June 2002, SN 200/1/02 REV 1. I am grateful to David Allen for this point.

and language, as ways in which foreign policy is not only legitimised but also constituted.<sup>8</sup> Furthermore as Louis Henkin and Michael Byers have shown, law is not there simply to be obeyed or ignored; it gradually shapes behaviour by limiting some possibilities, specifying others and providing the terms in which debate can take place.<sup>9</sup>

### **The (super) power-building imperative in international relations**

In the development of a European foreign policy, the 'pull' from the outside world has been at least as important as the 'push' from the politics of integration. The total lack of any collective mechanism during the Vietnam War, or the Czechoslovak crisis of 1968, acted as a catalyst for the invention of European Political Cooperation in 1969. The Middle East war of 1973 and the oil crisis which followed produced a further flurry of institution-building, as did the Soviet invasion of Afghanistan in December 1979. The collapse of the Soviet bloc was clearly a major factor in the formulation of the CFSP and the European weakness in the Balkans finally led to the change in British policy in 1998 which unleashed the ESDP.

This stimulus-response model is persuasive if one takes into account the Europeans' wish to articulate their own increasing sense of distinctive interests, as well as the political space left to be occupied by the unattractiveness of much superpower behaviour. On the other hand neither the United States nor the Soviet Union were inert elements in the equation. Washington has never been able to make up its mind whether European foreign policy was possible or desirable, and has usually reacted sharply when faced with genuine signs of European independence – that is, with disagreement. The Soviets, conversely, were willing to talk up Europe as a power if it divided the West, or promised to act as a brake on the exercise of US power, but had no interest in the emergence of a new major power on their western borders. *Au fond*, they preferred the certainties of US discipline over Europe and could not take seriously the likelihood of change. Other powers, more geographically distant, either hoped for a European superpower but could do little to foster it (China during the 1970s) or were sceptical and indifferent as to Europe's significance (India).

An outside-in perspective tells us about the conditions in which the EU might be able to develop its international actorness. The big issue remains as to whether, when conditions are favourable, Europe is willing or able to take advantage by making progress towards a *single* foreign policy. The *a priori* discussion of whether the EU should become a superpower usually seems too abstract to be worthwhile. But in a period like the unipolar present, when deep anxieties are being caused by American unpredictability, and potential great powers like China and India are (perhaps thankfully) cautious about their own international assertiveness, there is no intelligent alternative to a debate about what kind of entity Europe needs to be in the world. Furthermore there is now a clear opportunity to provide a second western point of reference to the United States – if the EU wishes to seize it. It is revealing that it was Tony Blair, the loyal Atlanticist, who called (in his Warsaw speech of 6 October 2000) for the EU to become a superpower. Blair is always willing to consider the conceptual foundations of foreign policy, and he realised that the combination of the plan for an ESDP, together with

<sup>8</sup> Alexander Wendt, *Social Theory of International Politics* (New York: Cambridge University Press, 1999). In the context of the CFSP, see Michael E. Smith, 'The Legalization of EU Foreign Policy', *Journal of Common Market Studies*, Vol.39, No.1, March 2001, pp79-104.

<sup>9</sup> Michael Byers, *Custom, Power and the Power of Rules: International Relations and Customary International Law* (Cambridge: Cambridge University Press, 1999).

the new justifications for humanitarian intervention in the wider system had fundamental implications for the comfortable self-image of Europe as a civilian power.<sup>10</sup>

This is not to argue that the environment is unambiguously pulling Europe towards greater deepening, even if some do not yet realise it. In my view the contemporary external environment is particularly complex, and with forces operating in a number of different directions. From the point of view of the development of CFSP, it is largely neutral, containing some new opportunities, some pressures for unity (eg over the Arab-Israel conflict, where a single European view exists and remains only to be articulated more strongly), and some serious obstacles (such as the United States' angry reactions to Germany's criticisms of Iraq policy - and its implicit bid to speak for Europe). Yet if we do not have a debate about how to cope with the changed world system, and indeed with the gathering storm over Iraq, we shall either remain focused on a near horizon of institutional detail, without grasping the major problems, or move imperceptibly into a new paradigm of European responsibility which will have neither been legitimised by public discussion nor underpinned by sufficient resources. As it happens, the European public is becoming aware of the issue. A recent poll for the German Marshall Fund revealed that 65% of respondents in six countries (91% in France) thought that the EU should 'become a superpower like the US'.<sup>11</sup> There is now a heightened concern about international relations and the ability of the EU to protect its citizens and to assert their values.

Given that a pure civilian power model is no longer sustainable (for the EU no more than for Germany, the two cases to which the idea is applied), and that superpowerdom is an unrealistic expectation even in the medium term, we need to be more specific about the characteristics we wish to foster in the twilight zone between the two end points of the continuum. This means thinking harder about:

- (1) what can realistically be achieved with the Rapid Reaction Force – its potential but also its limits;
- (2) the extent to which we wish to add crisis-management and intervention capabilities to our existing strengths in long-term milieu-shaping, with a stress on conflict prevention.
- (3) the geographical scope of an effective European foreign policy – in which zones can we make a difference without bankrupting ourselves, financially or politically?
- (4) how to make the collective EU foreign policy system mesh better with the national systems – given that the latter are not going to disappear;
- (5) the extent of the resources, budgetary and otherwise, to be devoted to joint foreign policy actions;

Each of these questions deserves an essay in its own right. My own brief answers would tend in the direction of prudence and clarity on basic policy lines, restricting the military and geographical scope of what Europe intends to do, while at the same time increasing available resources as much as possible. We should also retaining flexibility over participation in

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<sup>10</sup> On Blair's attitudes, see Christopher Hill, 'Foreign Policy', in Anthony Seldon (Ed.), *The Blair Effect* (London: Little Brown, 2001) pp331-54. On the trend towards acceptance of a norm of humanitarian intervention see Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000).

<sup>11</sup> The six were the UK, France, Germany, the Netherlands, Italy and Poland. The poll was conducted by the The German Marshall Fund of the United States and the Chicago Council for Foreign Relations in June-July 2002. Press release, 4 September 2002.



particular cases, that is, the issues of who must and who may participate in an policy or operation, given that international relations always produces the unexpected, and all kinds of coaliton may prove necessary.<sup>12</sup>

Views naturally depend on history, geography and role, as well as on personal convictions. Statehood in particular makes a difference. Even if all Member States (except perhaps Luxembourg) hold to the *non plus ultra* position that they will not relinquish some form of national foreign policy, there are big differences between those, like Britain and France, which benefit from the CFSP but which do not strictly need it; those like Italy, Germany and Spain which remain enthusiastic but which have to some degree renationalised their diplomacy, in the sense of being more assertive about their own distinctive concerns; and those like Denmark, Ireland and Greece for whom the wider scope of action bestowed by the CFSP is invaluable, but for whom the ramifications can turn out to be embarrassing. Few Member States turn out to have a pressing commitment to the superpower-building option.

### **Conclusions: foreign policy reforms and their limits**

There is no alternative to further robust debate across the EU, intellectual and political, on what we have in common, and on the extent to which foreign policy is best served by the principle of subsidiarity. This debate should neither be straitjacketed by the Convention/IGC timetable nor interpreted in narrow, institution-building terms. Many of the important issues, indeed, cannot be resolved by institutional or even constitutional change. They are a matter of political orientation and priority.

This is not to say that the issue of what kind of international actor the EU might be is disconnected from that of what can be laid down in an explicit constitutional framework. A significant change in capabilities is only likely through the creation of a strong but legitimate central executive power in the EU, not least because significant increments in defence spending are unlikely to be achieved by mere intergovernmental coordination. Such a move could not happen through stealth, or disjointed incrementalism; despite the fears of the opponents of the 'EU as superpower', this status will not creep up on us unawares. It is of such importance, and will be so difficult to achieve, that a formal constitutional act will be required. While the current Convention provides one of the few opportunities for such an act – IGCs may come and go but Conventions cannot be convened every few years – the chances of it occurring now are close to zero. Apart from the horse-trading which we all know will follow the Convention and which will produce outcomes on the basis of the lowest common denominator, not even the current international circumstances are so dramatic as to frighten the Member States into the *saut qualitatif* to end them all (literally). There has to be a certain ripeness about political conditions for some Hegelian world historical individual to lead us into a federal foreign policy. It does not take keen judgement to know that such conditions do not obtain at the moment, and indeed may never do so in the EU of inflated size which is about to be created.

It is true that the disjunction between structures and policy is all too painfully obvious at the present moment. We are in the midst of a crisis over Iraq, to some extent manufactured by the

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<sup>12</sup> The general lines of this argument may be found in expanded form in my essay 'Closing the Capability Expectations Gap?' in John Peterson and Helene Sjursen (eds.), *A Foreign Policy for Europe?*, (London, Routledge, 1998).

western powers, in which the CFSP is silent. The divisions over what should be done about Iraq, and about attitudes towards American foreign policy, have meant that only national voices have been heard, most prominently those of Tony Blair and Gerhard Schroeder. This is not the first time that European foreign policy has been found wanting in a major crisis and it will not be the last. It will lead to the usual wringing of hands about incapacity and the usual prescriptions of a gradual increase in the communitarisation of foreign policy. In this context the Convention has already, perhaps unwittingly, hit upon the key problem. In the Plenary Session of 11-12 July 2002 'some proposed that a way should be found for the Union to speak with a single voice, whilst others considered that the most important objective was to ensure that it had a single message'.<sup>13</sup>

Deciding on a single *message* is the key, and while procedural change may be a necessary condition of achieving it, it is not sufficient. A common view of the world, consensus on common interests and a political mechanism to mobilise them are more important than institutional refinement. These things take time and we have made significant progress towards the point where we regard the EU as more than a loose perimeter for our activities, which might also be conducted in conjunction with outsiders. It is not yet, but may still become, an exclusive grouping which we do not opt in and out of according to circumstances.

In the *longue durée* geopolitical and cultural concentration might push us into speaking with one voice. Alternatively, such a state of affairs may not be desirable or wished by a majority of the EU's citizens. It will in the medium term probably be more realistic to go down the road of enhanced cooperation in foreign and defence policy, with opt-outs, coalitions of the willing and continued close working with the US and NATO. The recent proposal for a NATO rapid intervention force is the latest test of attitudes in this respect. This need not be incompatible with narrowing the area of divergence between Member States, so as to agree on our common *message*. It just implies that the message might be shared with outsiders, and that it will not always prove possible for all Members to be party to translating it into action.

It is certainly desirable to place less stress on innovations which sometimes seem to owe more to the need for public relations than practical politics. The whole language and architecture of Common Positions, Joint Actions and Common Strategies has created far more problems than solutions, as Javier Solana indicated caustically in calling for Common Strategies to be kept out of the public eye barely two years after they had been introduced.<sup>14</sup> If these cumbersome categories were dropped European foreign policy-making would hardly be less efficient, and it might even prove possible to have *more* public debate on matters like Russia or Algeria, without alerting the targets of policy to the arrival of a formal position to which they were compelled to respond – or to exploit. Rather more radically, it would also be useful to expect rather less of the Rapid Reaction Force, and to allow it to bed down quietly as a modest post-crisis clean-up facility, and thus to reduce the pressures which currently exist as the result of Turkish anger, insufficient defence spending and NATO competition. All this is not to call for quietism in European foreign policy. Rather it is to suggest that we keep our eye on the ball of policy substance, and do not allow ourselves to be distracted by

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<sup>13</sup> The European Convention, Brussels, 16 July 2002, CONV 200/02, [www.european-convention.eu.int](http://www.european-convention.eu.int), para 13.

<sup>14</sup> *Financial Times*, 23 January 2001. The Common Strategies were introduced formally by the Treaty of Amsterdam in 1997 and practically in 1999. The High Representative made his criticisms in a supposedly confidential report to foreign ministers, which was immediately leaked.

the pleasures of institutional engineering or dramatic initiatives which are difficult to follow through.

Conventions and Constitutions are not about policy substance, but if this Convention does give birth to some kind of new structure for the European polity then foreign policy will have to be part of the document, in terms of commitments to cooperation and a statement of the principles underpinning it. In the latter case the EU will commit itself to an extended version of the liberal internationalism on which EPC and the CFSP have been built. Realism is too normatively unacceptable on our continent to be articulated in a founding charter, although something will have to be said about security and the defence of European interests, perhaps even European values. But that means there will also be hostages to fortune, in terms of ambiguities about the extent of European responsibilities for the management of the international system, with the risk of double standards and unrealistic expectations. It might be best for the EU to limit itself to a statement about what is acceptable in terms of its own conduct (foreswearing aggressive war etc) combined with a description of the kind of international system which we regard as ultimately desirable, and which we intend to work towards. Anything more specific, such as banning arms sales to dictatorships, for example, will almost certainly produce distractions and divisions.

Whether or not the Convention precipitates a new Constitution, the main focus will be on institutional change, which in the area of the CFSP means the High Representative, the presidency, funding, QMV, the ESDP, and the democratic deficit. The complexity and size of this agenda mean that the debate will most probably get bogged down, and end in hasty compromises. It would be better to focus on a few structural issues on which change is both feasible and highly necessary. In my own view these should be the rotating presidency, the Pillar structure and legal personality.

The three Pillars were designed to resolve a political deadlock during the Maastricht negotiations and have been made anomalous by the extent of cross-pillar activity over the ten years since. Although it would raise some complex legal issues, it would be sensible to abolish the Pillars now while retaining specified, non-standard, procedures in certain policy areas. These could then be changed or deleted as and when future circumstances permitted without raising the spectre of wholesale constitutional reform. This will probably prove politically achievable at an IGC while practical in operation, in the sense that it will create clarity without sacrificing flexibility.

The rotating presidency is also very vulnerable – to both logic and politics. With an expanded EU there will be too little continuity, too much leadership by small or even micro-states, and a consequential loss of credibility with other international actors. Reform is therefore unavoidable. In my view this would be better achieved by creating groups containing both small and large states on a semi-permanent basis, which would then cooperate to run the Presidency for say two years at a time. Some of the matrices for such groups already exist – for example the UK could form one group with the Scandinavian states, and France another with Benelux – while such a change would avoid the divisiveness of the proposal for a full-time President, elected only by governments. The latter would inevitably come from the ranks of the larger states, while lacking the real legitimacy and structure to act with full powers. It would also cause serious problems with the President of the Commission.

Giuliano Amato's Working Group of the Convention has already reported, recommending that the EU acquire legal personality, and this pre-emptive strike will unleash other

arguments for change. Given that the proposal is in itself reasonable and convincing, it will seem easier to move onto the changes in the Pillars and the Presidency which it implies – and probably entails. The EU will not be able plausibly to sign agreements or sit in international organisations while retaining its current obscure and hydra-headed arrangements. Thus the external dimension, rather than enlargement in the narrow definition, is turning out to be the driver of institutional change. Whether that turns out to be the kind of change necessary to run an organisation of 25 Member-States internally as well as externally, is another matter.

The removal of the Pillars, reform of the Presidency and the granting of legal personality would undoubtedly foster simpler, clearer and more consistent dealings with third parties. From those two big changes other things could follow in time, if appropriate and democratically willed – or not – depending on interactions with the internal dimensions of the Union. The public would also be able to see more clearly what is at stake, whereas at present even specialists struggle to understand the system. In this sense the foreign policy issues facing the Convention are simpler than they seem. Unfortunately they are far from being the only matters at stake, or even the most important.

Christopher Hill, 7 November 2002