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Education:

1983-85	Oxford University, D. Phil. (Subject: International Relations)
1981-83	Oxford University, M. Phil. (Subject: International Relations)
1977-80	U.C.W. Aberystwyth, B. Sc.Econ. (Hons) (Subject: International Politics)

Experience:

European Institute of Public Administration, Maastricht, Netherlands	Associate Professor	1/98-
The Central European University Budapest, Hungary	Head of Department Associate Professor	1/96-1/98 8/95-1/98
The Pennsylvania State University University Park, Pennsylvania, USA	Assistant Professor	8/90-6/95
The Mershon Center The Ohio State University Columbus, Ohio, USA	Post Doctoral Fellow	8/89-8/90
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London, United Kingdom Oxford Analytica Oxford, United Kingdom	for 'Korea: The Unknown War' Consultant	9/85-2/86
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Policies	Cold War History Comparative European Foreign/Security European integration European security International Relations Theory International Organisations International Security Western European Diplomatic History
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Description of current duties:

Current duties involve a variety of teaching and training activities for public officials who are, or who will be, engaged in the European Union's second pillar (Common Foreign and Security Policy) activities. My duties also involve identifying and contacting potential clients, designing programmes and delivery tendering programmes. In addition, research is conducted and disseminated through appropriate professional channels. Research underpins the training activities delivered at EIPA and elsewhere.

Fellowships

1995-7	NATO Individual Research Fellowship*
1989/90	Mershon Center, The Ohio State University, Post Doctoral Fellow
1989	21st Century Trust Fellow
1987 Italy	International Institute for Strategic Studies, New Faces Fellow, Rome,

Membership of Professional Organisations

- 1994- European Community Studies Association (now EUSA)
- 1993- UN-USA Member (founder of Centre County, PA chapter)
- 1992- Atlantic Council Academic Associate
- 1989- 21st Century Trust
- 1988- International Studies Association
- 1986- British International Studies Association

Introduction

This panel has been invited to consider the deciding factors for successful operations. My colleagues have already touched upon a number of pertinent and relevant issues and, hopefully without duplication, I shall try and touch upon some further questions arising from the Convention and the draft Constitution. It seems that the 'deciding' factors for a successful operation revolve, in general terms, around *coherence* and *leadership*.

Since I have been asked to talk about the institutional dimensions that might influence the ability to mount a successful (military) operation, with particular emphasis on the Convention and the resultant draft constitution, a few preliminary general remarks are appropriate:

- i) The institutional dimensions of crisis management are relatively new and still evolving. Many of the decision-making structures and procedures have been tested in the form of CRISEX and four relatively modest, but significant, operations. The ability to mount a large-scale operation over a sustained period of time remains untested;
- ii) The ability to operate effectively at fifteen will be challenged with enlargement. Many of the decision-making complexities will only become evident once enlargement has actually occurred. It is expected that enlargement will offer both challenges and benefits;
- iii) The common expectation prior to the conclusion of the 2003 Intergovernmental Conference (IGC) was that a constitution would have been adopted by the time of the Union's fifth enlargement. The failure to do so means that we have to consider decision-making as it stands and as it might be with a constitution;
- iv) The determinants of what constitutes effective decision-making to support military operations are not necessarily those that would be accepted in other parts of the Union's life. For instance, the demands for more democratic legitimacy and more Union-wide debate on political choices are difficult to reconcile with the need for secure and timely decision-making in the more demanding Petersberg scenarios. In spite of the demands for more democratic legitimacy that are sometimes aimed at CFSP, public support for an active EU role in foreign and defence matters remains high.

The Convention's contribution

The lack of coherence and leadership in EU external relations were evident in the background to the Convention on the Future of Europe where members found early agreement that it was 'important for the EU to be a strong, effective and efficient player on the international scene'. Many also believed that the Union's performance in external relations 'fell short of expectations, especially considering its economic and financial weight'.¹ This reflected the common adage that the EU is an economic giant and

political pygmy or, as George Robertson, then NATO Secretary-General, put it, the Union is a flabby giant. The Convention deliberations were also influenced by wider political considerations such as the 'impression of living in a unipolar world where the U.S. sets the tone'.² As such these are not new themes; indeed the intergovernmental conferences of Amsterdam and Nice reflected many of the same concerns. What was new however was the context in which the Convention was taking place, with dramatic shifts in transatlantic relations over Iraq, internal divisions within the EU, as well as demands for an active EU role in Afghanistan and the Balkans.

Even before the Convention formally commenced, an active debate was underway about the role of the High Representative for CFSP and the Commissioner for External Relations, with various proposals for merging the respective offices. Again, this was hardly a new theme with prior complaints of 'unresolved tension' between the intergovernmental and *communautaire* aspects of external relations. The bone of contention from the Commission perspective was that the creation of the office of the High Representative (who was first appointed in October 1999) complicated external relations.³ With the evolution of ESDP since late 1998 the question of competences and institutional jurisdiction had become even more complicated with, for example, Special Representatives being appointed by the High Representative but being funded out of the Community budget, or the emergence of two civil protection schemes, one in the Commission and one under the Council's aegis.

It was of little surprise therefore that the Convention spent a good deal of time and energy on external relations. Two working groups, considering external action and defence respectively, focussed on two broad themes – the need for consistency or coherence in external relations, as well as leadership and how to enhance the EU's ability to mount a variety of Petersberg operations. Given these predominant concerns, debate soon focussed on the need for some form of 'foreign minister' who should assume the current roles of the High Representative for CFSP and that of the Commissioner for External Relations. Implicitly, the debates surrounding the foreign minister post questioned the role of the Presidency and hence the organisation of the Council, as well as the issue of what or who should support the foreign minister? Other familiar sub-themes were present, such as the large versus small state sensitivities (exacerbated by Anglo-French-German caucusing over Afghanistan and what subsequent moves to create a big state *directoire* in external relations) and the intergovernmental versus *communautaire* debates with, broadly speaking, the attempts by the larger Member States to reinforce intergovernmentalism seen by a number of smaller Member States as an attack on the Commission.

What came out of the Convention was, in many ways, innovative and bold from the external relations perspective. Some potentially useful suggestions, such as the proposals for a European Defence College or the European Diplomatic Academy/Programme, did not see light in the draft constitution, although there is always hope that they may still see light without inclusion into the constitution. For those suggestions that were incorporated into the draft, the proposed institutional changes, notably the establishment of a Union Minister for Foreign Affairs, provided a response to the twin concerns of coherence in EU external relations as well as a clear leadership role. It is also important to note that deliberations from working groups other

than those on external action and defence, also hold the potential to radically transform EU external relations – none more so than the recommendation from the Working Group on Legal Identity that the Union should have legal personality.

The Convention produced a rather ponderous and user unfriendly draft constitution. It is important to recognise that it remains a draft with occasional differences between Parts I and III that need to be addressed, while other significant questions (like voting, the composition of the Commission and the institutional shape and design of the European External Action Service) remain to be ironed out. But, since we do not (yet) have a constitution, I would recommend approaching my mandate in three ways: first, to consider what can be done regarding the EU's ability to stage successful operations in the *absence of a constitution*; second, to consider the possible benefits for the Union's operational capabilities of *having a constitution*; and, third, to consider what might be done beyond the constitution to enhance the ability of the Union's decision-making in the CFSP area so that Iraq-type controversies might be headed off, if not avoided.

Marking time ...without a constitution?

The failure of the Intergovernmental Conference (IGC) to reach agreement on the constitution, at least for now, may not have been all negative. A pause may, for instance, give more chance to measured reflection and hopefully wider public engagement in the various debates surrounding the constitution. However, for CFSP this pause comes at a rather awkward juncture since there are a number of real world challenges that need to be addressed, recently codified in a European Security Strategy, regardless of the lack of an agreed constitution. Indeed, the chair of the EU Military Committee, Gustav Hägglund, publicly ruminated on why 'other issues having nothing to do with defence' should slow down progress.⁴ The events of 2003 would also seem to have reinforced the notion that if Europe wishes to be a 'puissance politique' as well as economic, then defence is an indispensable part.⁵ What are the implications of this impasse for CFSP and its development?⁶

First, the good news – some notable CFSP reforms do not depend upon the passage of the constitution to go ahead. For instance, preparations have started to create an agency in the field of defence capabilities, development, research, acquisition and armaments.⁷ The aim is to have the agency, which EADS CEO Philip Camus sees as 'crucial', operational by the end of 2004.⁸ The agency is open to 'all Member States wishing to be part of it'.⁹

Although the need for such an agency has long been evident, there are a number of challenges ahead for the agency. For instance, the relationship between the agency and similar organisations in the field (like OCCAR, WEAG-WEAO and the LoI countries – some of which include non-EU members) is far from clear. If the intention is to assume the duties of existing organisations, the problem of membership will surface since in some cases membership goes beyond the enlarged EU membership. This is of particular concern in the case of Turkey where efforts must be made not to exacerbate any feelings of exclusion from the European security dialogue of the type that led to the impasse over the Berlin plus arrangements.

If, as may be the case, the agency will work alongside the organisations mentioned above, the question of competences and duplication arises. Whatever the relationship is between the existing organisations and the new EU agency, the experience of the existing organisations (both positive and negative) could provide some valuable pointers for the agency.

The Union will have to address a further issue in the form of Article 296 of the Treaty establishing the European Community, which reappears in the draft Constitution.¹⁰ It remains an open question whether the stipulations of this article are fully compatible with the aims of the agency and whether members might not seek umbrage in this article as a matter of political or economic expediency.

The second innovation which is not dependent on the adoption of the constitution is 'structured cooperation'. Deliberations on structured cooperation have been ongoing since June 2003, following an initiative by Belgium, France, Germany and Luxembourg who Richard Boucher, State Department Spokesman, derogatively termed the 'chocolate makers'. Initial opposition stemmed both from familiar Atlanticist arguments, as well as more general concerns about the desirability of an 'avant garde' of Member States. However this has received more positive evaluations following the Iraq imbroglio which threatened to leave CFSP in tatters. The significance of structured cooperation also lay in the realisation that there are circumstances where it may be appropriate, or even desirable, for the EU to act alone whilst also recognising that, for a variety of reasons, not all EU Member States will wish to be involved – a point underscored by the imminent enlargement of the Union.

The often confusing language in the draft constitution surrounding structured cooperation (for instance, references to military capabilities fulfilling 'higher criteria' or to 'the most demanding missions'¹¹) was usefully clarified by the Italian Presidency to include more comprehensible procedures, criteria and indication of required military capacities.¹² The draft Constitution also refers to the possibility of the Council entrusting 'the implementation of a task to a group of Member States having the necessary capability and desire to undertake the task'.¹³ There is little reason why such cooperation cannot be developed in the absence of a constitution. Arguably, the latter already happens in the form of coalitions of the willing, while critical foundations for the former are being laid with the establishment of a closer security dialogue between France, Germany and the United Kingdom.¹⁴

On a practical level, associated with structured and other forms of cooperation, a dispute arose about the need for a dedicated EU military Planning Cell which was seen as an 'absolute necessity' by Belgian Prime Minister, Guy Verhofstadt.¹⁵ Key to the ongoing debate was the role of the United Kingdom who, at least in the early days of the debates, appeared to have been irreversibly tarred with a pro-Bush administration brush over Iraq. However, there was also recognition, most notably by Dominique de Villepin, that any structured cooperation would depend upon British participation for military credibility. It also depended heavily upon British participation for selling it to Washington as something that would not compete with NATO. Under an agreement reached on 11 December 2003 between France, Germany and the United Kingdom, the EU will have its own civil-military planning cell. However, provision was also made for

lead nation operations, based primarily around national (or even multi-national) arrangements, as well as close liaison with SHAPE for Berlin Plus operations.

Aside from structured cooperation the draft constitution mentions a rather bewildering array of other forms of cooperation, ranging from enhanced cooperation (Article III-322-329); entrusting tasks to a 'group of Member States' (Article I-40.5); 'closer cooperation in mutual defence' (Article I-40.7); and a Solidarity Clause in the event of a terrorist attack or a man-made disaster (Article I-42.1). None of these additional forms of cooperation are necessarily dependent upon a constitution and could be developed apace. Perhaps the exception to this is the question of mutual defence where, given the sensitivities surrounding this subject, a formal debate in an IGC setting is preferable. With or without a constitution, it is clear that the above formulations recognise that flexible arrangements (groups) are increasingly necessary, but they also have to be balanced against the need for coherence, solidarity and the need to develop the EU as *an* actor (solidarity) as the presence on the international stage. The need for flexibility also has to be considered in terms of legitimacy, especially when the security and defence aspects of the Union's activities so conspicuously lack a parliamentary dimension. I shall return presently to this latter point.

Finally, it has to be asked whether it would be a disaster for the EU to continue with the current system and all of its imperfections. The response is, however unsatisfying it may be, of the 'it all depends' variety. If the EU assumes responsibility for larger operations than it has thus far done (for instance in Bosnia Herzegovina as a follow on to SFOR), the questions of coherence and leadership will become more acute. More generally a continuation of the *status quo* only prolongs the institutional tensions between the Commission and Council, especially in areas where there are significant joint responsibilities, such as conflict prevention, early warning, defence industrial issues, external representation and strategic guidance. The issue is not only confined to the highest levels since it has implications for the external relations of the EU as a whole. For instance, the absence of a legal identity for the EU continues the awkward fiction whereby the External Service of the Commission represents the interests of the Community through the delegations, while the Presidency and High Representative carry out many of the more political and strategic aspects of external relations. In reality these roles have become increasingly difficult to separate, especially with the pressure on the External Service to address an increasing number of political issues.

The lack of a Union Minister for Foreign Affairs and, as mentioned, a European External Action Service, could stymie the development of a genuine European *corps diplomatique* which would not only represent the interests of the Union, but include EU Member State diplomats as well. This could be a critical factor in ensuring a broad base of support for future military operations, and thus legitimacy, both within the EU and amongst third parties. Until such time as there is an agreed constitution, it is difficult to see the Commission and Council moving towards anticipatory inter-institutional arrangements, especially when they involve such sensitive 'turf' issues. Representation to third parties will therefore continue to be fragmented and confusing.

In terms of the Union's military operational capacity there may not be a profound difference with or without a constitution – at least in the short to mid-term. The impact on the operational aspects will however be more subtle, lying in the surrounding civilian aspects of crisis management, possible supporting humanitarian operations, the restoration of the rule of law and order, police operations and various forms of economic assistance, all of which go towards building stability. It is in the linkages between the military operational aspects and the other contributory factors, which together foster stability, where the EU may suffer in the absence a constitution.

The lack of a constitution also implies a continuation of the rotating Presidency system which, while not necessarily a significant impediment for the specifics of our discussion, may nevertheless provide unstable underpinnings with shifting priorities, inconsistencies and the ever-present temptation of the holder of the Presidency to stamp its *imprimatur* on EU external relations, sometimes with fractious results (for instance, the well-intentioned efforts of the Greek Presidency to reach agreement on Iraq which only served to highlight differences between EU members, or the Silvio Berlusconi's support for Russia over Chechnya during the Italian Presidency – a position not shared by other EU members). The rotating Presidency also implies a significant burden on the Member State holding the position which may well become unsustainable with some of the smaller accession countries in mind (like Latvia or Malta).

The absence of suitable funding for operations, beyond the currently inadequate budget, may further hamper CFSP, especially at a time when a mission to Moldova and a follow-on operation to SFOR in Bosnia-Herzegovina are under consideration. In order to avoid the financial scrabbling of the type that went on prior to the launch of the EU Police Mission in Bosnia and Herzegovina (over relatively small amounts), the draft constitution suggested the need for a 'start-up' fund (Article III-215) and, in the Convention, the need for an emergency fund to be used by the Union Minister for Foreign Affairs. Future funding provisions for CFSP will, in all likelihood, not fall neatly into the categories of those 'operations having military and defence operations' and those that do not (Article 28 TEU). Most operations are likely to involve substantial military/police and civilian components. Even if the funding arrangements have worked (in a fashion) thus far, they are unlikely to do so in the event of a major operation, such as a possible EU follow-on to SFOR.

Forward March ... with a constitution?

The second main consideration applies to those ways in which the EU's operational capacity might be strengthened *with* an agreed constitution. The discussions in the Convention, and even prior to the Convention, identified the need for a Union Minister for Foreign Affairs. The logic of the proposed position is that the Union Minister could enhance consistency in EU external affairs as a whole – accompanied by the assumption of legal identity for the EU as a whole. The theme of consistency was underlined in Javier Solana's European Security Strategy, adopted by the European Council on 12 December 2003, when he noted that 'the challenge now is to bring together the different instruments and capabilities: European assistance programmes and the European Development Fund, military and civilian capabilities from Member States and other instruments'.¹⁶

Under the draft Constitution the Union Minister for Foreign Affairs would chair a Foreign Affairs Council (FAC) which would have been, for the most part, outside a revamped rotating Presidency. It remains to be seen how and whether the Presidency will be able to steer clear of the wide array of external relations and security issues that would presumably fall under the minister and the FAC. In a similar fashion, it remains to be seen if the President of the European Council will be able to avoid overlapping responsibilities, although he (or she) is supposed to ensure the 'external representation of the Union' on issues concerning CFSP 'without prejudice' to the role of the Foreign Minister.

In spite of the potential for institutional turf battles, either between existing or future institutions, the appointment of a Foreign Minister with dual Council and Commission responsibilities would mark a significant step forward in terms of enhancing consistency in EU external relations. This would of course have to be accompanied by a supportive 'ministry' in the form of the European External Action Service. Herein lies another potential source of friction since the actual make-up of the Service is vague, aside from the fact that it should comprise elements from the Commission, Council and the diplomatic services of the Member States. The fact that the precise delineation of the Commission remains uncertain is a further source of confusion. Assuming the turf battles can be overcome, the resultant service would be a positive development for a two principle reasons.

First, a European External Action Service, working under a Union Minister for Foreign Affairs, would greatly enhance consistency in external relations. Horizontal consistency would be enhanced by the presence of both Commission and Council officials while vertical consistency would be facilitated by the active involvement of national diplomats. The service would though require active guidance from the minister and the development of across the board training for external relations. Within the Commission the issue would be that of control within the *famille* RELEX and the question of what the service might incorporate beyond the existing External Service.

The second significant benefit that might follow from the presence of a European External Action Service is the formation of a professional European *corps diplomatique*. The service would draw its representational mandate from Article 1-6 of the constitution which states that the European Union 'shall have legal personality'. At present the External Service only has the mandate to represent the interest of the Community to third parties, in spite of the widespread practice of referring to them as EU embassies and to their heads as ambassadors. The awkward fiction that somehow *communautaire* and intergovernmental aspects of external relations can be separated has been mentioned above. Delegations, or embassies, that can legitimately represent the Union would dramatically change the face of EU external relations and that of the EU to third parties. Presumably, the embassies would begin to look far more like national ones, with a number of different sections. At present the overwhelming emphasis within the External Service is on aid and assistance projects and many Commission officials are specialists in the various regional or country-specific programmes. A European External Action Service would permit a wide array of political as well as economic issues to be addressed, as well as security-related aspects, in a systematic manner.

The European Security Strategy places considerable emphasis upon coherence in the EU's approach to a variety of issues – ranging from terrorism, to weapons of mass destruction, failing states and global poverty. All of these challenges obviously reflect the need for a broad approach, emphasising conflict prevention (and again, the role of diplomacy will be important in this regard) and other efforts to address the underlying causes of the above malaise. Ideally, the European External Action Service should have the ability to represent the full range of EU competences including, if need be, the ability to make a credible threat of the use of military force and the willingness to use it. This remark obviously presupposes that it will be possible to strengthen the existing links between the ESDP-elements of the Council Secretariat in the context of a European External Action Service.

The combination of a Union Minister for Foreign Affairs and a European External Action Service has its potential pitfalls, as has been observed, but it also has its attractions. Detractors would no doubt point out that such a development would make the EU look (and act) far more like a state in international relations. This may be true, but even with the granting of legal personality to the Union significant questions of representation would remain (for instance, the EU is currently represented in the Food and Agricultural Organisations, while the Member States represent the Union in other UN agencies). The inclusion of an active role for seconded national diplomats in the service would act as an important confidence-building measure but would also reflect the *realpolitik* (as well as the 'realeconomic') of a Union that is assuming an increasing number of external relations duties. The small size of many EU Member States representation in places where the delegations are to be found may also be attractive to Member States, since the EU presence with seconded national diplomats could offer an attractive multiplier effect.

A key consideration for staging military operations is legitimacy. Legitimacy may obviously come from a number of sources but the normal frame of reference is a supportive UN Security Council resolution. The constitution stresses the 'primacy' of the UN's role in questions of international peace and security, but the Union remains divided over the extent to which a UN mandate is essential. Some Member States, like Finland, see it as imperative while the United Kingdom sees it as desirable but not essential if its absence impedes the ability of the Union to take essential action on humanitarian or other grounds – all factors that came to the fore prior to *Operation Allied Force* in Kosovo and Serbia in 1999.

In a national context legitimacy stems from the popular backing for a given action, normally expressed by the government of the day representing the majority opinion of the legislature. In this regard CFSP has often come under attack for its lack of 'democratic legitimacy' and demands for greater parliamentary involvement, most notably from the European parliament itself. As desirable as this may be in principle, it does not reflect the political realities of CFSP which remains resolutely intergovernmental and it also risks painting an overly rosy picture about the role of national parliaments when it comes to issues of the use of force. In many EU Member States the parliament's role in this regard is circumscribed and certainly does not

explain how a number of EU Member States participated in the coalition in the military intervention in Iraq in the face of widespread popular opposition.

While the argument that CFSP lacks democratic legitimacy may have some validity, and thus pose concerns about any military action undertaken in the EU's name (and that of the European citizen), there is a significant caveat. It has already been observed that the forms of military action undertaken thus far in the EU occur not as isolated operations but as part of a larger scheme to stabilise a country or region. Since these efforts may involve a complex array of civilian, police, aid and assistance dimensions, it is clear that, although intergovernmental, CFSP operates within this broader framework -- one on which the European Parliament has considerable sway. This is of course a long way from a direct parliamentary role in CFSP, but it is also a long way from the impression that is sometimes given that democratic oversight is irrelevant.

Finally, the draft constitution's current malaise means that the document may be subject not only to changes to the existing text but also to the inclusion of new ideas. It is therefore useful to briefly consider whether the constitution went far enough.

Did the constitution go far enough?

The Convention, like all things EU-related, represented consensus based on compromise. As has been indicated, the draft constitution offers some potentially attractive improvements to EU external relations. The constitution is not though a be-all-and-end-all, bearing in mind that the intergovernmental conference is primarily interested in issues relating to actual treaty (or constitutional) change and not to aspects that are more political in nature. Although the constitution will yet be subject to amendment and change, it is unlikely that the issues below will see the light of day in any subsequent rendition of the draft constitution; nor, arguably, need they since innovation is possible outside the confines of the constitution.

The first observation is based upon the realities of EU external relations or, more specifically, CFSP. With or without a constitution, it remains a fact of life (as unpalatable as it may be for some smaller states) that the "Big Three" will lead on many foreign, security and defence issues. Ideally the Member States should be able to rely upon consensus but this does not reflect the political realities of working at fifteen, let alone twenty-five. The danger of reliance upon consensus is that France, Germany and the United Kingdom may well be tempted to simply work as a *directoire* independent from the other members. There are instances where the three have worked independently from their EU colleagues to good effect, as was the case when the three adopted a common approach to Tehran on nuclear facilities, or over the contentious EU military planning cell. The negative aspect stems from arrogance where the three may assume that they act in on behalf of the Union when there may not necessarily be support from other members. Unilateral actions by the three are also inherently ambiguous in nature as to whether they are on behalf of the Union, or an act of self-aggrandisement. The tendency to accept the laurels in the light of Tehran-type success

(which could easily have involved, for example, the High Representative) and to blame failures on CFSP, will also remain.

One intriguing suggestion is that the EU could consider some form of Security Council which would give the Commission, France, Germany and the United Kingdom permanent seats.¹⁷ The presence of the Commission is essential, given the close linkage between various forms of aid or economic assistance programmes and the crisis management elements, in addressing many crises. A number of smaller countries (with total membership of no more than ten) would then rotate. Naturally the period of membership for rotation and how rotation would work would be the subject of careful negotiation (presumably balancing larger with small state interests, north-south/west-east interests and other factors).

The Security Council would be a 'steering board' between the Council and the Union Minister for Foreign Affairs and would assist in consensus-building within the EU, execute guidelines and implement decisions. Decisions would still have to be made at twenty-five, for this is essential for legitimacy, but the Security Council would provide a centralised location for consensus building and oversight as well as providing a bridging role. The probability of a decision being knocked down at twenty-five, if there is known support from the Security Council, would be lessened when compared to the current system. The benefit of such a council is that it would harness the *directoire*, it would allow all to play a role and be stakeholders and encourage all parties to work within the established structures instead of working outside

The obvious objection to the scheme is that it formalises a differentiation between members which some, especially the newer members, may object to on the grounds that it enshrines dominance in foreign and security policy. From this perspective it would be a bitter historical injustice if the UN Charter imposed a Security Council with five permanent members following a major war, while the collapse of a bilateral international system without war led to another form of superiority. Aside from potentially uncomfortable historical resonance, the Council may also be attacked on the grounds that it still does not address the fundamental difficulty of how to make decisions at twenty-five. It could also be argued that the existing decision-making structures aim to foster consensus and that, even with some form of Security Council, there are few formal mechanisms to encourage the "Big Three" to work within the CFSP structures, just as there are no formal mechanisms to force a larger member state to assume the considerable obligations assumed under a lead nation operation like *Artemis*. Still, there remain enough merits to the idea to deserve a broader debate, if not in the IGC, then amongst the specialists and practitioners.

The second point relates to the Political and Security Committee (COPS) which came into being on 22 January 2001, modifying the existing Political Committee. Many observers see the development of COPS as positive, notably for crisis management where it is commonly referred to as the 'linchpin'. COPS has nevertheless had a reasonably difficult time finding its way in the Brussels maze, with complicated relations with COREPER II, an uncertain relationship with the High Representative and the Commission. The relationship between COPS and COREPER is the most potentially troublesome (a fact reflected in the Treaty on European Union where the

Nice version states that the establishment of the COPS shall be ‘without prejudice to Article 207 of the Treaty establishing the European Community’-- the article establishing COREPER). The extent to which COPS will remain tethered by national preference, or the extent to which it will develop as a significant actor in its own right, remains in the balance.

COPS will have to find its institutional setting all over again if the constitution, as in its current draft form, is adopted; relations with the Union Minister for Foreign Affairs, the Presidency, and the European External Action Service would all be up in the air. Similarly, the precise role of COPS in relation to the various forms of cooperation, mutual defence or the ‘solidarity clause’ remains ambiguous. It is therefore rather surprising that the role of COPS was rarely touched upon in the Convention deliberations and, as a consequence, its role and mandate in the draft constitution barely differ from those in the Treaty on European Union.

If the idea of a European Security Council meets more general circulation, it will be difficult to conceive of such a body emerging without discussing COPS. Indeed, the European Security Council sounds in many ways like an expanded COPS, building on the current coordination, conflict prevention and crisis management aspects of COPS with substantial parts of COREPER incorporated and, perhaps, aspects of the Policy Unit and the Situation Centre. The logic of such a development would also clearly support the development of other cross-pillar external relations structures (the Foreign Minister and the Service) by offering one point at which to coordinate all civil and military elements of CFSP/ESDP and external relations in crisis scenarios. The emphasis on conflict prevention, which is a ‘fixed priority’ in the Union, also points to the need for a focal point for intelligence input.

Conclusions

The above arguments suggest three points in conclusion. First, a continuation of the *status quo* will become increasingly awkward from the point of view of mounting effective military operations. It will become awkward as the Union tries to mount bigger and more complicated Petersberg-type missions and, more significantly, enlargement will significantly complicate decision-making. A number of other aspects that are of importance to decision-making, such as the financing of Petersberg operations, already pose significant problems. It is though important to reflect that whatever the strengths and weaknesses of the current EU decision-making in conflict prevention and crisis management, it remains the prime responsibility of the Member States to give the Union the mandate, equipment and resolve to meet forthcoming challenges.

The second main point is that the draft constitution, if adopted, may offer a number of benefits for coherence and leadership in EU external relations. The draft constitution correctly recognises the need for increasing flexibility in external relations and, to this end, proposes an array of cooperation mechanisms. The obvious challenge in operating more flexibly in coalitions or groups is that the overall coherence of the Union as *an* actor on the international scene may suffer.

The presence of a Union Minister for Foreign Affairs, backed by a European External Action Service and a Union that enjoys legal personality, would give the Union a powerful presence on the international trade. It would offer greater coherence in the sense that the Union Minister and his (or her) 'ministry' would have oversight of the economic, financial, diplomatic as well as military aspects of crisis management. It is vital that any military operations should be legitimate, being supported not only by the EU Member States but other significant voices of the international community such as the UN or the OSCE. Careful thought will therefore have to be given to how the Union Minister and the European External Action Service fit into existing external relations structures and to whom the minister is answerable.

The final point is that it is not too late for the constitution to include some additional factors that might enhance the Union's effectiveness when it comes to staging military operations. In particular the idea of creating a European Security Council deserves serious thought, especially in light of the above-mentioned difficulties of building consensus at fifteen, let alone twenty-five or more. It may also offer a chance to elaborate upon the role of COPS and to clarify the institutional ties between this body, COREPER, as well as the Union Minister and the European External Action Service.

There are many other factors that will influence the Union's ability to successfully stage Petersberg tasks which lie beyond the constitutional debate and the remit of this overview. The obvious points concern the future of the EU's relations with its principal partners, notably Russia and the United States. The presence of a policy framework for decision-making, in the form of the European Strategy Paper, is most welcome but needs to be developed. Above all, the adaptation of existing decision-making institutions or the creation of new ones will only be a part of determining the successful outcome of an EU-backed military operation. The main factors determining success remains the will and resources of the Member States.

¹ *Summary Report of the Plenary Session*, 11-12 July 2002, CONV 2002/02, Brussels, 16 July 2002. Para. 5.

² Hanner Farhleitner and Gerhard Tusek, *A Common Foreign Policy for the European Union*, Annex, Preliminary Draft Constitutional Treaty, CONV 369/02, 16 July 20002, p.1.

³ Quoted in Anand Menon, 'The Foreign and Security Policies of the European Union', *Romanian Journal of European Affairs*, Vol. 3 (3), September 2003, p.16.

⁴ *Hufvudstadsbladet*, quoted in <http://www.euobserver.com/index.phtml?aid=13914&sid=13> , 17 December 2003.

⁵ See *Allocution du Ministre de la Défense, Michèle Alliot-Marie, sur le projet de loi de finances pour 2004 devant la Commission de la défense nationale et des forces armées*, Paris - Assemblée nationale, le 30 septembre 2003, <http://www.defense.gouv.fr/actualites/communiqués/2004/d030204/030204.htm>

⁶ It is assumed here and elsewhere that ESDP is an integral subset of CFSP.

⁷ *Council Decision creating a team to prepare for the establishment of the agency in the field of defence capabilities development, research, acquisition and armaments*, 2003/834/EC, 17 November 2003.

⁸ Quote appears at <http://www.euactiv.com/cgi-bin/cgint.exe>, 15 November 2003.

⁹ *Draft Treaty establishing a Constitution for Europe*, 18 July 2003, Article III-212.

¹⁰ The article does not oblige Members to supply information 'the disclose of which it considers contrary to the essential interests of its security', and it permits Member States to take such measures as they consider necessary 'for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material ...'. The same article reappears as Article III-342 in the draft Constitution.

¹¹ Article I-40(6)

¹² See Conference of the Representatives of the Governments of the Member States, CIG 57/1/03, REV I, Annex II, *Protocol on permanent structured cooperation established by Articles I-40(6) and III-213 of the Constitution*, Brussels, 5 December 2003.

¹³ Article I-40(5) and III-211.

¹⁴ See James Blitz and Christopher Adams, 'UK bolsters ties with Germany and France', *Financial Times*, 21 January 2004.

¹⁵ *Belgium stands firm over EU military HQ plans*, 2 September 2004, at <http://www.eubusiness.com/afp/030902115525.21u6krb2>

¹⁶ *A secure Europe in a better world: European Security Strategy*, Document proposed by Javier Solana and adopted by the Heads of State and Government at the European Council, Brussels, 12 December 2003.

¹⁷ See Hans-Christian Hagman, *European Crisis Management and Defence: The Search for Capabilities*, *Adelphi Paper* 353, (International Institute for Strategic Studies), pp. 80-100, and Steven Everts and Antonio Missiroli, 'To claim a global role, the EU needs its own security council', *International Herald Tribune*, 10 March 2004.