

European Defence in the wake of the Lisbon Treaty

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**EUROPEAN DEFENCE
IN THE WAKE OF THE LISBON TREATY**

Bruno ANGELET & Ioannis VRAILAS



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Introduction

The finishing touches for the setting up of the European Security and Defence Policy (ESDP) were put, in the small hours of a Monday morning in what is today the “Anna Lindh room” in the Council building, by the EU Political Directors who had clearly reached the end of their tether. Four days later, at the Helsinki European Council (10-11.12.99), their work received a ringing endorsement by Heads of State and Government. ESDP was ready to move from the commitment on paper, made in Cologne six months earlier, to the reality of a building project. Nice, Feira, Gothenburg, Seville, Copenhagen, Brussels, Thessaloniki were the next stepping-stones in seeing the job through.

ESDP is a toddler no more. In the world scene, after five years of full operational capability and a total of 20 military and civilian crisis management missions, of which many already successfully completed, the policy is definitely included among the grown-ups. The standard litany is to say that the European Union has now established itself as a more credible security actor on the world scene, having added civilian and military crisis management capabilities to an already considerable array of external action assets. It is true that ESDP has panned out satisfactorily and, moreover, has proved that it has potential for even further success. Credit must be given to the impressive political, institutional and operational progress that has been achieved. The realities of the 21st century dictate that, had ESDP not existed, it would have had to be urgently created.

At the same time, no more excuses can be paraded for the weaknesses, with which those who work on ESDP have to make do on a daily basis. Indeed, it is important to highlight them, as we will attempt to do, so as to set them right. In a way, weaknesses define ambitions, but the opposite can also be true. During the negotiations that led to both the Constitutional and the Lisbon treaties, the Common Foreign and Security Policy (CFSP) and the ESDP were the object of much attention and the target of many of the institutional and decision-making novelties that their provisions include.

Both of us have been fortunate to follow closely the development of ESDP since its inception. Based on our common experiences, this study is meant as an “état des lieux” of where the policy stands today and of its future prospects. The first part analyzes the overall structural constraints and weaknesses of ESDP, as we have experienced them to this day, in three main areas: the strategic, institutional and political aspects; operational activities; and capability development. The second chapter attempts to anticipate the impact that an entry into force of the Lisbon Treaty could have on the further development of ESDP. We delve into

the Treaty's major innovations, with an emphasis on the High Representative / Vice-President of the Commission, the European External Action Service and, in particular, on the Permanent Structured Cooperation (PSCo) which, in our mind, carries considerable promise for dealing effectively with the problem of inadequate and irrational defence spending by Member States. On this latter point, a parallel is drawn with the lessons learnt from the process of monetary integration. Finally, the last chapter is a more free-wheeling affair, in which we attempt to focus on certain issues that could be important beyond the Lisbon Treaty – either steps that could be taken independently from the Treaty or thoughts about the future ideal end-state in the process of defence integration.

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1. Present Deficiencies of European Defence

1.1. Strategic, institutional and political aspects

Since they laid the groundwork for the inception and institutional development of the European Security and Defence Policy, it is fair to say that Heads of State and Government have not devoted much time at European Council meetings to thoroughly address defence issues. Foreign Ministers discuss monthly an increasingly loaded CFSP agenda, but ESDP reports, conclusions or formal decisions are usually simply adopted without debate. As there is no “Defence Council”, Defence Ministers meet every semester once in General Affairs and External Relations Council formation and once in an informal gathering hosted by the Presidency. Experience has shown that they have not yet developed a true “team spirit” that would be conducive to collective creative thinking. The same goes for the bi-annual meetings of EU Chiefs of Defence.

The CFSP High Representative, Javier Solana, has built legitimacy and lent continuity and credibility to the EU’s international standing. But as regards European Security and Defence Policy, he has had to focus his energy mainly on the operational dimension and as a useful conduit for contacts with his NATO counterpart. His efforts, also in his capacity as Head of the European Defence Agency, to energise the debate on the global strategic scope of ESDP and on the need to provide it with much-needed capabilities have often fallen on deaf ears.

In the same vein, the Political and Security Committee has performed well in its role of providing the political control and strategic direction of ESDP missions and operations, but it rarely deals in depth with capability development issues. The EU’s Military Committee (EUMC) has done extremely useful work in the preparation and conduct of operations, in the development and implementation of important concepts and in lessons learnt from the EU’s operational activity, but it clearly is not its responsibility to drum up public and political support for improved capability development. Finally, within the Council’s General Secretariat, the competent units (DGE VIII and IX, the EU Military Staff, the newly-created Civilian Planning and Conduct Capability) have been doing wonders when one considers that they are insufficiently staffed to deal with the constantly increasing workload. However, they are also not immune to the turf battles that are typical of international bureaucracies.

Many of the patterns of the EU’s crisis management capacity result from the unclear interface between the supranational and national levels. In spite of eve-

ryone's best intentions and efforts, EU second-pillar actors have not yet developed a working ethos based on the principle of "collective ownership"², which would allow their interaction to be more productive. The Council General Secretariat, the Commission and the European Defence Agency tend occasionally to develop their own approaches, while not always feeling obliged to keep the Member-States fully in the picture. For their part, Member States can be at time frustrated at what they perceive as lack of sufficient transparency but, at "27", they find objective difficulties in acting with the required promptitude. The situation is not helped by the "friction and inertia" which, according to Nick Witney, "characterize all defence bureaucracies".³

The Union's comparative strength lies in its ability to muster a vast array of external action and crisis management tools. The European Union has a plethora of strings in its external action bow – diplomatic, financial, military and civilian – which it can use to good account. On paper, all actors involved have agreed on the need to promote a comprehensive approach in crisis management – meaning a joint and global analysis of the crises, a common assessment of the situation, a more collective effort on the ground, as well as improved situational awareness and assessment of results. In practice, however, the Union's reaction to a crisis can be driven more by institutional rivalry than by a truly result-oriented approach. This may undermine the Union's ability to handle a crisis in an efficient and credible manner, to marshal all the instruments at its disposal within a coherent framework and, generally speaking, to achieve its full potential. Moreover, on the ground, the Union is not always perceived as a beacon of coherence, not least because of the involvement of too many actors and the compartmentalisation of tasks. While close co-ordination is very much required, efforts to actually promote it can be few and far between.

It would seem that headway on European security and defence can be made mainly when France and the UK agree that, first, they are faced with a problem that concerns them both and from which their eye can no longer be comfortably diverted and, secondly, they should jointly get to grips with it. Their understanding is subsequently co-signed by Germany and the other Member States are then requested to follow suit. However, the political leadership provided by the "Big Three" seems to have eroded over the years, mainly because the impression given, perhaps erroneously, is that the UK has been demurring at the further development of ESDP.

2. Thanks to Carl Hartzell for the inspiration.

3. Nick Witney, "Franco-British defence cooperation: a historic crossroads?", in *EU Observer*, 27 February 2008.

On the other hand, whilst she has been at the forefront of all EU autonomous military crisis management operations, France made most recently some highly publicised openings towards the Alliance. Paris insists that these are actually meant to also prop up the development of European crisis management capabilities. Time will show the extent to which these openings can be converted into real substance. The upcoming French Presidency of the EU will be most interesting in this respect.

Germany seems at times to dither over its overall contribution in ESDP. However, the concept of German military command of a European autonomous operation (EUFOR RDC in 2006) would have been deemed, only a few years ago, unimaginable. If her concerns about financial implications can be coupled with considerations of military effectiveness and a more assertive global political and strategic vision, her role could be key in moving the process forward, just like it was for monetary integration.

The other partners have been participating in the ESDP project with varying degrees of enthusiasm, but they can hardly be expected to hold centre stage on their own. To note a recent positive trend, many of the new Member States have gradually come to acknowledge that the development of ESDP does not fly in the face of their participation in NATO. In this respect, Poland, in particular, seems eager to play a dynamic role and has from the outset made significant contributions to EU operations, notwithstanding her strong commitment towards NATO.

In light of the above, progress has not always been linear. The European Security Strategy (hereafter ESS, December 2003) has not substantially changed this state of affairs. The Strategy's main merit was to heal the wounds of division over Iraq and to set out key principles, which were no pious abstractions and could provide the plank for EU action. However, even after the ESS' adoption, the CFSP has basically remained a process of aggregation, co-ordination and compromise between the policies of individual Member States. The fact is that EU initiatives or activities in the field of external relations are rarely launched either in the name of the ESS' fundamental principles or after careful consideration of its content. The ESS will be reviewed during the upcoming French Presidency but, whatever the outcome, it is clear that it cannot lead, by itself, to more coherent and efficient EU external action.

In short, institutional improvements and political guidance are needed so priorities in crisis management operations can be defined in line with the Union's engagements and cooperate better in producing the crisis management hardware of the future.

1.2. Operations

The operational net result of the state of affairs described above is a mixed one. On the one hand, there has been a crescendo in crisis management operations and missions in the last few years. On the other, as the key fundamentals are often not addressed, questions will inevitably be raised when the current, seemingly positive, momentum will appear to have reached the limits of sustainability.

At the brighter end, the small or medium-sized operations, which have so far been successfully conducted, have undeniably laid the ground for a more assertive European culture in crisis management. In a relatively short time-span, the EU has proven that it has the will and the ability to conduct also military operations even in environments that would not always qualify as benign. Indeed, the EU has proved that, in certain cases, it can provide a more palatable, and thus workable, alternative solution to crisis management, since it would be welcome to undertake smaller-scale operations and missions in places where others could not.

The longer-term experience in the Balkans and in Afghanistan has provided ample evidence that, more than just the use of raw military power, success largely depends upon a combination of civilian and military instruments in crisis management. Of course, military capabilities weigh heavily, either in the framework of conflict resolution efforts, or when aiming at a safe and secure environment that could allow for further peace-making endeavours and initiatives. But focusing EU crisis management only on military instruments – even supposing that these would be available readily and in sufficient amounts – would be tantamount to imposing unnecessary and counter-productive curbs on the EU's scope of activity. Indeed, this comprehensive approach, which is one of the key and distinctive (if not unique, in comparison) characteristics of ESDP, has been institutionalized by the Lisbon Treaty.

Equally, the EU Crisis Management Procedures, which were initially criticized for being much too complex and cumbersome, have proved in practice relatively efficient, allowing the EU to take the appropriate decisions when there is the necessary collective political will. This is basically due to the flexibility provided for in their implementation, which is one of their fundamental principles. Nevertheless, an important factor to keep in mind is that the procedures have never really been tested yet in a case where there was a serious deterioration of the situation on the ground, or in the specific case of rapid reaction and the use of the EU Battlegroups.

Another important dimension of EU operations and missions has been their impact on the evolving relationship between the Union and NATO. This has been fraught with difficulties, even though the ESDP was never intended as a rival but as a strategic partner of the Alliance. Efforts to promote regular formal contacts and exchanges between the two Organizations have cut little ice. Moreover, the current contractual framework is clearly found wanting when it comes to cooperation not restricted to military crisis management. But there have also been many positive developments. Fears that the development of EU military capabilities would be pursued in disregard for the obvious need for interoperability with NATO have generally not been justified. On military crisis management, the EU Operations Concordia (in the former Yugoslav Republic of Macedonia) and Althea (in Bosnia and Herzegovina) have shown that the Berlin Plus arrangements can work. The three autonomous EU military operations so far (Artemis and EUFOR Congo in the D.R. Congo and EUFOR Chad / CAR) never took place in situations in which the two organizations were vying to outdo each other. Regular contacts at the level of Secretary-General / High Representative and between staffs in Brussels have proved useful. Cooperation on the ground, in theatres where both organizations were active, has been good and effective.

Thus, the EU has gained both considerable experience in crisis management and clout on the international scene. Eurobarometer reports confirm consistent strong support by the European public opinion for ESDP.

Yet, there is also a bleaker side. For most European countries, 2006 and 2007 have been years of military overstretch, following engagements in places such as Afghanistan, Lebanon, Iraq, Kosovo and Bosnia. This may eventually result in disenchantment and reluctance to engage militarily where not all EU Member States see political priorities, adding growing difficulties to each force generation process. Member States do not feel bound by any sense or principle of “European solidarity” vis-à-vis their partners that are contributing troops to peacekeeping operations. The recent difficulties in drumming up contributions for the EU operation in Chad and the Central African Republic are indicative of the important gap that exists between, on the one hand, aspirations and the drawing-board stage and, on the other, the harsh realities of putting commitments, plans and concepts into real-life execution. Under those circumstances, credibility of intent and action can be at a premium.

The problem is further compounded by the fact that even those Member States that are ready to commit troops frequently couple their contribution with restrictive caveats – a not unusual one being that those troops should not be deployed in the more dangerous zones. Such a culture of “armed non-interven-

tion”⁴ is not an exclusive EU feature, as NATO Allies’ performance in Afghanistan would confirm. But it does seriously limit an operation’s ability to carry out its mandate.

The Battlegroup concept was meant to be another military instrument that would allow the EU to respond rapidly to a crisis, as a stand-alone operation or in the early phase of a larger crisis management effort. In some Member States, the Battlegroup has engendered significant capability development and a reappraisal of military thinking and policy. However, Member States have displayed, so far, a keen eye for all the reasons why a specific crisis situation does not correspond, on paper, to all the facets of and conditions for a typical “Battlegroup scenario”.

The multi-nationalization of national Headquarters for the duration of an autonomous EU operation demands considerable energy and resources which, by definition, undermine effectiveness. The lack of a permanent capacity at the strategic level of military planning and command seems to us incompatible with the requirements for accelerated planning and decision-making, as well as for a comprehensive approach throughout the planning and execution phases and across the levels of command. Moreover, it does not contribute to continuity, for harmonisation of doctrine and for a sense of joint ownership of the operation. Indeed, since the earliest phase of a crisis, the lack of sufficient planning hampers Member States’ ability to assess their force contributions and to provide useful expertise along the decision-making process.

Despite the well-known political and theological sensitivities, everyone seems to be aware of the problem. At their informal meeting at Hampton Court (October 2005), the Heads of State and Government asked Javier Solana to take work forward, to ensure inter alia that EU crisis management structures can meet the new demands on them. The changes that were subsequently introduced included: (a) the establishment of a Crisis Management Board which would meet prior to an operational decision, as well as at regular intervals to evaluate ongoing ESDP operations and to facilitate an evaluation of lessons learned; (b) the establishment of a Civilian Planning and Conduct Capability (CPCC) within the Council General Secretariat, whose Head would assume the role of “Civilian Commander”; and (c) the development of a watch-keeping capability within the Civ-Mil Cell. Furthermore, the so-called post-Wiesbaden⁵ process has not

4. Peter Glover, “Merkel’s European Army: More Than A Paper Tiger”, in *World Politics Review*, 25 April 2007, <http://www.worldpoliticsreview.com/Article.aspx?id=727>.

5. Following the completion of EUFOR RD Congo, EU Ministers of Defence, at their informal meeting in Wiesbaden, requested Javier Solana to submit recommendations on ways to address the relevant shortfalls.

resulted, so far, in much more than a limited restructuring of the EU Military Staff, including five (5) additional planning staff. Even though these measures undoubtedly represent an improvement, the impression remains that they limit themselves to scraping at the surface of the problems.

The financing of ESDP missions and operations is definitely another area which is in need of improvement. There seems to be no real appetite for a serious discussion on “burden-sharing” or “cost-sharing” in operations. It would not seem inconceivable to use the common EU budget for crisis management operations of the EU, just the way costs for action under the CFSP are also charged on that same budget. As Europe’s crisis management is a growing enterprise, there is also clearly a case here for permanent extension of the definition of common costs, allowing for all Member States to assume their fair share of the burden. Another fundamental problem is that, in the event of an unforeseen crisis, it is impossible, on the basis of current slow-track procedures and the emphasis laid on accountability, to disburse, in a speedy and flexible fashion, emergency funds across the operational cycle. Finally, a quick reference must also be made to the slow and intricate procurement procedures, which can complicate long-term planning in mission-support equipment and may seriously undermine the mission itself.

In conclusion, as in most cases, the ESDP’s operational glass can be seen as either half-full or half-empty. The many operations and missions, launched and conducted in ESDP’s relatively short time-span, have passed many significant tests. But much remains to be done on several fronts.

1.3. Capabilities

A stronger increase in European capabilities was meant to be at the core of the Saint-Malo initiative and of the development of ESDP – the idea being that a stronger Europe would be good for the EU and also seen by NATO as a more credible and legitimate partner. Instead, while ESDP was mainly focused on “crisis management”, European capability development has not led, thus far, to significant improvements of European military hardware.

In the field of Defence, the cost of “non-Europe” has reached a dangerous level that puts also at risk Europe’s contribution to NATO and harmony in transatlantic relations. Europe still spends a lot on defence, but the output is steadily deteriorating as European States still define their needs, planning and expenditures on a national, rather than multinational basis. The result is bad allocation of budgets, fragmentation and overlap, administrative overheads, decreasing

efficiency – in short, an entirely irrational process that would normally lead to bankruptcy in any naturally competitive environment. This diagnosis has brought top American and European Generals⁶ to conclude that increasing the output of military investments in Europe would need an overhaul of the entire process that would lead to defence integration.

The methodology inherited from the WEU has not fundamentally changed: a loose bottom-up process for setting up the Force Catalogue, an inventory of national military capabilities earmarked for deployment in EU operations, which is clearly flawed. For starters, there is no centralised mechanism to scrutinise the capability bids put in the catalogues. Additionally, national military hardware owned by individual Member States can not be easily shared because the standards have not been unified. There is no stringent mechanism to ensure that States remedy the shortfalls in capabilities, which become even more glaring when it comes to key enablers that are essential to the success of an operation. The serious shortages, in areas such as strategic and tactical transport, logistics (including communications) or intelligence, have been regularly publicised. They mean, in practice, that EU military personnel are either not adequately supported on the modern battlefield or must carry out a much less ambitious mandate than the one originally designed at the political level. Furthermore as engagement of national capabilities remains voluntary, Member States' actual commitments to the Force Catalogue in case of an operation can not be taken for granted.

Structural problems exist both upstream and downstream. The EU has not been dealing with the structure of defence budgets and parts allocated to personnel, operations or equipments. Joint efforts on military research and technology and on equipment procurement programmes are still not up to the level required. Harmonisation of needs, budget allocation, common acquisition of military hardware, pooling and specialisation, doctrine, human resources etc. have remained largely beyond the scope of European defence. Demand and supply are fragmented.

To succeed, ESDP would have to go to the heart of defence structures, establishments and budgets. Instead, Member States remain staunchly protective of their national defence equipment programmes, which they continue to consider as key components of national security. The European defence industry is suffocating from years of protectionism by the Member States reticent to accept the EC's

6. Michèle Flournoy & Julianne Smith, *European Defence Integration – Bridging the Gap between Strategy and Capabilities*. Washington, CSIS 2005.

regulating power in the field of defence and always prone to invoke art. 296 of the EU Treaty by abusing the notion of “national security”.

As often evidenced, the problem is not due only to the lack of the necessary financial means. In 2006, European countries together spent €201 billion on defence (Denmark not included), which amounts to 60% of what the United States cashes out. The EU Member States (minus Denmark, which has opted out of ESDP) have approximately 1.940.000 soldiers under arms.⁷ But in terms of capability, the actual output of the money spent by Europe represents only 20% of the relevant American figure. Europeans spend 55% of the total on personnel, whereas the US spends only 20% of its €491 billion defence budget on personnel. The US also allocates 34% of its budget to operations and maintenance, with the corresponding figure being only 21.6% on the European side. This is not to say that Europe simply has to take a leaf out of the US book. But inevitable conclusions can be drawn from the economic efficiency of US defence budget allocations. Limited cooperation will never be sufficient to overcome overlap or ineffective allocations or to increase economies of scale.

The European Defence Agency, which saw the daylight in 2004, has been trying hard to remedy this situation. The decision to create it, taken by the Thessaloniki European Council of June 2003, had been consistently promoted by a group of Member States, including Belgium and Greece.

The Agency has created a level playing field between the Defence Ministers and their planners, the European Commission, the market and industry. That makes it unique compared to the more complex process within NATO. Yet, the Agency has been kept surprisingly small in terms of personnel. Furthermore, while most Member States are increasingly aware of the Agency’s actual and potential contribution, efforts aiming at even a modest raise of its budget are resisted for no truly convincing reason. In some ways, the Agency can function in a much more flexible way, without the shackles, labyrinthine red tape and procrastination that cripple the action of larger bureaucracies. From another viewpoint, however, it also hampers the takeoff of new, larger and more ambitious programmes that could make an irreversible difference.

The Agency has already launched several important programmes. Suffice to mention the work on a Defence Equipment Market, the Code of Conduct on Defence Procurement (publication of tenders on the EDA’s electronic bulletin board allowing competitive bidding) and the joint Research & Technology investment programme on Force Protection. The Agency also played a leading

7. See the EDA website at <http://www.eda.europa.eu/genericitem.aspx?area=Facts&cid=309>.

role in the elaboration of the “Military Long Term Vision”, which translates the European Security Strategy into a projection of security threats and challenges for the decennia to come. This is not a document that has caught the eye of the public. Its impact, however, could be significant: the ensuing Capability Development Plan, laying the ground for a new common definition of needs and a new planning cycle which, in turn, would allow States to step in together from the outset and design acquisition programmes to be implemented collectively. Should this Plan be seriously acted on, it would go a long way towards providing ESDP operations with credible forces and equipment.

The Agency recently published comparative analyses of US and European defence budgets and a thorough study on defence data, comparing the structure of Defence expenditure of the 26 participating States.⁸ Such a global overview had never been made. Thus, it is not a hyperbole to claim that the European Defence Agency is currently the body providing key impetus on the fundamentals of European defence.

Finally, focusing on the military front should not make us brush aside the issue of civilian crisis management capabilities. In December 2004, the European Council launched the Civilian Headline Goal 2008 process,⁹ which set out a number of ambitious goals, including a commitment to being able to act in six areas of activity (police, rule of law, civilian administration, civil protection, monitoring of various sorts, other support functions). Member States have collectively committed more than 12000 personnel. The Civilian Headline Goal 2008 has been succeeded by the Civilian Headline Goal 2010,¹⁰ aiming to ensure a more comprehensive approach with its cousin, the Military Headline Goal 2010. However, as experience has shown, also in the field of civilian capabilities a significant gap appears between commitments on paper and concrete contributions. The problem is compounded by the fact that other parts of the national administrations clearly have difficulties in keeping pace with the high standards and the lofty political goals set by the Foreign Ministries of Member States.

In conclusion, for Europe to realize its full potential and become more relevant, it is essential that EU Member States address the key fundamentals of defence, in order to make the growth of ESDP sustainable. There will be more than a few spanners in the works, including some thrown, in this particular case, by the national bureaucracies. But without collective efforts that will bear fruit, there can be talk neither of an increasingly capable, forceful and enterprising Euro-

8. See the EDA website at <http://www.eda.europa.eu/facts.aspx>.

9. register.consilium.eu.int/pdf/en/04/st15/st15863.en04.pdf

10. consilium.europa.eu/uedocs/cmsUpload/Civilian_Headline_Goal_2010.pdf

pean defence nor, subsequently, of EU operations that, if and when need be, can be synonymous of outreach, power and long-term effectiveness. This is key not just for Europe itself, but also in the spirit of the “irreplaceable transatlantic relationship” and the “effective and balanced partnership with the USA”, as well as of the “strategic partnership with NATO”, all foreseen in the European Security Strategy.

2. European Defence in the Lisbon Treaty

The Constitutional Treaty ran aground in the wake of the referenda in France and the Netherlands, but no blaming fingers were pointed at CFSP and ESDP. Quite on the contrary, the goal of strengthening the EU's standing on the international scene commanded strong support in the public opinion of the European countries. This support could be a main reason why the CFSP and ESDP-related provisions of the Constitutional Treaty did not undergo any radical amendments in the Lisbon Treaty which has followed.

Indeed, in 2002 and 2003, in the aftermath of the Western Balkans debacle and in the midst of the Iraqi crisis, the unanimous view was that the CFSP was an important area of EU activity that needed to be urgently strengthened. Furthermore, in the early phases of the Convention but also subsequently, even while theological debates were raging in the Council meeting rooms, the overall perception was that ESDP had proved that it could be a success.

The first ESDP military operations in the FYROM (Concordia, April 2003) and in Eastern Congo (Artemis, June 2003) may not have marked a revolutionary new chapter in the history of international crisis management efforts. However, at a time when many thought that the EU was taking considerable risk by trying to fly before it could even walk, Artemis, in particular, was a political success and incontrovertible proof that planning and conducting an EU autonomous operation, even in a non-benign environment, was not beyond reach. The subsequent decision to take over NATO's operation in Bosnia, (Althea, December 2004), with a force numbering 7.000 troops, carried considerable political and symbolic significance in a country where the EU had miserably failed only a few years back. The EU also began putting its thumbprint in the area of civilian crisis management.

In other words, while experts were deliberating within the Convention and, subsequently, negotiating the Lisbon Treaty, the operational side of ESDP was panning out satisfactorily. This was obviously very much welcome, but the drawback was that it fuelled doctrinal debates on both sides of the Atlantic and that some of the shortcomings, which would become more apparent at a later stage, eluded attention. The problem was compounded by the fact that experts on the EU rarely have an eye for the particulars of defence issues. Conversely, experts on defence have never been really trained in the fine points of EU institutions and decision-making.

Still, the Lisbon Treaty came up with decisions on CFSP and ESDP which could potentially be of great consequence. Of these, the Permanent Structured Coop-

eration (PSCo) has the makings of substantial progress in the field of capability development.

2.1. The main elements

On foreign policy and defence matters, the Lisbon Treaty is routinely identified with some important novelties: the creation of the function of High Representative of the Union for Foreign Affairs and Security Policy, who will also hold the post of Vice-President of the Commission; the establishment of the European External Action Service; the introduction of Permanent Structured Cooperation in the field of military capabilities development; mutual assistance in the case of armed aggression and the solidarity clause.

The reason why these provisions have been subject to so much attention is that they are seen as having the potential to break significant new ground. On the contrary, the provisions relating to the decision-making framework, while also worth probing into, seem to have little to show in the way of progress.

But the Treaty also contains some other elements that are worth mentioning in order to give the complete picture:

- ESDP will be renamed Common Security and Defence Policy (CSDP). As things stand, the change seems more symbolic than anything else. Using Maastricht language as a plank, Article 42 of the TEU states that “the common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides”. Not many clues are offered as to the content of that common policy – the only certainty being that it will require a previous unanimous Council decision which, moreover, will be adopted by Member States “in accordance with their national requirements”. Clearly, in the absence of an agreement over what the term common defence should comprise, getting carried away about a possible change of name in the future amounts, in principle, to putting the cart before the horse.
- The Treaty makes a specific reference to NATO. It stresses that the CSDP-related provisions “shall respect the obligations of certain Member-States, which see their common defence realised in NATO” and that commitments and cooperation under CSDP “shall be consistent with commitments under NATO. The Alliance is also referred to as the “foundation” of the mutual defence of those countries that are members of both organisations and the

“forum for its implementation” (Art. 42 TEU). Thus, NATO’s vital role as the cornerstone of Europe’s collective defence is not put into question.

- In addition to the Petersberg tasks that define the sort of crisis management operations that the EU could undertake under the current Treaties, Lisbon “institutionalizes” the following missions that had already been agreed in the framework of the European Security Strategy: joint disarmament operations, military advice and assistance, conflict prevention and post-conflict stabilisation. Furthermore, the Treaty also stresses the contribution that these missions and operations could make “in the fight against terrorism, including by supporting third countries in combating terrorism in their territories”.
- At first glance, it does not seem that the competences of the European Parliament in the areas of CFSP and ESDP have been extended. Indeed, in Declaration 14 of the Lisbon Treaty, it is stated that “the provisions covering the Common Foreign and Security Policy do not give new powers to the Commission to initiate decisions nor do they increase the role of the European Parliament”. This means that the European Parliament can only expect to be regularly consulted and informed, by the HR/VP, on the main aspects and developments of the CFSP and the ESDP. The hollow promise that the views of the European Parliament will be “duly taken into consideration” is added for good measure. Nevertheless, the fact that the HR will also be wearing the hat of Vice-President of the Commission provides the European Parliament with added democratic control, because its consent will be required for his/her appointment. Furthermore, one can gather that the Parliament’s right to submit a motion of censure against the Commission could also be exercised should it not feel satisfied with the HR/VP’s performance. This means that the HR/VP will have to treat the Parliament with deference and conduct the relevant tasks in a manner that recognizes their significance and their consequence.
- The provision in Article 47 of the Lisbon Treaty that the EU shall have legal personality will not result in noteworthy changes in the decision-making process. Unanimity will continue to be required for the adoption of any decision allowing the EU to sign a contractual document with security or defence implications (Article 31 and 38 of the Lisbon Treaty).

2.2. Decision-making in the field of Foreign Policy and Defence

Many people still need convincing that the framework for decision-making in the EU's external action, set by the Lisbon Treaty, will have far-reaching implications.

On the face of it, no significant changes have been introduced to the fundamental principle of unanimity for decisions in the CFSP. As a general rule, the Lisbon Treaty will affect neither the Member States' powers and responsibilities in the field of foreign and defence policy nor, as mentioned above, each Member State's veto powers on CFSP decisions, which will "remain subject to specific rules and procedures".

Declaration 13 adopted by the Intergovernmental Conference states that: "The Conference underlines that the provisions in the Treaty on European union covering the CFSP, including the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy and the establishment of the External Action Service, do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy nor of their national representation in third countries and international organizations...".

A possibility exists for qualified-majority voting (QMV) when the Council adopts a decision "defining a Union action or position, on a proposal which the High Representative ... has presented following a specific request from the European Council, made on its own initiative or that of the High Representative". This means that, after the European Council has unanimously agreed to make that request, the Council may decide by QMV upon a proposal by the High Representative.

This provision reminds, in a way, the common strategies introduced by the Amsterdam Treaty, which were meant to be defined by consensus "in areas where Member States have important interests in common" and to subsequently be implemented through joint actions and common positions adopted by qualified majority. In practice, this tool, which could have proved useful, never fully took off because of lack of political will by the Member States: The three common strategies that were adopted (Russia, Ukraine, Euro-Med) are archive material as they were never given any real follow-up. A recurrence of a similar scenario should not be excluded in the case of the High Representative's proposals, especially if Member States show a collective lack of appetite for a move away from the well-trodden ground of unanimity in CFSP.

Other procedures, such as the “constructive abstention” or the “emergency brake” for “vital and stated reasons of national policy”, will remain basically unchanged.

It is always important to keep in mind that decisions having “security and defence implications” and, in general, relating to the Common Security and Defence Policy (including the launching of operations) will continue to be taken by unanimity.

What has preceded means that, while the era of the pillar-structure will theoretically be over, the CFSP will continue to function in a realm of its own – albeit with some novelties that carry potential for significant qualitative upgrading. Since decision-making procedures under the Lisbon Treaty are unlikely to turn the CFSP to a new page, it might be worth focusing on the implications of the institutional innovations, such as the introduction of Permanent Structured Cooperation on defence, the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission, the establishment of the European External Action Service, which, on paper at least, could go some way towards bolstering Europe’s coherence and effectiveness of action on the international scene.

2.3. Implications of the High Representative/Vice-President of the Commission

The High Representative of the Union for Foreign Affairs and Security Policy, who will also hold the post of Vice-President of the Commission (HR/VP), is the heir to the never-materialized “Union Minister for Foreign Affairs” foreseen in the Constitutional Treaty. This is a typical case of furniture that has remained unchanged in spite of a frayed upholstery. Ostensibly, the HR/VP will not be donning the mantle of “EU Foreign Minister”, which had raised eyebrows in a few Member States. But to all intents and purposes, the mandates of the two functions will be like six of one and half a dozen of the other.

The obvious truism is to say that the HR/VP will be double-hatted. In fact, if one has a close look at his/her tasks and responsibilities as set out in the Lisbon Treaty, a third hat should be added to the other two. According to Article 27 of the TEU, the HR/VP will be chairing the sessions of the Foreign Affairs Council. Furthermore, according to Article 27(2) of the TEU, “the High Representative shall represent the Union for matters relating to the common foreign and security policy. He/she “shall conduct political dialogue on the Union’s behalf and shall express the Union’s position in international organizations and at interna-

tional conferences”. This means that the HR/VP will be taking over the main responsibilities of the current rotating Presidency for CFSP affairs.

The HR/VP will also “contribute through his proposals to the implementation of the common foreign and security policy and... ensure implementation of the decisions adopted by the European Council and the Council” (Article 27 TEU) and “put into effect”, with the Member States, “the common foreign and security policy, (...) using national and Union resources” (Article 26(3) TEU).

Finally, in his/her capacity as Vice-President of the Commission, he/she “shall ensure the consistency of the Union’s external action” and “shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union’s external action” (Article 18 TEU).

In performing these tasks, the HR/VP will be “ensuring the consistency and effectiveness of action by the Union” (Article 26(2) TEU). He/she can “refer to the Council any question relating to the common foreign and security policy and may submit to it initiatives or proposals as appropriate” (new Article 30 TEU). Should he/she judge that a developing crisis must be dealt with as a matter of urgency, the HR/VP may decide to convene “an extraordinary Council meeting within 48 hours or, in an emergency, within a shorter period” (Article 30 TEU).

One could argue that the provisions of the Lisbon Treaty codify, in some ways, the current practice. In theory, the CFSP High Representative presently has no right of initiative and he/she can only speak “on behalf of the Council at the request of the Presidency”. In practice, however, Javier Solana often leads the Troika at international meetings and conferences; he meets or speaks daily with foreign officials; he regularly issues statements, which are perceived by the outside world as reflecting the Union’s position, even when he has not been thus requested by the Presidency; he submits to the Council, either on his own or in cooperation with the Commission, several papers containing ideas and recommendations on the course of action that the Union could follow on specific issues; and he sits at the negotiating table with third parties on highly sensitive issues, mandated by the Council (actually, in the case of the Iranian nuclear program, not just by the EU, but also the US, China and Russia).

Even though he has been always careful not to stretch his competencies beyond breaking-point, the High Representative has gradually given them considerable teeth – not least because the Member States felt comfortable that this worked.

But apart from its “codifying” dimension, the Lisbon Treaty clearly empowers the HR/VP with considerably more power and authority. The potential benefits for the Union’s external action are undeniable. The “Vice-President of the Commission” hat beckons to offer high pickings in terms of coherence and effectiveness. And as regards the external representation responsibilities, the current Troika format is not ideally suited for clarity and continuity, as priorities change according to each rotating Presidency and, by the time that the “période de rodage” is completed, so is the six-month period – and on comes the next incumbent.

Of course, there will also be checks and balances. The HR/VP will play an important part in shaping the decision-making process, but when implementing policy, he/she will be bound by the decisions of the Council, meaning those taken by unanimity by the Member States. He/she will also be accountable to the European Council (which may decide to terminate his term of office) and to the Council, as well as to the European Parliament in his/her capacity as Vice-President of the Commission.

When the post is not even up-and-running, it may be unfair to begin already expressing some scepticism and making predictions about what could go wrong with the HR/VP. The following long list of serious difficulties that could crop up is set, admittedly, at the bleak end of the present range of predictions. Forecasts in these matters are never set in stone. For the rosy ones to come true, one must be alive to the potential problems and to the decisions that he may need to be taken in order to deal with them, as well as to their consequences.

More specifically, the difficulties that the HR/VP may have to grapple with, as he juggles with his various tasks and responsibilities, could be the following:

- While putting an end to a system of representation – the Troika – which has outlived its worth, the Lisbon Treaty may itself become responsible for a new henhouse with too many roosters in it. The President of the European Council will also play a part both in crisis situations and in the representation of the EU at summits with third parties. The chances that the President of the Commission will be looking unconcerned at external action-related developments are not very solid. The relationship between all these different actors may be sensitive. Workable liaison mechanisms will be needed – and this, while momentarily keeping the Member States (including the ones that will exercise the three successive Council presidencies) out of the equation.
- Another complex issue could be the internal coordination within the Commission, in particular between the HR/VP and those Commissioners that will

retain important responsibilities in the field of external relations (trade, development, enlargement, humanitarian assistance). This problem is likely to be more acute in the framework of a Commission under its current configuration (at 27 Commissioners). Should the European Council decide to reduce the number of Commissioners (Article 17(5) TEU), much will depend on the precise apportionment of portfolios. The more external action dossiers are assigned to the HR/VP, the brighter the outlook for convergence of policies and effectiveness. The more these dossiers are doled out to different Commissioners, the more the HR/VP post, while seen as a welcome novelty, may not live up to its full potential.

- The post's biggest advantage, namely the bridging role between the Commission and the Council, may theoretically backfire should these the two institutions find themselves in disagreement over important policy issues. The HR/VP may find himself treading a tight rope. He/she will have to draw on all his savvy and possibly resort to diplomatic serendipity to maintain the closest possible cohesion among the various actors and personalities.
- As a logical corollary to the "triple-hatting", the HR/VP will be saddled with a tremendous workload and responsibilities. Anyone who has been involved in the preparation and conduct of and follow-up to political dialogue meetings with third parties is only too well aware of the tremendous amount of time and energy that may be needed. Moreover, anyone who has been following Javier Solana over the years knows the very punishing schedule he has had to endure in trying to make the Union's voice heard around the world. Multiply the engagements, obligations and responsibilities, which is what the triple-hatting will entail, and the job description could exceed even the most brilliant single person's abilities.
- Another genuine risk is that the HR/VP may spend considerable time dealing with the various internal squabbles in trying to keep everyone happy (his colleagues at the Commission including its President, the President of the European Council, the various Member-States), at the expense of conveying the Union's message to third parties and on the international scene. The main yardstick by which Javier Solana is judged is the extent of his international network. For example, at present he can pay a visit to the Middle East, the Western Balkans or anywhere else on the eve of a GAERC Council and then feed Ministers with up-to-date information and recommendations based upon his very latest contacts. On the other hand, to pass muster, the HR/VP will mainly have to focus on keeping the internal CFSP machinery on an even keel. Instead of representing the EU abroad on the eve of a Foreign Relations Council meeting, he/she may well find himself on the phone, from his/her

Brussels office, with the Foreign Ministers of the Member States who are most likely to be particularly active when he/she will be chairing the meeting the next day. His/her main goal will be to stave off trouble or to ensure an early satisfactory compromise among EU partners.

- This may result in an HR/VP and, consequently, a CFSP that could surprisingly be much more introspective than today, since the importance of a more outward-looking external action may be lost on someone who will be juggling on the internal front just to keep his head above the water.
- To work out this problem, there has been talk of appointing two senior deputies for the HR/VP: one for his/her responsibilities as High Representative and one for those as Vice-President of the Commission. This could be helpful, but it would also carry a few drawbacks of its own: on the one hand, symbolically but also on substance, it would defeat the purpose of trying to merge the various dimensions of EU's external action; secondly, it would add another two voices, as well as the ensuing bureaucracy and confusion, to an already mixed crowd active in the CFSP decision-making and speaking on behalf of the Union.

In conclusion, the creation of the post of HR/VP represents one of the fundamental institutional provisions of the Lisbon Treaty and carries genuine potential for a sizeable increase in the coherence and effectiveness of EU external policy. His/her personality and the way in which he/she will interact with the Member States, other key Commission actors, as well as with the European Parliament, will go a long way towards determining the degree of his success. A noticeable risk is that he/she ends up in the uncomfortable position of the old medieval torture, whereby one was tied to four horses all going in their own different direction. Another risk, not to be discarded, is that the HR/VP and, through him/her, the CFSP, be turned into an introverted hedgehog while the outside world remains ever so turbulent. Thus, the HR/VP will need to have the broadest possible shoulders to answer in full the requirements of his/her multi-pronged mandate and responsibilities.

Seen from a purely ESDP perspective, a likely scenario is that the HR/VP function will work well for comprehensive EU action, less so when it comes to mobilizing Member States to generate the necessary political will for capability development. An open question mark is whether the HR/VP will take over from the current HR also the duties of Head of the European Defence Agency. This would be, in principle, for the better – although with such a loaded personal agenda, it could also boil down to simply sitting in the chair for a couple of meetings per year.

2.4. Implications of the European External Action Service (EEAS)

The HR/VP should be given the means that would allow him/her to effectively fulfill his multi-faceted mandate: inter alia, conducting the CFSP/ESDP, shaping the agenda and making proposals (including compromise proposals to bridge possible differences among Member-States), ensuring overall coherence and consistency and carrying out his/her representational role.

The European External Action Service will be an important means in support of the HR/VP's expanded mandate, with regard to both its Brussels and external representation dimensions. Taken together and if given the necessary breathing space, the HR/VP and the EEAS could go a long way towards lessening the various dichotomies that have traditionally been hampering the external action of the EU (between first and second pillar or between national, intergovernmental and supra-national interests / approaches). Too often, the multiple voices speaking on behalf of and for the European Union do wonders for confusion, less so for Europe's effectiveness and credibility on the international stage. Thus, the Service should also assist the High Representative in formulating messages that can be conveyed by the EU institutions in a consistent manner.

This means that the Service must be organized in such a way that it can have some real cutting edge and provide the necessary impetus for convergence, harmonization, coherence and effective implementation of policies. Otherwise, should there be no clear and realistic consensus among Member States about the EEAS' configuration and tasks, the HR/VP's ability to bring together the various components of EU external action could be significantly reduced and his/her potential significant added value would be lost.

It should be pointed out that the Lisbon Treaty does not provide for a clear-cut mandate, as it lays more emphasis on procedure and some limited organizational aspects. The relevant Article 27 states the following: "In fulfilling his or her mandate, the High Representative shall be assisted by a European External Action Service. This service shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organization and functioning of the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission." The EEAS shall work in cooperation with the diplomatic services of the Member-States.

To this day, most of the details of the organisation and functioning of the EEAS still remain to be worked out. Some important ideas, not least a joint Barroso – Solana effort of 2005,¹¹ had already been floated before the Constitutional Treaty ran aground. In principle, everyone seems to agree on the “*sui generis*” nature of the new service. It may be a mistake to continue thinking in terms of the Maastricht Treaty, but the fact is that this new service does not clearly relate to any of the pillars that have been at the cornerstone of the EU method for the past 15 years. Consequently, for the time being, we lack a clear picture of what this means for its headquarters’ exact place within the complex institutional structure of Brussels, as well as for its degree of autonomy.

Ideally, the departments and services of both the Council and the Commission, which have competencies in the field of external relations, should be merged *in toto* into the EEAS. More specifically, the Service’s ambitious version would entail the integration, into geographical and thematic desks, of all the competent policy units of the General Secretariat of the Council and Commission Directorates-General (including DG RELEX, DG Enlargement, DG Development, DG Trade, ECHO-humanitarian assistance). This would mean that all Commissioners with external action responsibilities would report to the HR/VP. Especially in the beginning, there would be risks inherent to the management of a large and newly-created bureaucracy, but also clear long-term benefits in terms of convergence and coherence of policy.

A more cautious approach, which may well end up carrying the day, would consist of the merging only of DGE (External Relations) of the GCS and DG RELEX of the Commission (although this would omit geographical units of DG Development, in particular those dealing with African issues). One main consequence would be that other Commission services with important competencies in the sphere of external relations would be left out. A way of confronting the problem would be for the High Representative, in his capacity of Vice-President of the Commission, to set up the necessary coordination mechanisms, under his authority, within the Commission. Still, the traditional fissures between the political and the other prominent dimensions of external action would continue, which could reduce both the role and the impact of the EEAS.

With regard to external representation, the 128 Commission delegations, employing approximately 7000 staff, currently working on analysis, aid programming and representative functions, must be reinforced to become Union delegations. These will represent the Union in third countries and at international organisations. Appropriate mechanisms will have to be worked out, in

11. Issue Paper on the European External Action Service, 1 March 2005, SN 1508/05.

order to allow the Union delegations to perform, in a satisfactory manner, their tasks. Priorities must include clear lines of communication and command with Brussels for instructions and reporting, as well as effective liaison and cooperation with the diplomatic missions of Member States. Furthermore, in those international organisations where the European Community today has an observer status, including the United Nations, workable arrangements will be important to ensure that the Union's messages will be heard with due attention.

Effective ways must also be found to integrate the work of the EU Special Representatives (EUSR) and their offices who report to the Council through the High Representative. In this respect, the experience gained by the double-hatting of Commission heads of delegation with the EUSR posts in the Former Yugoslav Republic of Macedonia and to the African Union could be built upon, in order to achieve an integrated EU presence that can work in practice and bring about significant practical benefits.

These organizational aspects of the future EEAS pose, quite naturally, serious concerns to the various actors that are today involved in the shaping and making of EU external action. The Commission is worried about the possible loss of its general responsibilities, which derive from and are carried out in accordance with the community method, as well as about its specific responsibilities in terms of external representation. The Council General Secretariat, which is presently at the centre of the "second pillar stage" (CFSP and ESDP), fears that the "centre of gravity", both administratively and on substance, may tilt towards the Commission.

For their part, the Member States are concerned with the EEAS' impact, in particular with the possible downgrading of national diplomatic services and prerogatives. The medium and smaller Member States, that cannot be present in all parts of the world, are conscious of the opportunity to reinforce, through the EEAS, their external representation and to reduce the related administrative costs. However, they are also worried that important decisions, affecting their key national interests, could be taken by a new bureaucratic machinery in which they would be underrepresented, especially at the highest administrative and decision-making levels.

In light of all the above, a main challenge will be to safeguard the innovative nature and role of the EEAS, when its configuration and mandate will come as a result of hard bargaining and compromise between pre-existing institutions. This will require dealing with the centrifugal forces and tensions that will be inherent to its sui generis nature; achieving the happy middle between an acceptable degree of autonomy and the necessary reliance on the various institutions,

which will continue to exist; avoiding that the EEAS gets entangled in the proverbial turf fights between the various Brussels actors (including the Member States); and minimizing possible duplication of both policy responsibilities and support functions (especially if some of the Directorates-General of the Commission also involved in external relations are not integrated into the service).

This will prove to be no easy task, as the Service will also need to win the hearts and minds of all the Member States. In this respect, another hard nut to crack will be to base recruitment and appointment of staff on merit, while ensuring an appropriate geographical balance among Member States. Furthermore, although it is clear that the Service will be accountable to the High Representative, the Member States will want to exercise some degree of oversight and the European Parliament administrative and budgetary control (as is done currently with regard to the Commission delegations).

Under those circumstances, wanting the EEAS to inspire and instil, at such an early stage, a “European diplomatic culture”, may be slightly precipitous. This culture can only come as a result of the convergence of interests and policies among the Member States. It would already be a remarkable feat if the Service’s works and dealings could contribute, as soon as possible, to the aforementioned spirit of “collective ownership” among all its various constituent parts.

In conclusion, there are still many uncertainties about the exact shape that the EEAS will eventually take. Much will ultimately depend on the political will of the Member States to make it work, as well as on the degree of consensus among the “27”. If equipped adequately and given the blessing of the Member States, the EEAS could effectively rise to the many challenges it will have to face, especially in its early days. In so doing, it could play a prominent part in the quest for greater consistency on formulation of policy, implementation of decisions and representation abroad. Otherwise, an already tall order could become even more daunting. Quick wins will be needed for the Service to prove its worth and gradually grow into a stronger and more stable structure.

Again from an ESDP viewpoint, while the EEAS can be expected to be beneficial for the EU’s comprehensive approach, there are solid chances that it may also tilt the balance significantly towards the more traditional community external action and the civilian dimension of crisis management. The Political and Security Committee and the EU Military Committee will need to play their role to the full, and the same applies to the EDA on the capability front. The EU delegations in third countries and to international organisations can be expected to make a more significant contribution as go-betweens on crisis management issues.

On a more specific but not insignificant point, one can hope that, given that Security and Defence Policy and crisis management are an integral part of the CFSP and of the HR/VP's key responsibilities, the EU Military Staff will also be integrated within the EEAS. The same goes for the EU's Situation Centre, so that it may feed the HR/VP with its evaluations and assessments. This should be done in a way that would not undermine the competencies and the role of the EU Military Committee. On the other hand, if progress in capability development is really wanted, it is probably a good thing that the European Defence Agency will be able to function with its current degree of autonomy undiminished.

2.5. The Mutual Assistance Clause and the Solidarity Clause

With respect to the mutual assistance clause, Article 42(7) of the Treaty foresees that, if a Member State suffers an armed aggression on its territory, its partners shall have an obligation to provide aid and assistance “by all their means in their power” (presumably also military), in accordance with Article 51 of the UN Charter. Member States have an obligation to provide aid and assistance on a national basis, and they would be the ones to decide, again nationally, what exactly their helping hand would offer. Theoretically, the EU as a whole would not be involved, although one cannot imagine that Member States would run to the rescue of the victim of aggression simply after having watched the news on television. At the very least, an extraordinary session of the External Relations Council would likely be convened at the request of the Member State directly concerned or of the High Representative / Vice President of the Commission. Moreover, it stands to reason that an attack against a Member State, which is any case seems highly unlikely, would never come today as a bolt from the blue. Consequently, one could also assume that the EU as a whole would pursue some efforts to prevent such an event.

The Treaty takes care not to tread on tender toes. The non-Allied Member States' particular status is given due consideration, because the Treaty makes it clear that the said article “does not prejudice the specific character and defence policy of certain Member States”. Furthermore, as mentioned earlier, in response to fears that the clause could undermine NATO, the Treaty also states that the said solidarity should be “consistent with the commitments under NATO which, for those States that are members of it, remains the foundation of their collective defence and the forum for its implementation”.

The solidarity clause, which is meant to be put into effect upon the request of the political authorities of a Member State that has been victim of a terrorist attack or man-made disaster, brings in a more emphatic EU dimension. The proposal to implement the clause would be made by the HR/VP and the Commission. The Council would adopt the relevant decision by QMV, except in the case that there were defence implications, in which unanimity would be required. Member States would thus coordinate between themselves in the Council, and the contribution of the Political and Security Committee is expressly mentioned in this regard.

Several questions remain as to the scope and the nature of the solidarity clause. This clearly refers to civil protection, as well as to police or military units to be mobilized for integrated preventive, pre-emptive or consequence management activities. But do these actions apply only “out of area”, or also inside EU territory, and is the solidarity clause a legal provision or a political principle? Some experts claim that the jurisdiction of the European Court of Justice implicitly covers the clause, while others also see military means being mobilized within the EU territory in the framework of policies and coordinated actions within the Council. This would clearly break new ground. But the vague wording of the clause may also just denote the lack of common understanding, which would end up hampering effective implementation.

As implementing the Solidarity Clause may prove difficult owing to political disagreements, lack of progress may also force some willing Member States to move forward in the form of enhanced cooperation. Another possibility would be for the European Court of Justice to extend its jurisdiction to the implementation of the Clause and to cut divergences short by stating the legal obligation to implement in an effective way.

Summing up, the Lisbon Treaty will not turn the EU into a military alliance. As mentioned earlier, the provisions on the progressive development of a “common security and defence policy” do not go even beyond the concept’s generalities. An explicit reference to NATO is made for the first time in the Treaty. Nonetheless, the inclusion of the mutual assistance and solidarity clauses carries, by itself, significant symbolic weight. It is important that everyone knows that they exist and can be acted upon. Even so, only the future will tell how far-reaching they can be, and this will ultimately depend on each particular situation and, more importantly, on the political will of the Member States. The hope in this particular case is, of course, that the Union and its Member States will never be in a position to have to find out how to put them into practice.

2.6. Operations

At first glance, the Lisbon Treaty would not seem to have far-reaching implications for the planning, launching and conduct of ESDP operations. As previously noted, apart from an improved institutional framework, decision-making and planning and command structures will not fundamentally change. Two provisions of the Treaty hint however at a minor change.

Art. 42 and 44 create the possibility to “entrust the implementation of a task to a group of Member States which are willing and have the necessary capability to undertake the task. Those Member States, in association with the High Representative (...), shall agree among themselves on the management of the task”. In what sense does this new provision break new ground? The first step is, of course, to define the term “management of the task”. If “management” includes planning of the task and the set-up of the command structures, and if formal decision-making within the Council were restricted to a smaller group of “entrusted” States at a given moment (for example after the Council decides by unanimity “that military action is appropriate”), this new provision could indeed represent added value. A planning process involving all 27 Member States having to agree on particular details can be cumbersome, especially in case of rapid response operations. This could be of specific interest in the case of an evacuation operation of European citizens.

Potentially, the provision’s added value could be wider than expected, since it might hint at a hybrid model of a “lead-nation” concept within the EU’s institutional framework. Normally, a “lead-nation” assumes the planning and command modalities of a (multinational) operation outside the framework, the political control or collective capabilities of an international organization of which it is member (ex. Operation ISAF in Afghanistan before NATO took over planning and command in 2003). On the other hand, a “framework-nation” takes the lead of an operation which is collectively planned and remains under the political control of the international organization (ex. ESDP operation Artemis (2003) with France as a “framework-nation”). Under this new provision, the group of Member States undertaking the task would still benefit from a guaranteed involvement of the EU institutions: the High Representative and his/her External Action Service, the European Commission with all its instruments and the EU delegations abroad.

Another provision foresees the creation of a start-up fund based on Member States’ contributions. Art. 41 para 3 stipulates that the Council may adopt, by qualified majority, upon a proposal from the High Representative, decisions establishing the procedures for setting up and financing the fund, as well as

administering the fund and the financial control procedures. The Council shall subsequently authorize to use the fund (presumably by unanimity and on an ad hoc basis). Setting up a start-up fund is key for rapid response and swift procurement procedures. It would also facilitate decision-making on the planning and launching of an operation. There are restrictions on the fund's scope, however, as the relevant article confines recourse to it only for "preparatory activities".

2.7. Permanent Structured Cooperation (PSCo)

The Lisbon Treaty will allow Member States to establish PSCo in the field of defence,¹² the scope of which is restricted to the development of military capabilities and means of action for ESDP. It will not apply to the implementation of missions and operations proper. Related provisions are rather vague and ambiguous, allowing for flexible interpretation and a sui generis form of cooperation. If implemented in a manner in which ambition and effectiveness will go hand-in-hand, the PSCo could provide a much-needed boost to the quest for a stronger technological and industrial defence base in the EU.

PSCo is more flexible than "enhanced cooperation", even if conditions on the latter have been eased in the new Treaty. No minimal quorum of participants is required; no threshold is fixed for entrants; and the listed admission criteria seem not to exclude anyone from the outset. PSCo is established by qualified majority vote (hereafter QMV). Once established, however, a member of PSCo that does not live up to its commitments faces suspension by qualified majority vote of the other participating member states. All other decisions through which PSCo will be implemented in practice will be taken by unanimity.

Contrary to the admission criteria of the Monetary and Economic Union, the conditions and objectives of PSCo have not been set out in detail before its establishment. Thus, aspiring adherents are theoretically left in the dark as to the ultimate incentives and costs of participating in PSCo. This begs the question of how, under those circumstances, PSCo, the implementation of which will be subject to unanimity, will improve the present decision-making and methodology of ESDP within the Council or the Agency.

Consequently, there is a strong case for the most interested Member States to agree in detail those objectives and criteria before PSCo is set going. The likelihood of these preparatory consultations taking place is quite high in view of the

12. Titre V, art. 42 para 6, art. 46 and protocol No. 10.

incoming French Presidency – if they are not being conducted already. While ambition should never get the better of judgement, one can only entertain the hope that their outcome will reflect an initial high level of aspiration among partners willing to make rapid strides along the path of defence integration. The alternative would be a scaled-down approach and the traditional lowest common denominator with the participation of reluctant Member States, not shy of using their veto power within the PSCo once this is established. This would entail that the PSCo, together with its usefulness as a new tool, would be diluted from the very outset.

The decisional mode of PSCo

As mentioned above, provisions in the Lisbon Treaty concerning the modalities for the establishment of PSCo and the criteria for membership have, generally speaking, not gone beyond the vague. However, this is not so much the case for the decision-making procedures. Within three months after notification, the Council, after having consulted the High Representative, will adopt a decision by qualified majority, establishing Permanent Structured Cooperation and determining the list of participating Member States. Any Member State which, at a later stage, wishes to take part in the PSCo shall notify its intention to the High Representative and to the Council. The latter will consult again the High Representative and the participating Member States will adopt, by QMV, a decision on the inclusion of the Member State concerned based on whether it fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on Permanent Structured Cooperation.

If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol, the other participants may adopt by QMV (to which the State in question will not take part) a decision suspending its participation.

The establishment of PSCo, the participation of new members and the suspension of a participant are the three domains for which decisions will be taken by QMV. This means that no individual Member State has a veto power over the establishment of PSCo, the participation of a partner at a later stage or the suspension of a participating State whose performance is beyond the pale. As mentioned above, all other decisions regarding the substance of PSCo will be taken unanimously by the participating Member States.

A crucial question remains: *when* and *by whom* shall PSCo be established? Articles 1 and 2 of Protocol No. 10 seem to indicate that the countdown for defining

objectives and commitments of PSCo starts from the date of entry into force of the Treaty. Again, given the present lack of clarity concerning commitments and criteria, a possible establishment within three months after the entry into force of the Treaty and its notification would mean that (1) considerable preparatory work will have been carried out since; (2) the details of those criteria and commitments have to be clarified beforehand;¹³ and (3) on the initiative of a small group of those able and/or willing.

The institutional set-up

The institutional set-up for PSCo is sketched with only the broadest of brushes in the Lisbon Treaty. According to the relevant provisions, PSCo is established within the Council, but only participating Member States take decisions. Only implicitly may one deduce that non-participating Member States are present during deliberations, though without decision-making powers (as is presently the case with the Eurogroup within Ecofin, or as would be the case with Enhanced Cooperation). Also missing are indications on how the relevant bodies of the Council will be involved in PSCo (Political and Security Committee, the EU Military Committee, the working groups). Again, one may simply guess that established practices of the Eurogroup could serve as an example: informal preparatory sessions of the Eurogroup, before each formal (Ecofin) Council, decision-making within the Council even under the presidency of a non-participating Member State.

Nothing specific is mentioned regarding recourse to the institutional means of the Union. In its preamble, the Protocol on PSCo makes a reference, without further detail, to the importance of the High Representative of the Union for Foreign Affairs and Security Policy being fully involved in the proceedings relating to the PSCo. Art. 46 mentions the “notification” to the High Representative of the intention of Member States to adhere, as well as “consultation” of the High Representative before the PSCo’s establishment. One may presume that the High Representative will chair meetings of PSCo in Council format, as he will also chair all meetings of the Council on CFSP and CSDP issues. Similarly, the Council Secretariat including the EU Military Staff, the future External Action Service, as well as the European Defence Agency, should be available to assist in providing support to the work and meetings in the framework of PSCo.

13. Article 3 of the Protocol on PSCo explicitly refers to “criteria to be established, inter alia, on the basis of Article 2” (regarding commitments) and states that the European Defence Agency will have to contribute to assessing contributions by Member States made in accordance with those (additional) criteria.

It would be important if institutional flexibility would make it possible to intensify the degree of involvement and the concrete output of Defence Ministers. Since PSCo will have to tackle the problem of the structural weaknesses of European defence, including the levels of defence budgets, it would be equally important if Heads of State and Government got a larger slice of the action in shaping relevant decisions of a particular interest. Ideally, a worthy objective would be to ensure a permanent political drive or impetus from the European Council “in PSCo Plus format”.

Definition of the criteria

Membership criteria are quite loosely defined in Article 1 of Protocol No. 10 as general objectives to which aspiring Member States subscribe. The article states that PSCo is open to each Member State undertaking, from the date of entry of the Treaty, to:

(a) proceed more intensively to develop its defence capacities through the development of its national contributions and participation, where appropriate, in multinational forces, in the main European equipment programmes, and in the activity of the Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency)

(b) have the capacity to supply, by 2010 at the latest, either at national level or as a component of multinational force groups, targeted combat units for the missions planned, structured at a tactical level as a battle group, with support elements including transport and logistics, capable of carrying out the tasks referred to in Article 28 B of the Treaty on European Union, within a period of 5 to 30 days, in particular in response to requests from the United Nations Organisation, and which can be sustained for an initial period of 30 days and be extended up to at least 120 days.

Here again, it is anyone’s guess whether those objectives are complementary (and/and: making them more demanding and thus participation more exclusive), or alternative (or/or: in which case the threshold is lowered and PSCo becomes all-inclusive at the expense of its effectiveness). Yet, interpretation is crucial if we want PSCo to succeed. Having all Member States in, from the outset, means inducing the present flawed methodology of ESDP, the sole difference being the possibility to expel laggards. However, defining collectively and deciding by unanimity the “binding” commitments is simply a recipe for their dilution and for a considerable trimming of ambition. This risk will be further compounded if the entry criteria mentioned in Art. 1 are also interpreted in an easy-going fashion.

Nevertheless, a happy middle needs to be struck between an interpretation that is lax and one that is too much cast in iron. More specifically, a “complementary” reading of the criteria, while narrowing the possibilities for admission and elevating the scale of ambition, would bring about striking consequences that would be politically hard to stomach. By way of example, Belgium and Greece roughly meet the criteria mentioned under point (a), yet the UK, whose exclusion from PSCo would be hardly conceivable, does not develop its capabilities through participation in the activities of the European Defence Agency. The criteria mentioned under (b) also seem to exclude, at the present time, several countries which do not and probably will not have the capability to supply by 2010 targeted combat units for Battlegroups. While all Member States presently can contribute to the Battlegroups, not all can deliver targeted combat units. Indeed, some smaller states have so far provided logistics (or “niche” capabilities) but no combat units (Baltic States, Cyprus and Luxemburg).

It should be pointed out that, while PSCo is rightfully focused on capability targets, the Lisbon Treaty makes no mention, among the criteria for participation, of contributions to EU missions and operations, which undeniably constitute a reliable indicator of zeal and concrete engagement in the ESDP project. However, Member States that already take part in UN peacekeeping missions and/or NATO operations may want to use their overall contribution to international crisis management as the proper yardstick in this case.

How to reach the objectives

Article 2 of Protocol No. 10 indicates ways to achieve the objectives set out in Article 1. Here again, the text remains vague and leaves a lot of margin for interpretation. More specifically, Member States will undertake to:

(a) cooperate, as from the entry into force of the Treaty of Lisbon, with a view to achieving approved objectives concerning the level of investment expenditure on defence equipment, and regularly review these objectives, in the light of the security environment and of the Union’s international responsibilities;

This suggests that participating States see eye to eye on *the desired level of investment expenditure on defence equipment*. As the next step, they take the pledge to achieve the objective set within a given period of time. For Europe’s military transformation to succeed, replenishing capabilities is of critical importance. As we shall see later, this does not necessarily mean an all-out switch to high-tech equipment, but it certainly requires more deployable capabilities and an increase in relevant investment.

European countries seem at least to be alive to the problem. NATO has set quantitative targets in the framework of “defence planning”. Within the European Defence Agency, participating Member States recently accepted to discuss non-binding collective benchmarks regarding expenditure on equipment procurement and defence R&T, including collaborative expenditure programmes. In response, the EDA has proposed the following benchmarks:

- 20 % of total expenditures for equipment acquisition (including R&D);
- 30-40 % of equipment acquisitions in joint European programmes;
- 1.5-2% of defence budget for R&T of which;
- 15-25% in European cooperation programmes.

These discussions have proven, at least for the time being, sensitive. The mundane reality dictates that an overall increase of the defence budget of Member States is presently not in the books. Therefore, increasing the sub-category “investments” of a defence budget will automatically lead to a decrease in another area; pursuing a target does not affect only a single sphere of activity, as its impact on the structure of a defence budget cuts across the board. These harsh conclusions explain why Member States did not accept, at this stage, to go further than collective benchmarking which “can be used for national target-setting on a national basis and without timelines” (conclusions of the External Relations Council of November 2007).

A drastic overhaul of Europe’s military means will require nudging budgets away from personnel expenditure and moving them closer towards investments in military equipment and financing of operations. The burden of military personnel expenditures on Europe’s defence budgets is excessive. NATO has set a maximum corresponding target of 50 % of the total defence budget: most of the European Allies exceed it. Clearly, there is no “one size fits all” solution and the Agency has to deal with 26 Member States. It has, therefore, suggested to work on the basis of a common target while inviting the Member States to contribute to its achievement by fixing a national target of their own (as in the framework of the Lisbon Agenda, or like translating the Kyoto objectives into national programmes). If PSCo is to succeed, however, it will require a switch from this voluntary bottom-up approach to a more binding process whereby Member States commit to realise a national target within a set timeframe. Later on, should the Agency establish some authority within PSCo, one might consider a further step away from the bottom-up approach by giving the Agency a more proactive role in scrutinising and advising Member States on defining and implementing the national targets, albeit in an interactive and consultative process.

(b) bring their defence apparatus into line with each other as far as possible, particularly by harmonising the identification of their military needs, by pooling and, where appropriate, specialising their defence means and capabilities, and by encouraging cooperation in the fields of training and logistics;

The drafting of this specific point is slightly odd: what does bringing “their defence apparatus into line with each other” exactly mean? Different processes are suggested in order to meet the goal, such as “harmonising the identification of their military needs”, “pooling”, “specialisation” and “cooperation in the fields of training and logistics”, but there is no mention of a clear end-state. Yet, the whole debate on specialisation and pooling suggests that these can only be successfully promoted through full-fledged integration. Otherwise, no State would ever be ready to relinquish a capability and rely for it on another partner if mutual support and guaranteed access are not politically or even legally cast in stone. In other words, integrating capabilities automatically puts the question of integrated decision-making on their engagement and, indeed, integrated command structures. Presently, clusters of countries have engaged in such a process (Eurocorps, EATC etc.) and, at the outset, could form building blocks within PSCo. The hope is that PSCo could help generate, out of nowhere, new forms of specialisation and clusters of pooling by instilling a different mentality and set of values, including the development of bilateral cooperation between Member States that will be conducive to a fruitful partnership in this particular field.

In a way, an obvious connection can be drawn with the “Battlegroups” concept, which provides an interesting pattern on how military cooperation has developed, within ESDP, among the various partners. The concept feeds, by definition, the emergence of clusters. Geographic proximity and privileged political relations have been the two most determining factors leading to an agreement to set up a “Battlegroup” (even if, in some cases, there had previously been no history of military cooperation among the Member States concerned): Nordic countries associating Baltic States; Germany with some of its eastern neighbours; Italy with Hungary and Slovenia; Greece with Cyprus, Bulgaria and Romania; the five members of Eurocorps; four Mediterranean countries (Italy, Portugal, Spain and Greece). Yet, those battlegroups are up and running only for the yearly cycle of the rotation process (6 months training followed by 6 months stand-by), at the end of which the investments made and the efforts to harmonise, work and train together may go wasted. Logically, when States invest considerable military and financial capital to work together in a battlegroup format, they should not only be able to naturally resume the effort at a later stage when the same battlegroup reappears in the cycle, but also be interested in being partners on broader reaches of military activity. However, at

present there is no stimulus that would encourage those Member States to pursue their joint efforts and synergies further.

It is striking how little thought has been given to turning military cooperation through the battlegroups into a common effort for the long haul among natural partners. Granted, battlegroups cannot be on stand-by on a permanent basis. They could, however, engender permanently integrated multinational units of a higher force level and trigger pooling of resources and common acquisitions. This could mean upgrading battlegroups to the level of brigades or divisions, from which a battlegroup-sized force could be deduced for participation in the rotation cycle. PSCo could use the existing cooperation on battlegroups as a stepping stone for further pooling, specialisation and cooperation in the fields of training and logistics. In so doing, PSCo would weave the battlegroups into the fabric of a structural capability development process and bank on their considerable – but so far idle – potential.

Serious thought should also be given to applying the concepts of “bringing into line” the defence apparatus and “pooling” military means and capabilities to planning and command structures. Army headquarters abound in Europe, to the point where questions may be raised about their redundancy. PSCo could gradually reduce this surplus of national structures and lift the lid for staff and budgets by promoting multinational planning and command headquarters. As CSDP structures and capabilities develop, it only stands to reason to plug those headquarters into a common structure at the European level (strengthening the Civil-Military Cell and making the EU’s Operations Centre permanent).

Even though their defence perspectives differ in some ways, Belgium and Greece have been at the forefront of several efforts aiming at defence integration. Belgium has an integrated maritime command with the Netherlands, and is preparing for an integrated command of strategic air transport through the future EATC (European Air Transport Command). It participates in the training programme for fighter pilots in France (Castaux), as well in multinational forces with an integrated command structure (Eurocorps). Greece has set up the Athens Multinational Strategic Sealift Coordination Centre, which has been transformed recently into a multi-modal coordination centre. Greece and Belgium take part in the “Helios 2” programme and, with four other partners, participate in the MUSIS cooperation project focusing on space observation, which is key in the field of intelligence. Both our countries would like to see an increase in defence cooperation and integration in the fields of education and training, logistics and medical support, as well as in space-based capabilities. As mentioned earlier, they have from the outset backed the EDA and the development of its activities in order to further strengthen European capabilities.

(c) take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces, in particular by identifying common objectives regarding the commitment of forces, including possibly reviewing their national decision-making procedures;

Such common objectives would be in step with the relatively loose engagements already undertaken within NATO in the framework of “Defence Review” through specific “Force Goals”. PSCo should be a vehicle for promoting the fullest possible commonality of military concepts and capability development objectives with NATO (as far as levels of ambition and needs are similar). Indeed, PSCo would prove its added value and greatly increase its creditworthiness if it could combine the strengthening of European capabilities with improved cooperation between the Union and NATO. NATO has underpinned the so called “usability targets” with the following quantitative objectives:

- “deployability”: 40% of Land Forces (Belgium: 41.7% – Greece 46,7%);
- “sustainability”: 8 % of Land Forces (Belgium: 7.5% – Greece 7,4%).

The EU may also consider increasing the level of those criteria, as is presently being discussed, and focus more on the qualitative aspects of deployability, which have so far received less attention. The EU would add other criteria as well, which would further support the transformation objectives already defined within NATO, while taking into account more specific goals for ESDP. The envisaged measures will cut across the board of human resources management and personnel structures, training programmes, harmonisation of concepts and doctrines, interoperability of equipment, funding and procurement practices, logistical support etc. The question arises as to how new measures will be decided and who will assess their implementation. The language here is again rather non-committal and offers no clarity on who will supervise, scrutinise and assess the ongoing efforts. Also, there is no indication of a roadmap or specific time line during which the agreed measures will have to be implemented.

Point (c) also suggests that Member States may possibly review their national decision-making procedures. Presumably, what is meant here is that countries should ensure fast-track decision-making for the deployment of troops in expeditionary missions. This could be particularly difficult for those countries whose relevant parliamentary procedure is lengthier and more stringent.

(d) work together to ensure that they take the necessary measures to make good, including through multinational approaches, and without prejudice to undertakings in this regard within the North Atlantic Treaty Organisation, the short-falls perceived in the framework of the ‘Capability Development Mechanism’;

The shortfalls mentioned relate mainly to strategic transport, intelligence gathering (special forces, air-and-space capabilities), helicopters, force protection, combat support (medical, refuelling and air-refuelling, air-vehicle protection) and information superiority. The way in which participating Member States will have to remedy those shortfalls is indicated in the next objective under (e).

(e) take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency.

The Lisbon Treaty introduces a special legal basis for the European Defence Agency, which currently operates under a CFSP Joint Action. Theoretically, the Treaty does not alter in substance the Agency's current mandate. The only novel provision (art. 45 para 2) is that the Council, deciding by QMV, will define the Agency's statute, seat and operational rules, adding that this "*decision should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects (...)*". This could be a hint that a future revision of the *modus operandi* of the Agency will have to take account of the new responsibilities that the Agency will assume in implementing PSCo and of the ambitions of those Member States aspiring to adhere to PSCo.

This is all the more important since the Agency's future role and potential contribution will indeed need an overhaul in the light of the more dynamic context offered by PSCo. To be successful, PSCo must have a robust centre of gravity, with authority, right of initiative and important resources. Given that the EDA is the prime candidate to provide that centre of gravity, general Treaty provisions on the Agency will have to be linked to PSCo and the specific provisions therein concerning the role of the Agency. And if indeed the Agency is to play an important role in the implementation of PSCo, Member States participating in PSCo will first have to agree, amongst themselves, on a new design for the Agency, before the Council embarks on negotiating its revised *modus operandi* when implementing art. 45 para 2 of the Treaty. An unwritten admission criterion for Member States willing to participate in PSCo should then be to agree on the most flexible possible working methods and on the provision of the necessary financial and human resources.

Another interesting provision is contained in art. 45 para 1 e, which states that the Agency shall "contribute to identifying and, if necessary, implementing any useful measure (...) improving the effectiveness of military expenditure". This seems to give the Agency a broader mandate than its current one, allowing it to tackle the core problem of capability structures and allocation of defence budgets. So far, the Agency has only addressed with utmost caution the sensitive issue

of defence budgets, by undertaking comparative studies and proposing “collective benchmarking”. The new provisions of the Treaty, combined with its specific role devised in implementing PSCo, could give the Agency real leverage in forcing participating Member States to bring about substantial improvements in their budgets.

The provisions on PSCo further specify that “the European Defence Agency shall contribute to the regular assessment of participating Member States’ contributions with regard to capabilities” (in particular contributions made in accordance with the criteria to be established, *inter alia*, on the basis of Article 2) and “shall report thereon at least once a year”. The assessment may serve as a basis for Council recommendations and decisions adopted in accordance with Article 46 E of the TEU”.

Interestingly, the article refers to “criteria to be established”, *inter alia*, on the basis of Article 2”. This means that the provisions of the Protocol have to be translated into concrete objectives, presumably the Agency will be involved in this fine-tuning.

Additionally, the Agency must assess the participants’ contributions. That assessment could serve as a basis for a decision to suspend a participating Member State which does not meet its commitments. This specific role would not only bring about new responsibilities for the Agency but also a more constraining relationship between the participating States and the Agency than is presently the case. Indeed, the text hints at an obligation to inform and a commitment to full transparency *vis-à-vis* the Agency whereas, under the present setting, participating States decide on an *ad hoc* basis if and when they convey information to the Agency. They also are the ones that decide whether to authorise the Agency to make public those data within the Board of Directors or even to the public and the media. So far, Member States have not accepted, in practice, that the Agency be able to scrutinise, assess and evaluate this information against capability commitments criteria agreed through ECAP or on the basis of the Capability Development Mechanism. Within the framework of PSCo, this could now become part of the Agency’s core business.

Thus, the Agency is cast in a pivotal role in the implementation of PSCo. These provisions also seem to suggest a move away from the voluntary and bottom-up methodology presently established within the Agency. The direct corollary could be a widening of possibilities for enhanced EDA contribution, such as:

- the present voluntary «Code of Conduct» in the field of open tendering of defence contracts to all European industries (publication on the Agency «Bulletin Board») should be made binding;

- once approved, the financing of common programmes should be based on GNP-related proportionality;
- common funds (R&D, procurement) should be established, with each participating Member State contributing to it in proportion to its GNP;
- the Agency should be allowed, without hindrances, to scrutinise, assess and evaluate the capability commitments made by Member States;
- transparency and transfer of information on level, structures and allocation of budgets and programmes by the participating Member States to the Agency should be made mandatory;
- the EDA should be allowed to present these data to all participating Member States within the Board of the Agency;
- the EDA should make recommendations on structures and allocation of budgets as well as on ongoing acquisition programmes.

The EDA could perform another important task: attempt to prevent, or at least reduce, the negative effects of a two-tier Europe in capability development, possibly as a result of PSCo. There is a danger that those countries which, for whatever reason, will not participate in the PSCo, do not feel compelled to develop their own capabilities in a way that would be interoperable with that of PSCo members. This could create practical operational problems when they decide to participate in an ESDP mission. The Agency could play the role of go-between and coordinator, so that all EU Member States be guided by the standards set by PSCo. From a psychological point of view, it would also make all partners somehow involved in PSCo's dealings and could encourage non-participants to make the effort needed to join.

The precedent of Europe's monetary integration

The preceding chapters have helped identify several frailties in the PSCo structure as foreseen in the Lisbon Treaty: a blurry institutional set-up, the absence of "a centre de gravité" that would be instrumental in charting and navigating the right path, the lack of clarity as to the criteria and objectives to which aspiring members should commit, decision-making by unanimity within PSCo, a dearth of binding rules and constraints on the participating States. Since one cannot draw inspiration from the Enhanced Cooperation option (which has never gotten off the drawing-board stage and, in any case, would seem to lack flexibility) decision-makers may draw, when establishing PSCo, a few lessons from the development of European monetary integration.¹⁴

14. William Wallace & Helen Wallace, *Policy Making in the European Union*. Oxford, Oxford University Press, 2000, pp. 149-178.

This is not to say that the integration model of the Economic and Monetary Union (EMU) can simply be “copy-pasted” and applied on defence issues. There was a common vision on the end-state of EMU, which is lacking when it comes to European defence. This lack of vision will remain a fundamental challenge for PSCo if it ends up displaying a roadmap without spelling out the end of the road. This point will be further elaborated in the final chapter.

On the other hand, one cannot remain insensible or oblivious to the success of the EMU method either. On the contrary, hindsight on EMU may indeed be of assistance in crafting PSCo in the most effective way possible. In particular, the evolutive process of EMU, backed up by a roadmap with strong benchmarks and a “centre of gravity” that permanently checks the performance of aspiring Member States, seems of particular relevance when devising PSCo. Could we get away with the methodology while lacking a common vision on the end-state?

Monetary integration had been mentioned as a strategic objective already at the Summit of The Hague (December 1969) and with a view to future enlargements. At the time, however, leaders did not peel more than a layer or two off the surface, which made it hard to clearly define the goal and to fix the means and modalities that would help achieve it. The ensuing uncertainty led, under market pressure, to a de facto alignment of monetary policies on the Deutsch Mark (the so-called “Snake”, 1974).

The “Snake” could only provide a temporary solution. In 1979, on the initiative of Chancellor Schmidt, who summoned up the support of French President Valéry d’Estaing and the President of the European Commission, Roy Jenkins, the European Monetary System (EMS) was established. London refused to join, as it rejected both the economic doctrine and the political goals of the project. The EMS was entirely designed on the model of German monetary policy, serving first and foremost as an anti-inflationary policy. From 1979 till 1992, not least thanks to the definition of a mechanism that worked as an important stabilising factor for exchange rates, the EMS led to financial stability and to the convergence of prices and interest rates. It also helped dissuade governments from succumbing to the temptation of pursuing hardline national monetary policies mindless of the wider European context.

The creation of the Single Market and, to a larger degree, German reunification, hastened the next phase: negotiations for the Economic and Monetary Union (EMU). Again, the project was triggered by a Franco-German initiative. The relevant “Delors report” was the final outcome of a common study of the Governors of the Central Banks (“the Committee for the Study of Economic and

Monetary Union”). It recommended binding rules (regarding the level and financing of national fiscal deficits) and decision-making by qualified majority.

The Maastricht Treaty, which formally established EMU, provided for supervision, allowing the Commission to make recommendations with a view to formulating annual guidelines from Ecofin regarding the economic policies of Member States. As admission to the final stage of the EMU depended on implementation of the convergence criteria, fully detailed in the Maastricht Treaty, the Commission became the watchdog of the Member States’ performance in fulfilling those criteria. It presented reports to Ecofin, allowing the Council to rule by qualified majority on the policies conducted by a Member State. The European Council decided on the admission of new members to the EMU and the EMI (European Monetary Institute). EMU was established in three stages, the last one beginning either on 1 January 1997 if a simple majority of Members satisfied the conditions, or else on 1 January 1999 at the latest. The European Council’s decisions were taken, in both cases, by QMV.

Preparations for the final stage of EMU proceeded smoothly, even though the macroeconomic and political context of the times did not lend much of a helping hand. On the eve of the final stage (1997), a “Growth and Stability Pact” was agreed, which strengthened binding measures in the case of excessive fiscal deficits. In spite of initial negative reactions by public opinion and national parliaments, due to the painful measures that were often needed to fulfil the convergence criteria, the project was, when the Euro was finally introduced, in higher public favour.

In light of the above, monetary integration can be held up as an example that carries significant weight on several scores:

- Even though, throughout the process, monetary integration was often resisted by Ministers of Finance, Governors of Central Banks, as well as some Member States, the driving force for moving the engine of monetary integration forward was mainly the political ideal of closer integration of a few European leaders.
- The definition of the objectives and the precise roadmap of monetary integration was agreed at the highest level (Heads of State and Government). The EMU admission criteria were defined in great detail before the start of the first stage (Maastricht Treaty).
- The European Commission held centre stage during the conceptual phase of the EMU (though it would later play a somewhat lesser role during the negotiation and implementation processes).

- States which did not participate in the EMS were not able to impose their views during the negotiations on EMU, thus giving free rein to those aspiring to closer integration.

Lessons learned for Permanent Structured Cooperation

European monetary integration teaches us that if there is political will to interpret the texts in a flexible manner and firm steering at the highest political level, PSCo could be turned into an improved methodology as an intermediary stage to further integration between partners that are more enthused about the project. A positive side-effect of a text in which ambiguities abound, is that it provides room for manoeuvre and creativity to play around obscure wording. Many experts are not convinced that the PSCo provisions in the Lisbon Treaty could achieve much, precisely because they read the text as a point of arrival rather than a new point of departure. Should remedies be needed for the potential weaknesses of PSCo, the preceding elements could be built upon in the following way:

- Invite the High Representative (on the basis of Art 46.2: “consultation of the HR before decisions by Qualified Majority”) to make proposals on fine-tuning admission criteria and objectives that should form the basis for a decision by QMV to establish PSCo (in order to avoid ultimately paralysis and dilution by a unanimity vote within PSCo itself).
- Ensure strong and binding commitments, by defining quantitative and qualitative criteria to be fulfilled in the framework of a precise roadmap with a clear end-date (e.g. to be implemented within 5 years after entry into force of the Lisbon Treaty).
- Make the EDA the institutional centre of gravity for the implementation of PSCo (the Agency should be to PSCo what the European Commission has been in implementing the strategy towards a Single Market). Give the Agency powers of initiative in assessing the fulfilment of participating Member States commitments and in recommending, when need be, possible suspensions.
- Consequently include, in the PSCo admission criteria, an agreement on a robust mandate and adequate resources for the European Defence Agency (to be reached in the framework of negotiations on the implementation of art. 45 para 2 of the Treaty and the relevant decision to be adopted by the Council).

- In doing so, make clear that the Agency will also address the level, structure and allocations of defence budgets in line with agreed parameters. Accept to work not on yearly but on five-year defence budget cycles, with fixed percentages allocated to equipment and operations.¹⁵
- Ensure strong high-level political impetus and permanent follow-up from Heads of State and Government (European Council, in PSCo format) as a means to overcome structural resistance on the home front and to promote the necessary adjustments in the defence budgets. One might also think in terms of a special informal European Council meeting to kick off PSCo, similar to the Tampere Summit (second semester 1999) which was entirely devoted to the implications of the Amsterdam Treaty in the field of Justice and Home Affairs.
- Ensure, to the extent possible, leadership by the High Representative acting also in his capacity as Head of the European Defence Agency. The High Representative should chair important PSCo meetings and submit, as Head of the Agency, regular reports to the European Council (again in PSCo format).
- Consider increasing the number of meetings of Defence Ministers in PSCo format, who would be mandated to follow the implementation of a clear roadmap for the implementation of PSCo objectives.
- Agree that suspension should not be the exclusive, but rather the biggest stick and, in this spirit, agree on a process that will only gradually lead to a participating Member State being suspended from PSCo.
- Finally, review at a later stage possible improvements of the PSCo 's decision-making process and, once the end-dates are reached, consider a common vision on the end-state.

15. Flournoy & Smith, *op. cit.*

3. European Defence beyond the Lisbon Treaty

New structures, institutions, functions and working methods bring with them new opportunities and breathe new life into a system – even an intricate one like the EU.

In the new Treaty lie potential benefits and problems, which we have attempted to analyse at some length. Notwithstanding the inherent difficulties that the implementation of the Treaty may beget, the opportunities that it offers could, in any case, be short-lived or count for very little if European leaders and public opinion do not throw their weight behind its success.

Under certain conditions, the CFSP and the ESDP could profit handsomely from the new institutional machinery. However, procedural improvements can only go that far if the political objectives do not command majority support. The Union will be able to derive the full political and strategic benefits only if there is a clear, shared view of the desired end-state.

Three main issues will be the determining actors in defining ESDP's success beyond the Lisbon Treaty: (1) winning the hearts and minds of the European people; (2) promoting a smooth relationship with NATO; (3) pursuing the building of crisis management capabilities in a manner that is sensible and unburdened by stereotype and preconception, so that it may bear good fruit.

The Lisbon Treaty has not entered yet into force – indeed, it has not even been ratified by all Member States. It is by definition impossible to pass judgment on its practical effects. Trying, already at this stage, to peer a little further into the future could be dismissed as a futile theoretical exercise. Nevertheless, in the words of the journalist Bill Moyer, “ideals are great arrows, but there has to be a bow; and politics is the bow of idealism”.¹⁶ Sketching out a possible next stage beyond PSCo could be an incentive by itself to create the necessary premises so that PSCo can eventually represent a true achievement – again, so long as there is the necessary political and public backing.

16. *Time Magazine*, 29 October 1965.

3.1. Convergence of minds – political will

No matter how much the institutions and the procedures are revamped, the ESDP project, in both its operational and capability development dimensions, will not make palpable headway if it is not sustained by a strong political will. Drumming up public support for European defence presupposes getting a coherent strategic framework on the nature of the threats and the objectives of Europe's crisis management infrastructure, within which ESDP plans to operate in the future. As we have seen, the European Security Strategy has shown worth, but has not managed so far to do the trick. Member States will need to articulate a clear and coherent European strategic interest, with which European public opinion would be able to identify, and to set realistic and achievable standards. Otherwise, countries will not be willing to become inter-dependent with other nations whose commitment cannot be taken for granted.

The NATO experience in Afghanistan carries important lessons in this respect. The Alliance has not been successful in adequately explaining to the public the purpose of its mission in Afghanistan, or the wider risks that neglect and inactivity would have entailed. Against this backdrop of tenuous public support and political will, and even though all NATO countries had unanimously agreed to taking on the challenge, existing capabilities cannot be deployed.

In this vein, the ESDP mission in Kosovo has provided a most interesting case. EU Member States haggled for months about the legal niceties of Kosovo's declaration of independence, eventually agreeing to disagree (according to the GAERC conclusions of 18 February 2008, "The Council notes that Member States will decide, in accordance with national practice and international law, on their relations with Kosovo"). In terms of CFSP, this was undeniably a poor showing. When it came to ESDP, the legal basis for EULEX Kosovo was equally blurry. Nevertheless, no Member State objected to the adoption of the decisions necessary for the launching of the operation. All partners seemed to be clearly aware of the responsibility, which rests upon the EU, to make a major contribution to peace and stability in its own backyard. Thus, at a time when CFSP basically failed, the ESDP provided the glue and the political motivation that held the Union together.

As we have seen, lessons learnt from international crisis management efforts in the last decade, have proved useful in other ways. They have pushed into the spotlight the clear limitations of the usefulness of military power in dealing with the global security environment and in developing security policy beyond territorial defence and the protection of vital national interests.

Most contemporary crises do not represent a direct threat against the territorial integrity or the survival of European States. The post-Cold War risks and threats, which can become pressing security issues, have been repeated ad nauseam: weapons proliferation, rogue States, collapsing and failed States, demographic changes, poverty and poor governance, global pandemics, international terrorism, transnational organized crime and trafficking of all sorts, climate change and energy shortages. They are global, unpredictable, dispersed but at the same time inter-linked. The right medicine to administer is not always easy to detect – especially when most of the threats stem from non-State actors, some of whom do not hold international law in high esteem.

By way of example, Europe will likely be confronted with the problem of significant movement of people over the next 30 to 40 years, not least owing to climate change. This could easily turn into a major security issue, for which military force can not provide the answer. The same goes for energy security, since there are other strands in the problem than just the protection of oil-related infrastructure.

This seems to indicate that, while the significance of traditional armoury cannot be understated, there exists an equally important need to fund the development of a more diverse tool-box which will be better-equipped to address current and future threats.

This approach lends a hand to efforts aiming at further developing a common European view on crisis management. In fact, one could argue that ESDP is already a reflection of the values that underpin the CFSP and, in a more general and philosophical mood, of the foundation stones of European societies. Whether by persuasion or because they have had their security taken care of on the cheap for many decades, European countries are not likely to become more militaristic in the short to medium term. This does not mean that they lack a true military culture. It simply boils down to a different conception of what force and security are about. Humanitarian assistance, development aid, separating the conflicting forces, keeping the peace, helping a failed country to get back on its feet, holding out the carrot of a closer relationship with the EU – all these things, while not best served by military force, are important for the strengthening of peace and security. The Lisbon Treaty fully captures the essential elements of this style and policy.

In a way, the EU is already a step ahead of NATO. In spite of its shortcomings and shortfalls, no other international organization has so many of the tools, both military and civilian, that are essential to modern peacekeeping and peace-building. It is much better equipped to deal with the new sources of insecurity

stemming from economic, environmental and demographic factors. The Union is also lucky not to have to face some of the Alliance's existential problems. Of course there are differences of interests and vision among its Member States. But ESDP is not faced with any acute dilemmas, since it is only implemented "out of area". It is not in a quandary about how to pursue in parallel the goals of intervention, territorial defence and deterrence, or about how to promote concurrently the development of all the relevant capabilities.

At the same time, the preceding lines must not provide a pretext for a European military culture totally averse to risk and prone to zero or cosmetic contributions by Member States. Nor do they mean that it is desirable, or indeed safe in today's world, for European countries not to develop noteworthy military capacity for higher-intensity and larger-scale military operations. The point of departure is that the debate over "development versus security" is an old one, and while the acquisition of high-tech raw military hardware has a pleasing finality in it, the EU should not compromise on what it does best. This said, serious counter-arguments would have to be found to give entirely the lie to those who profess that "all the development aid in the world, all the governance support and police training in the world does no good if you can't first provide security for the people you aspire to help".¹⁷

3.2. Cooperation with the US and NATO

"Building a strong NATO Alliance also requires a strong European defence capacity. So at this summit, I will encourage our European partners to increase their defence investments to support both NATO and EU operations."

This important statement was made by President Bush on the occasion of the recent NATO Summit in Bucharest. It was captured also in the Summit Final Declaration and gave confirmation, at the highest level, of a fresh US approach to ESDP which had been outlined in a speech by Permanent Representative to NATO, Ambassador Victoria Nuland, in Paris on 22 February 2008. This included quotes such as: "with 15 missions now on three continents, the EU has proven its ability to deliver a whole which is greater than the sum of its parts" – "Europe needs, the United States needs, NATO needs, the democratic world needs a stronger, more capable European defence capacity" – "an ESDP with only soft power is not enough" – "because President Sarkozy is right: NATO cannot be everywhere" – "Europe needs a place where it can act independently,

17. Speech by US Ambassador Victoria Nuland in Paris, 22 February 2008 available at <http://www.america.gov/st/texttrans-english/2008/February/20080222183349eafas0.5647394.html>.

and we need a Europe that is able and willing to do so in defence of our common interests and values”.

These words are taken purposefully out of context and do not reflect the full picture of Ambassador Nuland’s speech. The fact remains, however, that they would probably not have been pronounced only a year ago. But for those who have been closely following ESDP-related developments, the US did not start beating a different drum all of a sudden. In recent years, Brussels has increasingly witnessed a flurry of visits by US officials, covering the full spectrum of CFSP issues including crisis management. Washington had long ago indicated that it was willing to contribute to the European Mission in Kosovo – and, indeed, it is about to participate for the first time in an ESDP venture. Moreover, after a long period of circumspection and negotiations that lasted almost three years, the EU and the US recently agreed, on 18 March 2008, a “Work Plan for Technical Dialogue and Increased Cooperation in Crisis Management and Conflict Prevention”.¹⁸

All this points to an acknowledgement, on Washington’s part, that a significant amount of useful business could also be conducted through direct contacts with the EU, rather than through the cumbersome and, most often, unproductive and sterilized institutionalized meetings foreseen in official texts.

The reappraisal of Washington’s position on ESDP should be seen in conjunction with the significant shift in French thinking concerning NATO. If statements are anything to go by, the problem of “perception”, which has always cast a shadow on ESDP’s development, looks on its way to being cut down to size.

Based on the fundamental premise that crucial common interests and values will continue to bind together the two sides of the Atlantic for the foreseeable future, it has become by now abundantly clear that European ambitions were never pursued simply on the basis of an unrefined anti-American or anti-NATO agenda. And Washington has gradually come to recognize ESDP as a real opportunity, rather than as a threat. This viewpoint will be strengthened if the ESDP provides further proof that it can be credible and consistent in crisis management. It is logical, under those circumstances, that the US seems readier to accept that the EU should develop the structures and capabilities that would allow it to be even more effective.

After all, there are missions that the EU is willing to undertake through ESDP for which, in principle, the US would not show any particular appetite. These

18. *Idem.*

include, on the one hand, many operations for which the EU is at an advantage because of its ability to mobilize the non-military components of an intervention and, on the other, conflict resolution in Europe's immediate neighborhood.

The case is often made that the conduct of ESDP operations could undermine the success of NATO operations, because there is only one set of forces. This view does not hold water. Those who advance it could check whether Washington is considering the presence of considerable NATO forces in Kosovo for the long haul, and then argue that the EU should not take over. They should also explain, to the outside world, why the EU operation in Chad and the Central African Republic, in support of efforts to deal with the Darfur crisis, is unimportant and consequently detrimental to NATO. They forget that, when Alliance Members participate in a "coalition of the willing" operation, that logically also takes away from NATO expeditionary capacity. They never raised any objection when European forces were deployed in Lebanon to reinforce UNIFIL, following a decision from the EU Council. Incidentally, the same country that filled most of the gaps for the EUFOR Chad / CAR is the one that, recently in Bucharest, contributed significantly to the strengthening of the Alliance's force in Afghanistan (France).

Belgium and Greece have been long-standing members of and feel extremely comfortable with both NATO and the EU. They do not delve in false dilemmas and irrevocable choices to be made between the two – in today's globalized world, in which problems, challenges and threats have proliferated, it is never wise to put all of one's eggs in the same basket. They support the need to foster strong and effective links between the two organizations, while respecting the different political identity and institutional framework of each. It is essential to avoid unnecessary duplication and minimize divergences based on theology and doctrine.

The relationship cannot be measured exclusively by the yardstick of efficiency. There is a reason why both organizations were created and developed after the Second World War, and European electorates seem to continue to agree that their nature is different. The concept of unnecessary duplication implies that there may be instances of "necessary duplication" in cases where, for political expediency, both organizations will need to be visible. It is important, however, to pursue the maximum possible coordination and to avoid at all cost a disjointed approach in theatres where both organizations are engaged. The EU and NATO have an equally crucial duty to contribute to the improvement of the collective effort of the international community in delivering comprehensive responses to contemporary security issues.

NATO is undeniably the most successful military alliance ever and hopefully will remain so. Nevertheless, another important consideration is that the Alliance is undergoing a transitional period, the outcome of which cannot be defined with precision at this time. NATO is no longer the same alliance that was formed around the concept of collective self-defence against an overwhelming external threat. The concern is often expressed that the search for a new “raison d’être”, if unsuccessful, could undermine its cohesion, i.e. a purpose that can be shared by all its members. Under those circumstances, it makes absolute sense for the EU to develop some of its own security and defence capabilities and options.

Regular consultations, as well as coordination to the extent possible, should be the prime movers enabling the two organizations to maximize the effect of their joint or respective efforts in crisis management. Nonetheless, hard and fast rules on division of labour and an approach through which the EU is reduced to being NATO’s civilian crutches would simply be out of synch with and run counter to the new strategic and security environment of the 21st century.

The uplifting auguries in EU-NATO relations seem to create an atmosphere conducive to the development of ESDP liberated from worn-out commonplaces and preconceptions. This will prove very helpful in the search for the sort of narrative that will mobilize public support and political will for Europe’s crisis management efforts. It also offers a well-timed and propitious opportunity to combine this improved climate with the entry into force of the Lisbon Treaty (including its preparatory work). It will now be up to the EU to use the Treaty’s full potential to develop its capabilities, in order to prove to itself and to the US that it can become and be counted upon as an even more authoritative actor and credible partner in crisis management.

3.3. Development of capabilities

The issue of capabilities is not fresh paint. Even during the Cold War, Washington muttered grievances about the necessity of Europe being more able to defend itself. As global threats and crises see a sharp increase, so does the ground for complaints.

As has been mentioned, should reforms in the Lisbon Treaty help to improve military capability, that will be good for ESDP, but for NATO as well. This effort must be pursued both collectively and by each Member State on a national basis. It should take into account the fact that, since the national sovereignty and survival of European States are not directly under threat, the gauge of capabilities

can no longer be purely of a quantitative nature. Continuing on the basis of separate national efforts would be economically impermissible and operationally objectionable; it would seriously limit the scope and range of activities that the EU can conduct. The importance of pooling resources, spending more effectively, joint programmes, shared purchasing, more open and transparent markets has already been sufficiently underlined.

ESDP has proved that it can make a valuable contribution; its ambitions, tasks and activities are now well defined. Consequently, dogmatic inhibitions should be put aside to equip ESDP with the sort of structures that go beyond the ones already in place and will allow it to produce the desired results. Progress achieved in certain areas has been dispiritingly slow. While this was understandable against the backdrop of the philosophical debates surrounding ESDP's development in its early years, it does not square any longer with the realities of today. ESDP must be judged on grounds of pragmatism, not dogmatism. More rapid strides must be made on certain issues, which do not depend on the implementation of the Lisbon Treaty.

The EU is not in want of more structures and institutions than capabilities. But if all agree that its contributions are worth more than just small print, it is only sensible and legitimate to oversee them in an appropriate fashion. This refers in particular to strengthened central planning capabilities which are recognized, albeit *sotto voce* by some, as essential to the preparation and conduct of ESDP missions and operations.

Notwithstanding the solidarity clause in the Lisbon Treaty to which we referred earlier, the need to use ESDP assets and mechanisms in the fight against terrorism and to support civil protection and humanitarian aid (especially in the framework of the Union's disaster response capacity) has already been made abundantly clear. In both areas, the average EU citizen would never be taken aback in astonishment if he found out that, in 2008, the EU Member States are promoting more effective information gathering and intelligence sharing, developing efficient joint rapid response capabilities, and ensuring interoperability between military and civilian tools, all the while acting in accordance with the relevant national regulations. On the contrary, the European public opinion would support those efforts and would be disappointed if it knew how puny they have been to this day. One only hopes that the decision-makers and the national bureaucracies will not be jolted into action only by the next tsunami or terrorist attack.

Furthermore, a substantial fillip is very much needed for the European Security and Defence College. The College can truly make an important contribution to

familiarizing a large number of officers and decision-makers with ESDP procedures. It can also help instill a different, more crisis management-oriented, mentality to staff whose professional habits have been exclusively ingrained by national security considerations. As mentioned earlier, being an expert on defence issues does not make one an authority on EU institutions or even on ESDP. The College could go a long way towards dealing with this serious lacuna.

The current shortfalls, in particular those concerning strategic and in-theatre lift, intelligence and communication, even logistic support, are common to both the EU and NATO. Capabilities must be available and ready to be deployed when necessary to face across the board, in a comprehensive fashion, increasingly complex security challenges. The Union, through the EDA, must also develop a “smart” European defence technological and industrial base, taking into account the fact that the majority of ESDP operations and missions do not require the most advanced technological equipment. The latter can be desirable and necessary, but it is not an end in itself. Post-conflict reconstruction capabilities will stand in equally good stead.

Finally, on civilian capabilities, the shortfalls identified, notably of judges and prosecutors, police officers and border control personnel, will need to be adequately addressed. We may also face a situation in which some Member States work closely together in the field of military capabilities in the framework of PSCo, while others prefer to continue to focus on the civilian front. The right synergies and mechanisms will need to be worked out, first, in order to ensure interoperability of equipment between the military and the civilian components of a mission and, secondly, not to undermine the effectiveness of the EU’s comprehensive approach.

Ideally, the process of capability development must be all-inclusive, meaning that all nations should be ready to step up their level of commitment and shoulder their share of the burden, proportionally to their ability. Of course, tight constitutional arrangements and the domestic political, economic and social realities in many Member States significantly limit their room for maneuver. Nonetheless, if it becomes clear that participation in operations and in capability-building has become almost discretionary for some States, it is fair to give a freer rein to those who have the weight, the reach and the motivation to take the lead in breaking new ground. This is why, of all the innovations contained in the Lisbon Treaty, PSCo is the one with the largest potential to spark off significant developments in security and defence.

3.4. Towards Defence integration

PSCo's important potential as a recipe for improved military capabilities can only be brought to fruition if the conditions that we mentioned above are met. Yet, if this were the case, the next question will be: will the incentives and corrective measures for those who under-perform work? And if so, will the adopted remedies bring to a halt, in a sustainable way, the negative spiral of ineffective defence investments?

A first objective must be that PSCo be indeed permanent and structured. This, of course, would apply in the case of the implementation of ad hoc projects, when performances and remedies by definition will not be irreversible. In the case of pooling (e.g. common acquisition of A400M strategic transport airplanes integrated as one fleet under a single supranational command), the remedies seem durable and would logically generate economies of scale and free funds for other purposes.

In the case of quantitative and qualitative objectives affecting the budgets and forces, the case is less simple. The question of how durable the achievement of quantitative objectives regarding, for instance, budget allocation will be, depends on the adopted roadmap and timelines – which, as we have seen, are absent from the text. How can we indeed avoid that Member States, after they have managed to achieve positive figures, slip back into the red? How long do we have to keep the figures good?

In both cases, the search for the decisive incentive to elicit sufficient political will cannot be an easy proposition. As the answers regarding the carrots are unclear, we may shift our attention to the stick: non-participation or possible suspension in case of insufficient effort or results. But are both carrots and sticks sufficient to really engage Member States into painful measures to redress the situation?

We have seen that the parallel with monetary integration can only take us that far. The current juncture is auspicious to focusing on and redressing the fundamentals of European defence. Contrary to economics, though, defence issues do not have a direct, tangible bearing on the daily life of European citizens. In the field of economics, the cost of “non-Europe” affects stability and prosperity: it stands as a sufficient incentive (or deterrent) by itself. In the field of defence, the cost of “non-Europe” is a matter for debate that usually involves only academics and practitioners.

Redressing ineffective defence expenditures could require painful measures that would not be viewed as economically beneficial by the average citizen. This

explains why these measures are rarely taken. An authoritative European Defence Agency, one which makes recommendations, scrutinises efforts and “blames and shames”, could slightly reverse the situation. But criticism and warnings from the Agency are unlikely to cause sensation with European citizens – simply put, because strengthened military capabilities do not spell improvements in their daily lives. Thus, chances are that the promise of participation in or the threat of suspension from PSCo, as well as their wider political implications, could also be an abstract notion that will fail to deter or impress. Since both carrots and sticks may fail by themselves to provoke a dramatic change of pattern, this brings us back to the question of a convincing political narrative that could inspire a currently comfortable and basically anti-militaristic public of the benefits of defence reform through PSCo.

In the very best case, PSCo could play the role of the EMS as the anti-chamber of monetary integration: tentative coordination and convergence, for a given period of time, of some criteria in the field of military capabilities and defence budgets. In the worst case, however, PSCo comes to nothing (as did the “snake in the tunnel”) as a result of unfavourable social and economic conditions (weak economic growth, ageing populations, pressure on social budgets) and in the absence of stronger incentives flowing from a global political strategy laying out an inspiring end-state.

Currently, work can proceed through convergence and coordination. Making those efforts sustainable, irreversible, structured and permanent will however mean that they will have to be institutionalised. This would mean a qualitative leap aiming at defence integration that could cover the following indicative list:

- A permanently integrated budget for R&D, maintenance, acquisitions and operations. Initially, this budget would be fed by transfer of national funds to a pooled fund. At a later stage, funding could come from the EU budget.
- Bundling all the pooled capabilities under a single integrated military planning and command structure tied into common political decision-making.
- A “droit de regard” and right of initiative by a supranational authority and on Member States’ capabilities and budgets, counterbalanced by legislative overview by the European Parliament.
- Providing progressively a greater role for the supranational dimension, including on decision-making, in a way that still takes due account of Member States’ sensitivities in specific areas.

One can imagine that those countries that would be willing to take these steps would naturally come to coordinate their policies further, beyond the sphere of PSCo proper. The implications and ramifications of such a development would be much more far-reaching and PSCo’ attractiveness would be greatly enhanced,

because few politicians would want their country not to be able to influence a process carrying such considerable potential. This, in turn, would make compliance with PSCo's criteria and participation in it much more enticing for Member States. It would also increase the pain of being excluded or suspended.

Again, at a time when the Lisbon Treaty has not even entered into force, to agitate the question of the next institutional steps may indeed sound premature. Nonetheless, giving already a thought to what the "common security and defence policy" may look like in the future would strengthen PSCo's role as an "anti-chamber" for integration in the field of defence. In any case, the "CSDP" will not be built overnight. In the context of a less static analysis, the driving force for doing more together could come, in the meantime, by the European citizens themselves, should they increasingly become aware that global challenges demand integrated action, crisis management is both indispensable and beyond the scope of any individual Nation-State and keeping military means separate cannot be a long-term option.

4. Conclusion

ESDP has come a long way since 1999. It has increasingly allowed the EU to confirm its potential as the international organisation that can contribute most comprehensively to the strengthening of peace and security in certain situations. The demand for ESDP is on the rise and the trend seems firmly established at least for the short to medium term. In response, the EU will need adequate working methods, resources and capabilities.

Flexing military muscle to do peacekeeping is not an aim in itself. However, as credibility is built gradually, together with self-confidence, the EU can rightfully nurture the ambition to do even more and better. This requires that the right balance be struck between:

- national capitals and Brussels (the concept of “collective ownership”);
- civilian and military imperatives (the comprehensive approach);
- ESDP and other international actors.

The Lisbon Treaty contains a significant number of important innovations in the fields of CFSP and ESDP. As we have seen, those are institutional rather than related to decision-making. We maintain that those could potentially be of great consequence, provided however that the modalities of implementation are carefully thought over. The new post of HR/VP will need to be filled by a “Superman” or a “Bionic Woman”. Multiple-hatting will probably facilitate synergies but also absorb more energy in the search for internal compromise, at the expense of strategic thinking and outward-looking action. Staffs from the Commission, the Council and the Member States will have to be amalgamated in a hurry within the EEAS, but this presupposes that differing working methods and mentalities will be overcome. This may lead to a lack of focus, not only in the realm of foreign policy but also in the field of European defence, even though they both need much closer attention.

Permanent Structured Cooperation is a potential recipe for improved military capabilities, provided the details of the *modus operandi* are well crafted. But the incentives to forcefully redress bad allocation of defence budgets and step into a collective process of planning and acquiring new military capabilities are probably insufficient. Ultimately, they will probably have to be backed up by more comprehensive political incentives that could spur governments and parliaments much faster into reform and generate the will to participate in the shaping of the future Common Security and Defence Policy.

The Union should not be afraid from being ambitious. Challenges and threats as well as demand for more Europe leave no alternative scenario for Europe

than to engage. The twiddling of thumbs would amount to short-sightedness and irresponsibility.

The plan may be high-minded to some, unrealistic to others. As always, the proof of the pudding, in this case the new set-up, will be in the eating. A more robust, confident and effective EU will not only render itself a service. It will also serve the interests of the UN, NATO and transatlantic relations, as well as of international peace and security. In so doing, it will at the same time be true to its watchword of “effective multilateralism”.