

**Convention on the future of the EU: EXTERNAL ACTION**  
**Notes on the plenary session of Thursday 11 and Friday 12 July 2002**  
Ben Crum, CEPS (11 July 2002)

**External action**

There was general agreement in the Convention that the effectiveness of the Union's action in the world needs to be improved. Many references were made to the European citizens who are unlikely to come to respect the European Union if it fails time and again to engage effectively in international crises. While the EU has become a superpower in many respects, this is not reflected in its performance on the international scene.

Several members noted that the joint handling of external relations is caught in a paradox. On the one hand by its very nature it is administered most effectively and efficiently at the highest level of integration ('reverse subsidiarity'). Indeed, as John Bruton (IRL, NMP) asserted, pooling resources is an absolute necessity if European states want to take up their responsibility in the international sphere. On the other hand external action involves certain issues of life and death which are almost impossible for nation-states to hand over. Thus it was widely accepted that, more than in any other field, certain intergovernmental controls will remain in place in the field of external action, in particular in CFSP and ESDP.

Indeed some government representatives (Hain (UK), McDonagh (IRL)) insisted that for the time being there can be no foreign policy without the direct involvement of the heads of state. Interestingly this position was also recognised by German government representative Glotz as reflecting the current reality. He affirmed, however, that in the long run he would aim for full communitarisation of external action. A third position was claimed by the French government representative who asserted that whatever the degree of communitarisation of external action, individual member states should be left free to act unilaterally on the international scene. Newly appointed Spanish minister of foreign affairs Ms. de Palacio argued that CFSP could not simply be subjected to the community method as the field is governed by executive rather than by legislative action.

Most members agreed that, coming from the current situation, structural reforms were desirable and conceivable to increase the effectiveness and coherency of external action and the efficiency and speed of the decision-making processes. On the other hand there were a few who pointed out the intricacy of the current machinery as it has been crafted through a succession of intensive debates. They argued that the current organisation of external action has the form it has for good reasons.

Quite a number of conventioners suggested that changes are first of all a matter of political will to co-operate. The Union cannot be expected to speak with one voice if there is no underlying consensus. Institutional reforms can only make a limited contribution to this. It was also noted that for the vast majority of external policies, European governments share already one stance as they draw on the same values, historical experience and geopolitical interests. The debate turns around a limited set of issues on which stances may diverge and these are so important that national governments are unlikely to hand over their sovereignty. It was suggested to propose a phased process similar to that on monetary integration: starting with a first phase of pooling diplomatic resources, moving to a second phase in which states would increasingly seek to harmonise their policies and issuing in a third phase of a genuine common foreign policy.

A considerable number of conventioners argued that improving the effectiveness of the Union's external action would have to start from a clear and concrete formulation of the objectives it is to serve. Various conventioners pointed out the importance of 'proximity politics' in the field of CFSP, that is the special concern the Union should have for the areas just outside its borders. In particular various conventioners coming from southern Europe argued for the operationalisation and expansion of the European-Mediterranean policy. Members of the candidate countries emphasised the need to develop a more extensive policy with regard to the future neighbour states along the eastern frontier of the Union, in particular Belarus, Ukraine, Moldavia, Armenia and Russia.

*Allocating executive and legislative powers*

It was widely recognised that the position of High Representative for CFSP had done much to improve the Union's external performance. A proposal that was widely favoured was to grant the High Representative the right of initiative to the Council (complementary to the existing right of initiative of the member states).

Moreover, it was suggested that the High Representative should chair the external relations subsection of the reformed General Affairs/ External Relations-Council.

The Convention also noted the need for more co-ordination between the High Representative and the Commissioner for external affairs. As a first step they might be given a joint right of initiative to the Council. Andrew Duff (UK, MEP) added the suggestion that each proposal put forward jointly would be subject to qualified majority voting in the Council. To which Peter Hain (UK, Gov) responded that this was worth considering, but if it would also imply involving the European Parliament as well through the codecision procedure which he dismissed as unworkable. Furthermore it was widely agreed that granting the High Representative the right to attend Commission meetings concerning external affairs would contribute to better co-ordination between the two bodies.

Led by the Germans, many members of the Convention went a step further as they advocated the merger of the positions of the High Representative and the Commissioner for external affairs. The person in this position will then come to wear a “twin hat”, being accountable to the Council as well as being a full member (vice-president) of the Commission. A number of conventioners (Hain, Hjelm-Wallén (Sw, Gov)) expressed their doubts about whether it would be possible to function under two jurisdictions/ contexts of accountability, insisting that in case of conflicts the jurisdiction of the Council should take primacy. Others (Brok (D, MEP)) argued however that democracy would require a CFSP-figurehead to be fully accountable to the European Parliament. Indeed one member even argued that it would be desirable that the European Parliament would become the motor behind the Union’s external policy.

Quite a number of conventioners insisted that qualified majority voting should become the rule in matters of external action defence excepted. Others (McDonagh, IRL Gov) countered that further extensions of qualified majority have already been discussed extensively in the past and were time and time again resisted for good reasons. There were various compromise proposals. Gianfranco Fini (It Gov) advocated the introduction of qualified majority voting under the condition that each Member state would be free to opt out of any decision it could not support. Various suggestions were made that the option of constructive abstention could be explored further. Another suggestion was that, given that objectives of external action were consensually and clearly adopted, decisions regarding the implementation of policies (except military decisions) could be taken by qualified majority voting.

Notwithstanding the arguments emphasising the importance of continuing governmental presence in foreign affairs, a considerable number of conventioners argued that greater effectiveness in the field of CFSP would require its communitarisation. Some conventioners from smaller member states expressed the fear that if organising external action is left to the Council, it will lead to a directorate of the bigger member states over the small ones. In their view the pillar structure should be torn down. The role of the Commission in external affairs should be increased and its overall co-ordination should come under the direction of one of its vice-presidents. Glotz suggested that such a move would be feasible under the condition that the Council could check Commission actions by way of an institutionally well-entrenched political committee.

A few members suggested introducing an annual Europe-wide external relations debate. First debates would have to take place in the member state parliaments. These would then be reported by the Commission, and issue in debates within the Council and the European Parliament. Policy strategies could then be adopted according to the community method.

Quite a number of the most contested issues in the field of external action would lend themselves rather well for enhanced co-operation. As some governments are quite likely to refuse on principle to join certain forms of more intense co-operation, progress can only be attained if the other member states move ahead in “coalitions of the willing”. Such co-operation appears particular appropriate in the field of military co-operation in which it is however explicitly prohibited in the current Treaty.

#### *Resources and administrative organisation*

As Lord MacLennan of Rogart (UK, NMP Alt.) observed, while much attention was being given to the handling of crises, an effective, mature foreign policy requires a sustained effort and a full-blown apparatus to monitor the world. Indeed there was broad agreement that CFSP requires structurally more resources. Government representatives (e.g. Hain) insisted that such funds should be made available through the Council and thus be kept out of the Community budget.

Much further went the pleas for the development of a single, integrated European foreign office (e.g. Elmar Brok (D, MEP)). More concretely it was suggested that the offices of the High Representative and the Commissioner for external affairs should be merged and their budgets integrated and brought under

the remit of the Community. More widely more co-operation in diplomatic representation and the formation of an integrated European diplomatic service was advocated. In this context it was stressed that the status of a European foreign office should not be lower - and some insisted that it should even be higher - than that of national foreign offices and their diplomatic representations. Other suggestions concerned an extensive policy of intergovernmental exchange of personnel, the establishment of a European institute for foreign relations and a European diplomatic academy.

#### *External representation*

Few conventioners paid attention to the position of the current presidency. Peter Glotz (D Gov.) insisted that reforms should aim to make the institution of the troika redundant. Gisela Stuart (UK, NMP) suggested that an elected president of the European Council would be most suited to represent the Union externally. As a single counter-voice Nahtigal (Slov, Gov) insisted that team presidencies are the only way to secure the role of small states in external action.

Many conventioners noted that the ability of the Union to act in international affairs would be greatly improved if it were to acquire legal personality. It was proposed that the Union should be represented by one person in the IMF and the G8. Various conventioners suggested that the EU should get a permanent seat in the UN Security Council, complementary to, or in place of, the member states that are already represented therein.

#### *Defence policy*

It was generally recognised that, given its distinct nature, defence policy cannot simply be communitarised. A number of conventioners argued for concentrating the executive responsibility for defence affairs in one hand (a high representative for defence affairs) who would chair Council sessions on defence and security and who might also have the right to table initiatives.

Though it was generally recognised that defence decisions are bound to require a full consensus in the Council, some pointed out that certain defence decisions, for instance involving issues of civilian protection, are not necessarily military in character and might thus allow for qualified majority voting. The general importance of the possibility of constructive abstention was also stressed.

Quite a number of conventioners observed that it was quite likely that further European integration in defence matters will only be possible with a limited number of Member States. Thus they advocated opening the possibility for enhanced co-operation in defence matters under the treaty. It was suggested that the defence policy should overall allow for a modular approach in which member states could decide to join on a case to case basis.

As defence policy allows for limited communitarisation, Gisela Stuart (UK, NMP) argued that it was of prime importance to ensure the proper involvement of national parliaments in ESDP, in particular as regards questions of military intervention. Diego López Garrido (SP, NMP Alt.) advocated that the Council should ensure the involvement of the Commission and the European Parliament in defining the overall defence strategy.

Several Scandinavian members emphasised argued that Europe should become a 'new kind of superpower', concentrating on peacekeeping tasks rather than the waging of war and not engage in 'cold war' forms of armament and arms races. Several conventioners pointed out the need to reconsider the Petersburg tasks in the light of the events of the 11th September 2001 to include the fight against terrorism. A number of conventioners argued that all military action by the EU should be bound to a UN mandate.

A number of conventioners pointed out that certain deficiencies in the defence domain might already be met by following up on a number of existing agreements. Full implementation of the Helsinki-agreements was advocated and reference was made to the treaty of Brussels as a useful starting point for ensuring the legitimacy of a European defence policy.

It was emphasised that the need and the form to co-operate in defence matters will need to be considered from issue to issue on the specific advantages to be gained. Clearly the lack of co-ordination among national defence policies leads to many inefficiencies. One field in which advantages could be easily gained is joint procurement. Co-operation in arms production and R&D would probably best be organised as a form of enhanced co-operation between those countries that do have a considerable arms industry. The setting up of a European Armament Agency was proposed by many. Fini suggested that the exception on arms trade (art. 296 TEC) be taken out of the treaty and that arms trade would thus be subject to the community regime.

Military co-operation needs to be increased step by step and possibilities to integrate military capabilities should be explored. Some would eventually aim for one integrated European army. The need was observed for a European force to use Nato-facilities wherever possible. Building up a European defence policy requires however not only military means but also appropriate strategic policy resources and capabilities, like a centralised, well-equipped strategy unit.

It was argued that the WEU had outlived itself and that the Union should take over its tasks in so far as it had not done that already in practice. A number of conventioners (including quite a number from candidate countries) argued that the Union should constitute a distinct European pillar within the Nato, emphasising the importance of the EU-US relationship in external relations. Others (especially coming from European bigs like Germany and France) however emphasised the importance of developing a European defence project independent of the Nato and the United States. They pointed at divergences in such fields as peacekeeping involvement, multilateral relations as well as arms production.

## **Procedural remarks**

### *Working groups*

Attendance of the working groups' meetings so far could be better. Four new working groups will be installed on internal security & justice, simplification of legislative procedures, external affairs and defence & security policy. It is left to the latter two groups themselves to decide whether and to what extent they want to co-ordinate their activities. The new working groups will start their work early September and report in the course of October/ November. By the end of the year a 'third wave' of working groups will be set up on various institutional issues

For the autumn plenary sessions, the presidium proposes the following themes:

- 12/13 September      Simplification of legislative procedures
- 3/4 October            Subsidiarity (conclusions WG 1)
- 28/29 October        Legal personality (WG 3) and Charter of fundamental rights (WG 2)

A crucial question that will be addressed by the working group on legal personality is whether the Convention should aim for the integration of the various treaties under one legal personality and one new treaty (a 'basic' treaty or constitution) or rather for revisions of the current treaties.

On the basis of the outcomes of the autumn debates a first structure of a new constitutional treaty should kind of emerge by the end of October. The various building blocks are then to be filled in in due course. By the turn of the year a first text should be available that then needs to be fine-tuned by the Convention.

In 2003 the frequency of convention meetings will be increased to 2 a month.