



MINISTERIO DE DEFENSA

CUADERNOS
de
ESTRATEGIA

145-B

THE EUROPEAN SECURITY
AND DEFENCE POLICY
(ESDP) AFTER THE ENTRY
INTO FORCE OF
THE LISBON TREATY

SPANISH INSTITUTE FOR STRATEGIC STUDIES



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April 2010

CATÁLOGO GENERAL DE PUBLICACIONES OFICIALES
<http://www.060.es>

Edita:



NIPO: 076-10-097-5 (edición en papel)

ISBN: 978-84-9781-573-4

Depósito Legal: M-14594-2010

Imprime: Imprenta del Ministerio de Defensa

Tirada: 700 ejemplares

Fecha de edición: abril 2010

NIPO: 076-10-098-0 (edición en línea)



DIRECTORATE GENERAL FOR INSTITUTIONAL DEFENCE RELATIONS
Spanish Institute for Strategic Studies

Working Group no 5/09

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INTRODUCTION

INTRODUCTION

ENRIQUE MORA BENAVENTE

THE EUROPEAN UNION, A GLOBAL ACTOR?

During the final months of 2009, under the Swedish Presidency, the European Union Member States engaged in a particularly intense debate on an issue which featured on the agenda of the meetings under the heading «Europe as a global actor». The debate took place at informal ministerial gatherings and other more technical meetings. It did not reach public attention, as it was a purely internal reflection that was more budgetary than political. The discussions were based on a series of hypotheses that were understood to be accepted by all the countries and sought to answer a set of questions. I wish to concentrate on the first part, the shared basic assumptions.

It is important to realise that the ultimate aim of this exercise was to reflect on the budget the European Union allocates to external action. The financial perspectives are adopted for six-year periods and therefore it is not unusual to find mismatches between forecasts and needs that progressively arise. If there is anything that characterises the world following the fall of the Berlin wall it is the speed of change a speed with which a budgetary system as enormously slow and complex as that of the European Union is ill equipped to keep pace. The debate proposed by the Presidency was aimed at attempting to identify necessary changes in the expense lines in order to boost the effectiveness of the Union's external action. Few debates could be closer to reality than the one on income and expenditure. It does not lend itself to grand declarations of intent or of philosophical principles. That is why I am mentioning it in this introduction. It can provide a very useful focus for the policy to which the present *Cuaderno de Estrategia* is devoted.

The first of the shared basic assumptions is found in the title itself. It stemmed from an apparently undisputable statement: the European Union, as such, is an actor in international relations. And not only this it is also global in scope. Its prominence and influence are not limited to its geographical area taken in its broadest sense, but extend to the farthest corner of the planet. Not so long ago an assertion of this kind would have triggered not only a few raised brows but a swarm of protests, denials and motions for rejection. It still triggers some, but as we shall see and several of the contributing authors examine in detail, it is more a problem of terminology and preconceived ideas than one of substance.

A second point of departure in the exercise launched by the Presidency was a set of reasons —once again, not considered controversial— why the Union should strive to be more effective as a global actor. It is worth listing some of these reasons and subsequently reflecting on them. A word of warning before reading them: they are drafted by a Presidency which has never concealed its «pragmatic» vision of the building of Europe, far removed from any «federalist» flight of fancy.

The interests of the Member States —economic, environmental and security— have never been so closely linked as they are now to those of the rest of the world, and this trend will only grow stronger. We must therefore maximise the ability of the EU, on the one hand, to exercise influence on a truly global scale and, on the other, to multiply the individual interests of the Member States. We must all exploit our belonging to a large and capable regional bloc.

The EU is firmly placed to contribute to the development of international peace and security, having at its disposal for this purpose a unique range of instruments of action. The Union is often perceived as an effective intermediary with the possibility of playing a credible and constructive role in situations of instability and conflict.

Our objective should be the establishment of an effective international system headed by the United Nations. A more effective EU can become a credible and useful partner to the UN and other multinational organisations.

In a world of complex threats and challenges, internal and external security are increasingly interrelated. External efforts have a major and long-term impact on internal security. Together with this, Community policies and first— and third-pillar decisions are having more and more

influence on the foreign-policy interests of the Member States. For example, European policy on climate change will be a determining factor in relations with China, while immigration policies have a major impact on northern Africa and the Sahel region.

Added to these reflections were others which were more specific and therefore less relevant to what this book sets out to underline: the idea that nowadays all the European Union Member States consider, without the slightest reservation in principle, that the Union as an international actor is distinct and different from the twenty-seven actors who make it up.

However, that all the Member States regard the Union as an actor in its own right does not mean to say that they share the same concept of what this means. On the contrary, there are various different concepts perhaps not twenty-seven, but certainly a number of diverse ideas that coexist within the Union.

The topics of debate transcribed above give a fairly close idea of one of these concepts—that of the Swedish Presidency, the author of the reflection document. Let us take the first element. The point of departure is the state, not the Union. The concern is national interest—whether economic, environmental or security—not a hypothetical common interest. One concludes from this premise that the Union can be useful in helping us maximise our individual capacity to influence. And the last sentence starkly reveals the underlying idea: «We must all *exploit* our belonging to a large and capable regional bloc» (the italics are mine). Rarely will readers find a more succinct and more precise expression of the utilitarianism concept of the building of Europe.

The fourth element elaborates on this approach. Once again, the main concern is the security of the state considered individually. In this case, it is a broad concept of security which includes not only traditional external threats but also how they affect internal security. And once again the reflection on the influence of Union action on this security, in this case indirectly. It is a quite a particular reflection: the Union acts on policies within its powers (the first and, to a lesser extent, the third pillar) and this action arouses international reactions, from third states and international organisations, which can affect my security as a Member State. Once again the approach is radically localist, and from this viewpoint, from a seamless perspective of national interests, *one arrives at the conclusion that this is how the Union should act.*

The other two elements illustrate the more widespread conception of the objectives the Union should pursue in its action in the world: to work to promote international peace and security. That is all very well, of course. What does not seem so reasonable is it that it should be only that. This conception, despite its evident altruism and elevation viewpoint, is deeply reductionist. There is something that does not tally if the Union's sole strategic objective is the same as that of many non-governmental organisations. Though to many this is a commonplace beyond all doubt. It is highly revealing that it should appear in the document we are examining—after all, it is an internal document intended to fuel a debate, not for public consumption.

We may draw at least three conclusions from these elements discussed:

- a) First, that even the most limiting vision of the European project considers the Union, as such, to be an international actor.
- b) Second, that it has goals to meet and interests to defend. For the case at hand it does not matter if these goals are defined in somewhat impractical terms; or if the interests are identified with those of a small part of the whole. The fact is that the perception that these goals exist has sunk in and will progressively mature and take on different forms over time.
- c) The third consequence is a logical inducement: if somebody states that an actor has objectives and interests he is presupposing he has a policy for pursuing both. This policy can be more or less developed, it can be more or less in keeping with what we have traditionally thought this policy should be, but it is a fact.

Centring on this third consequence, it should be pointed out that the European Union, as nearly always, is a special case and has not one but several policies for its relations with the world. We could mention, without being exhaustive, policies in areas such as trade, development assistance, neighbourhood and the Common Foreign and Security Policy. It can be argued that any state—at least of a certain size—also has all these policies in its arsenal of external instruments. No doubt it does, but in a state they are all accountable to a single authority, that of the country's government, which defines the overall strategy and it is reasonable to think that they share a common objective. This is not the Union's case. The different policies are devised and implemented by different institutions and do not necessary spring from a single strategy.

This fact, which stems from the Union's particular institutional history, is without a doubt its greatest weakness when it comes to addressing an increasingly complex world which is increasingly less understanding and tolerant of Brussels' «original» institutional makeup. The Treaty of Lisbon has tackled this problem only partially.

THE REASON FOR THE ESDP

The most recent of these policies is the European Security and Defence Policy, the ESDP. Its history and developments are discussed in detail in several chapters of this *Cuaderno*. It is basically an ancillary instrument of the CFSP, the Common Foreign and Security Policy. Do not be fooled by the names: neither is the CFSP a foreign policy, nor is the ESDP a defence policy. But this does not prevent them being two major accomplishments of the construction of Europe—albeit two very recent achievements which, as such, are still in the process of developing and maturing.

The reasons why the foreign policy and, especially, the security and defence policy were absent at the outset of the then European Communities have been studied thoroughly and in detail. Readers will find plenty of references to this process in the abundant bibliography supplied by the contributing authors.

More controversial are the various reasons adduced to explain why, at a particular point in the building of Europe and not before, the need arose to start equipping it with the rudiments of a foreign policy. These reasons are analysed from various viewpoints in this *Cuaderno*. But what I wish to stress from the beginning is the overwhelming logic of incorporating these policies into the European process, a logic that comes in various forms.

In the first instance it stems from the original political logic which spawned the project: the reconciliation of Germany and France. If pooling coal and steel could trigger a process that would increasingly banish the spectre of a new war, then sharing definitions and instruments of foreign and security policy was an almost obvious consequence. It is hardly surprising that French-German cooperation in these matters should have been the forerunner of the CFSP and its predecessor, the so-called European Political Cooperation (EPC). Indeed, the first blueprints of the EPC largely copy the bilateral agreements between Paris and (then) Bonn to

establish a mechanism for foreign policy consultations. Nowadays nobody imagines an intra-European war. It is almost unthinkable. But let us not forget that this is partly due to this past.

In second place, there is the utilitarianism logic, a good example of which has already been provided. The reasoning is very simple here: it makes sense to equip the Union with a foreign and security policy for the simple reason that twenty-seven states have greater strength if they act together than separately. Obviously this reasoning applies to any union, even one formed ad hoc, or to any coalition of volunteers. But not even the most radical utilitarianism would justify the EU's external action in this manner. In this case, acting together is based not only on coinciding interests (coalition of the willing), not only on shared principles and values (stable alliances). The Union takes as its point of departure the pooling of substantial portions of its own sovereignty, and in this case the result is outstanding. The total is more than the sum of the parts, and what is more it is qualitatively distinct. And this can be seen particularly clearly when dealing with crisis management operations, when dealing with the ESDP.

And in third place, we have political logic: twenty-seven states act jointly, under a single authority, merging their national identities into a collective identity—not because they are interested in maximising the result but because they define their interest precisely as acting together. In the expression «We Europeans are launching an operation in ..., because we have a security interest in the stabilisation of that country» the subject is of key political importance. The primary political objective in an ESDP operation is fulfilled the moment the operation is deployed. The first achievement of each ESDP operation is building Europe.

These three logics have been at play, in varying degrees and alternately, depending on the time and the needs of the Member States, from the outset of the ESDP.

But we cannot forget that this policy is very recent. From a historical perspective it has scarcely even begun. None of what is discussed in this *Cuaderno* was conceivable in the bipolar world of East-West confrontation. Until the disappearance of the Soviet Union there was no place in Europe for any security organisation other than NATO and local conflicts were largely confrontations by proxy between the two blocs. It was the shift to a new international system that enabled the European Union to develop its own security policy. The possibility progressively crystallised

when the war in Bosnia underlined with dramatic clarity that US security interests no longer necessarily coincide at all times and in all theatres with those of the European countries. The comment made by Secretary of State James Baker (undoubtedly one of the most brilliant of the past decades) that the United States did not «have a dog in this fight» expressed America's initial disinterest. The doors thus opened to a new actor in the security field. France and the United Kingdom crossed the threshold at Saint Malo in December 1998.

Although the ESDP was formally initiated with the appointment of Javier Solana as High Representative for the CFSP in November 1999, it did not take its first steps in practice until Mr Solana finalised the negotiation of the so-called Berlin Plus arrangements allowing the Union's fledgling security policy access to NATO assets and capabilities to conduct its operations. This did not occur until 16 December 2002, at the Copenhagen European Council. We are therefore talking about a policy which, to all intents and purposes, is little more than seven years old.

And one is struck by the fact that so much has been done in so little time:

- a) Twenty-three military, civilian and civil-military operations in three continents
- b) The building from scratch of the whole institutional and administrative apparatus for the preparation, launch, management and monitoring of operations.
- c) Development of doctrines and procedures.
- d) Training and preparation of mission members.

And all this, almost concurrently, in a continuing process of trial and error, of creating and recreating methods of work and action. The ESDP has been and continues to be work in progress.

What is the secret of its success? As in any human enterprise, the people. From this *Cuaderno* we wish to pay them the tribute they deserve, particularly Javier Solana, the first High Representative, whose leadership has been a determining factor and driving force in the CFSP and the ESDP. But competence and dedication are of no use unless they go hand in hand with a context that allows these qualities to be put to task. This context has been shaped by two main elements:

- a) The demise of the bipolar world gave way to a more complex international environment in which numerous latent conflicts that were

local in origin, cause and logic erupted or degenerated into crisis situations. The European Union has established itself as a well considered actor and in the majority of cases it is the states involved in the conflict or third states which seek out the Union's intervention. «Demand for the EU» has not ceased to grow since the Ohrid Accords in the Former Yugoslav Republic of Macedonia. First in the rest of the Balkans, then in Africa and thereafter unstoppably in the Caucasus, Middle East and Asia.

- b) The Union designs an innovative combination of diverse civilian and military instruments enabling it to address crises from a comprehensive approach. The same institution is present from the «hard security» of the early stages of intervention to stabilise the situation up until the design and implementation of the programmes to rebuild the administrative, economic apparatus and structure of civil society. Long before the war in Iraq the Union knew that «there is no exclusively military solution» to a conflict.

It is perhaps this second element which has defined the ESDP and has furnished this policy with an identity of its own. The «civ-mil approach» advocated by the Union has created a school of followers, albeit with varying results. Suffice it to recall the American attempt under the Bush Administration—the creation of a generously-funded department for civilian activities headed by one of America's most capable diplomats, Carlos Pascual, now US ambassador in Mexico. Mr Pascual was forced to resign scarcely a year after being appointed on account of widespread incomprehension, particularly at the Pentagon, although also on the part of the US intelligence community and even at home, in the State Department.

As so often occurs in organisations of all kinds, the European Union, without realising, had what we might call a deeply-rooted corporate culture in a field similar to civilian crisis management. This came after many years and substantial resources devoted to development assistance in its broadest possible sense. The professional soldiers who began to arrive in Brussels early in 2000 to set up the Military Staff of the Union provided a completely different vision and experience which soon proved to be complementary. There was no preconceived plan, no clear-sighted strategy for making the Union a forerunner of comprehensive civil-military management. But when it started to happen every possible organisational instrument was put to the task of making it crystallise and become a reality.

FROM ESDP TO CSDP

The Treaty of Lisbon introduces substantial changes in both the CFSP and the new Common Security and Defence Policy, the CSDP. The most substantial is without a doubt the deep institutional overhaul which has brought together in the same person three competences previously shared between the same number of authorities. From now on the High Representative will be in charge of the CFSP and the CSDP, having at her disposal the resources of the Commission (the institution of which she is Vice-President) and the opportunity to bring to bear in decision making the political influence accorded by her role as President of the Foreign Affairs Council. For the first time since its founding, the Union is in a position to define and implement a genuine external policy.

Anyone who thinks that the importance attached to what may appear formal aspects is disproportionate is mistaken. For ten years the foreign and security policy has had to contend with an indifferent, if not openly hostile Commission. It has sometimes had to be contend with the private, short-term interests of presidencies unwilling to look any further ahead than their six-month term. All generalisations are unfair and it is therefore necessary to mention the sometimes positive role of many Member States which, during their presidency of the Council, have attempted to push forward European interests; or of members of the Commission who have had sufficient breadth of vision (and political courage) to shatter the narrow sighted vision of making European interests coincide with those of an institution.

In Spain, owing in most cases to excessive good faith, Community tends to be confused with Europeanist and intergovernmental with the opposite. This is a crass error in some aspects of the construction of Europe, particularly the one we are dealing with. It is said that the Achilles' heel of our globalised world is that problems are global but legitimacy —and resources— remain local. This contradiction continues to be latent in the Union, particularly in those policies which directly affect traditional sovereignty.

Aside from a deep institutional change, the Treaty of Lisbon introduces major innovations in ESDP matters while according legal entity and the legitimacy of primary law to practices progressively established over these past seven years out of necessity. As stated earlier, the CFSP

and above all the ESDP have been shaped day by day, in contact with the most immediate reality, which sometimes required improvised solutions and responses. Lisbon lends legitimacy to some of these practices. In addition, it introduces two legal commitments which translate an elementary solidarity of Union partners: in the face of aggression from a third state and in the event of a terrorist attack.

The prestigious research scholar Félix Arteaga provides a critical and lucid overview of the development of the ESDP and the possible contradictions of the new Common Policy. When analysing why the ESDP has not attained the levels of autonomy set out in the historic Saint Malo agreement yet has achieved a degree of development that was unthinkable at the time, Mr Arteaga takes us to the crux of one of the contradictions that have lain dormant during those years. The political and institutional, if not ideological, brakes put on the CFSP and ESDP day by day to prevent them reaching their full potential contrasted with the dynamism with which new missions could be organised and launched. This has sometimes been difficult to understand or explain. Some Member States, the Commission and the European Parliament harboured no aspirations of having a real foreign policy –let alone a defence policy– while expressing their satisfaction (a posteriori) at the Union's deployment of 3,500 soldiers to the middle of the Chad desert for a high-risk operation with significant potential implications in one of the most complex conflicts in Africa, that of the Sudan. The Parliament «encouraged concrete actions» while allocating to CFSP a budget lower than the maintenance expenses of the Justus Lipsius, the building which houses the Council.

Will this change with Lisbon? Félix Arteaga does not seem very convinced and points out at least two reasons for this. In defence matters, «the structural constraints blocking the door opened by Art. 42(7) of the Lisbon Treaty are removed: the predilection for NATO, neutrality, the transition to a unanimous common policy, and reluctance to use force and the essential capabilities» are unlikely to disappear. But looking further ahead, as a backdrop to the whole process, he states that «the strategic context in which the EU will operate in the coming years will also be a rapidly-changing one and will be much more uncertain». Factors such as the economic crisis whose medium- and short-term effects on the European countries' budgets are still unknown and demographic and social problems raise serious doubts about the ability of the CSDP to live up to the high expectations we have of it.

Finally, there is an observation in Mr Arteaga's text that should be monitored in the future. The author points out that «the pressure to remove the barriers between internal and external security will be greater with the CSDP than with the ESDP, and the former will therefore need to make an effort to do away with the artificial distinction between pillars, between security and defence, and start taking EU homeland security seriously.» The need to address this continuum between internal and external security in a coherent manner is not yet on the Union's agenda. An important warning.

This political and analytical perspective gives way to a solid legal approach in the essay by Professor Mariola Urrea Corres, who provides a rigorous and detailed examination of the instruments which the Treaty of Lisbon incorporates into the new Common Security and Defence Policy (CSDP). Beginning with a reflection on the institutional and decision making system of the CSDP, Professor Urrea expounds what she regards as «the real contribution» made by the new treaty: recourse to techniques of differentiated integration. On the one hand, enhanced cooperation, through which the Lisbon Treaty (like the ill-fated Constitutional Treaty before it) allows the Member States to advance in the field of the CFSP. On the other hand, and better defined, there is permanent structured cooperation, the key to which is that it is not sufficient to be willing; it is also necessary to be able. For reasons that she clearly explains, Professor Urrea is pessimistic about the feasibility of the mechanism for differentiated integration in the field of CSDP, owing more to how it has been regulated than to the theoretical and legal possibility of its implementation.

The final reflection Professor Urrea offers us should be read with attention because it perfectly sums up the ambivalence, the conflicting feelings that arise in any observer with an interest in the future of the Union's security policy, not to mention an enthusiast. The treaty marks a step forward in that it provides states that are interested with the instruments they need to deepen this policy. In addition, it settles the ever complex problem of striking a balance between providing the necessary inclusion which lends coherence to the security policy and the possibility of certain options for those who wish to go further. However, a careful study of the treaty raises doubts about the effectiveness of some instruments in achieving the foregoing. The success of the treaty will largely hinge on how this shortfall is resolved.

Like any policy, the Common Security and Defence Policy is a question of means. In this case, there are two sides to these means: capabili-

ties and relations. In matters of capabilities, as could not be any other way according to the universal model of conflict management mentioned earlier, civilian capabilities are just as important as their military counterparts, and therefore each kind is treated separately in the *Cuaderno*.

Civilian capabilities are addressed by Lieutenant Colonel Leonardo Sánchez of the Guardia Civil in an article in which, together with abundant, accurate information about the state of the matter, readers will find the «Brussels perspective» of an author accustomed to the day-to-day aspects of negotiation and monitoring civilian ESDP operations. Put as succinctly as possible, Lieutenant Colonel Sánchez's opinion is clear: the civilian dimension of the ESDP has accomplished obvious successes but has a very long way to go to achieve operational maturity.

This assertion is backed by extensive argumentation. The civilian side of the ESDP displays, more than most dimensions of the Union, the eternal contradiction between intentions, declared objectives and real commitments. The latter always fall short of expectations, endemically in the case at hand. The ESDP is readily used as a source of rhetoric. It makes a good political prop when wishing to convey «willingness to act» on conflicts which often arouse in the public a mixture of repulsion and compassion that is an excellent breeding ground for facile opinions.

Promises are made, but when it comes to delivering the capabilities needed for coherent action, reality falls sadly short of what has been promised. The author explains how this situation is repeated not only in the contribution of the necessary personnel but also in the procurement of equipment and material resources. So far, the police training mission in Afghanistan has been the most clamorous case of mismatch between promises and realities. It is arguable whether the European Union should play a role in Afghanistan beyond that of bilateral donor, but if it takes the politically debatable step of sending a police mission, it needs to measure up to the commitment.

I wish to end by underlining the long list of recommendations made by Lieutenant Colonel Sánchez at the end of his contribution to this *Cuaderno*. Altogether they could make up a «roadmap» for the High Representative, Mrs Ashton, during her five year term of office. If the goal is to be able to perform a wide range of civilian operations capable of interacting effectively with military operations, endowing the external action of the Union with an instrument of considerable added value, many of the partial objectives to be met are listed in this essay.

Military capabilities are discussed by General José Enrique de Ayala. We would be hard pressed to find an author so profoundly convinced of the project to build a Europe of defence, in addition to so well versed in this field.

The first landmark achievement in the Union's endeavour to equip itself with military capabilities is the so-called Headline Goal approved at the Helsinki European council in 1999 whereby the Union undertook to be capable of deploying up to 60,000 personnel within 60 days and maintaining them in a theatre of operations for a year. The experience in Bosnia was the starting point and this was evident in the definition of the goal. Rarely has political determination for something «not to happen again» been translated with such precision into a military target. The Goal was declared to have been fulfilled three years later at the Thessaloniki European Council, albeit with a few, almost inevitable, shortfalls.

The second Goal, that of 2010, included the tactical «Battlegroups», a rapid reaction force for the Union. There are currently 18 on standby in rotating six-month periods, but on the few occasions their use has been considered, the Union has come up against the disinterest if not outright opposition of the states to which the group on call belonged. As the author of the study points out, this is a paradigmatic example of how it is not sufficient to agree on capabilities, it is not enough to boost their interoperability. Only determination to agree on deployment criteria with a certain amount of automatism and to respect them will lead to real efficiency in the use of military capabilities.

Another issue that is tricky and politically complex but has a direct bearing on the effectiveness of the EU's military operations is command and control, the establishment of a permanent Headquarters to serve autonomous operations (that is those performed without drawing on NATO assets and capabilities) under the ESDP. General Ayala explains with crystal clarity what the problem is and how possible partial solutions have developed. Ultimately the answer is political and is among the recommendations made by this *Cuaderno*.

As stated earlier, the CSDP also entails relationships. And the first, the most significant, is the transatlantic link. Jordi Marsal explains the state of the matter, focusing on the field of security and defence in such a dense and multifaceted relationship. The author introduces us, through the European Security Strategy, to the ambiguity and what he describes

as «a certain complex» that underlies Europe's attitude towards its American friend and ally.

The Strategy states that «no country is able to tackle today's complex problems on its own». Now that the attitudes and conduct of the first Administration of President Bush junior are a thing of the past, not even the Americans themselves dispute this statement. And no European disputes the assertion that the United States continues to be the «indispensable nation», to use the fortunate expression of the former Secretary of State, Madeleine Albright. Europe's importance is waning in an American perception that is shifting increasingly towards Asia and the Pacific. And we Europeans, with huge differences from country to country, are very far from coming to terms with the new situation. If there is anything that Treaty of Lisbon ought to bring it is the end of this permanent, absurd and counterproductive race between the European countries for Washington's attention and favour.

In security and defence matters, as Mr Marsal reminds us, the relationship has historically been shaped through NATO. But it is a deeply unequal relationship. The author points out crudely one of the major pending issues of the building of Europe, the incredible ineffectiveness of defence expenditure. And it is particularly appropriate to point out this shortfall with respect to the transatlantic link, because it has been one of the permanent hindrances to this relationship. The United States spends only 2.3 times more than Europe in defence. The difference in the result, which is not easily quantifiable but vastly greater in terms of size, says much about the ground that has yet to be covered in our continent.

To say that Lieutenant Commander Francisco J. Ruiz González has written a fascinating essay about Russia would not do justice to a text that combines passion and knowledge together with a well thought out personal view of one of the major geopolitical problems of the post-Cold War era: how to treat the former Soviet Union's heir.

To the European Union, Russia is a neighbour—its largest—and a strategic partners. Neighbourly relations are always tricky. Suffice it to take a quick glance at the international community to find dozens of examples of almost constant quarrels and misunderstandings. Even neighbouring states with borders more than firmly established by history fall out with each other. When the neighbour is great and powerful, we cannot help recalling President Porfirio Díaz's «poor Mexico, so far from God and so close to the United States». If, to make matters worse, what was

once the neighbour's territory has been left in shreds and in the process it has lost confidence in itself, in the attitudes of others and in its position in international society, we are probably facing a situation that is going to take many years to sort itself out and a path marked by conflicts until a new balance is established.

It does not do any harm to put ourselves in the other person's shoes from time to time. The US Defence Secretary William Gates, a great expert in Russian affairs, did that once at a Verkunde, a sort of high-level assembly of the Euro-Atlantic community held in Munich every year. The result was a shock to some, owing more perhaps to who it came from. Gates invited his listeners to imagine what it would be like to lose Texas and New Mexico, which then declared their independence and joined the Warsaw Pact. «How would we feel?» he asked—especially if, on top of that, during all this time we kept on being told we were to blame and when asked what for were given the reply «for everything».

Lieutenant Commander Ruiz clearly describes the point this Russian history plagued with scars has reached for the time being: Russia's vision of the world is what in game theory is called «zero sum». Russians seem to find it difficult to accept the idea that somebody else, particularly a neighbour, may win without their necessarily having to lose; and more importantly still, they seem to calculate every gain in terms of how weak it leaves the other party. It is difficult to build a relationship of confidence on such foundations.

The other side of relations with Russia, the strategic aspect, can be seen to be conditioned by neighbourhood, but it is here that the author calls for us to stretch our imagination in order to make the most of what he considers to be a relationship with a huge potential that has never been fully exploited. The point of departure is an analysis of the respective security strategies, Russia's and ours. The author concludes that «from this study it may be deduced that the perception of risks and threats to international security is practically identical for the EU and for Russia». It therefore seems possible to build a healthy strategic relationship, which is what the author proposes.

His conclusions are a logical consequence of his analysis: EU-Russia relations should move on and leave past grievances behind. It is necessary to negotiate with Russia in each and every field of interest, and there are many. From energy to the «common space», including the numerous aspects that neighbourly relations between two giants entail. And,

naturally, in the field that concerns us here, security policy. The Union stands much to gain by incorporating Russia into its security policy. What we hope is that Moscow reaches the same conclusion that Russia also stands to gain and starts breaking out of this zero-sum inertia.

Following the entry into force of the Treaty of Lisbon, the new CDSP, the Common Security and Defence Policy, should set its sight on the future. The long and winding path followed by the Union's latest institutional reform, that which is enshrined in the Lisbon Treaty, has given rise to an odd sort of end-of-the-road feeling that is clearly perceptible in Brussels and in many capitals of Member States. December the first 2009 appears to have marked a date of arrival, of crossing the finishing line, not of embarking on a new stage in the journey. It is understandable that many harbour such a feeling. If we consider that the Convention entrusted with drafting a Constitution for Europe set to work in 2000, and that the path has been strewn with three failed referendums and one of the deepest crises in the Union's half-century of history, it seems only logical that many should regard the entry into force of the treaty as the end of a nightmare. The principle that «this is the last institutional reform for decades» has firmly taken root already.

However, we cannot forget that the CSDP is a project in progress which needs to adapt imaginatively to changing circumstances, and that the treaty itself acknowledges that there is still ground to be covered. Therefore we cannot close the door to future institutional developments in this field which, while obviously lacking the significance of those incorporated into the treaty, will have to be decided on by the European Council.

I shall end with a thought that concerns Spain solely. It is some decades now since Spain committed itself almost irreversibly to the Union. Few elements of the social consensus that brought about such radical changes in our country have aroused such interest as commitment to Europe. The deep crisis of the past two years has underlined for some (certainly for the coordinator of this *Cuaderno*) the risk, the vertigo almost, that changing this commitment could entail for Spain's future. Foreign and security policy is just a part of this undertaking. But if there is one use we want this book to have it is to bind, join, and unite irreversibly our future as a nation with that of Europe as a collective enterprise.

CHAPTER ONE

EUROPEAN SECURITY AND DEFENCE POLICY

EUROPEAN SECURITY AND DEFENCE POLICY

FELIX ARTEAGA MARTIN

INTRODUCTION

The strategic dimension of the EU has travelled a long path through the various European Union treaties until the one approved at Lisbon (hereafter the Lisbon Treaty), in which the European Security and Defence Policy has been superseded by the Common Security and Defence Policy (1). Briefly told, the European countries began a process of integration following the Second World War. This commenced in 1948 with the Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence, better known as the Brussels Treaty although its full name gives a better idea of the various dimensions of the enterprise. Since then, there have been two approaches to the strategic aspect of the EU: defence first or defence last.

The first is represented by the unsuccessful European Defence Community (EDC), designed by René Pleven in 1950 as an experiment in supranational integration. Its failure led to the amendment of the Brussels Treaty in 1954, whereby European military cooperation was transferred to the Atlantic Alliance which emerged from the North Atlantic Treaty of 1949 and the Organisation that bears its name: NATO. In this way exclusively European defence cooperation was confined to the inactive forum of the Western European Union, and the European construction ignored its strategic dimension for the rest of the Cold War.

Having failed this approach, it was applied the functional path of integration, in which security and defence would take its place after Economy and Foreign Policy. Advances in the economic integration brought the Eu-

(1) For the evolution of this aspect, see Arteaga (1999); for the beginnings of the ESDP see Gnessoto (2004). For an assessment see Grevi, Halley & Keohane (2009).

European Political Cooperation in 1972 as a means of coordinating national foreign policies with common external relations. This eventually led to the Common Foreign and Security Policy (CFSP), approved in the European Union Treaty of Maastricht in 1992, and the European Security and Defence Policy (ESDP), which came into force with the Treaty of Amsterdam in 1999. Its evolution has been driven by three main factors: European integration, entailing progressive amendment of the Treaties; transatlantic relations, affecting European security and defence identity within or outside NATO; and thirdly strategic changes in the international context.

When analysing the CSDP, it is worth bearing in mind that this is a policy under construction in which steps back and forward have been the product of the above mentioned dynamics, and that each and every one of its terms is controversial due to the peculiar nature and identity of the EU (2). In the first place, the EU is neither a national actor nor a standard intergovernmental organisation thus assessment parameters used to assess their defence or security policies. The EU acts like a national actor insofar as it enters into agreements with third parties and acquires commitments and responsibilities; though not on all policies but on those that Member States have pooled. The EU is not a single actor given that its decisions and initiatives are taken by national, Community and intergovernmental actors, each with different interests, competence and means. As a result, the ESDP looked like a comprehensive policy embracing all its spheres and run by a single authority, when the truth is that it was a fragmented policy in the design, approval and implementation of which many actors and powers have intervened. Compared with other EU policies, the ESDP has ended up in a state of development half-way between the national policies of the Member States and the common policies of the EU, where the security —and defence— related competences have been parcelled out between the Commission, the Member States and the Council, or else these overlap. The ESDP was a policy under construction which made considerable progress from coordination to cooperation, from voluntary participation to regulation. It was intended that it should one day become a common policy, but it was only after the Treaty of Lisbon when it ended up being «common» instead of «European».

(2) The combination of these trends makes it necessary to combine legal and normative analyses of the texts of the Treaties (which allow each milestone in the process to be examined) with political and strategic analyses through which to understand the context and influence of these trends. This first chapter on the ESDP follows the latter approach, while the second follows the former.

The EU has some of the general features characterising international governmental organisations, but unlike these, it is moving in the direction of political union with organs such as the Commission that enjoy considerable autonomy in the exercise of the competences transferred to them, even though member States remain ultimately responsible. Security and defence remain primary competences of states, which cooperate in these fields on an intergovernmental level in the Council, while the Commission possesses some competences, including arms trading or technical assistance, among others related to the single market or the external dimension of the common policies. The ESDP thus had two sides, one external and intergovernmental —that of *the Europeans*— and another internal and Community-oriented —the *European face*— whose interaction was driven by the integration process and changes in the strategic context.

Again, it is inaccurate to view the ESDP as a policy since it never came to satisfy all the theoretical requirements to be considered as such. Unlike proper policies, it did not define its political objectives on the basis of common interests and it did not possess a strategy to lend this coherence using all the resources available for the purpose. In contrast to national policies, the EU —or its Member States— lacks shared security and defence interests that might allow them to identify objectives to be pursued through that policy; rather, every objective has to be discussed to see if there is consensus or not. Under such conditions it was difficult to plan a policy like the ESDP, which required strategic assessment scenarios to develop civil and military capabilities needed to implement them. Finally, the ESDP was a young and limited policy that failed to consolidate behaviour patterns to render it predictable so that third parties could predict how the EU would respond to international problems and crises. As a result, the EU has arrived at the Lisbon Treaty with a profile more akin to security and defence relations than to a security and defence policy as such, although it has enough elements to build a real policy sometime in the future.

The perception of the ESDP has suffered from the gap between its actual capabilities and competences and the expectations raised by its authors as regards its possibilities. Instead of recognising the ESDP as a policy in progress, with limitations, credence was given to the fiction that this was already a complete policy with clearly-defined institutions, procedures and functions, with the result that there has been frustration every time the EU has been forced to acknowledge its limitations in matters of security and defence. Beyond the capabilities-expectations gap, the assessment of the ESDP tends to be more positive if one compares its level

of development in 1999 and the progress achieved 10 years on. However, no such assessment has been possible on a day-to-day basis where international actors and European society have judged the ESDP for its actions in concrete situations such as the Balkan, African or Asian crises.

Another source of confusion comes from the employment of the term «security and defence» to define a policy when States and international organisations have traditionally kept the terms «defence» and «security» separate. The reason is that the first policy of this kind, the CFSP, sought to integrate two independent functions, foreign policy and security, while keeping them separate from a third — defence — so as not to trigger divisions among Member States which were in favour of reserving this function for NATO. In 1997, when the need for progress in military cooperation became clear, the vague term «security and defence» was chosen to avoid rejection of a defence policy by NATO members and neutral countries. As a result, the term «security» appears in both policies, CFSP and ESDP, and although the Treaties have repeatedly subordinated the ESDP to the CFSP, the repetition of the term «security» breeds confusion. As it is not an independent policy, security occupies an overlapping space between foreign and defence policies — i.e. external security — to which we must add internal security, another dimension that the EU does not recognise (the Lisbon Treaty refers to it as the Area of Freedom, Security and Justice) thus rendering the EU's functioning more complex and harder to understand. In the course of its evolution, the ESDP has seen the difference between the internal and external dimensions of security vanish, so that all their elements form a *continuum*; but the EU has failed to assimilate integration and competences, so that in the Lisbon Treaty matters of security are parceled out and there are scant mechanisms for coordinating the EU's various pillars. Not even the definition of a European Security Strategy in 2003 was enough to introduce a comprehensive concept encompassing the various facets of European security (3).

One of the reasons for that lack of definition is the absence of a plan for political integration with a time frame enabling the Member States to know whether or not security and defence competences will eventually become

(3) As we shall see later on, the 2003 European Security Strategy, a document conceived as all-embracing, maintained the difference between internal and external security. And despite the fact that divisions between pillars were supposed to disappear with the entry into force of the Lisbon Treaty, in 2010 the Justice and Home Affairs Ministers began to draw up an Internal Security Strategy for the EU, which will accentuate the separateness of the two cultures.

the exclusive province of the EU in a federal or confederated arrangement. Nor is it known or is there agreement as to whether the EU will eventually be a global power with all its attributes, or whether a more specific power profile will emerge (4). Member States have been inclined to view the EU as a civilian power unlike the traditional powers that stood in political and military confrontation during the Cold War, enabling the EU to exert influence in pursuit of its interests by political and economic but not by military means. The EU has also been accepted as a normative power that makes every effort to exert influence through agreement and compromise (Tocci, 2008). Moreover (Solana, 2003 and Vasconcelos, 2008), the EU has shown itself to be in favour of action within collective frameworks, promoting multilateralism rather than the unilateral approach adopted by traditional powers. This inclination comes from both, the belief that the international order needs multilateral institutions and norms to support it as well from the recognition that the EU lacks sufficient means of its own to confront many of the threats facing it.

This «atypical» profile worked on a normative level while the EU enjoyed an influence in international organisations comparable only to that of the United States in the shaping of world affairs and multilateral institutions such as the International Monetary Fund, the World Bank or the United Nations and other forums, but that kind of influence began to decline with the emergence of new non-western powers and the proliferation of informal power groups (G groups). Its preference for multilateralism in matters of security and defence was further frustrated because the principle of concerted action is more difficult to put into practice within collective multinational security forums like the United Nations or the Organisation for Security and Cooperation in Europe, where risks are not vital enough to mobilise the organisation as a whole. The paralysis of these institutions, and even of collective defence institutions like NATO, when their members' interests diverge or their contributions do not live up to their commitments, makes it difficult for them to act effectively.

The EU was therefore forced to qualify its preference, advocating «effective multilateralism» rather than taking for granted that multilateralism would work effectively as such. Moreover, the qualifier «civilian» ceased to have meaning as international security and the post-Cold War crises

(4) The EU as a power has been analysed from various viewpoints, as a civil power (Smith, 2005), as an actor (Barbé, 2000 and Bretherton & Vogler, 1999), as a regulating power (Tocci, 2008 and Manners, 2002), as a power through its presence (Sjostedt, 1977), as a provider of cooperative security (Erhart, 2002:18), or as a model power (Miliband, 2008).

in the Persian Gulf and the Balkans, or the responsibility of protection for humanitarian reasons called for increasing military involvement in the EU. The non-military aspects of «security» of the CFSP were not enough and a more military component of the ESDP «security and defence» was needed to provide the EU with a strategic dimension.

The ESDP was an initiative of the French and British governments following their Saint Malo accords of 1998. Later they were approved by the European Council at Cologne in June 1999, the aim being to achieve an EU with «the capacity for autonomous action, backed up by credible military forces» in order to respond to international crises. Thereafter, until the Lisbon Treaty came into force the ESDP marked a stage in the process of European integration, implementing the competences, instruments and actions assessed hereafter (5).

THE ROLE OF THE EU AS A GLOBAL SECURITY ACTOR

As pointed out in the introduction, the EU lacked common interests or a common view of its role in the world, and that made it difficult to provide for its security and defence needs within the ESDP. Although the latter was nominally a subordinate part of the CFSP, it always lacked a global vision of the EU's role as an international actor. The EU approved the European Security Strategy in December 2003 to compensate for the strategic shortcomings of the ESDP, but despite that the EU was not up to the challenge of defining its interests vis-à-vis the rest of the world or promoting its own values externally (Solana, 2008:5). Although the CSDP lacked an underpinning strategy for external action, the European Council of December 2003 approved a European Security Strategy (ESS), riding the surge of security strategies in the wake of 9/11, where the EU was presented as a global actor in matters of security and defence (6).

The ESS could only move forward as long as there was consensus, and it could therefore not promote structural changes in the ESDP or

(5) All the original documents are placed in chronological order in the documents series: «EU Security and Defence Core Documents» of the European Union Institute for Security Studies (EUISS): *Chaillot Papers* 47 (May 2001), 51 (April 2002), 57 (February 2003), 67 (December 2003); 75 (February 2005), 98 (March 2007), 112 (October 2008) and 117 (July 2009), available at www.iss-eu.org.

(6) The ESS was approved on 12 December 2003. The English text can be found at <<http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>>.

impose obligations or future commitments on the Member States. Under that approach to security and defence —and especially defence— countries that had surrendered their national currency were reluctant to lose their sovereignty in matters where it was they, and not the European inter-governmental institutions, that were accountable to their national parliaments and public opinions. Since the EU lacked a shared view on external action —«a grand strategy»— integrating all the common or national instruments (Arteaga & Fojón, 2008), the ESS sought to introduce one as a fallback and to advocate the EU's role as a global actor. To that end it identified a number of common risks, including terrorism, proliferation of weapons of mass destruction, organised crime, regional conflicts and failed states. The ESS identified four action principles through which the Member States should promote the EU's global role in matters of security and defence: to be more active, capable, coherent and cooperative in order to act sooner; to make more resources available; to improve management; and to act with allies or partners in a multilateral framework. The European Security Strategy also acknowledged the limitations of international organisations as regards guaranteeing collective security and proposed to reinforce them in order to achieve an «effective multilateralism».

To assess what was achieved by the ESS, one must again bear in mind the EU's limitations as a strategic actor due to the plurality of actors and interests involved in its planning and implementation, and to the fact that its design was confined to the sphere of crisis management. The main element of added value that the ESS brought to the EU was recognition of the EU's vocation as an international actor, even though, having been conceived within the ambit of the ESDP, it focused more on elements of security and defence than on any of the other potential instruments (Biscop, 2007:5-7). With the ESS, the EU departed from its traditional identity as a civilian power, although the Member States continued to state a preference for soft security since the EU is not ready to *communitarise* harder military and police instruments (7).

Compared to national strategies, the ESS is atypical on account of the aforementioned factors. These do not detract from its contribution to

(7) In 2003, when tensions around Iraq were at their height, Robert Kagan (2003) presented the opposing positions of the United States (Mars) and Europe (Venus) on matters of power, the new world order and the use of force. Up until then the EU had never set in motion a military operation of its own, but subsequent operations showed that the CSDP was expanding the inventory of civilian (soft) instruments with new military (hard) capabilities.

the ESDP but they should be taken into account so as not to exaggerate its impact. Firstly, the ESS should not be seen as a security strategy, as the decision to use force depends on the Member States (Heisbourg 2004:27-39); because of the differences among them in strategic culture (Freedman, 2004:14); because it does not explain how and for what purpose military force is to be used (Kaldor & Salmon, 2006:19-20 and Whitney, 2008:42); because it is used as a substitute for a strategic doctrine absent from the CFSP (Missiroli, 2008); and because it does not say how the ESS and the ESDP are to interact (Lasheras et al, 2009:19). Again, the ESS did not clarify how «effective multilateralism» was to be achieved, whether on the strength of its normative capacity to reform the multilateral organisations in which its members took part (Solana, 2008:4) or by furnishing the necessary resources for that purpose (Grant & Valasek, 2007:9-13).

Another feature of the ESS is the gap between resources and missions. If we run through the list of risks we find, on the one hand, that the instruments best suited to deal with them are not exclusively military but require coordination with other diplomatic, police, judicial or customs instruments which fall outside the scope of the ESDP. But even with regard to the security and defence instruments that have to be used to achieve its goals, the EU lacks the resources of a global actor, since it only has the means that its Member States are able to lend it, and its ability to assume the stature of a global actor is thus always dependent on the will and the capacity of its members.

But even so, although it was not strictly speaking a strategy, the ESS did contribute some elements of strategy which go a long way to explaining the behaviour of the EU in matters of security, in view of both their positive contents and their omissions, and which offer guidelines as to the best way forward. In practice, it has been used as a reference document for almost every initiative promoting the expansion and strengthening of the ESDP, including autonomous international missions, which began in 2003. It came to be a fall-back substitute for the strategic guidelines of the European Council; and it served to *Europeanise* any novel matter that came within the scope of EU security and defence, and to justify the organic and procedural growth of the Council's General Secretariat within the ESDP.

The European Council of December 2007 asked the SG/HR to analyse its implementation in concert with the Member States and the Com-

mission, a request which the 2008 French Presidency of the Council unilaterally interpreted as a mandate to update it. The aspirations of the French presidency were dashed by the languishment of the Lisbon Treaty following the Irish veto and the Georgian crisis, and the ESDP Secretary General/High Representative (SG/HR) finally presented a «Report on the implementation of the European Security Strategy: providing security in a changing world», which was approved at the European Council on 11 December 2008. The risks identified by the report included the security of information systems (cyber), energy security and climate change, and it relegated regional conflicts and failed states to the status of individualised risks in the ESS. All these risks—whether included in the ESS or not (8)—are still classified as security risks where there is only a limited place for the use of force, but there is no explanation of how security and defence are to be used to deal with these risks.

THE MISSIONS AND INSTRUMENTS OF THE ESDP

Because the integration process followed was progressive, the EU opted to take on only security and defence missions that it was able to perform with the instruments available to it. Despite appearances, the ESDP does not cover all possible missions within the military and diplomatic spectrum that a strategic actor must address, but only those missions —or scenarios in ESDP terminology— that the Member States have decided are viable. The missions, from the first list (Petersberg tasks) in the Amsterdam Treaty to the expanded list in the Lisbon Treaty, are basically of the following kinds:

- Peace enforcement: peacemaking and tasks of combat forces in crisis management
- Stabilisation and reconstruction: peacekeeping; governance; disarmament, demobilisation and demining; security sector reform
- Conflict prevention: arms control, disarmament, embargos, non-proliferation
- Assistance of nationals: evacuation of non-combatants, response to terrorist attacks

(8) Although many authors, including in official documents, took it for granted that the ESS would be updated following the approval of this report, an update raises serious doubts for several reasons; for instance there is no record of a Council mandate for such an update or of any approval of such under that name, and nor does it meet the requirements of an update (Biscop, Howorth & Giegerich 2009:3 and Arteaga, 2009).

- Humanitarian assistance: responsibility to protect, emergencies and disasters

The EU, which aspires to become a global actor, has placed no geographical limitations on its interventions, but in practice its projection has been more regional than global and it has evinced a preference for an immediate sphere of action that largely coincides with the European Neighbourhood Policy (9), including West and Sub-Saharan Africa, the Middle East and Central Asia. Outside these areas, there can be interventions in response to natural disasters (the tsunami in Aceh in 2004 and the Haiti earthquake in 2010) or man-made disasters, or for humanitarian reasons (Vasconcelos, 2008:152), but these hardly fit into a military expeditionary projection. In such close geographical areas it ought in theory to be easier to achieve unanimity for joint actions than in other areas where the Member States' interests do not coincide or interventions pose serious logistical problems.

The new Lisbon Treaty has included two clauses that did not benefit the ESDP: a solidarity clause for the provision of assistance to any member country that is the victim of a terrorist attack or a natural or man-made disaster at its request (art. 222), and a collective defence clause whereby Member States are to provide aid and assistance by all the means in their power in the event of armed aggression (art. 42.7). Both reflect an advance in solidarity and collective defence, although they are not automatic and it is up to the Member States to decide how to fulfill these obligations and whether they should be implemented through the EU, NATO or individually. Solidarity and collective defence fell outside the scope of the ESDP in its day and Member States did not mandate the ESDP during its lifetime to develop a common policy for the tranquility of neutral countries, and collective European defence remained within the framework of NATO because the NATO countries insisted on keeping their defence options under the allied umbrella. In the meantime, collective defence remained in the «limbo» of the Western European Union and the amended art. V of the Brussels Treaty, which will remain in force until such time as the Member States decide to develop all the potential for self-defence embodied in art. 42.7 of the Lisbon Treaty. The lateness and the limited scope of its inclusion reflect the difficulties encountered by

(9) European Neighbourhood Policy regulates the EU's relations with countries in the Mediterranean area and the Caucasus, except Russia, with which it shares common borders or areas, by means of bilateral agreements and action plans («European Neighbourhood Policy», Com. (2004) 373 of 12 May 2004).

the ESDP in promoting a regional security *complex* based on the interdependence of interests and risks (10.)

The array of missions is indicative of the level of the EU's ambition and capacity to intervene in international security. Their approval is both a cause and an effect of the resources that are available and the needs that arise, thus the means determine the missions and missions determine the means necessary for the ESDP. The missions referred to evidence limited interest or capacity to undertake the most demanding military missions. Neither a majority of the member countries are interested in undertaking peacekeeping tasks that require considerable military and political input, nor do most possess the means to do so. Given these conditions, the EU would not for instance have been able to take charge of military operations on the scale of Bosnia-Herzegovina or take part in operations like Kosovo without Security Council authorisation. Despite these limitations the EU received constant requests for intervention from third countries and international organisations, but the European Council maintained a policy of deciding case by case rather than automatically entering into bilateral agreements with other international organisations (11), for reasons of both prudence and capacity. For instance, on occasions the Council has accepted UN requests to take part in operations in the DR Congo, but in December 2008 it rejected an invitation to send 3,000 troops until the UN was able to reinforce the mission. On the other hand the EU sought out other missions in order to use them as laboratories (learning by doing) and practice grounds for its organs and procedures of intervention; it was therefore unable to take on very complicated missions, only ones that it was sure of being able to perform.

Aside from the will to act, possible functions also depend on the available instruments, and since the EU lacks such sophisticated military re-

(10) According to Buzan & Waeber (2003:44), the term «security complex» is characterised by interdependence of national and collective security problems, which would rule out the EU being one since some members do not wish to share their defence problems, or would make it a security but not a defence complex.

(11) The UN missions normally coincide largely with the ones cited in the 2010 Military Headline Goal. There are four cooperation scenarios: exchanges of information; operations such as Althea led by the EU under a UN mandate; bridging operations like Artemis that act until the UN can take charge of the missions; and general «over the horizon» reserve missions or extraction forces for the blue helmets in the African scenario (the terms of EU/UN cooperation are set out in Council Doc. 9638/1/04 of 9 June 2004). Nonetheless, according to Katsioulis (Lasheras, 2009:10) it still remains to be determined how the EU could help develop effective multilateralism in the UN.

sources as NATO, it has had to tailor its missions to its means. Hitherto the EU had no option but to act as a civilian power because it lacked military means of its own; however, once the ESDP began to furnish the EU with those means, it could only act as a military power to the extent of those means. Nonetheless, the EU does have other resources that other security organisations lack, possessing as it does a wide range of non-military common or governmental resources. The availability of those civilian instruments and the development of military instruments enabled the EU to become an organisation specialising in crisis management of a mixed civil/military nature, a qualification in great demand in post-war crises.

In addition to the ones mentioned, the ESDP always had instruments of action within the external spheres of the common policies. From humanitarian aid to economic cooperation or technical assistance, and including diplomatic mobilisation, the EU has always possessed a wide range of action capabilities. Many of these instruments are used by the Commission outside the ambit of the ESDP for purposes of the EU's external activity and can help to forestall structural causes of conflicts. Inter alia, the EU has introduced instruments for the detection, follow-up and analysis of crisis situations, including an early warning network with indicators that are processed by the Commission's external organs: delegations, conflict prevention and crisis management unit, directorates-general, aid (Europaid) and humanitarian aid (ECHO) offices. Among the instruments devoted to dialogue and political reform, it is worth highlighting cooperation in management missions and security sector reform with European partners as part of European Neighbourhood Policy plans for action with Mediterranean countries or the Ukraine (Cameron & Balfour, 2006:16 et seq.) or with the African Union by way of European support for development of its security, force and command architecture for the purposes of crisis management (12).

Among the available instruments we should mention the EU's civilian and military capabilities only briefly, as these are analysed in two chapters of this book. We will simply point out that at the time of adoption of the ESDP, the EU Member States decided at the Helsinki European Council in 1999 to acquire the military and civilian instruments that it lacked and

(12) See the agreement for the AU/EU Strategic Partnership at the 9 December European Council in Lisbon and the EU/Africa 2008-2010 Action Plan and the Eurorecamp-AMANI Africa 2008-2010 programmes (www.amaniafricacycleorg).

to set in motion processes to create and assess the required capabilities. These were instruments that the Member States did not possess and were essential to achieving the independent capability that the ESDP was intended to secure. As those two chapters of this book explain in detail, the Member States compared their needs with the available resources and drew up an inventory of available capabilities (Progress Catalogue) and a programme for acquiring the ones lacking (European Capabilities Action Programme), which in the meantime would measure the progress made towards achievement of the stated goals. Military and civilian Headline Goals were established, to be met through plans for the development of capabilities and periodic review mechanisms. The military goal was to acquire a deployable force of around 60,000 troops with an operational autonomy of 60 days; however, that goal was not achieved by the proposed date, 2003, and was set back until 2010. On the civilian side, the successive goals (13) have sought to endow the ESDP with capabilities, personnel and resources to enable rapid deployment on the ground. The latest Headline Goal includes personnel, training, procurement and logistic equipment.

The EU has sought to acquire rapid military response and strategic transport capabilities, civilian capabilities and capabilities of cooperation with NATO for the ESDP. It has set up procedures for action by land, sea and air to cut down the intervention time to within 5 to 30 days from the approval of the crisis management operation, and to have Battle Groups ready for deployment. According to a Declaration of the European Council on 16 December 2008, the EU Council aspires eventually to be able to undertake two major reconstruction and stabilisation operations simultaneously for two years with 10,000 members, as well as two rapid response operations including Battle Groups and one EU national evacuation operation.

However, notwithstanding the assessment made in the two chapters mentioned, the ESDP had trouble matching goals and resources. The agreement on the diagnosis of requirements was not backed up by solidarity and a will to contribute adequate resources. With no mechanisms for convergence or coordination of national security and defence planning, each Member State looked to its own priorities rather than putting

(13) The military goals are listed in the annexes to the Presidency's Conclusions at the Helsinki European Council of December 1999. For the civilian goals see *Civilian Headline Goals 2004*, doc. 13323/04 of 11 October 2004; 2008, doc. 15863/04 of 7 December 2008, and 2010, doc. 14823/07 of 19 November 2010.

the common good first. The ESDP came to the end of the road without having acquired crucial means for its projection (14) or tested its stand-by Battle Groups on the ground. These started their rotations in 2005 but were never used during the lifetime of the ESDP because their composition was not suited to the crises that arose or because the national authority concerned forbade their use. As a result, in 2009 the Swedish Presidency finally proposed a conceptual review to make full use of the investments and the expectations that it has raised (15). In the civilian sphere the real capability goals differ from the ones set out in the programmes, and as we shall see later on, civilian and civil-military missions suffer a chronic shortage of resources which has delayed the announced intervention in missions such as police training in Kosovo or in Afghanistan.

The ESDP also lacked other security- and defence-related instruments available to some national powers, such as intelligence. Over time, the General Secretariat of the Council acquired military intelligence capabilities within its General Staff's Intelligence Division, and civilian intelligence capabilities which were furnished by the Commission and some early warning units such as the Police Unit or the Situation Centre/Intelligence Analysis Capability. Through these it can gather information and compile intelligence on matters of interest to the Council (EU Watchlist), but other than resources of its own such as the images from its Satellite Centre at Torrejón, the EU depends on intelligence contributions from its members and from international organisations. The ESDP therefore never had a proper intelligence community.

Also, the ESDP was unable to make enough of the external network of more than 140 delegations and more than 2,000 members because they were dependent on the Commission and served the CFSP. Despite repeated calls for coherence and synergies in the instruments of external action, corporate divergences prompted resistance to the loss of auton-

(14) In the last public assessment report of 2006 (doc. 16004/06 of 5 December 2006) only 12 of the 64 assets proposed had been acquired, and among the 52 outstanding were command and control resources, helicopters, precision weapons, means of troop protection and other critical capabilities (Whitney, 2008:30). Keohane & Valasek (2008:26) highlighted the need for satellites, unmanned aircraft, anti-missile systems and other capabilities to address future defence needs beyond the current crisis-oriented approach to conduct of the ESDP.

(15) For a general approach see «Posibles escenarios de actuación de los *battle group* de la UE», *Documentos de Seguridad y Defensa*, no 9, CESEDEN, Abril 2007. For the limitations see «Europe's Rapid-Response Forces: use them or lose them?», *Strategic Comments*, Vol. 15 No 7, IISS, September 2009.

omy. The Lisbon Treaty sought to remedy this shortcoming and brought all the EU's instruments of external action together in a new External Service, although its structure has yet to be defined; that is a matter for the CFSP and could be beneficial to the CSDP.

THE MILITARY EFFORT: BUDGETS, INDUSTRY AND EFFICACY

The ESDP could not be built with formal agreements and declarations alone; it was essential for the Member States to acquire the material and technical capabilities necessary for them to be able to contribute to the ESDP as they had undertaken to do in the European Security Strategy. But the Council was unable to secure commitments on spending or convergence criteria that would assure an equitable distribution of the security and defence effort, and analysts agree that the effort is inadequate, ineffective and badly distributed (Navarro: 2009 and Witney: 2008). According to figures published by the European Defence Agency, in the last attempt to create a specific ESDP instrument for the development of Europe's industrial capabilities after several unsuccessful attempts (16), the EU spent 200 billion euros as compared to 466 billion by the US, with an annual expenditure equivalent to 1.63% of GDP (4.7% in the US) and 406 euros *per capita* (1532 in the US). The difference is even greater when viewed in terms of investment per military — 111,200 euros in the EU versus 332,700 in the US— or in equipment and R&D per military —23,274 versus 127,296 euros—. The US invested 19.9% of its 2008 budget in personnel and the EU spent 53.1%, while the US spent 37.2% on operations and maintenance and the EU 21.6%. Finally, the US is able to keep up to 15% of its personnel permanently deployed, while the EU can only do so with 4%. This means that Europe invested poorly under the ESDP, as its budgets were not devoted to transforming and improving capabilities or providing further training for its forces but to conserving force structures of little use to the missions that they should be undertaking under the ESDP.

(16) The figures are from the European Defence Agency and are updated to December 2009, at <http://www.eda.europa.eu/defence/facts>. The defence industry has always remained outside the Single Market and is protected by Art. 269 of the EEC Treaty in order to safeguard the sovereignty and industrial interests of each Member State. The European Defence Agency was created in 2004 to support development of the crisis management capabilities required by the ESDP, the last of a series of unsuccessful attempts to engage the defence industry base in the policies pursued by the EU.

The ESDP sought to emulate the transformation process carried out in NATO and used initiatives like the Battle Groups to promote the development of interoperable, standardised forces in countries that lacked them, but it was unable to raise the necessary investment in many cases, and when it did so, as in Sweden, it was unable to justify the failure to utilise it. Although the ESS asked the Member States for an effort to acquire the necessary military capabilities, they continued to spend separately: whereas the US spent 83 billion euros on the purchase of 27 pieces of equipment, the EU spent around 30 billion on the purchase of 89 pieces of equipment. Spending continued to be unequal because while a few of the 27 have made an effort to sustain the EU's military capacity, the rest are neutral, lack military capacity or are simply consumers of security. As a result the EU, whose armed forces on paper numbered around 2 million, was barely capable of deploying 80,000 troops externally at one time under the ESDP, and the differences between the EU Member States continued to grow (United Kingdom, France, Germany, Italy, Netherlands and Spain spent more than 2 billion euros on operations and maintenance in 2008 while all the rest spent less).

Despite these limitations, the ESDP was able to make use of the military and non-military resources of its members and of the EU to enhance its visible presence as an international actor. But as these were used, it became clear that planning and controlling organs were needed to generate synergies in the management of crises and operations where the use of force needed to be supplemented by humanitarian aid or reconstruction. The ESDP enabled the EU to set up a system of civil-military crisis management that was characterised by a synergistic and integrated combination of civilian and military instruments, as part of what is known as a comprehensive management approach) (17). It did not have time to complete the set-up because full implementation required a lot of time and effort for the different mentalities, organs and cultures involved in the ESDP to adapt. But the ESDP strove until the last minute to put in place a civil-military system of its own to complement the Member States' civilian and military systems and to coordinate with the instruments of the Commission and the CFSP in improving the effectiveness of their actions and promoting a shift to a culture of comprehen-

(17) Civil-military management is not the same as the sum of civilian management and military management inasmuch as management is conducted through ESDP organs and procedures, so devised as to achieve synergistic, integrated operation, unlike general modes of management where there is a collection of non-integrated procedures and organs that have to coordinate, with the attendant loss of efficacy.

sive management. To control this, it set up a limited organisational structure which has continued to grow over time and with the needs stemming from the lessons learned in its international operations, and as a result the EU has come to specialise in limited-intensity civil-military crisis management.

THE COMPLEX DECISION-MAKING PROCESS: ACTORS, ORGANISATION CHART AND SOCIOGRAM

The collective process of security and defence-related decision making is as difficult in the EU as in any other comparable international organisation because agreement depends on convergence of the interests of the Member States. Decisions in these matters have always had to be unanimous in the ESDP because the Member States have been particularly reluctant to become involved in military actions decided by a majority vote. Unless the Council decides otherwise—in minor matters such as the appointment of special representatives or implementation of previous decisions—participation in matters of security and defence is decided unanimously, although States have the right to abstain from participating (constructive abstention) or even to prevent it with one-third of the weighted votes. The decision-making process is intended to be inclusive in order to achieve such unanimity in its resolutions, but Member States may then go back on their undertakings when it comes to acting on them, in which case the expected contributions do not materialise and the resolutions adopted lose credibility and predictability (18).

As already noted, the Member States were formally the leading actors in the ESDP, but informally the ESDP was more dependent on the bigger European powers, whether acting individually or grouped into directories or axes, than the rest of the EU Member States. The progress of the ESDP depended not only on the convergence or divergence of national interests, but also—and perhaps chiefly—on their attitude to the ESDP and their strategic culture. In addition to Denmark, which took no part in it, there was a group of countries including Austria, Cyprus, Finland, Ireland, Malta and Sweden which remained neutral, thus lowering the minimum common denominator of the aspiration. In addition, there were numerous

(18) Details are provided further below of the difficulties encountered by ESDP heads in garnering civilian and military resources from the member countries; however, the divergences before, during or after the decision-making process are one of the aspects that cast most doubts on the EU's role as an international actor (Valasek & Keohane, 2009).

clashes between the countries most committed to NATO (United Kingdom, Netherlands, Poland, Czech Republic, Romania, Bulgaria, Estonia, Latvia and Lithuania) and others that were equally committed to NATO and the EU, or clearly EU-oriented like France and Spain, as we shall see in a later chapter. The overlapping of identities and loyalties —although all these positions have varied with changes of Governments or within the strategic context— affected the development of the ESDP and their credibility as actors committed to the ESDP.

This is not a question merely of political attitudes, but also of cultural attitudes to security and defence. Every EU country has a strategic culture that determines the particular way in which it weighs up the use of force and military effort as an instrument of foreign policy, and while some Member States were prepared to use force if necessary, others sought to avoid it so as to avert social controversies and others were unwilling to see the EU become anything like a military organisation. For example, the strategic cultures of the United Kingdom and France lend themselves readily to the use of force —conventional or nuclear— to further their strategic interests, whereas Germany's strategic culture and constraints in its Fundamental Law push it in the opposite direction. Similarly, while the United Kingdom and the Netherlands took part in counter-insurgency missions as part of Operation Enduring Freedom in Afghanistan, most of the European NATO members refused to combat the insurgency as part of the International Security Assistance Force (ISAF/NATO). This difference in attitudes influenced the effort and military capacity of each Member State and their decision to take part or not in missions that would foreseeably entail the use of force, and determined an asymmetrical willingness to cover the entire gamut of ESDP military operations (mission spectrum), as only a few members were willing and able to participate at the more demanding end of the mission spectrum (19).

Since the ESDP is subordinate to the CFSP, it seems reasonable that the agenda should be set mainly by the foreign ministers. As this was not a common policy, defence ministers lacked a council of their own where, for example, they could supervise matters in their purview such

(19) Strategic culture refers to the context and the use of force, whereas terms like European security culture (Lasheras et al, 2009:38) refer to awareness of the ESDP. Dobbins (2008:107-9) identifies the desire to avoid risks as one of the EU's main vulnerabilities when it comes to taking part in nation-building missions, that and the difficulties it has in deploying forces and the separation of its civilian and military security and development instruments.

as Headline Goals, and the responsibility therefore lay with the foreign ministers at their General Affairs and External Relations Council (GAERC) during the lifetime of the ESDP. In any event, the common decisions and actions taken by the Council were politically but not legally binding, as the diplomatic accords of the ESDP could subsequently be undermined by national decisions in the course of their implementation.

At the outset, the ESDP and the CFSP lacked an identifiable face in the international sphere, a «Mr CFSP» that third parties could recognise and a phone number that they could call. The rotating presidencies augmented rather than reduced the multiplicity of EU voices until the Treaty of Amsterdam created the position of High Representative for the CFSP. This gave the Secretary General of the Council a higher profile and greater competences on the international stage. The emergence of the High Representative for the CFSP and Secretary General of the Council (SG/HR) gradually sidelined preceding interlocutors, but the EU did not back him up with the Commission's resources and competences (causing a situation of latent collision with the Commissioner for Foreign Relations), and it did not allow him sufficient autonomy vis-à-vis the Member States. As a result, by the time of the Lisbon Treaty, the ESDP had not succeeded in integrating the EU's capabilities and responsibilities under a single authority.

Despite the implicit constraints, the SG/HR's role grew implicitly as his competences developed and the ESDP acquired new functions, for example civil crisis management as developed by DGE IX since the Nice Treaty, insofar as the Member States have not objected to the assumption of new responsibilities by the SG/HR, for instance in the development of a civil-military structure within the Council Secretariat. His role as an international spokesperson for the EU grew in the international sphere as far as the big European powers considered that the ESDP should go (20), but the SG/HR took the ESDP much further than its founders had expected in 1999.

The Commission, another principal actor in the EU, has progressively lost ground in the ESDP owing to the intergovernmental nature of secu-

(20) The big powers – Germany, France and the United Kingdom and occasionally some others – have reached concerted positions with the US and Russia in relation to the Bosnia-Herzegovina and Kosovo crises (Contact Group), or unilaterally assumed representation of the EU to negotiate with Iran (EU-3) on its nuclear programme, while still retaining their «seats» in international power groups like the UN Security Council, the G-8 or the G-20.

rity and defence. The Commission never made use of the right of initiative that it possessed in the ESDP so as not to interfere in governmental matters, but the Member States sought to utilise the Commission's resources to consolidate the ESDP, thereby saving on resources of their own. The Commission possesses numerous instruments of economic cooperation, development assistance, technical assistance, humanitarian assistance and others, such as the above-mentioned delegations in third countries that added value to the ESDP; hence the Council's temptation to avail itself of these resources over the heads of the European Council and the European Parliament.

The compartmentalisation between Commission and Council hampered coordination of the CFSP, for which both were responsible, and this prevented full advantage being taken of the synergies between the two organs' policies, actions, officers and beneficiaries. The misunderstandings and tensions flowed from the overlapping of competences as the ESDP began to address tasks of technical assistance for the security forces of third countries, due to the interaction between security policy and development policy, or in the area of arms control, among many others for which the Commission had traditionally been solely responsible. Coordination improved greatly from the beginnings of the ESDP through the CFSP Directorate, a branch of DG Telex, which was responsible for coordinating relations with the Political and Security Committee (PSC), the Council Secretariat and other ESDP organs. Coordination in crisis situations was also improved by the *ad hoc* joint Council/Commission fact-finding committees and Crisis Response Co-ordination Teams (CRCTs) that were created to serve when required.

The European Parliament had little say in the decisions and in control of the ESDP, although as time elapsed it did receive more information and have more interchange with the actors in the ESDP. The Parliament would have a greater role if the ESDP were financed from Community funds, but the Member States try to avoid this so as not expanding parliamentary control. As a result, intergovernmental decisions have been kept beyond the control of the European Parliament with the argument that these are national competences, and beyond the control of national parliaments with the argument that the political legitimacy was European, so that in the end the ESDP lacked democratic credentials.

Again, it was no easy task to develop a supporting organisational structure for the ESDP from scratch. In 2000 the rotating French Presi-

dency presented a proposal for a structure and procedures to the Nice European Council (21), and a sustained effort has been made since then. Essential to this progress was the coordination of all the intergovernmental organs, Presidencies, Councils of Foreign Ministers, Secretariat General and intergovernmental committees in Brussels. Also, the rotating presidencies, especially those of the big countries, have been particularly important in driving the ESDP, although their impetus tended to slow down following the end of their turns, and the rotation system declined when the Lisbon Treaty came into force.

On a strategic-political level the ESDP was supported by the European Council and the General Affairs and External Relations Council (GAERC), with the later addition of a parallel informal meeting of defence ministers, ambassadors on the Permanent Representatives Committee and the Political and Security Committee. This Committee (PSC) was created by the Nice Treaty to endow the Council with permanent ambassadors, thus turning it into the lynchpin of the CFSP-ESDP and the chief element in the structure of the ESDP (Duke, 2005; Grevi, 2009). In order to carry on its work and undertake international crisis management, the PSC had a number of organs of intergovernmental support: the EU Military Committee, the members of the Foreign Relations (Relex) group, the Committee for Civilian Aspects of Crisis Management (Civcom), the Political-Military Group (PMG) (22) and other Council work groups (in addition to the Nicolaidis Group for preparation of tasks).

At a strategic level the ESDP set up civilian and military advisory bodies to advise the Council and undertake advanced and contingency planning. These did not include an operational GHQ that would enable it to be assured of —and envisage— its autonomy for the planning and conduct of operations. Germany, France, Belgium and Luxembourg's advocacy of this in 2003 in the midst of the controversy between Atlantists and Europeanists over the US intervention in Iraq served to deepen the rift

(21) Report 14056/2/00 of 4 December 2000 from Coreper to the Council on European military and civilian defence and security capabilities, military and civilian management structures, agreements with third parties, absorption of the functions of the WEU and conflict prevention.

(22) The purpose of this group was to liaise between the civilian and military aspects, between Civcom and the Military Committee in support of the PSC, but its functions have grown vaguer over time and it has therefore sought to specialise in security sector reform, in missions like the ones to Guinea-Bissau and the DR Congo, a function in which they compete owing to lack of coordination with the Commission (Grevi, 2009:50).

between the two sides. But however necessary it may have been and whatever its sources of support, the ESDP came to the end of its days with no prospect of achieving its own permanent military GHQ (23). On the other hand the ESDP created civilian and military management procedures of its own in order to give all its organs a role in a system that was fairly well integrated from its earliest designs (docs 11127/03 of 3 July 2003 and 13983/05 of 3 November 2005), which were progressively modified in practice but still devote more attention to contingency planning for crisis management —i.e. reacting— than to the kind of advanced planning that plays a more proactive role.

The High Representative developed a structure that allowed it to deploy Special Representatives for crisis zones, an EU Military Staff (EUMS), a Joint Situation Centre (SitCen), a Political Unit (PU), a Satellite Centre and a Police Unit. It thus acquired early warning and strategic planning resources, adequate for devising crisis management approaches although inferior to those possessed by comparable structures in NATO or in several of the Member States. It also had the DG E, which engaged in the design of the ESDP through its DGE VIII for political-military affairs and DGE IX for civilian crisis management. Even so, the SG/HR's margin of autonomy in the ESDP was inversely proportional to that of the PSC —i.e. smaller the more military the situation—. At the outset, the PSC defined the role of the SG/HR in each crisis and the rotating Presidencies chaired its meetings, but over time the High Representative succeeded in taking over the definition of crisis management concepts, to the detriment of PSC leadership.

Making a virtue of corporate necessity, the High Representative was careful to acquire analytical and planning capabilities in order to win points with the Council, taking advantage of the PSC's slow reactions (24). To make up for this limitation the SG/HR used the civil-military na-

(23) As is explained later in this chapter, and in more detail in successive chapters, for its most demanding military operations the EU was able to use the operational GHQs of France (Artemis in 2003), Germany (Eufor RDC in 2006), Greece, Italy and the United Kingdom (Atalanta in 2009), and those of the Eurocorps, the Franco-German Brigade or NATO (Eufor Althea in 2005) ().

(24) The accumulation of functions and the growth of the Secretariat General in so short a time was not accompanied by the necessary human and material resources, and as a result the growth of the Secretariat General was dependent on the civil servants lent it by the Member States. However, this situation enabled the SG/HR and its organs to gain influence with the governments by making use of the contacts of these same civil servants with their respective governmental authorities.

ture of the missions adopted to progressively wrest military protagonism from the Member States and civilian protagonism from the Commission —arguing reasons of efficacy and synergy—. For that reason, for purposes of planning of the civilian and military aspects of missions —leaving the strategic side to the DGE, particularly DG IX— a Civilian Planning and Conduct Capability (CPCC) was created in 2007. This afforded a means of planning and conducting civilian or mixed missions through a civil-military cell outside the EU Military Staff (EUMS) using the operations centre (OpCen), a civil-military operations planning and control body that has been in operation since 2007 for when the EU does not have the use of an external GHQ. Forced to find a way between the civilian capabilities of the Commission and the military capabilities of the Member States, the ESDP sought to develop its «niche» in civil-military operations, to which end in December 2008 the European Council approved the creation of a strategic-level Crisis Management Planning Directorate (CMPD) to integrate civilian and military planning capabilities at that level, and the ESDP had the task of developing that organ.

Another interesting aspect of the ESDP decision-making process was its activation in the event of a crisis. Thanks to this, the EU can now deploy civilian, military or civil-military missions depending on the nature of the conflict. Each mission has a Civilian or Military Chief on the ground, with the appropriate support organs to supervise the various components —security, policing, rule of law, administration and so forth— as each crisis requires. But until such deployment is complete, organisation and procedures are required to make it happen, and this is yet another of the ESDP's contributions to the EU's international projection.

Very generally, the sequence of activation of the EU's management system for ESDP missions would be as follows. The advance planning bodies —DG IX, EUMS, CPCC and SitCen— have the task of advance planning of possible interventions and carrying out exercises to improve the EU's capacity to respond to potential crises. When crises do arise, the available plans are put into action (advance planning) or assessments are conducted (contingency planning) as required to advise the High Representative and the Council on the necessary Crisis Management Concept. If necessary, exploratory missions or civilian response teams can be sent to gain a better understanding of the situation. All the information that is gathered is passed on to the bodies responsible for drawing up the crisis management concept concerned: the PSC in the case of an operation with a significant military dimension, or the High Representative in all other cases.

The PSC always assesses the crisis management concept and submits it to the ambassadors of the Permanent Representatives Committee (Coreper) for amendment or approval by the Council. The Council in turn commissions the PSC to draw up the possible political, military and civilian strategies so that the Council can, if appropriate, approve a Common Action with the mandate, goals and funding arrangements for each mission. If the Common Action includes a strategic military option, the Council will specify a chain of command and whether or not recourse is to be had to NATO resources and capabilities (25). Similarly, when a Common Action includes a civilian action, the Council will specify the chain of command and the organisational structure.

The next step is approval of the concept of the operation (ConOps), involving the heads of the Operational GHQ, the CCPC, the Secretariat-General, the EU Military Committee and the CivCom. The heads of operations, in collaboration with their planning bodies, draw up the military or civilian concepts of the operation, assessing the civilian or military strategic options proposed and the crisis management concept. The draft operational concepts are then submitted to the PSC, Coreper and the Council.

If they approve the concept, the Mission Chief must then draw up a plan of operations with the assistance of the heads of the various components (dimensions) of the mission. Once the operational plans have been approved, the next step is to negotiate a Status of Forces Agreement (SOFA) and a Status of Mission Agreement (SOMA) with the governments of the states where the mission is to be carried out. A process then commences to coordinate contributions and set up forces in the military sphere, in which each Member State is appraised of the requirements and assesses its contribution. If the contributions do not match the requirements, then the contributions must be renegotiated or the mission goals downsized to fit the goals to the resources (risk analysis).

What characterised the ESDP during its lifetime was that implementation of intergovernmental decisions depended on the resources of the Commission and of the Member States, so that whatever political agreements were reached, when it came to setting ESDP operations in motion, fresh negotiations were required to settle technical and budgetary issues. As a result, the EU Member States acquired the bad habit of accepting decisions without weighing them up properly because they could always get out of their commitments by refusing to furnish the necessary contributions,

(25) NATO/EU relations are discussed in another chapter of this paper.

thus further discrediting the ESDP. Be it said nonetheless that the Member States did gradually augment their contribution to ESDP missions in addition to contributing to other UN missions. For example, in 2009 the EU countries deployed a total of 70,000 soldiers, 26,000 of them in Afghanistan with the ISAF and around 8,000 European blue helmets in Lebanon. That figure is a considerable increase on the figure for 2006 (17,000), although as Korski (2009:2) acknowledges, few of them actually take part in combat missions.

To acquire more resources, ESDP missions were opened up to participation by third parties, especially non-EU members of NATO. If a non-EU state wished to take part in an ESDP mission, it would be invited to join in the decision-making process after—not before—the full EU Member States had decided on intervention. Thereafter, the outside contributors had an equal say with the EU Member States in the day-to-day conduct of the mission. This practice of the ESDP reflects similar practices in other organisations and facilitates flexible incorporation of third parties. «Partnership» includes other organisations such as the UN and NATO as mentioned, and other less familiar ones such as the Organisation on Security and Cooperation in Europe and the African Union. EU collaboration with third parties in missions follows the progressive pattern described above, building on experience and never acquiring obligations that cannot readily be fulfilled. With the ESDP the EU was unable to structure a «platform» organisational model with room for integration of other actors; it preferred to take part in operations led by others, complementing or supplementing their needs with its own capabilities.

THE PRACTICAL EXPERIENCE OF THE ESDP: MISSIONS AND RESULTS

Between 2003 and 2010 the EU initiated 22 missions, 6 of them military, 13 civilian and 3 mixed (26), in which it used civilian and military instruments of its own and of third countries. The EU has deployed European forces on ESDP missions Artemis (Bunia, Congo, 2003); Concordia (Former Yugoslav Republic of Macedonia, 2003); Althea (Bosnia-Herzegovina, 2004) and Eufor (Chad/CAR, 2008). It sent observers to Aceh, Indonesia in 2005 and to Georgia in 2008. The EU also sent technical assistance for border control in EUBAM missions to Rafah, Palestine and

(26) For details and analyses of missions, see Lasheras et al (2009:67 et seq.) and Grevi, Helly & Keohane (2009:159-402).

Moldova in 2005; to reinforce the rule of law (Eujust Themis in Georgia and Eujust Lex in Iraq), also in 2005, and to supervise elections (Eupol Kinshasa) in Congo (RDC) in 2005.

Of all the EU's civilian missions there is particular demand for police assistance, both preparation of police in candidates for EU membership (Commission programmes such as Phare, Cards and Meda) and police training in complicated scenarios. In cases of the latter kind, where it was difficult to furnish assistance or aid for reforms to civilian actors under normal conditions, the ESDP ran missions in Bosnia-Herzegovina (EUMP, 2003); in the former Yugoslav Republic of Macedonia (Eupol Proxima in 2003 and then Eupat in 2005); Eupol COPPS in Palestine (2005); Eupol in Afghanistan (2007) and Eulex in Kosovo (2008). The ESDP has also conducted security sector reform missions, in competition with Commission missions, with Eupol Kinshasa in RD Congo (2005) and EU SSR Guinea-Bissau (2008).

These missions are an asset to the ESDP record and to the EU's aspiration to a global role, despite being funded with contributions from the participants. The latter have generally been sharing the costs of military operations through a system of distribution known as Athena supervised by a Special Committee of the same name which determines the common expenses of the operation, while the participants cover their own expenses and the Commission the administrative expenses (Decision 2004/197/CFSP, February 2004). For civilian missions the EU has a Rapid Reaction Mechanism whereby it can set up prevention or reconstruction missions for a limited period of up to six months (Regulation EC 381/2001). The ESDP was unable to solve the problem of costs of operations until 2004, when it succeeded in setting in motion the Athena mechanism for arranging the sharing of expenses. As a result, until then operations could not get under way until the means of funding were agreed, on a case-by-case basis. In any event, the common expenses covered in this way account for barely 10% of the real costs (Whitney, 2008:46) and their proportion has dropped further still as the costs of the operations have risen (27); the ESDP therefore never provided an answer to the problem, which remains unsolved.

(27) The CFSP budget for 2009 was 242 million euros, divided among peace, non-proliferation and disarmament processes, resolution of conflicts, emergencies, special representatives and policing missions. This represents approximately 3.5% of the EU budget for its global action, which in 2010 comes to 8,142 million to cover assistance programmes for candidate countries, the European Neighbourhood Policy, development cooperation, humanitarian aid and others, leaving little funding available to further the ESDP.

Where this decision-making process stumbles is when it comes to contributing forces. Mission requirements are calculated before they are set in motion, but there is no assurance that there will be adequate resources for the intervention. As a result, problems arise in the generation of resources when European governments are called on to back up their political commitments with human and material resources. At the present time a complicated process is beginning in which the responsible officials, especially the High Representative, face the dilemma of either pressing their requests item by item and contact by contact or delaying the launch of the mission. The difficulties affect not only civilian contributions but also —in some cases even more so— civilian contributions that cannot be directly mobilised by their governments (e.g. difficulties in furnishing missions in Afghanistan or Kosovo with the planned police personnel) (28).

The missions have shown progress in quantitative terms, with mixed results. The EU tends to select missions according to its need to gain experience and its capacity to take on responsibilities (the missions involving the largest numbers have been Bosnia-Herzegovina with 7,000 and Chad/RCA with 3,700 at the moments of peak participation, and the largest civilian operation in terms of personnel has been Kosovo, with 2,550). The official assessments of ESDP missions have been rather uncritical and have tended to focus more on the number of missions initiated —23 up to the end of 2009 and 12 so far this year— than on an analysis of their outcomes, because the EU lacks a good system for assessing ESDP missions (Whitney, 2008:49-50; Asseburg & Kempin, 2009:159), which has not helped in terms of self-criticism and learning.

Without detracting from the importance of the missions for the development of the ESDP, which is not in dispute—all analysts are agreed—it is nonetheless worth assessing some of the results. Among the criticisms from outside is the question of their purpose, as the aim of several of the missions undertaken has been to «show the EU flag» rather than solve the underlying problems, as Keohane & Valasek (2008:13) judge in connection with Eufor Congo in 2006. In other cases much importance has

(28) Korski & Gowan (2009) have classified the EU countries according to their attitude to civilian contributions: «the professionals»: Denmark, Germany, Finland, Netherlands, Sweden and the United Kingdom; «the strivers»: Austria, Belgium, France, Ireland and Romania; «the agnostics»: Czech Republic, Hungary, Poland, Portugal, Slovakia, Slovenia and Spain; and «the indifferents»: Bulgaria, Cyprus, Estonia, Greece, Latvia, Lithuania, Luxembourg and Malta.

been attached to military operations which in fact lacked the complexity of multinational operations—only the Congo and Bosnia fit that description (RAND, 2008:233), and in both cases they were in support of UN and NATO missions. Although most of the outside criticisms refer to military instruments, the assessment of the civilian instruments used in crisis management is raising many doubts about the EU's supposed civilian «excellence», as the outcomes of civilian interventions coordinated by the ESDP have likewise not come up to expectations (Korski, 2008, 2009 and Korski & Gowan, 2009). Criticism has also been levelled at the difficulty of coordinating ESDP interventions (Biscop, Howorth & Giegerich, 2009:11; Vasconcelos, 2009:10), for which the Council is responsible in the case of ESDP missions, unlike CSFP missions where the responsibility for maintaining coherence is shared by the Council and the Commission. The management of ESDP missions has also come in for criticism because, in spite of the rhetoric about progress towards a structure specialising in military management under a comprehensive approach, the differentiation between the different EU chains of command and security cultures has in fact persisted in the management.

The assessment must take into account the conditions of trial and error in which these missions are carried out; while it must be admitted that they are not as complicated as the ones conducted by others, it is also true that none of these missions was viable until the ESDP made them possible. The ESDP conducted a successful preventive action in the Former Yugoslav Republic of Macedonia and has diversified the range of missions in order to gain experience, setting in motion innovative missions such as maritime navigation control around the Horn of Africa (Eunavfor, Atalanta). Also, in the sphere of coordination it has developed informal mechanisms such as the Crisis Management Planning Directorate (CMPD) in 2008 to improve the design of the crisis management concept of an operation and planning of the civilian and military response options without having to create formal coordination superstructures; or again it has adopted the comprehensive approach in the new organs created by the SG/HR in the Council's Secretariat-General. Finally, the resources always fall short of the demand, and the ESDP's results have always ultimately depended on the resources of the former because European resources were very scarce. When the force generation processes worked properly, it was possible to undertake such demanding missions as Concordia or Atalanta mentioned above. But when the states failed to make the expected contributions, then ESDP missions could not be

carried out, as for instance in the case of Darfur or RD Congo; there were delays which dented the EU's credibility (it took 6 months to assemble 16 helicopters and 10 transport aircraft for Eufor Chad), or they were poorly conducted as in Kosovo and Afghanistan, where schedules and goals were not met (Witney, 2008 and Korsky, January 2008).

THE LEGACY OF THE ESDP

After 10 years in operation, the EU has decided to replace the ESDP for the CSDP in order to address the new challenges and opportunities in international security as the global actor that the EU aspires to become. At the end of these 10 years the EU now possesses manifold instruments enabling it to act flexibly. By adapting its instruments to the dimensions of the crisis it can react more quickly than before or is better able to anticipate problems. In this way the EU is turning into a capable, versatile actor, equipped to carry out multidimensional missions and able to operate autonomously within the limits of the ESDP's resources. The European security and defence system is still developing and will require time and experience to be able to live up to the EU's expectations; however, it now has basic organisational elements, it has developed procedures of its own and has undertaken real operations. Thus, the EU is now on the road to becoming a true global actor.

It has not yet attained the autonomy aspired to at Saint Malo and its achievements have so far failed to meet the standards of an aspiring global actor (Asseburg & Kempin, 2009:158; Pérez & Churruca, 2009:54), but it has achieved levels of progress that were unthinkable all these years back. Moreover, it has developed a novel and complex management structure, coming closer to the kind of integrated management enjoyed by the Member States, although there is still a long way to go before it achieves the fluidity with which the latter are able to agree on and organise decisions and ways and means. Given the inadequacy of vertical management approaches, whether national or multinational, the EU is more ground-breaking and ambitious than others, but it suffers from the division of pillars, cultures and resources. The convergence of pillars following the entry into force of the Lisbon Treaty should facilitate inter-pillar integration, an advantage that the ESDP did not enjoy.

The ESDP introduced the comprehensive approach for international crisis management but it did not fully develop it. The CSDP is intended

to give greater scope and depth to the new style of management, but it is also meant to improve integration in the galaxy of bodies that share security and defence competences once the barriers between pillars are removed by means of the whole-of-the-government-approach. In matters of security and defence, the idea is for the two to be integrated, replacing the coordination mechanisms that were used previously to assure coherence.

The ESDP exhausted its conceptual possibilities as regards the definition of security and defence and differentiation and interaction between foreign, security and defence policies. The pressure to remove the barriers between internal and external security will be greater with the CSDP than with the ESDP, and the former will therefore need to make an effort to do away with the artificial distinction between pillars, between security and defence, and start taking EU homeland security seriously. The European Security Strategy has done more to convey the notion of the EU as a global actor than to orientate the development of the ESDP. Any forthcoming review, update or interpretation of the Strategy must be seen in relation to a concrete security and defence policy, whether foreign-, security- or defence-oriented, if it is hoped that it will become a strategy and no longer a mere wish, but there is no way that it can become a grand strategy orienting and embracing all the common policies.

There is unlikely to be any progress in defence if none of the structural constraints blocking the door opened by Art. 42(7) of the Lisbon Treaty are removed: the predilection for NATO, neutrality, the transition to a unanimous common policy, and reluctance to use force and the essential capabilities. As former CFSP High Representatives Javier Solana reiterated on numerous occasions (2009), the EU is not a military alliance, but short of that, European defence could progress towards something like it through permanent, structured cooperation, an opportunity that the ESDP never had. In any event, it will hardly be possible to advance one way or the other without a convergence of national strategic cultures (NIDS, 2007:6), and increasingly by means of pooled resources.

The strategic context in which the EU will operate in the coming years will also be a rapidly-changing one (29) and will be much more uncertain

(29) For an assessment of the strategic context see Nicole Gnesotto & Giovanni Grevi (eds.), *The New Global Puzzle: What World for the EU in 2025?* EUISS, 2006 and *An initial long-term vision for European Defence capability and capacity needs*, European Defence Agency, 3 October 2006.

than the one prevailing in the days of the ESDP (Keohane & Valasek, 2008:2-7). In conditions of severe economic crisis, with serious demographic and social problems and growing problems related to transnational crime, terrorism and climate change, it will be difficult to maintain the high level of effort required by the ESDP in its early years. The new CSDP will have to deal with the aftermath of the Georgian conflict, a prolonged stay in Bosnia-Herzegovina, the failure of non-proliferation, energy security, and instability on Europe's periphery, the commitments of the Neighbourhood Policy, the demand for assistance from third countries and other problems.

When the ESDP was launched, missions were selected and unwanted costs to the EU and the Member States avoided, but after the first 10 years the available scenarios for 2020 and 2030 point to heightened possibilities of casualties, costs and failures for the EU, aside from the limitations existing from the outset. Even if events do not turn out as forecast, we may be sure that forthcoming ESDP missions will be conducted under the scrutiny of political and social heads, who will be demanding more transparent assessment measures and indicators where the focus will be on results. During the lifetime of the ESDP no missions were undertaken entailing the massive use of force so as not to adversely affect the way that the EU's new missions were perceived, as occurred with governments that sent troops on high-risk missions like Afghanistan. Just as the European governments have involved their parliaments in the process of decision-making on missions overseas, they ought to consider whether it is possible to carry on with the democratic deficit that burdened the ESDP. In the meantime, the CSDP's interaction with the national and European parliaments could be enhanced and the defence commissions *Europeanised* to promote greater social participation as suggested by the EU Institute for Security Studies.

The development of the ESDP has solved some problems relating to the lack of instruments, but as these have materialised, so has the problem of whether or not to use the capabilities acquired and take on new responsibilities. When it lacked the necessary instruments and organisation the EU did not receive requests for intervention, but as its capabilities have increased, new responsibilities and opportunities have arisen. The demand does not come only from third parties like the United Nations or the African Union but from actors like NATO which once opposed the development of the ESDP and now see an opportunity to share their burdens (D'Argenson: 2009).

The CSDP has inherited long-lasting acquired commitments which eat into resources that are needed to meet emerging demands and they are a source of operational stress in contingents and erosion of governments. The new powers are not relieving the traditional powers of their commitments and the traditional powers are not working on their capabilities to meet these, so that the number of available resources will continue to set the limit on the possibilities of action. Beset by a more acute shortage of resources than the ESDP owing to the obsolescence of the resources accumulated, wear and tear of the ones in use and the difficulty of acquiring new resources, the CSDP will have to rationalise its resources, generate economies of scale, set priorities (30) and establish cost-benefit criteria. Some of the ESDP's unattained goals, such as division of labour, functional specialisation, pooling of resources or externalisation, need to be addressed by the CSDP in the future if there is to be hope of rationalising the sector's possibilities.

One of the reasons most widely proffered in support of *Europeanising* security and defence is the evidence that individual actors are not sufficient in themselves to deal with the problems of our times. Nonetheless, the EU will need to demonstrate that it can do it better than the states, and for that collective resources are indispensable. The data published by the European Defence Agency show that the gaps between the States are constantly growing, and therefore their force structures (posture) and their capabilities (transformation) are far from meeting the needs of the coming strategic context—unless convergence criteria are established (31), either within the new CSDP or in Permanent Structured Cooperation.

(30) To do this, the EU Institute for Strategic Studies (Vasconcelos, 2009) recommends working on ten priorities, among them continuing to carry out crisis management missions to facilitate the transition to common defence, acknowledging that humanitarian security may require the use of force, achieving its civilian and military capability goals and unifying its defence market.

(31) Whitney (2008:3) cites three convergence criteria for participation in a strengthened core: higher defence spending measured as a percentage of GDP, taking seriously modernisation as measured in investment per soldier, and preparedness to use it, measured in the percentage of troops deployed on the ground.

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CHAPTER TWO

THE NEW LEGAL INSTRUMENTS OF THE COMMON SECURITY AND DEFENCE POLICY

THE NEW LEGAL INSTRUMENTS OF THE COMMON SECURITY AND DEFENCE POLICY

MARIA DE LA O URREA CORRES

INTRODUCTION: KEYS TO APPROACHING THE COMMON SECURITY AND DEFENCE POLICY

The endeavour to regulate defence matters in Europe dates back to the very origins of the European Communities. In fact it was in 1952 that the proposal was made for setting up a European Defence Community which fell into oblivion two years later owing to France's rejection. Following the failure of a project as appealing as it was unfeasible at the time of its proposal, the design of a security and defence policy for Europe only began to take shape gradually as a result of a combination of many circumstances which influenced the European project and the world context in equal measures. The causes endogenous to the construction of the European Union include the shift in the integration process itself from a purely economic focus to a more political design which prompted the reform of the Treaty on European Union and in which it made perfect sense to provide for an intergovernmental pillar, the Common Foreign and Security Policy, in the framework of which a European Security and Defence policy has been progressively developed.

Exogenous causes include the end of the Cold War and the disappearance of the Soviet enemy, Europe's perception of its own threats (1) —which did not always coincide with those of its allies, chiefly the

(1) The expression of this perception translated into the drafting of the European Security Strategy which materialised on 12 December 2003 under the title *A Secure Europe in a Better World*. For a detailed analysis of the strategy from different perspectives, see the essays by DEIGHTON, A. (pp. 17-29), MESSERVY-WHITING, G. (pp. 31-41) and CLOOS, J. (pp. 119-127) published in DEIGHTON, A./MAUER, V. (Eds.), *Securing Europe? Implementing the European Security Strategy*, Center for Security Studies,

United States (2)— and the Union’s aspiration of becoming a significant player on the international stage, for which purpose it seemed obvious that it needed to equip itself with a sufficiently autonomous security and defence instrument (3) to achieve this aim and avoid a repetition of the failure that Europeans experienced during the conflict in the former Yugoslavia (4).

Having pointed out some of the reasons which explain and/or justify a European Security and Defence Policy (hereafter ESDP), it is also appropriate to recall that this policy has not always been designed on the

no. 77. An approach to the threats and goals described in this document can be found in IKONEN, A.M.: «Política Común de Seguridad y Defensa», *Revista de Derecho de la Unión Europea*, no. 9, 2005, pp. 115-136, in pp. 115-120; RODRÍGUEZ ALONSO, E.: «Seguridad y Defensa en la UE. Avances y limitaciones ante nuevos desafíos», in *Seguridad humana y nuevas políticas de defensa en Iberoamérica*, Instituto Universitario General Gutiérrez Mellado, Madrid, 2007, pp. 601-609, on pp. 603-604. From a Spanish perspective ARTEAGA, F.: «La estrategia de seguridad de la Unión en perspectiva española», *Real Instituto Elcano*, ARI, no. 117, 2003. An initial approach to the document approved by the European Council of 11 and 12 December 2008 updating (not reviewing) the European Security Strategy can be found in ARTEAGA, F.: «La Estrategia Europea de Seguridad, cinco años después», *Real Instituto Elcano*, ARI, no. 15, 2009. We also find a reference in the essay by LASHERAS, B.: «El futuro de la Política Europea de Seguridad y Defensa», *Cuadernos Europeos de Deusto*, no. 40, 85-107, on pp. 96-98.

- (2) It may be interesting to analyse the degree of influence the US’s concept of power exerts on the Union’s Common Foreign and Security Policy. See in this connection the essay by TORRES SORIANO, M.: «Concepciones sobre el poder en Estados Unidos y su influencia sobre la PESC de la Unión Europea», *Cuadernos Constitucionales de la Cátedra Fadrique Furió Ceriol*, no. 49, 2004, pp. 183-194.
- (3) DE AYALA asks those who are more sceptical about the autonomy of European defence «if they believe that the EU can advance in its political construction or be an effective actor on the international stage without being capable of guaranteeing its own security»; in DE AYALA, J.E.: «La política europea de seguridad y defensa», *Política Exterior*, no. 114, 2005, pp. 47-61, on p. 58. An approach to the ESDP from the perspective of its autonomy is also discussed by MIRALLES, D.: «La Política Europea de Seguridad y Defensa: ¿una capacidad de acción autónoma?», in *España y la Política Exterior de la UE: entre las prioridades españolas y los desafíos del contexto internacional*, Universidad Autónoma de Barcelona, Barcelona, 2002, on pp. 143-265.
- (4) This is the opinion of Javier SOLANA, who holds that «the political will that underpins this project springs from the far-reaching impact of the realisation of the serious shortfalls in Europe’s military capabilities during the military interventions in the former Yugoslavia», in SOLANA, J.: «La Política Europea de Seguridad y Defensa: una Unión preparada para contribuir a la gestión de crisis ya la paz», in *Política de Seguridad de la Unión Europea: realidad y reto para el siglo XXI*, Tirant lo Blanch, Valencia, 2002, pp. 15-22, on p. 15.

basis of a legal and regulatory framework defined in the founding treaties. On the contrary, this instrument of the Union's external action has been progressively shaped by the political impulses of the European Council. Far from downplaying the importance of this process — without which the ESDP would not have been able to take credit for the successes under its belt (5)— it seemed necessary to go beyond the para-constitutional development of the ESDP in order to adapt the design of this policy to legal certainty and guarantees. And so, in order to achieve this called for «constitutionalisation» (6) which it was not possible to address in the Treaty of Nice, it was necessary to wait for the drafting of the non nato Constitutional Treaty. Following a process of salvaging and adaptation, this intention can be seen in the new provisions of the TEU incorporating the contributions of the Treaty of Lisbon (7).

The aim of this essay is precisely to analyse some of the instruments introduced by the reform of the Lisbon Treaty in relation to the Common Security and Defence Policy (hereafter CSDP). We will focus on two aspects. On the one hand, we will study those instruments which could contribute significantly to achieving a high degree of effectiveness in the development of a Union policy conditioned by three circumstances: the intergovernmentality of its design, the disparity between the Union Member States' attitudes to of defence, especially with respect to strategic culture (8) and, linked to the latter, the Union's not always easy coexistence with other security and defence structures like NATO and the WEU. On the other hand, we will also analyse the new mechanisms which have

(5) A less generous analysis of developments in the European Security and Defence Policy can be found in the essay by Felix Arteaga in the first chapter of this book.

(6) See, among others, FERNÁNDEZ SOLA, N./STAVRIDIS, S.: «La política de seguridad y defensa de la Unión Europea en el nuevo marco constitucional europeo», in *La Constitución de la Unión Europea, Centro de Estudios Políticos y Constitucionales*, Madrid, 2005, pp. 217-237, in pp. 218-221.

(7) For an approach to the amendments provided by the Lisbon Treaty, aside from those centring on the security and defence sphere, see the *Estudio Preliminar* accompanying the second edition of *Tratado de la Unión Europea y Tratado de Funcionamiento de la Unión Europea* prepared by J. MARTÍN Y PÉREZ DE NANCLARES and M. URREA CORRES and published in Marcial Pons, Madrid, 2010.

(8) As ARTEAGA points out in the first chapter of this book, «This difference in attitudes influenced the effort and military capacity of each Member State and their decision to take part or not in missions that would foreseeably entail the use of force, and determined an asymmetrical willingness to cover the entire gamut of ESDP military operations (mission spectrum), as only a few members were willing and able to participate at the more demanding end of the spectrum».

been regulated in the treaties and provide a new dimension of the concept of security in the European Union.

With all these conditioning factors, the study of the CSDP instruments provided by the Treaty of Lisbon departs from an initial reflection on the institutional and decision-making system of the CSDP (II), going on to stress what we consider to be the new treaty's real contribution to the development of the new security and defence policy: recourse to techniques of differentiated integration, both general and its own, specifically designed for the CSDP (III). We will then go from flexibility to examining the two instruments which give an idea of the significance of the role the Union wishes to play in security and defence matters. These two mechanisms, defined in the Treaty on European Union and the Treaty on the Functioning of the European Union, are open to the participation of all the Member States and designed to provide a vision of security and defence from an *ad extra* perspective, the mutual assistance clause (IV), and an *ad intra* perspective, the solidarity clause (V). We will end with a final reflection which draws a number of conclusions (VI).

APPROACH TO THE INSTITUTIONAL FRAMEWORK AND THE NEW DECISION MAKING INSTRUMENTS OF THE CSDP

The institutional framework of the CSDP: a reflection of its markedly intergovernmental nature

The institutions linked to the decision-making process in the sphere of the CSDP are no different from those established in the treaties to date for the sphere of the Common Foreign and Security Policy and for the sphere of the ESDP. The institutions stipulated in the treaties (9) as being responsible for taking part in the decision-making process of the CSDP are basically the European Council and the Council (in addition to the Political and Security Committee, PSC)—two bodies characterised by their intergovernmental nature. The new wording of the Treaty on European Union thus states, in the second paragraph of article 42, that the European Council will be responsible for deciding to create a common defence,

(9) Together with the institutional system of the treaties, we should also refer to the bodies established outside the treaties. Such is the case, among others, of the European Union Military Committee (Council Decision of 22 January 2001 (OJ L 27, 20.01.2001) and the European Union Military Staff (Council Decision 22 January 2001 (OJ L 27, of 20.01.2001)).

which will materialise in a decision adopted by the Member States in accordance with their respective constitutional requirements.

The Council is also the institution which defines the objectives to which the civilian and military capabilities the states make available to the Union contribute (art. 42(3) TEU) (10). The Council shall also adopt decisions on the common security and defence policy, including those initiating a civilian or military mission, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State (art. 42(4) TUE) (11). The Council is likewise the institution responsible for adopting decisions relating to civilian and military tasks, defining their objectives and scope and the general conditions for their implementation (art. 43(2) TEU), and may entrust the implementation of a task to a group of Member States (art. 44(1) TEU) (12). It shall also adopt the decision defining the statute, seat and operational rules of the European Defence Agency (art. 45(2) TEU) (13). Finally, the Council shall adopt a decision establishing permanent structured cooperation (art. 46(2) TEU), a decision confirming the participation of a Member State in structured cooperation (art. 46(3) TEU) and also a decision suspending the participation of a Member State in structured cooperation (art. 46(4) TEU).

(10) Although the theme of civilian and military capabilities is not the subject of the present essay, there can be no doubt that they are the instrument without which the CSDP would not be credible as it would be impossible to conduct crisis management missions. In this connection it should be realised that from 2003 to the present day the European Union has performed twenty-two missions. Six of them were military, thirteen civilian and three civil-military. A more detailed analysis of the operations can be found in LASHERAS, B. *et. al.*, «A future for the European and Security Defense», *Fundación Alternativas*, Working Paper, March 2009.

(11) The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate (art. 42(4) *in fine*).

(12) Art. 44(1) states that «those Member States, in association with the High Representative of the Union for Foreign Affairs and Security Policy, shall agree among themselves on the management of the task». In addition, the Member States undertake to keep the Council regularly informed «of its progress» and «should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the decisions referred to in paragraph 1» (art. 44(2) TUE).

(13) The Agency was established by Council Joint Action 2004/551/CFSP of 12 July 2004 (OJ L 245, of 17 July 2004, pp. 17-28—that is, long before the Treaty of Lisbon entered into force. On the Agency see, among others, CEBALLOS, J.L.: «La Agencia Europea de Defensa», *Economía Exterior*, no. 47, 2008, pp. 41-48 y PÉREZ SALOM, J.R.: «La Agencia Europea de Defensa», in RAMÓN CHORNET, C., *La política de seguridad y defensa en el Tratado constitucional*, Tirant lo blanch, Valencia, 2005, pp. 135-158.

The entry into force of the Treaty of Lisbon brought into effect the figure of the High Representative of the Union for Foreign Affairs and Security Policy, with wide powers in Common Foreign and Security Policy and a more limited presence in the Security and Defence sphere. Indeed, the capacity of the High Representative to act is basically centred on submitting proposals to the Council (14) (or, if appropriate, activities conducted under the authority of the Council and in permanent contact with the Political and Security Committee) (15). The High Representative also consults the Council (16) —in association with the Member States— to determine the management of a task agreed by the Member States according to article 44 of the TEU (17).

As a maximum expression of the intergovernmental nature of the policy we are examining, we should point out that neither the Commission, nor the European Parliament nor the Court of Justice has any powers to act in this area. The Commission lacks any initiative beyond the capacity to propose to the Council, together with the High Representative, the use of national resources and Union instruments in civilian and military missions (art. 42(4) in fine TEU). The European Parliament is not given any powers in this field and is passed over. And nor does the European Union Court of Justice have any jurisdictional control over acts adopted in the field of security and defence (18). Finally, the Court of Auditors may only exercise its powers to investigate accounts in respect of expenses which can be borne by the community budget (19).

Constructive abstention as a method of adopting decisions in the CDSP: a failed instrument

Following a brief overview of the institutional web that is vested with decision-making power in the sphere of the CSDP it is appropriate to

(14) See art. 42(4) TEU.

(15) See art. 43(2) TEU.

(16) See art. 42(4) TEU, art. 43(2) TEU, art(44) TEU.

(17) Along the same lines suggested by the Report of Working Group VIII of the Convention. Reference CONV 461/02, point 52 b).

(18) The only power attributed to the Court of Justice of the European Union relates to control over the implementation of art. 40 TEU—an article which does not come under the CSDP but under the heading of the CFSP into which the latter is integrated.

(19) Decision 2007/384/CFSP (OJ L 152, 13.06.2007, pp. 14-33) repeals Decision 2004/197/CFSP establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications.

point out that both the European Council and the Council are generally bound by the rule of unanimity when adopting decisions (20). Not much of an explanation is required to realise that this system of voting in itself involves a risk of blockage, but nor, I believe, is it difficult to imagine that this risk is greater in connection with security and defence issues on which the positions of the European Union states are almost irreconcilable. In a context like the one described characterised by disparity in the states' standpoints and rigid rules giving preference to the right of veto, it seems obvious that any attempt to address the situation necessarily entails seeking formulas that guarantee a certain flexibility in the decision-making process without compromising a state's right not to take part in the decision if it deems appropriate, but preventing it from blocking the whole project by exercising its right of veto. The Treaty of Amsterdam established a decision-making mechanism known as constructive abstention, which appears to have achieved the aforementioned balance. The rules providing for it in this treaty have survived the reform of the Treaty of Nice, the failed Constitutional Treaty (21) and remain to this day in the Treaty of Lisbon.

In order for the mechanism of constructive abstention to work and achieve the results sought by the states, each and every one of the following circumstances must be present. First, it must be used for a decision in the sphere of the CFSP (therefore including CSDP) which needs to be approved by the Council or the European Council acting by unanimity (22). It is not possible to use constructive abstention in decisions where the Council acts by qualified majority (23).

(20) The Council shall only agree by qualified majority on the setting in motion of a permanent structured cooperation defined in art. 46 TEU, the incorporation of any Member State to structured cooperation already in progress, and the decision to suspend the participation of a state from structured cooperation.

(21) During the work of the Convention, the Report of Working Group VIII proposed some changes to the constructive abstention system, which were not however finally incorporated into the Constitutional Treaty, or into the Lisbon Treaty. (See CONV 461/02, point 53.)

(22) As may be deduced from the wording of article 31 of the TEU «Decision under this Chapter shall be taken by the European Council acting unanimously...»

(23) The Treaty of Lisbon has not considered it appropriate to eliminate one of the elements which makes it possible, albeit potentially, to undermine the effectiveness of the qualified majority decision making system envisaged in the new article 31 of the TEU. The treaty thus maintains a variant of the Luxembourg Compromise in that it allows a Member State to oppose a decision for reasons of national policy; if its request is accepted, the state is able to recover its right to veto the decision in the European Council. Before that, «the High Representative will, in close consultation

Second, when the time comes to vote, a state must express its wish to abstain by means of a formal declaration in the terms laid down for this purpose in the treaty according to the principle of «mutual solidarity», accepting that the decision shall enter into effect for the rest of the states and is binding for the Union. The drafting of the formal declaration accompanying the state's abstention commits the state not bound by the decision to refrain from any action which could conflict with or impede Union action based on that decision.

Finally, the number of states who express the wish to abstain must not exceed a blocking minority established by the treaty of at least one-third of the Member States comprising at least one-third of the Union's population. The reason for this requirement is obvious. If, as stated, the decision eventually adopted through constructive abstention is to be binding for the Union as a whole, this necessarily requires it to be backed by a minimum number of Member States or — according to the wording of the treaty— requires that the states opposed to its adoption do not exceed a maximum expressed in terms of number of states (one-third of Union states) and percentage of population represented (one-third of the Union's population). In this connection it is useful to be able to facilitate the adoption of initiatives supported by the majority (or enjoying broad consensus) while guaranteeing the protection of minority interests by granting states the right to «disassociate themselves» from certain acts of the European Union provided they do not surpass the threshold previously established by the treaty.

with the Member State involved, search for a solution acceptable to it. If he does not succeed, the Council may, acting by a qualified majority, request that the matter be referred to the European Council for a decision by unanimity». In any case, it should be underlined, firstly, that the reasons of national policy that a state may give in order for a decision to be adopted by unanimity instead of by qualified majority are not presumed but must be explicitly justified by the state. Second, in the event that a state makes use of the aforementioned «emergency brake», the treaty establishes that the Council «may», acting by a qualified majority, refer the matter to the European Council for a decision by unanimity. This referral therefore neither can nor should be considered automatic but as an option the Council has and will use in accordance with what it considers real possibilities of getting round unanimity in the European Council. In the event that the Council fails to meet the qualified majority effectively required to refer the matter to the European Council, it will be the Council of the Union which makes the definite decision acting by qualified majority. When the decision has been approved (either by qualified majority or by unanimity), all the states will be necessarily bound by it regardless of whether they have voted in favour of or against it or have abstained.

In short, we may conclude that the constructive abstention mechanism eliminates the risk of blocking (24) posed by states' right of veto, although the price of easing the rigidity of unanimity consists in granting all states who make use of this type of abstention a sort of «automatic opt-out right» (25).

Despite the theoretic potentiality of a decision-making mechanism like constructive abstention, its implementation has not proved particularly successful in the European Security and Defence Policy. The reasons noted by scholars may be classified into two groups and are certainly convincing (26). On the one hand, failure to use constructive abstention in practice in the sphere of ESDP decision making may be connected with the high degree of consensus achieved in the crisis management missions in the European Union owing, in part, to the very few commitments taken on by states in this connection (27). But in addition, the treaty provides for a formula which may supplant constructive abstention as a mechanism for easing the rigidity of unanimity in the sphere of CSDP. It is not a system for adopting decisions but rather a new model for implementing Union missions: a model which is regulated in the new article 42(5) of the TEU, although the precept reflects what has become common practice in the development of such missions in the Union—namely will (wanting) and capability (being able) expressed by several Member States which, at the request of the Council, would be entrusted with the Union mission. We shall examine the operation of the Lisbon Treaty's constitutionalisation of a method of more intense cooperation in the management of Petersberg tasks which may supplant sine die the use of constructive abstention.

(24) VIDERT, F.: *Structured flexibility in the European Union*, European Policy Forum, London 1996, p. 18.

(25) MONAR, J.: «The European Union's Foreign Affairs System after the Treaty of Amsterdam: A 'Strengthened Capacity for External Action'?', *European Foreign Affairs Review*, vol. 2, 1997, pp. 413-436, on p. 419.

(26) This opinion is shared by GONZÁLEZ ALONSO, L.N.: «Unidos en la diversidad: hacia una configuración flexible de la Política de Seguridad y Defensa de la Unión Europea», *Revista General de Derecho Europeo*, no. 7, 2005, 37 pp., on pp. 13-14.

(27) An illustrative example might be operation *Artemis* in the Democratic Republic of the Congo. See Council Joint Action of 5 June 2003 (OJ L 143, of 11.6.2003). The background to this operation, along with its development and an assessment, is discussed broadly in ACOSTA SÁNCHEZ, M.A.: *op. cit.* (*La Política Europea de Seguridad y Defensa y ...*), pp. 216-233.

More intense cooperation in the framework of the Petersberg tasks: the feasibility of the hard cores

As stated, the Treaty of Lisbon has opted to regulate an instrument which allows the Council to entrust a group of states with conducting a mission in the framework of the Union (article 42(5) of the TEU). In contrast to what has occurred *de facto* up until now, the regulation of such a mechanism, which is available to the Member States and institutions of the Union, underlines the existence (because it imposes it as a requirement) of a sort of Council mandate in favour of a group of states, whereby they are empowered to take responsibility for managing the operation in association with the High Representative of the Union for Foreign Affairs and Security Policy (article 43 of the TEU). Having taken over responsibility for managing the task from the Community institutions, the states have the duty to report regularly to the Council and to inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task, in which case the Council shall adopt the necessary decisions.

In our opinion, two conclusions may be drawn from how this formula is regulated by the Lisbon Treaty. Firstly, the treaty establishes the European (Union) mandate as the only legal instrument under which a core group of states may perform a task. This mandate legally establishes the management of the task as a Union task, even if it is being conducted by a «hard core» of states. The action of these states, at the request of the Union itself, is limited by the aforementioned mandate of the Council, which cannot be ignored, modified or enlarged save through a new Council agreement. The second conclusion is related to the progress in terms of efficiency that such an option entails for the development of the Common Security and Defence Policy. This efficiency is undoubtedly greater than that made possible by the formula of constructive abstention and is furthermore an instrument which enhances the «visibility of the European Union in a sphere in which its presence and the projection of its values are increasingly called for in the international arena» (28). The Union's efficiency of action and visibility are, in our opinion, elements which outweigh the potential risk some have associated with making the success of such missions depend on a *directoire* of states (formed by 3

(28) GONZALEZ ALONSO, L.N.: *loc. cit.* («Unidos en la diversidad: hacia una configuración flexible...»), p. 17.

or 4) which, whether we like it or not, have the necessary means to address such tasks (29).

PROMOTING SECURITY AND DEFENCE THROUGH FORMULAS OF DIFFERENTIATED INTEGRATION: A QUESTION YET TO BE ANSWERED

The enhanced cooperation clause of the CFSP provided for in the treaties: a legal possibility that is unfeasible in practice

The process of building Europe has made use of different flexibility mechanisms on many occasions in order to be able to differentiate the legal obligations of the Member States. This occurred in the Maastricht Treaty when clauses were adopted allowing the United Kingdom to opt out of the Social Protocol and the United Kingdom and Denmark to opt out of Economic and Monetary Union. The Treaty of Amsterdam was also lumbered with a whole host of protocols containing opt-out clauses for the United Kingdom, Ireland and Denmark in relation to Title IV of the TEC on visas, asylum, immigration and other policies relating to the free movement of people. The same is true of the Treaty of Lisbon, for example, in the ambit of the European Union Charter of Fundamental Rights. However, although the concept of flexibility has not been alien to the process of European integration, it was not until the Treaty of Amsterdam that it was finally decided to legally regulate a mechanism of differentiated integration in the framework of the European Union, namely the clause on enhanced cooperation (30).

Since its adoption, the legal framework for enhanced cooperation has been modified in all the reforms carried out on the founding treaties. Although we will not examine those made by the Treaty of Nice (31) or the lesser amendments incorporated into the Treaty of Lisbon (32) salvaging

(29) A risk that does not go unnoticed and is expressly discussed by BOU FRANCH, V.: «Hacia una Política Europea de Seguridad y Defensa», *Cuadernos de Integración Europea*, no. 1, 2005, pp. 45-70, on pp. 63-64.

(30) This aspect is examined in greater detail in our essay *La cooperación reforzada en la Unión Europea*, Colex, Madrid, 2002, on pp. 57-62.

(31) The reforms addressed by the Treaty of Lisbon in relation to the clause on enhanced cooperation are examined systematically in URREA CORRES, M.: «Mecanismos de integración y (des)integración diferenciada en la Unión Europea a la luz del Tratado de Lisboa», *Cuadernos Europeos de Deusto*, no. 49, 2008, on pp. 169-190.

(32) Except for the Treaty of Lisbon's new contribution as to the number of Member States required to authorised enhanced cooperation [nine states (art. 20(2) TFEU)

those proposed by the failed Constitutional Treaty (33), it is worth stopping very briefly —owing to the connection with the subject analysed in the present essay and its potential consequences— to reflect on the possibility of recourse to the enhanced cooperation clause provided in the Treaty of Nice in the field of the CFSP (34).

compared to the minimum of at least eight Member States required by Nice (art. 43(1)(g) TEU) and at least one-third of the states in the Constitutional Treaty (art. I-44(2)). The legal framework for the general rules on enhanced cooperation and the reforms affecting the special or procedural rules are the same as established in the Constitutional Treaty. In article 333 of the TFEU the Lisbon Treaty also salvages the passarelle provided for in article III-328 of the Constitutional Treaty in order to allow the Council to modify the voting system (from unanimity to qualified majority) or legislative procedure to be used (from special legislative procedure to ordinary legislative procedure) in the sphere of enhanced cooperation. For an initial analysis of these novelties see URREA CORRES, M.: «La efectividad del derecho de retirada, el sistema de reforma y las cooperaciones reforzadas: una incógnita que condiciona el proceso de integración de la Unión», in MARTÍN Y PÉREZ DE NANCLARES, J. (coord.), *El Tratado de Lisboa: la salida de la crisis constitucional*, Iustel, Madrid, 2008, pp. 687-703.

- (33) Although the Convention established a maximum of eleven working groups to facilitate the analysis of some of the issues due to be reformed, enhanced cooperation did not have a group of its own, though this did not prevent the emergence of proposals for reforming this mechanism in the final reports submitted to the *Praesidium* by the Working Group on Defence (CONV 461/02, of 16 December) and that of Freedom, Security and Justice (CONV 426/02, of 2 December). In this connection, on 14 May 2003 the *Praesidium* submitted a document devoted entirely to enhanced cooperation stating that its aim was none other than principally «to simplify the wording and structure of the current provisions on enhanced cooperation» (CONV 723/03, of 14 May, p. 1). The rules submitted by the *Praesidium* also underwent numerous amendments (CONV 779/03 of 4 June 2003 and CONV 791/03, of 6 June 2003) although the wording proposed by the Convention became incorporated—except for minor qualifying modifications—into the Draft Treaty establishing a Constitution for Europe, which was submitted to the European Council on 18 July 2003 (CONV 850/03, of 18 July). The regulation of enhanced cooperation posed no major problems in the negotiating process of the IGC (IGC 37/03, of 24 October, p. 16) and the rules that were approved did not generally depart from the wording of the Draft European Constitution apart from the minor adaptations proposed by the group of legal experts convened for the purpose (IGC 50/03, of 25 November, pp. 51-52) and, finally, considered in the final text.
- (34) For these purposes, the legal framework established included, together with the aims that should underpin its use (art. 27a of the TEU) and the procedure for implementing it (art. 27c of the TEU) and the procedure for incorporating new states (art. 27e of the TEU), the areas of the CFSP excluded from enhanced cooperation (art. 27b of the TEU), and the functions which the Secretary-General of the Council may perform as High Representative for the CFSP (art. 27d of the TEU).

It should be pointed out in this connection firstly that the legal status of enhanced cooperation implemented under the CFSP is different from that designed for other areas of the treaty. And this is not just because of the difference between the procedural rules for enhanced cooperation applicable to the CFSP (art. 27c and art. 27e of the TEU) and those laid down for the no longer extant community pillar (TEC) and the PJC pillar (35). The difference lies more in the scope of application of the two sets of rules. The rules established in this respect in the Treaty of Nice limited recourse to enhanced cooperation exclusively to the «implementation» of joint actions or common positions (art. 27b of the TEU), and policies with a greater degree of integration than the existing level cannot be designed through this mechanism. Likewise, as a result of the pressure exercised by the United Kingdom, Sweden and Denmark, the Treaty of Nice excluded from the scope of application of the clause all matters requiring unanimity, and matters having military or defence implications (art. 27b of the TEU).

However, the Treaty of Lisbon has modified this conception of enhanced cooperation applicable to the sphere of the CFSP so that those states wishing to establish enhanced cooperation between themselves will now find no more limits than those stemming from the general rules governing this mechanism. Indeed, the current rules eliminate (salvaging the reform proposal incorporated into the Constitutional Treaty) the material restriction imposed by the Treaty of Nice on enhanced cooperation under the CFSP.

Nonetheless, the Treaty of Lisbon maintains for the CFSP particular procedural rules that differ from the general procedural rules established for enhanced cooperation applicable in the other areas envisaged in the treaties. Thus, as regards authorisation procedure, it may be stated that, according to the wording of article 329(2) TFEU, that the Member States will address the request for authorisation of enhanced cooperation to the Council, which will adopt a decision by unanimity (instead of by qualified majority which would have been required had article III-419(2) of the Constitutional Treaty entered into force). Before adopting the decision, the Council will forward the request to the High Representative of the Union who shall «give an opinion of whether the enhanced cooperation

(35) The disappearance of the pillars of the Union from the Lisbon Treaty does not appear to extend to the area of the Common Foreign and Security Policy. In this respect we share the opinion of GONZÁLEZ ALONSO, L.N.: «Quién dijo que desaparecen los pilares. La configuración jurídica de la acción exterior de la Unión Europea en el Tratado de Lisboa», in MARTÍN Y PÉREZ DE NANCLARES, J. (coord.), *El Tratado de Lisboa: la salida de la crisis constitucional*, Iustel, Madrid, 2008, pp. 393-403.

proposed is consistent with the Union's common foreign and security policy» and to the Commission, which shall give its opinion «in particular on whether the enhanced cooperation proposed is consistent with other Union policies». The request shall also be forwarded to the European Parliament for information.

As can be seen from the aforementioned rules it is clear —unlike in the Nice Treaty— which institution is responsible for forwarding the request to the Commission, the High Representative of the Union and the European Parliament. This aspect is interesting, among other reasons, in the event of possible non-compliance proceedings.

We may conclude from this wording, first, that emphasis continues to be on the intergovernmental nature of the procedure, as decision-making power remains with the Council and the role of the Commission is limited to issuing an opinion, the value of which is unknown; second, in relation to the authorisation of enhanced cooperation, it maintains the right of veto established by the Treaty of Nice (thereby retracing the steps of the Constitutional Treaty) as for the first time it regulates the legal framework for enhanced cooperation in the CFSP; third, in accordance with the principle of consistency regulated in article 329 of the TFEU, the Commission and the High Representative of the Union are granted the possibility of issuing an opinion, the nature of which, binding or non-binding, is not specified in the articles, leading us to assume, in principle, that they cannot condition the final decision of the Council. Unfortunately, as in the rules set forth in the Treaty of Nice and in the Constitutional Treaty, the European Parliament has been radically relegated from taking part in the authorisation procedure for CFSP enhanced cooperation to being merely informed of the requests for authorisation.

As regards accession procedure, a state interested in participating in enhanced cooperation in progress shall notify its intention to the Council of Ministers, the Commission and the High Representative of the Union. Under the rules established by the Treaty of Nice, it had been interpreted that the participation of new states in CFSP enhanced cooperation in progress did not require the Council to expressly issue an opinion; however, the opposite would appear to be inferred from the wording of the second subparagraph of paragraph 2 of article 331 of the TFEU (salvaged from the second subparagraph of article III-420(2) of the Constitutional Treaty). The Council, after consulting the High Representative of the Union —in the rules laid down in the Treaty of Nice the Commission issued a non-binding decision— shall confirm the participation of the

Member State concerned after noting that the conditions of participation have been fulfilled and «may also adopt any transitional measures necessary with regard to the application of the acts already adopted in the framework of enhanced cooperation». If the Council considers that the state does not fulfil the conditions of participation, it shall indicate the arrangements to be adopted for that purpose and «shall set a deadline for re-examining the request for participation».

Having examined the rules laid down by the Treaty of Lisbon in relation to the applicability of the clause on enhanced cooperation designed for the CFSP and its extension to the field of Security and Defence, it is appropriate, in addition to praising it from a theoretical point of view, to point out the difficulties this integration mechanism will encounter in the fields analysed here owing to the fact that its implementation has been made conditional upon a system of voting by unanimity. Perhaps the reasons why the Treaty of Lisbon has retraced the steps of the Constitutional Treaty can now be understood. It seems reasonable to think that maintaining unanimity as a system for authorising enhanced cooperation in the field of CFSP is the toll which the states have imposed upon themselves in exchange for broadening the scope of action of enhanced cooperation to security and defence matters. This perspective may also explain why article 333 of the TFEU, which has made it possible to modify the system for adopting decisions (from unanimity to qualified majority) and the legislative procedure to be used (from special legislative procedure to ordinary legislative procedure) in the field of enhanced cooperation that has already been authorised, does not apply to reinforced cooperation with military or defence implications.

The foregoing gives good reason to doubt the feasibility of the differentiated integration mechanism known as the enhanced cooperation clause in the CSDP even though the Treaty of Lisbon provides for it on a theoretic level. Or it is precisely this —the manner in which the rules are provided for— that renders the mechanism useless.

The formula of permanent structured cooperation: a version of differentiated integration designed for the CSDP

The Treaty of Lisbon did not —in our opinion at least— make a particularly good job of regulating enhanced cooperation once it was extended to the military and defence spheres; however, the Treaty of Lisbon has sought the complicity of the most crucial states by incorporating other

instruments of differentiated integration specifically tailored to the blurred edges of a policy such as the one examined here. The Treaty of Lisbon (also salvaging the related rules set forth in the Constitutional Treaty) provides for a predetermined type of differentiated integrated under the name of permanent structured cooperation (36). This mechanism has been regulated in arts. 42 and 46 of the TEU, and in an annexed Protocol.

According to the formula set out in paragraph 6 of article 42 and in article 46 of the TEU, «Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework». To this end the Member States shall notify their intention to the Council and the High Representative of the Union. Within three months following the notification, the Council, acting by a qualified majority and after consulting the High Representative, shall adopt a decision establishing permanent structured cooperation and determining the list of participating Member States (art. 46(1) and 46(2) of the TEU). Unlike ordinary enhanced cooperation (open to the participation of all Member States), structured cooperation requires a Member State to possess military capabilities that fulfil high criteria and a wish to make more binding commitments in this military sphere (37). The participation of such states in the aforementioned mechanism for structured cooperation entails belonging to the European Defence Agency. All the Member States of the Union, except Denmark, are currently members of the Agency.

This permanent structured cooperation is not limited exclusively to the states which originally establish it; other Member States are allowed to join provided, of course, that they notify their wish to the Council (not to the European Council as stipulated in the Constitutional Treaty) and the High Representative. The Council, comprised solely of the Member States participating in the structured cooperation, shall be responsible

(36) This mechanism of differentiated integration bears no relation to the mechanism whereby the Council may entrust a group of states with performing a Union mission. The very Treaty on European Union clarifies this potential confusion by stating in paragraph 6 of article 42 (on permanent structured cooperation) that such cooperation «shall not affect the provisions of Article 43» (on closer cooperation).

(37) The differences between the general mechanism for differentiated integration and this particular mechanism for structured cooperation are evidenced by the inclusion of specific rules and express exclusion of the application of the legal framework for enhanced cooperation (article 42(6) *in fine* of the TEU, article I-41(6) *in fine* of the Constitutional Treaty).

for authorising the decision acting by qualified majority, after ensuring that the Member State in question fulfils the criteria and takes on the commitments established in articles 1 and 2 of the Protocol on permanent structured cooperation.

Thus, according to the wording of article 1 of the Protocol, the objectives of structured cooperation are basically, on the one hand, to «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)»; and, on the other hand, to «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 43 of the Treaty on European Union, within a period of five 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». To fulfil these objectives, states take on a series of commitments consisting in cooperating in investment expenditure on defence equipment [art. 2a)], bringing their defence apparatus into line with each other [art. 2b)], taking measures relative to force deployment [art. 2c)] and cooperating in a Capability Development Mechanism [art. 2d)]. The rules governing structured cooperation provide two novel elements which set them apart from the legal framework of the enhanced cooperation clause and denote a variable conception of the very composition of structured cooperation which is less evident in the case of enhanced cooperation. We are referring, on the one hand, to the event that a state participating in structured cooperation ceases to participate because it no longer fulfils the required criteria or is unable to meet the commitments (article 46.4 TEU, objective criterion) and, on the other, to the event that a state decides to withdraw from structured cooperation of its own will (article 46.5 TEU, volitional criterion). In the first case, the Council, acting by qualified majority, may adopt a decision suspending (38) the participation of the state. In the second case, the state must notify its intention to the Council, which shall take note (39) that the Member State in question has ceased to participate.

(38) The italics are ours.

(39) The italics are ours.

Finally, all that remains to be added is whether the use of two different verbs to express the end of the state's relationship with the structured cooperation –suspension or cessation– has temporal implications in relation to state's non-participation, with legal consequences worthy of mention. Indeed, it might appear from the wording of the treaty that suspension of participation through failure to fulfil the objective criteria is a temporary suspension which could be reversed if the Council deems that the state fulfils the criteria again. However, cessation of the participation of the state of its own choice allows for a more final interpretation, which would reasonably entail, in the event that the state wished to return to participating in the structured cooperation, the need to undergo the authorisation procedure again.

Without a doubt this mechanism for permanent structured cooperation contains the requisites for allowing the European Union to develop a more ambitious CSDP. All that remains is for the states to commit themselves to it (40).

TOWARDS A COMPREHENSIVE AND UNITARY CONCEPTION OF SECURITY AND DEFENCE: BETWEEN LEGAL REALITY AND POLITICAL DIFFICULTY

The mutual assistance clause: a legal instrument for determined political will

After undergoing by no means insignificant alterations in respect of the proposals suggested by the Convention (41) and later qualified in

(40) Permanent structured cooperation is a potentiality that is among the priorities mentioned by the Spanish Presidency in the field of Common Security and Defence Policy. See FERNÁNDEZ SOLA, N.: «La presidencia de España del Consejo de la Unión Europea. Prioridades en Política Exterior, de Seguridad y Defensa», in *Revista Electrónica de Estudios Internacionales* (www.reei.org), no. 18, 2009, on p. 5.

(41) It was a proposal made in the Report submitted by European Convention Working Group VIII. The phrasing of the text of the Convention gave rise to confusion: «*closer cooperation* on mutual defence». The aforementioned mechanism is regulated in articles I-40(7) and III-214 of the draft Treaty establishing a Constitution for Europe. The wording of article I-40(7) states that until the Union has a common defence, «*closer cooperation* shall be established, in the Union framework, as regards mutual defence». Under this cooperation, if one of the participating Member States is the victim of armed aggression on its territory, the other participating states shall give it aid and assistance by all the means in their power, military or other, in accordance with Article 51 of the United Nations Charter. In the execution of closer cooperation on mutual

the Constitutional Treaty (42), the new paragraph 7 of article 42 of the TEU establishes a clause on mutual assistance in the Union. The wording of the precept thus establishes that «If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter» (43).

There is no need to possess a detailed knowledge of Union defence matters to realise the tensions that the mere intention of providing for a permanent mutual assistance clause in the treaties could have sparked. Despite this, the Treaty of Lisbon has proved capable of ironing out the differences in the Member States' expressed conceptions of defence matters and of adopting the clause described in article 42(7) of the TEU which is applicable equally to all states and, therefore, makes no concessions to flexibility. In order to achieve this it was necessary to include in the text of the precept two elements which, in our opinion, allow a certain balance to be struck between the opposing stances of some states (44), in addition to facilitating the interpretation of the true meaning and scope of such a mechanism. Paragraph 7 of article 42 of the TEU thus states, on the one hand, that this clause «shall not prejudice the specific character of the security

defence, the participating Member States shall work in close cooperation with the North Atlantic Treaty Organisation. The detailed arrangements for participation in this cooperation and its operation, and the relevant decision-making procedures, are set out in Article III-214». In the opinion of GARCÍA SERVET the aim was actually to «incorporate into the Union article V of the Treaty of Brussels, but in the form of enhanced cooperation»; in GARCÍA SERVET, R. «Gestión de crisis y cláusula de asistencia mutua», *Cuadernos de Estrategia*, no. 129, 2004, pp. 118-159, on p. 146.

- (42) The text proposed by the Convention was amended in IGC 52/03 ADD 1, of 25 November 2003, on p. 24; in document IGC 60/03 ADD 1; in IGC CIG 73/04, of 29 April 2004; in IGC 81/04, of 16 June 2004 and in IGC 87/04 of 6 August 2004. The amendments were inspired by a letter sent by Finland, Ireland and Sweden to the Italian Presidency whereby the states expressed their willingness to accept an assistance clause which merely referred to article 51 of the United Nations Charter. It was concluded from this that the aforementioned clause would have to be modified, ruling out closer cooperation in this field.
- (43) In the opinion of BERMEJO GARCÍA, this precept derives from the mini-summit held in Brussels on 29 April 2003 between Germany, Belgium, France and Luxembourg, in BERMEJO GARCÍA, R.: «Cláusula de defensa mutua: ¿un paso adelante hacia una auténtica política de seguridad y defensa», in RAMÓN CHORNET, C., *La política de seguridad y defensa en el Tratado constitucional*, Tirant lo Blanch, Valencia, 2005, pp. 71-94, on p. 93.
- (44) This is the opinion of GARCÍA PÉREZ, R.: «la PESD en el Proyecto de Tratado Constitucional», in PUEYO LOSA, J. (Ed.), *Constitución y ampliación de la Unión Europea. Crisis y nuevos retos*, ediciones Tórculo, Santiago de Compostela, 2003, pp. 295-312, on p. 302.

and defence policy of certain Member States», making it acceptable to the Union's neutral states (45) as it does not commit them to entering into obligations that are incompatible with their identity (46), although they do not renounce the protection it provides (47). And, on the other hand, the second subparagraph of the same paragraph 7 of article 42 of the TEU seems to reflect the concerns expressed by the states which are NATO members (48) as it stresses that «Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation» (49).

The wording of the precept examined would incline us to think that the clause providing for NATO defence is preferential (in addition to permanent and automatic) and would therefore override any potential use of the clause described in the TEU whenever the victim of the aggression

(45) They are Austria, Finland, Ireland and Sweden, in addition to Cyprus and Malta.

(46) Indeed, in the opinion of ÁLVAREZ VERDUGO, one of the two limits he notes in the aforementioned clause on mutual assistance is related to «the ability of each state as a sovereign entity to decide on the type of measures it uses to aid and assist the state that is the victim of the aggression». This limit, coupled with that of the exclusion of the NATO states from the application of this mechanism «makes it possible to reconcile within the EU the states that are part of the transatlantic relationship and the states with a neutral tradition», in ÁLVAREZ VERDUGO, M.: *loc. cit.* («La aportación de la Convención Europea a la definición...»), on p. 15. In the opinion of DUMOULIN this reference also allows it to extend to the nuclear policy of France and the United Kingdom; in DUMOULIN, A.: «Traité de Lisbonne. De l'assistance mutuelle à la défense mutuelle: oscillations et interprétations», *Revue du Marché Común et de l'Union européenne*, no. 519, 2008, pp. 351-355, on p. 352.

(47) It is not evident from the wording of the precept under what terms the neutral or non-aligned states are under obligation to provide aid or assistance in the event that another state is a victim of the attack.

(48) Such is the case of Germany, Belgium, Bulgaria, Denmark, Spain, France, Greece, Hungary, Italy, Luxembourg, the Netherlands, Portugal, the United Kingdom, Poland, the Czech Republic, Slovakia, Slovenia, Estonia, Latvia, Lithuania and Romania.

(49) Denmark is a NATO state but enjoys an opt-out clause in defence matters under the terms laid down in Protocol no. 20 annexed to the treaties. Article 5 of Protocol no. 20 annexed to the treaties establishes «With regard to measures adopted by the Council pursuant to Article 26(1), Article 42 and Articles 43 to 46 of the Treaty on European Union, Denmark does not participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications. Therefore Denmark shall not participate in their adoption. Denmark will not prevent the other Member States from further developing their cooperation in this area. Denmark shall not be obliged to contribute to the financing of operational expenditure arising from such measures, nor to make military capabilities available to the Union».

is a NATO state and, obviously, provided that the attack is made in the sphere of territorial application of the aforementioned treaty. If up until this point there is not much room for doubt in the TEU, the connection between the clause in question and that found in article V of the Treaty on the WEU is not so clear (50). If, as some point out, the most reasonable interpretation concludes that the TEU is subsuming the WEU clause, the problem then arises in connection with the applicability of this clause for NATO states that are also WEU states, given that the geographical scope of the TEU clause does not coincide with that of NATO or with that of the WEU. Bearing in mind all these elements, it seems reasonable to point out that the practical potentiality of this clause is none other than being applicable when the victim of the aggression is a neutral or non-aligned state (51) and when the victim is a European Union state that is also a member of NATO and/or of the WEU, provided that the territory in question does not fall within the area of protection stipulated in the organisation's treaty (52).

In short, the clause on mutual assistance grants the rules provided by the TEU have very little operational capacity today as they must coexist with the assistance provided by NATO and that offered by the moribund WEU. When the WEU's death certificate is issued, the TEU will have the legal apparatus enabling it to take on the functions performed by the WEU in matters of mutual assistance. Until then the aforementioned legal mechanism remains in a state of peaceful slumber that is more characteristic of a political commitment or clause on political solidarity (53), awaiting the circumstances that will allow it to be implemented by the European Union.

(50) As stated by GONZÁLEZ ALONSO, L.N.: *loc. cit.* ("Unidos en la diversidad: hacia una configuración flexible de la Política de Seguridad y..."), on p. 20.

(51) In the opinion of BERMEJO GARCÍA, such a conclusion cannot be drawn from the precept of the TEU. According to the aforementioned author, the operational capacity of the mutual assistance clause when the victims are neutral states may only be derived from article 51 of the United Nations Charter. See the explanation in BERMEJO GARCÍA, R.: *loc. cit.* ("Cláusula de defensa mutua: ¿un paso adelante hacia una auténtica política de seguridad ..."), on pp. 86 and 87.

(52) This is a significant issue in the case of Spain. Ceuta and Melilla do not belong to the area of protection of NATO or of the WEU; therefore, a potential attack on this part of Spain's territory could activate the clause of the TEU under discussion.

(53) ALDECOA LUZARRAGA, F.: «La política común de seguridad y defensa en la Constitución Europea. Hacer creíble la política de responsabilidad», in *Los Tratados de Roma en su cincuenta aniversario. Perspectivas desde la Asociación de Profesores de Derecho Internacional y Relaciones Internacionales*, Marcial Pons, Madrid, 2008, pp. 1037-1058, on p. 1050.

The solidarity clause: a new instrument of external action that broadens the defence dimension

The solidarity clause provided for in article 222 of the TFEU is not easy to classify. If we merely analyse it from the viewpoint of the structure of the treaties, its location in title VII of Part Five of the TFEU on external action (54) prevents us from considering it an ordinary instrument of the Union's common security and defence policy, which comes under the second section of the second chapter of title V of the TEU. Therefore, considered from the viewpoint of the treaty's structure, the solidarity clause appears to be designed as just another instrument of the Union's external action, but it is not possible to consider it to be strictly a defence clause.

However, any observer may conclude that such an approach distorts the real picture. Indeed, the novelty of the legal formula envisaged in the Treaty of Lisbon requires — even if only for its underlying the political ambition— calls for a more thorough analysis which involves addressing security from its dual dimension (internal and external). Only from this perspective is it possible to grasp — even though the location of the precept which regulates the aforementioned clause is not necessarily shared (55)— the true significance and scope of a clause whose very name reveals its ultimate aim. Let us examine what the Treaty of Lisbon (56) intended to

(54) Which also includes common commercial policy (title II), cooperation with third countries and development aid (title III), restrictive measures (title IV), international agreements (title V), the Union's relations with international organisations and third countries and Union delegations (title VI).

(55) This opinion is expressed by GONZÁLEZ BONDÍA, A.: «La constitucionalización de la seguridad y defensa en la nueva Unión Europea: singularidad versus coherencia», in ESTEVE, F./PI LLORENS, M. (Eds.), *La proyección exterior de la Unión Europea en el Tratado constitucional. ¿Mejora o maquillaje?*, Fundación CIDOB, Barcelona, 2005, on p. 169.

(56) The Convention initially designed a solidarity clause to provide protection from terrorist threats following the suggestions made in the report submitted by Working Group VIII on Defence (see CONV 461/02). However, a good part of the amendments submitted were aimed at extending the scope of action of the solidarity clause to situations arising from natural or manmade disasters (CONV 707/03). During the Intergovernmental Conference the solidarity clause underwent minor modifications apart from the inclusion of a Declaration annexed to the final Act (no. 37) according to which «none of the provisions of Article 222 is intended to affect the right of another Member State to choose the most appropriate means to comply with its own solidarity obligation towards that Member State».

achieve by incorporating into its articles a clause that raises more than a few questions among doctrinal scholars (57).

Article 222 of the TFEU states that «The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster» (58). We will go on to examine how the action of the Union and the Member States, as pointed out in article 222 of the TFEU, differs. The Union has the obligation to mobilise «all the instruments at its disposal, including the military resources made available by the Member States» (59), in order, on the one hand, to prevent the terrorist threat in the territory of the Member States [preventive function] and, on the other, to provide assistance to a state in its territory, at the request of its political authorities, in the event of a terrorist attack or natural or manmade disaster [reactive function] (60). As may be inferred from the wording, Union action under the solidarity clause can only be implemented, at least as far as the reactive functions is concerned, if a request has been made by the political authorities of the state that is to be assisted. This request obviously does not apply to Union actions of a preventive nature.

Whereas the Union's obligation is fairly precise, the obligation entered into by the Member States under the same solidarity clause is less clear.

(57) RAMÓN CHORNET, C. is highly critical: «La cláusula de solidaridad frente al terrorismo en el Tratado Constitucional de la UE», in *La política de seguridad y defensa en el Tratado Constitucional*, on pp. 25 and ff.

(58) According to ALDECOA LUZARRAGA «this clause must be considered in conjunction with the defensive alliance providing Member States full assistance. The defensive alliance would thus be played against classical threats, those coming from other states. The solidarity clause, which is also automatic, will apply in the case of new threats such as international terrorism»; ALDECOA LUZARRAGA, F.: «Génesis y desarrollo de la política de defensa en el proceso constituyente», in RAMÓN CHORNET, C.: *La política de seguridad y defensa en el Tratado constitucional*, Tirant lo Blanch, Valencia, 2005, pp. 9-33, on pp. 28-29.

(59) For the purpose the Union has the Community Mechanism for Civil Protection, which depends on the Commission. If the Union makes use of military capabilities it must rely on the Member States, which evidences a *dependence* which could question the feasibility of the solidarity clause in practice.

(60) The italics are ours and are intended to underline the scope and meaning of the solidarity clause inasmuch as it does not cover «preventive or 'anticipatory' operations of a military nature against third states which constitute a potential threat to the Union», in GONZÁLEZ ALONSO, L.N.: *loc. cit.* («¿Obligación jurídica o mero compromiso político?...»), p. 7 *in fine* and p. 8. This hypothesis takes us, among others, to the instrument described *supra* in section II.3.

Indeed, states reserve the right to «choose the most appropriate means to comply with its own solidarity obligation towards that Member State» which has been the victim of an aggression (61).

The arrangements for the implementation of the solidarity clause shall be defined by a Decision (62) adopted by the Council (assisted by the Political and Security Committee) acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy (63). Paragraph 3 of article 222 of the TFEU requires that, if the decision has defence implications, «the Council shall act in accordance with Article 31(1) of the Treaty on European Union»—that is, the Council will decide by unanimity and recourse to constructive abstention is possible.

Even though this clause has not yet been activated, the Declaration annexed to the conclusions of the Brussels European Council of 25 March 2004 declared it to be in force —even before the Lisbon Treaty had been put into effect (64)—. This circumstance made it possible to adopt the decisions required to make it operational (65). The Treaty on the Functioning of the European Union makes the European Council responsible for periodically assessing the threats the Union faces in order to ensure the effectiveness of the action of the Union and its states (66).

(61) *Declaration no. 37 on article 222 of the Treaty on the Functioning of the European Union.*

(62) The adoption of which will require a qualified majority, except when there are defence implications, in which case paragraph 3 of article 222 of the TFEU requires unanimity.

(63) The responsibility of the European Parliament in this clause is limited to being informed of its implementation.

(64) Presidency Conclusions – Brussels European Council of 24 and 25 March 2004, *Declaration on combating terrorism* annexed to the aforementioned conclusions.

(65) *Manual on EU emergency and crisis coordination*, approved by the Justice and Home Affairs Council of 1 and 2 June 2006 (Doc. 9552/1/06). The legal basis for the adoption of this measure appears to be the *Hague Programme: strengthening freedom, security and justice in the European Union* (OJ C 53 of 3.3.2005, pp. 1-14). Together with the aforementioned Hague Programme, the Council has also adopted the related action plan (20059778/2/05 REV 2, of 10 June 2005) which enables it to be implemented and basically contains the ten well known priorities established by Commission in May 2005 (COM (2005) 184 final).

(66) In the view of ALVAREZ VERDUGO, this is a preventive function in respect of which certain doubts also arise regarding, on the one hand, the unsuitability of the European Council to address the task entrusted to it and, on the other, the capacity of the European Council to act in the event of a new threat. For a more detailed analysis, see ALVAREZ VERDUGO, M.: *loc. cit.* (“La aportación de la Convención Europea a la definición...», on pp. 19-20.

BY WAY OF A FINAL REFLECTION

The Treaty of Lisbon has made an important contribution to the present and future design of the Union's Common Security and Defence Policy. This conclusion is supported by two reasons at least. The first relates to the series of legal instruments it makes available to the Union and the Member States which are capable of giving the CSDP the impetus it needs. The second reason is linked to the manner in which the Lisbon Treaty has resolved the difficulty of finding a balance between the necessary inclusion techniques that lend the CSDP coherence and unity and the formulas for reconciling the wishes of states willing to press ahead with those of states which prefer to disassociate themselves from certain decisions that are incompatible with certain national defence policies.

Taking this as a point of departure, which leads us to judge positively the contributions of the Treaty of Lisbon, we would like to point out a few questions posed by certain instruments provided for by the treaty for the purpose of boosting the efficiency of the CSDP itself. Some questions —such as constructive abstention— do not arise from the actual design of the instrument but rather from the idiosyncrasies of the Security and Defence Policy which render constructive abstention useless as a mechanism for adopting decisions. Other questions, however, do stem from lack of skill in regulating the measure, in which case a future adaptation would be advisable. This has been pointed out in connection with the clause on enhanced cooperation designed by the treaty for the CSDP. In the meantime, until such modifications are made, the treaty has provided the CSDP with its own mechanism for differentiated integration, permanent structured cooperation, which aspires to become, without a doubt, an optimal instrument for carrying forward elements of the CSDP that are difficult to address using the unitary method of integration, either because they require certain capabilities that not all the states have or because not all states are willing to do so.

Even so, the greatest expectations aroused by the Treaty of Lisbon in security and defence matters relate to the provision of legal mechanisms that give coverage to realities that have already proved successful (such is the case of the hard cores of the Petersberg tasks) or the regulation of legal instruments, such as the mutual assistance and solidarity clauses, whose practical operational capacity is going to depend more on the political will of the states than on the rules laid down in the treaties.

The Common Security and Defence Policy is not yet a perfectly operational reality; however, the Treaty of Lisbon provides it with the necessary tools. Whether or not it realises its potential will depend on the determination of the Member States to fulfil the ambition expressed by the Union in this area.

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CHAPTER TREE

CIVILIAN CAPABILITIES

CIVILIAN CAPABILITIES

LEONARDO SÁNCHEZ PELÁEZ

INTRODUCTION

Recent years' experience has underlined the need to adopt a broad approach to the maintenance of international peace and security and to employ for this purpose all the instruments at our disposal. The use of military means continues to be essential today, but the international community needs these military means to be accompanied by police officers, judges, prosecutors, civil administrators, prison officers, political advisors or experts in human rights, among others, without whom it would be impossible to achieve lasting results. Indeed, it is increasingly common for civilian instruments to be employed instead of military assets.

The European Union inherited from the WEU the so-called Petersberg tasks—namely, humanitarian and rescue tasks; peacekeeping tasks; and tasks of combat forces in crisis management, including peacemaking.

The European Security Strategy advocated extending the Petersberg tasks to disarmament, support for third countries in combating terrorism and security sector reform, the joint use of all the assets and capabilities at the Union's disposal in the framework of a global concept of conflict prevention and crisis management, and the strengthening of relations with other countries and organisations, giving priority to the transatlantic link.

The Lisbon Treaty further broadens the scope of the Petersberg tasks and establishes that the European Union may use civilian and military assets on missions outside the Union for peacekeeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. These missions will encompass joint disarmament operations, humanitarian and rescue tasks, military advice and

assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation.

This merely reflects a much more ambitious project, as the international community considers that it is not enough to prevent or avoid a military escalation; it is necessary to go to the root of the conflict situation which has given rise to the crisis.

Ever since the establishment more than ten years ago of the European Security and Defence Policy (ESDP), which the Lisbon Treaty has converted into the Common Security and Defence Policy (CSDP), the European Union has set itself the goal of being able to act across the whole spectrum of possible responses to a crisis situation, using both civilian and military means. It seems evident that in order for this to be possible it must have the necessary capabilities. The ESDP has aimed from the outset to provide the European Union with the necessary means to resolve crisis situations, which has not proved to be an easy task.

However, the European Union's foreign policy has been beset with difficulties relating to availability of sufficient civilian capabilities since the beginning of crisis management. Although the quantitative commitments initially undertaken have exceeded expectations, these commitments are not reflected in reality. In other words, its theoretical ability to deploy civilian experts has not been put into practice when the need has arisen, as proven by the unsatisfactory number of staff posts filled in the European Union's civilian crisis management operations.

Despite the fifteen of so civilian crisis operations begun, nine of which are still in progress, the European Union remains hindered by some of the obstacles identified when the first of these undertakings was set in motion back in 2003. And it has a long way to go before the outlook can be considered to be clear.

THE NEED FOR CIVILIAN CAPABILITIES

The complexity of crisis management has grown substantially in recent years. Crises are the result of many factors, such as national or regional instability, terrorism, crime, drugs, natural disasters, disease and migratory pressure. What is more, crises are changeable by nature, and therefore require the actors involved in finding a response to readjust and

refine these responses. As Javier Solana stated on the tenth anniversary of the ESDP, ability to adapt is crucial.

This changeable nature of crises has spawned developments in the manner in which it has been attempted to resolve them in recent years. As stated in the European Security Strategy, none of the new threats is purely military, nor can they be tackled by purely military means. We have witnessed a shift from traditional peacekeeping operations led by military forces and centred on avoiding military escalation to actions aimed at comprehensive conflict resolution. The ultimate aim is to succeed in restoring or establishing a legitimate government and the rule of law, for which a broad spectrum of tasks are required ranging from the reestablishment of security, humanitarian assistance, civilian protection, the rule of law and the functioning of political institutions to the consolidation of local capabilities, economic and social development, democracy and respect for human rights.

The European Union Programme for the Prevention of Violent Conflicts recognises the primacy of the United Nations in conflict prevention, but also stresses that conflict prevention is one of the main objectives of the European Union's external relations. Accordingly, clear political priorities should be established for preventive actions: to improve early warning; to consolidate cooperation with other actors for prevention; and to improve its long- and short-term instruments. Of the short-term prevention instruments, the Plan recognises that the development of civilian and military capabilities for crisis management in the framework of the ESDP will also contribute to the European Union's conflict prevention capabilities. Indeed, it calls for an examination of how to boost the efficiency of these crisis management capabilities for preventive uses.

Therefore, both the need to provide a response to complex crisis situations that may emerge at any time and place, and the concern to prevent a crisis situation from developing, should spur the European Union to enhance all its instruments, including civilian ones.

This theoretical need to have varied instruments at its disposal is obvious from the growing number of crisis management operation the European Union has undertaken since it decided to become a prominent player on the international peace and security stage. If, as it would appear, these activities have become one of the most effective and politically visible instruments of the European Union's external action, civilian operations have witnessed unexpected growth in number and intensity and have become a unique instrument in themselves with huge potential for development.

There are various reasons for this proliferation of activities: on the one hand, a growing demand is perceived from the international community for the European Union to involve itself in civilian crisis management; on the other, the European Union has set itself ambitious goals in regard to international peace and security. It is the European Union itself which has assumed commitments in this field, and in order to fulfil them it is forced to seek the necessary means.

In other words, the European Union needs civilian capabilities, meaning that it should be in a position to bring together a sufficient number of properly trained civilian experts possessing appropriate technical knowledge, to deploy them within a suitable timeframe and maintain them on the ground for a long period, and provide them with the required equipment, procedures and doctrine and a rigorous mandate.

The development of civilian capabilities is necessary to continue progressing in civilian crisis management, even to maintain the current level, and also because of the coherence it lends the external action of an effective, credible and high-profile European Union.

THE DEVELOPMENT OF CIVILIAN CAPABILITIES.

Although it is common to speak of civilian crisis management, it seems more correct to refer to the civilian aspects of crisis management, because we are not dealing with different types of crisis; rather, there is one crisis and it is its handling that would require the implementation of varied instruments depending on the situation. The same could be said of civilian capabilities. Rather than civilian capabilities we should speak of capabilities made available to civilian crisis management operations or of capabilities for civilian crisis management operations.

When referring to civilian capabilities the meaning is often limited chiefly to human resources—force generation aimed at providing personnel for the crisis management operations the Council of the European Union decides to implement. Crisis management requires the collaboration of a large number of experts in areas as diverse as the police, judiciary, prosecution service, prison officers, civil administration, customs, human rights, gender issues, human resources, disarmament and many others. What is more, each of these categories can be subdivided into several more. This gives a rough idea of how complex the task of seeking enough specialists in all the required areas can be.

But it is not sufficient just to find the experts needed to set up a crisis management operation. It is necessary to deploy them for a long period of time as well as to arrange for others to relieve them in order to ensure the sustainability of the effort.

The development of civilian capabilities within the European Union is a continual process which began almost at the same time as the European Security and Defence Policy was established. A few months after the Cologne European Council (December 1999) adopted the decision to establish the ESDP, in June 2000 the Feira European Council set the targets for the European Union for developing civilian capabilities in the various priority areas: police, strengthening the rule of law, and strengthening civilian administration and civil protection.

The goals established at Feira for the four priority areas were not only met but even surpassed in some cases:

- In the police sphere, the Member States pledged to contribute up to 5,000 police officers, 1,400 of whom could be deployed in 30 days. These commitments included 13 Integrated Police Units (IPUs) and 4 headquarters, two with a rapid deployment capability.
- For the strengthening of the rule of law, a total of 282 experts was achieved including judges, prosecutors, ancillary staff and prison officers. Of them, 60 could be rapidly deployed.
- In the area of civil protection, the contributions surpassed the targets established at the Goteborg European Council of more than 2,000 people.
- In civilian administration, the Member States pledged to provide as many as 160 experts, mainly to cover civil registration, local administration and customs tasks.

More than two years on from the launch of the first civilian crisis management operation, the results achieved looked promising, although it very soon became clear that this impression was far from being a reality.

Although it is true that staffing problems are evident and long lasting, it is also essential to realise the importance of having the necessary material resources at suitable readiness, especially if the aim is to get operational activities off to a quick start. A not too distant example was the launch of the European Union's monitoring mission in Georgia, EUMM Georgia. The 27 Member States managed to identify the 200 monitors and support staff required to set up the mission in an unusually short time following a planning and decision-making process stripped down to a minimum.

However, for the provision of equipment —especially armoured cars— it was necessary to rely on the resources provided by the Member States themselves, as the European Union had neither the equipment, nor suitable instruments for procuring it at such short notice, nor the strategic transport capabilities to convey it to the theatre of operations.

These difficulties in equipping the missions have been a constant feature in practically all the civilian operations initiated to date and have prevented them becoming fully operational until several months after the start of activities.

A major milestone in the sphere of civilian capabilities was reached in 2000 with the establishment of the Committee for Civilian Aspects of Crisis Management (CIVCOM), which has been working since then to develop tools allowing the European Union to assume responsibilities in conducting civilian crisis management operations.

THE ACTION PLAN FOR THE CIVILIAN ASPECTS OF THE ESDP

With the adoption of the European Security Strategy in December 2003 and the accession of ten new Member States in 2004, the European Union decided to equip itself with an Action Plan for the civilian aspects of the ESDP, which reaffirms and intensifies Europe's ambition in this field. To the four aforementioned priority areas identified at Feira the Action Plan adds the ability to conduct monitoring missions and provide general support to the offices of the European Union Special Representatives.

As a result, the European Union needs to be more ambitious and capable of conducting several civilian crisis management operations at different levels of engagement. As parameters for the future, the Plan underlines the need for multifunctional resources in an integrated format, which would eventually materialise into the Civilian Response Teams (CRTs), and a broader range of technical expertise upon which the Union can draw to address the multifaceted tasks that need to be performed in the various crisis management operations. The advisability of complementing and promoting synergies between all the crisis management instruments at the European Union's disposal and making civilian capabilities more operational are other features of the Action Plan.

As part of this effort to enhance civilian crisis management capabilities, and in accordance with the aforementioned Action Plan, in Novem-

ber 2004 the Dutch Presidency organised a Civilian Capabilities Commitment Conference to review the civilian capabilities already committed. The conclusion drawn from the indications given by the various countries was that the European Union could rely on having as many as 12,836 people of whom 5,761 were police officers, 631 experts in the rule of law, 596 experts in civil protection and 4,392 members of civil protection intervention teams, in addition to 505 experts for monitoring missions and 391 available as reinforcements for the offices of the European Union Special Representatives. Although at first sight these numbers might be considered sufficient to meet the European Union's ambitions with respect to conducting crisis management operations, there was cause for scepticism: on the one hand, the results were basically quantitative, and did not guarantee that all the possible categories required would be covered; and, on the other, there were suspicions that putting these optimistic indications into practice would be a complicated task. These indications of possible contributions neither constituted nor constitute formal commitments —not even a declaration of intent—. They are the result of the optimistic and unrealistic promises made by some national authorities following an exercise in reflection which cannot be described as overly deep. The fact is that responsibility always ultimately falls to the Member States, which are always reluctant to part with their best civil servants, even temporarily.

These fears have been confirmed in nearly all the civilian crisis management operations. Practically none of the operations started up has managed to fill all its posts, not even the small-scale operations.

CIVILIAN HEADLINE GOAL 2008

A Headline Goal is an instrument which sets out the European Union's ambitions as to capabilities. Its ultimate purpose is to guide both the European Union and its Member States in the process of developing these capabilities in order to bring political ambitions into line with the competences that translate these political ambitions into specific targets.

One of the aims set out in the Action Plan for Civilian Aspects of the ESDP was the development of the Civilian Headline Goal 2008, a document adopted in December 2004 which, like its military counterpart, defined the European Union's level of ambition.

After underlining that coherent use of Community and civilian ESDP instruments is essential to achieving a qualitative improvement in the

European Union's capacity to act, the Civilian Headline Goal 2008 established, among other requirements, that the European Union should be capable of conducting several missions simultaneously, including at least one major substitution mission(1), deployable at short notice in a non-benign environment. In addition to stating that the Union should be able to act across the full range of tasks in conflict prevention and civilian crisis management, it recognises the importance of reacting rapidly: the goal is to adopt the decision to launch a crisis management operation within five days of the approval of the Crisis Management Concept by the Council(2), and ensure that some specific civilian capabilities are deployed within thirty days of this decision. Civilian operations launched in the ESDP sphere would be able to be deployed autonomously or jointly with a military operation. Military assets also count as they may be needed to facilitate or permit the deployment of a civilian operation. Naturally the Council and the Commission must ensure maximum coherence and effectiveness of their efforts in the crisis area. Coherence should also be ensured in the event that ESDP missions coincide with other actors in the field.

The process was based on the definition of planning assumptions and different illustrative scenarios corresponding to the possible crisis situations to which the European Union would need to respond, similar to those used for the development of military capabilities: the most complex scenario involved the establishment of a major substitution mission under the mandate of the United Nations; another entailed strengthening the capabilities of the host country; and conflict prevention and support for a humanitarian operation completed the picture.

The following stage was to define the human resources required to enable the European Union to meet its commitments, which would subsequently be contrasted with the offers received from Member States in order to identify shortfalls. After several downward adjustments, a list was drawn up with the required capabilities, including 6,114 police officers, 1,614 experts in the rule of law, 1,421 in civilian administration, 688 in civil protection, 198 monitors, 50 experts to support the European Union's Special Representatives and 385 people entrusted with mission support. Unlike the questionnaires distributed in 2004, on this occasion

(1) Substitution missions are those in which the personnel deployed by the EU perform executive functions in lieu of local forces when local structures fail or are non-existent.

(2) The Crisis Management Concept (CMC) is the conceptual framework that describes the general approach adopted by the EU to manage the crisis, encompassing the full range of activities.

several greatly detailed questionnaires were designed, forcing the national authorities responsible for completing them to specify to which particular profiles they were willing to contribute. Some third states such as Canada, Croatia, FYRM, Iceland, Norway, Russia, Switzerland, Turkey and Ukraine were also invited to indicate their possible contributions, which would be considered supplementary to those of the Member States.

The end result cannot be regarded as satisfactory, particularly in the areas of rule of law (judges and prosecutors as well as prison officers) and civilian administration, with a shortage of nearly 700 experts in each. With respect to police officers, the difference was almost negligible in absolute terms, but a closer examination showed that the shortfalls in certain areas of specialisation and posts were significant.

In parallel with this whole process a request was submitted to establish suitable operational competences within the General Secretariat of the Council for mission planning and support allowing several civilian operations to be conducted and planned concurrently. Despite having been expressed by Javier Solana in November 2004, this wish was not fulfilled until 2007 with the establishment of the Civilian Planning and Conduct Capability (CPCC), which would not become fully operational until the following November.

By then it was already evident that procurement mechanisms were a crucial element in ensuring speedy and effective deployment, and an urgent solution to the shortfalls in this field was thus required. As of today, the existing procedures do not yet allow the flexibility needed to adapt to rapid response requirements. This situation can be considered a consequence of the institutional problems derived from the fact that responsibility for operational control of the European Union's civilian crisis management operations falls to the Council, whereas the budget is the responsibility of the European Commission, and this hampers the adequate development of the strategic tools necessary for rapid deployment. The entry into force of the Lisbon Treaty and its subsequent development should enable these hurdles to be cleared.

The whole Civilian Headline Goal 2008 process, like any other civilian crisis management activity, was conducted under the supervision of the Political and Security Committee (PSC) with the support of the CIVCOM. In addition, each year the ministers have had the chance to take part in a Civilian Capabilities Improvement Conference in the margins of the November Council meeting, where stock is taken of the results achieved

throughout the year and the targets for the following year are established. Although a Ministerial Declaration is adopted, none of these conferences has succeeded in arousing unanimous enthusiasm. Subsequent efforts to boost the visibility of civilian capabilities, such as that of the French Presidency, which included this issue on the formal agenda of the Council in November 2008, have failed to achieve the expected results.

The Civilian Headline Goal 2008, which was deemed to have satisfactorily guided the planning and development of the European Union's civilian capabilities, was taken to be concluded at the Civilian Capabilities Improvement Conference held in November 2007. In addition to describing the possible scenarios and designing the capabilities required to address them, this process has achieved a few other results:

- A set of recommendations and guidelines for the recruitment of personnel.
- Increased visibility of the civilian aspects of crisis management.
- Cooperation with other players in the community and justice and home affairs spheres.
- Development of Civilian Response Teams, which will be discussed in due course.
- Progress in work related to the rapid deployment of police elements, particularly Integrated Police Units (IPUs) and Formed Police Units (FPU) (3).

The results of the Civilian Headline Goal 2008 are particularly commendable bearing in mind that when this process was launched the EU did not yet have much experience in civilian crisis management: the first civilian operation—the police mission in Bosnia-Herzegovina (EUPM)—was about to complete the second year of its mandate; EUPOL PROXIMA had been in progress for only a year in the FYRM; and EUJUST THEMIS, the first rule of law mission, had begun in Georgia only months earlier with a dozen European experts.

The Civilian Response Teams (CRTs)

As stated earlier, one of the accomplishments of the Civilian Headline Goal 2008 was the development of the concept of Civilian Response

(3) These are established police units, normally of company size, the basic difference being that the IPUs have a logistic capability and can be integrated under a military chain of command.

Team (CRTs) designed to boost the rapid reaction capability. Their aims are:

- To carry out assessment and fact-finding missions in crisis or impending crisis situations.
- To establish a rapid initial operational presence in the field after a joint action is adopted⁽⁴⁾ and support the entry into operation of a civilian crisis management operation.
- To provide timely reinforcement of existing European Union mechanisms for crisis management at country and regional level.

A CRT is drawn from a pool of experts selected by the General Secretariat of the Council from those nominated by the Member States in accordance with certain specifications and with sufficient technical expertise in one or more areas related to civilian crisis management, administrative management of missions or support functions.

In order to be eligible for this pool, CRT experts must have undergone specific training and be ready to deploy within 5 days of being required to do so by the High Representative, the PSC or the Council, and must not be deployed for more than three months.

Expenses arising from the CRTs are assumed by the national authorities when their deployment takes place before the Council decision. When the decision has been adopted, the CRTs will be financed in accordance with the procedures established for missions under the ESDP, now the CSDP.

Approved in 2005, this concept was reviewed at the end of 2009. The most significant change was the increase from 100 to 200 in the number of experts who make up the CRT pool; this process will be set in motion during the first half of 2010. The review is furthermore intended: as far as possible to bring CRT deployment modalities into line with another of the European Union's capabilities, experts in Security Sector Reform (SSR) ⁽⁵⁾;

(4) The joint action was a legal instrument of title V of the Treaty on European Union (CFSP). It denoted a coordinated action of the Member States employing resources of all kinds (human resources, knowledge, financing, equipment, etc.) in order to achieve the goals established by the Council. The Lisbon Treaty has replaced joint actions with Council decisions.

(5) Community of experts prepared to be deployed in accordance with previously identified needs with the aim of boosting the EU's external action capability in the field of security sector reform.

the use of preparatory measures (6) to finance expenses arising from the deployment of the CRTs; to broaden these experts' scope of action to community activities; and, in exceptional cases, to authorise the incorporation of experts not belonging to the CRT pool.

Although at the theoretical level the European Union can draw satisfaction from having a CRT capability, in practice it cannot be said that it has met expectations as far as its use is concerned. Of the sixteen occasions on which vacancies have been advertised for CRT experts, deployment did not take place on four. As for the rest of the cases, no CRT expert took part in four of them and in another three not all the posts were filled. Altogether, since 2006 fifteen experts from the CRT pool have been sent on missions. It is to be hoped that, following the enlargement of the pool to 200, and with the possible use of preparatory measures and the resulting savings this brings the national authorities, as well as the experience and lessons gained from these past years, this civilian capability will be able to prove its full potential.

CIVILIAN HEADLINE GOAL 2010

The conclusion of the Civilian Headline Goal 2008 did not mark the end of the process of developing civilian capabilities. Despite the results achieved, there was still room for new measures and for more specific action in both qualitative and quantitative terms, and it was therefore decided to embark on a new process, the Civilian Headline Goal 2010, based on the results of the previous one and on the experience gained from the outset of the civilian crisis management operations. Furthermore, on this occasion the time frame was aligned with the military process (7) and it is therefore due to be concluded at the end of 2010.

The aim is to improve the civilian crisis response capability so that the European Union can deploy appropriate and sufficient highly qualified personnel, with the necessary support services and the required equipment. In this new phase of civilian capability development the idea is not only to meet quantitative targets, as in the first years of the ESDP, or even qualitative goals as with the Civilian Headline Goal 2008. The European

(6) Budget line, the initial phase of which allows the necessary conditions to be established for an action in the framework of the CFSP and the adoption of the relevant legal instruments.

(7) Headline Goal 2010

Union has set itself the ambition of using all available means to respond coherently to the full range of possible tasks—which means the use of military and civilian assets, community instruments and synergies with the former Third Pillar. Strengthening coordination and cooperation with external actors is another of the ambitions.

The European Union has set itself a more sophisticated set of objectives: firstly, to improve quality through a systematic lessons-learned process, conceptual development, improved mission support services, improved security and intelligence, further development of the interface between police and the wider rule of law sector, further development of the rapid deployment capability of Integrated Police Units (IPUs) and Formed Police Units (FPU), and the aforementioned evaluation of the CRT concept. A further ambition is to improve procurement and the availability and training of sufficient personnel to cover needs in all priority areas and support services, for which it is necessary to regularly update the information provided by the Member States on the capabilities offered; and to develop instruments which facilitate planning and conduct, such as computer applications, mechanisms for the exchange of information and lessons learned. And priority attention should be given to achieving synergies between civilian and military capabilities, the Commission, JHA actors (8) and external actors.

In order to put the Civilian Headline Goal 2010 into practice, a cyclical process was designed which should have begun with a review of the illustrative scenarios designed in the previous stage. However, it merely defined a new civil-military pilot scenario in which the possible synergies between the civilian and military aspects of the ESDP and with community activities occupy a prominent position. On the basis of this scenario, a new questionnaire was drawn up and sent to the Member States, which were also requested to ratify the commitments made in 2005 and 2006 in the framework of the Civilian Headline Goal 2008.

The following stage was to draft a report on the state of preparedness of the ESDP, which was submitted to the Council in November 2008. This report noted the progress made in the provision of equipment for ESDP missions through the framework contracts, in the recruitment of CRT experts, in doctrinal development and in the implementation of the Goalkeeper software environment designed to support the planning and

(8) Area of Justice and Home Affairs.

development of civilian capabilities, contribute to the planning of mission support services and their preparation and deployment, and to serve as an institutional memory and archive for information relating to civilian crisis management operations.

Goalkeeper will not store classified information but will function through a secure page. It consists of four applications: Headhunter, based on the list of job descriptions for civilian personnel; Registrar, where the Member States may enter and retrieve information on the experts potentially available for crisis management operations with a view to their rapid identification; Schoolmaster, which makes possible the establishment, maintenance and consultation of the annual training programme in the area of the CSDP; and Governor, a database providing access to unclassified documents related to civilian crisis management. These last two applications are already up and running, while the first two, which will be interlinked, need more time owing to the difficulties posed by Registrar. The General Secretariat of the Council has set up a pilot group formed by some of its experts and others sent by some Member States. The group is to study and propose a model technical arrangement that may be acceptable to the national authorities and, in accordance with national legislation, could help enter the data needed to make this application function. The Goalkeeper applications may be used by the General Secretariat of the Council (in future the External Action Service, especially the CPCC and the CMPD), civilian crisis management operations in the field of the CSDP, and the relevant ministerial services and departments of the Member States and the European Commission.

At this stage, with impetus from the French Presidency, the Council adopted a declaration on the strengthening of crisis management capabilities which established an ambitious set of targets for civilian capabilities. With respect to numbers, the aim is to have the civilian elements needed to run a dozen civilian operations of different types, including a major operation of up to 3,000 experts lasting several years, and the civilian contingents required to participate in two military stabilisation and reconstruction operations and a humanitarian assistance operation.

2009 has witnessed some major progress in relation to conceptual development: in addition to the aforementioned review of the CRT concept, under the Swedish Presidency the concept of police strengthening missions, approved during the now distant Spanish Presidency of 2002, was updated; and the foundations were laid for creating an analytical

capability (9) in CDSP missions, the pilot experiment for which is to be conducted in EUPM with a view to putting it into practice in future in other missions that so require.

As for the provision of equipment, work continued on the framework contracts and the first steps were taken towards the establishment of a permanent warehouse, an issue which has been under debate at least since the Ministerial Conference of 2004, when Hungary offered to host a facility of this kind on its territory.

Considerable effort has been put into setting up a process for reflecting on national strategies for the deployment of civilian personnel. In addition, in the field of force generation, improved procedures have been introduced for the selection of personnel, which entail reviewing the financial compensation received by personnel deployed on civilian missions, an improved system of permits and living conditions in the area of operations, standardised advertising of calls for contributions, new rules on selection criteria, and examining the profiles for the posts. These new measures, which apply both to the General Secretariat of the Council and to the Member States, will be evaluated during 2010 to decide whether a review is necessary. Another aspect related to human resources is the improvement of the pre-deployment training system, responsibility for which falls to the national authorities.

In the final stage of this cycle, which is scheduled for the end of 2010, stock will be taken of the civilian and military capabilities available, and the guidelines to be followed and requirements for the development of capabilities in 2011 will be provided. For the time being what may happen when the Civilian Headline Goal 2011 is concluded is an unknown quantity. The options are to continue with the current model —that is, two parallel but related processes— for the development of civilian and military capabilities, or to merge the two processes into a single one which encompasses both civilian and military capabilities. Although there does not necessarily have to be a connection, the new directorate established within the General Secretariat of the Council, the Crisis Management and Planning Directorate (CMPD), has adopted an interim structure in which two different units are responsible for civilian capabilities and military capabilities. On the contrary, strategic planning has been integrated into a single unit comprised of civilian and military experts.

(9) The *Mission Analytical Capability* (MAC) is aimed at ensuring the availability of relevant information to meet the requirements for making decisions on achieving the objectives of the mission.

CRISIS MANAGEMENT STRUCTURES

The chief responsibility in actually defining the capabilities required for civilian crisis management operations rests with the Member States, as it is they who provide the personnel required to perform the related tasks. Therefore, as agreed under the French Presidency and with impetus from the Swedish Presidency, a process has been implemented for formulating national strategies to facilitate the deployment of civilian personnel in crisis management operations, as mentioned. The aim is to encourage each Member State to devise political strategies for participation in and contribution to the development of the CFSP through the conviction that the civilian capabilities placed at the disposal of the European Union's external action also benefit directly the national interests of each of the Member States.

In this connection, a high-level seminar was held in June 2009 to facilitate the deployment of civilian personnel, attended by senior civil servants from the main government agencies of the states. This seminar was complemented by a meeting of the CIVCOM reinforced with experts from the capitals. In order to promote the establishment of national strategies, in November 2009 the Council took note of the progress achieved in this area. Prominent among the questions addressed were regulatory measures to facilitate the deployment of civilian personnel, budgetary measures, the compiling of rosters of available experts, the training of personnel to be deployed, and the existence of national coordination structures and strategies and other specific documents aimed at the development and strengthening of national crisis management capabilities. This is one of the major challenges for the future of the European Union's civilian capabilities. Without a doubt, their implementation in each and every one of the European Union's Member States would provide decisive impetus to the development of civilian capabilities.

At Brussels, the main role in crisis management and supervision of capabilities falls to the Political and Security Committee (PSC). Under the authority of the Council, the PSC exercises political control and strategic direction of all crisis management operations. The PSC is the forum where Member States assume responsibility for coordinating foreign policies and is the main body for the development of the CFSP and CSDP.

As a specific mechanism for the civilian aspects of crisis management, the Council relies on the CIVCOM, which may report directly to

the Committee of Permanent Representatives (COREPER), although its activity is almost entirely geared to advising the PSC. About to complete its tenth year of existence, the CIVCOM is an essential organ in the development of civilian capabilities for crisis management. Another of the preparatory groups of the Council whose work has an impact on this area is the Foreign Relations Counsellors (RELEX) working group, which focuses on the horizontal aspects of the CFSP, especially institutional, budgetary and legal.

The structures entrusted with crisis management in the General Secretariat of the Council, which will presumably become part of the European External Action Service, play a significant role in the planning and development of civilian capabilities and in organising deployment in civilian crisis management operations. Their work is furthermore crucial to providing adequate material resources, not forgetting the competences of the European Commission in this field.

The endeavour to equip the Union with appropriate structures for crisis management started very soon. In 2001 a Police Unit was set up as part of the Civilian Crisis Management Directorate (DGE IX) to shape the European Union's police activities into a coherent crisis management capability. With the Police Unit the General Secretariat covered its needs for advice on police matters. Its main tasks were related to the planning and conduct of policing operations.

The functions of the DGE IX, which is responsible for all issues relating to the civilian aspects of crisis management, including the development of civilian capabilities, were divided between a new DGE IX and the Civilian Planning and Conduct Capability (CPCC), which inherited and broadened the tasks of the former Police Unit following the approval in 2007 of the Guidelines for Command and Control Structure for EU Civilian Operations in Crisis Management. This document clarifies the operational command and control structure and defines the functions and responsibilities of the Civilian Operation Commander, who will exercise command and control at strategic level for the planning and conduct of all ESDP civilian crisis management operations, under the political control and strategic direction of the PSC and the overall authority of the High Representative. The Civilian Operation Commander will ensure operational planning and will contribute to the strategic planning of civilian operations, for which he will be assisted by the CPCC. In addition, the Civil-Military Cell and the Watchkeeping Capability (WKC), organizationally

accountable to the Director General of the European Union Military Staff, will be functionally answerable to the Civilian Operations Commander for the development of their specific tasks in support of civilian operations. This new civilian command and control structure fills the existing void at the strategic command level of civilian operations, clarifies the political level by excluding the European Union Special Representatives from the chain of command, and makes the command levels comparable to those that already exist in the military structure, thereby facilitating civil-military coordination and mutual support and coherence.

The planning and conduct capability of the General Secretariat of the Council has increased substantially with the establishment of the CPCC. However, it continues to be insufficient, especially in relation to mission deployment support and, particularly, in administrative, financial, logistic and human resource management matters. This comes as no surprise bearing in mind that the CPCC, which performs the tasks of a headquarters at strategic command level, currently has to serve nine civilian crisis management operations, unlike military operations which each have their own specific operational headquarters. Indeed, some civilian operations currently under way have reinforced their staff using support elements stationed in Brussels, who complement the functions performed from the CPCC.

The establishment of the CPCC within the General Secretariat of the Council was completed with a restructuring of DGE IX, which had its workforce downsized and its functions limited basically to the strategic planning of civilian operations, the preparation and support of meetings of the CIVCOM, conceptual development and ensuring contacts with international organisations. DGE IX was also responsible for civil-military coordination, extracting lessons from ESDP operations, training, and development of civilian capabilities.

The General Secretariat of the Council has now undertaken a new, larger-scale reorganisation in preparation for the future establishment of the European External Action Service. It has set up the Crisis Management and Planning Directorate (CMPD) which encompasses the former DGE VIII(10) and DGE IX and is made up of civilian and military experts who work together. In addition to tasks relating to strategic planning and the rest of the functions performed by the previous directorates, this new division will be in charge of everything needed for the development of the CSDP.

(10) Directorate for defence matters, which belonged to the Directorate General for External Relations (DGE).

THE MAIN CHALLENGES

The European Union considers itself a global player with a role to play in addressing global challenges. Its political objectives and ambition appear to be clear, as envisaged in the Treaty on European Union and the European Security Strategy and repeatedly expressed at Council and European Council meetings. But even with clear political objectives it is not possible to progress unless one has the right tools for putting them into practice. In the sphere of crisis management or conflict prevention, one of the main challenges is the availability of personnel, equipment, budgets and procedures that allow an appropriate and timely response to be provided to the crisis or, better still, enable it to be averted. The procedures for addressing these challenges are varied but have in common the need for greater involvement of all the players, chiefly the Member States but also the General Secretariat of the Council, in future the European External Action Service, and the Commission.

International cooperation

As stated earlier, recent years have witnessed an increase in the number of tasks related to crisis management. What is more, crises are not sporadic and short-lived but require long-term treatment. Intervention in response to a crisis begins beforehand, with conflict prevention, and continues until well after the conflict is over or the crisis resolved, as the goal is to ensure the stability and sustainability of the process.

This means that the burden of the actions involved in resolving a crisis is too great for a single actor to assume the whole responsibility. The extreme complexity and long duration of crises call for complex and long-lasting solutions. The personnel, the material resources and the budget required are huge, often beyond the reach of bilateral or regional cooperation. As a result, those involved in settling these problems, be they national or multilateral, have found themselves forced not only to refine their response but also to seek external support and resources to engage in such an undertaking.

The European Union should not be oblivious to this need to seek external support and collaboration, despite its theoretical capabilities. It has a whole range of tools at its disposal, both civilian and military, and in this respect it could be considered a pioneer, but its real possibilities are limited because, as pointed out, they depend on the capabilities made available to it by the Member States.

The European Union is running twelve civilian and military crisis management operations of varying complexity, and one is at the planning stage. In none of the theatres where these operations are deployed is the European Union acting alone. In some way or another the work is shared between several actors of the international community, be they multilateral, bilateral or non-governmental, though this does not necessarily imply that the division of labour is well organised or that coordination and collaboration between them prevails. The shortage of civilian capabilities is a characteristic common to all the actors involved in crisis management and at present the best way of addressing this shortfall is by developing and stepping up cooperation with others.

The rapid deployment of assets

One of the difficulties of implementing civilian crisis management operations is the procurement of material assets, which is the responsibility of the General Secretariat of the Council and CSDP missions and is charged to the CFSP budget. This means that the missions themselves, with the support of the Secretariat, are in charge of procuring the necessary equipment, respecting the competences of the European Commission in this field. However, procurement procedures in the European Union are tremendously slow and can lead to the missions not being supplied with equipment for several months, even if the planning process has been conducted under ideal conditions.

Some progress has been made in recent years. On the one hand, the European Commission has established several framework contracts which, although improvable, should shorten future procurement periods, as agreements have been signed with several suppliers. This means that the European Union has a virtual warehouse from which it may draw without having to set the slow procurement processes in motion. On the other hand, although not of the desired scope, there is consensus on reviewing the availability of preparatory measures to allow some activities to be financed before the budget for the crisis management operation has been established. In addition, the Financial Regulation will be reviewed during 2010. All this is still not sufficient — especially to ensure a rapid deployment capability — but it does mark a significant step in the right direction.

Another of the initiatives launched in recent months is also aimed at facilitating the provision of equipment: the establishment of a permanent

warehouse. A facility of this type would make it possible to store the strategic equipment required for the speedy activation of a crisis management operation if necessary. It would furthermore facilitate the collection of surplus equipment from other operations following the finalisation of a mandate or as a result of restructuring. Such is the case of the Police Mission in Bosnia-Herzegovina (EUPM), which has reoriented its activities, downsized its workforce and, accordingly, its fleet of vehicles starting in January 2010. A temporary warehouse has accordingly been established at EUPM to store surplus equipment until a permanent strategic warehouse is set up. Several Member States have expressed an interest in establishing the warehouse on their territory and the European Commission has commissioned a feasibility study. Its results will determine the final decision, which should be adopted under the Spanish Presidency in the first half of 2010. If this possibility eventually materialises, the European Union would have a physical warehouse complemented by a virtual warehouse (framework contracts).

In addition to the foregoing, we should consider what the new situation brought about by the Lisbon Treaty may hold in store. Although the configuration of the future European External Action Service is not yet known, it is not preposterous to think that it could exercise not only the functions currently performed by the civilian crisis management structures of the General Secretariat of the Council but also management of the operational budget for financing crisis management operations, which is currently in the hands of the European Commission. This is one of the true challenges for the future, centralising management and bringing together the currently dispersed operational and budgetary competencies.

Devising national mechanisms for crisis management.

The difficulties relating to the provision of equipment are basically a question of time and money. On the contrary, the recruitment of personnel is not just a question of money but is linked to the political will of the national authorities responsible for authorising their deployment. This will is not always in consonance with the commitments given in replies to questionnaires, action plans, headline goals or ministerial declarations.

The causes of this lack of political will include the scarcity of available experts and concern about possible consequences. The personnel required for civilian crisis management operations are an extremely valuable resource in their country of origin. Unlike in the armies, there are not

usually reserve forces made up of police, judges, prosecutors and prison officers. Sending any of them overseas is considered detrimental as it amounts to eliminating a post that is necessary in the country or duplicating it, and countries are not always prepared to do this. Although this assertion is irrefutable, the real impact of the absence of a few thousand civil servants out of the hundreds — millions even — of thousands available throughout the entire European Union is, at the least, debatable.

Lack of political will may sometimes be due to failure to realise the importance of crisis management operations in the European Union's foreign policy and the positive repercussions they may have on internal security. Results — when achieved — are not always visible and it is therefore hardly likely that those responsible for home and justice affairs or civil administration will feel the need to take part in this undertaking.

On other occasions, more than will it is political interests that come into play. A clear example of the foregoing is refusal to contribute to or increase participation in a European Union crisis management operation while deciding to take part in a similar activity, in the same scenario, promoted bilaterally or by another international organisation.

These obstacles are further exacerbated by the non-existence of a specific policy on national objectives in relation to civilian crisis management, of either the European Union or other international organisations. This furthermore implies the absence of appropriate mechanisms for making civilian experts available. Save in the case of police officers, whose secondment abroad is generally regulated, the ministerial departments involved lack the necessary tools and therefore, even if they are fairly interested, they are eventually discouraged by bureaucratic hindrances. This underlines the importance of having national strategies or similar documents with regulatory status and an appropriate budget. The clearest example to be followed is currently Finland, which approved a national strategy for civilian crisis management in August 2008.

Qualification and selection of personnel

The chief problem in setting up civilian crisis management operations is the shortage of personnel, especially in number. A recurring issue is the qualification of the experts which the Member States place at the disposal of crisis management missions. After several years of experience and some fifteen civilian operations completed or in progress, the Union has a great deal of information about the job profiles required for

the tasks established for each of its operational activities. These job profiles are reflected in the calls for contributions, and serve as a basis for the recruitment of personnel.

It is true that there are not always enough applications for a proper selection to be made, and often no more than one application is received for each job advertised. But it is equally true that the specifications of the required profiles and selection criteria are clearly improvable. It should not be forgotten that the staff posts for our crisis management operations are mainly filled by seconded civil servants. These civil servants, who are nominated by the national authorities, belong to public services whose work procedures are vastly superior to those of the countries that host our crisis management activities. It should be realised that the standard of the services rendered or level of training, technical expertise and experience possessed by European civil servants varies from country to country. But we should not lose sight of the scenarios to which our operations are usually deployed: failed states, countries with almost non-existent security systems, corruption, violence, etc. Nor should it be forgotten that our actions are targeted, among others, at local civil servants who have very little training or are even illiterate. Similarly, the tasks performed normally involve monitoring, mentoring or advice on basic activities. Naturally, experts of sufficient rank and knowledge are required to provide counselling or mentoring to the senior authorities of the host country or for certain tasks, but we should reconsider the custom of recruiting highly qualified and experienced personnel for much less demanding jobs, as it risks becoming routine practice through repetition.

What is more, prior international experience is interesting and provides added value to candidates for crisis management operations, but it does not seem advisable to make it an almost indispensable requirement.

Where a special effort is required is in identifying and training the senior officials involved in crisis management, beginning with those who will be in charge and perform the most important functions. The people responsible for the successful implementation of our operations should be capable of encouraging the best performance from each and every one of their subordinates. Most of the candidates made available by the national authorities should be valid and this is the key task of a good manager. Given the choice, any undertaking, including peace missions, would prefer to have sufficient material resources and a full workforce with every post filled by the person with the right profile for the job. This

would be the ideal situation but it is a wishful thinking, at least in the case of crisis management operations. We do not know what will happen in the future, but crisis management operations are not currently in a position to be too fussy about the selection of personnel and should make the most of what they are offered. It is not realistic to aim to have the best personnel, as is usually requested; it would be enough to have good personnel —or simply personnel— .

What is more, systematic rejection of the candidates nominated by the Member States can have negative repercussions, especially if the reasons are not properly explained. Each time a call for contributions is published —several times a year— the related national machineries, with varying degrees of complexity, are set in motion. The national authorities in question should make an effort to identify the candidates they deem suitable, select those they find most appropriate and send in applications in accordance with regulations. Granted, the results are not always as desired, but the national authorities could eventually stop making the effort if the candidates they nominate are rejected time and time again for generic reasons, the sole explanation being their unsuitability. Nor does lack of transparency help in these cases.

Contracting more international experts is not a solution—at least not in the context of CSDP crisis management operations which, by nature, are based chiefly on national contributions from the Member States. There is no doubt that for some administrative or technical posts, the labour market offers better opportunities than the public sector, especially because the ministerial departments involved in crisis management do not have sufficient personnel belonging to these categories. But it is questionable that, as a rule, possible candidates as contracted tend to be more highly qualified than civil servants.

Being aware of Member States' difficulties in providing sufficient candidates for an appropriate selection to be made, the challenge lies in making the most of the applications received, endeavouring as far as possible not to leave posts unfilled.

CONCLUSIONS AND PROPOSALS FOR THE FUTURE OF CIVILIAN CAPABILITIES

Much headway has been made since the European Union embarked on crisis management using civilian assets. The resources actually avail-

able today are more numerous and of higher quality. What is more, there are now standard mechanisms and procedures, and a body of doctrine to guide and assist those in charge of performing activities relating to civilian crisis management. But the work is not over. Some of the short-falls identified at the start of the ESDP have yet to be addressed and it is necessary to complete some of the projects begun in recent months or years. The future of the European Union's capabilities begins in the last quarter of 2010, when the new process for developing both civilian and military capabilities will be decided on. As stated, we cannot ignore the possibility that a single mechanism for developing the European Union's capabilities will set in motion in 2011. But nor can we rule out the possibility that the final decision will confirm the current situation with two parallel, albeit closely linked, processes.

With a view to this new process for civilian capabilities, it is appropriate to draw certain conclusions and consider how it can be implemented both by the General Secretariat of the Council and, especially, by the Member States. Although the difficulty of putting them into practice is recognised, the following could be cited:

- Greater realism regarding the scope of action in civilian crisis management would be welcome, and would not necessarily mean a setback in the level of ambition the European Union has set for itself. The level of ambition has not ceased to rise and although a high level of ambition can become the driving force behind rapid progress, before raising it any further it is necessary to consolidate the previous level, while being aware of the resources that are actually available. A job scenario with ambitious targets is a positive thing, but broadcasting what it aims to achieve may be counterproductive for the European Union's credibility if it proves unable to meet its commitments or fails to fulfil these objectives.
- An improved response capability across the full spectrum of operations, as envisaged in the Lisbon Treaty and the European Security Strategy, to enable us to perform more flexible and robust actions concurrently anywhere in the world, both independently and in conjunction with other players. This response capability should not be detrimental to the quality of the response provided. To ensure this, it is necessary to bridge the current gap between the ambitions the European Union has set itself and the means at its disposal for fulfilling these ambitions. The procedures employed for recruitment and deployment vary from country to country. There may even be

differences between different ministerial departments in the same country. But it is essential to improve the existing mechanisms, and to have sufficient numbers of trained and identified personnel to ensure that deployment abroad does not have a negative effect on national needs.

- Crisis management normally requires rapid responses, which should not be incompatible with proper planning and execution. Despite the international community's efforts to prevent conflicts, it would not be possible to ensure their total absence. Crises cannot always be predicted, and it is therefore necessary to be on permanent standby to react in a timely manner and with the appropriate means. Such is the aim of the work performed in connection with reviewing the CRT concept and rapidly deployable police units, the establishment of a strategic warehouse and the definition of rapid reaction parameters, which will take place throughout 2010. But further progress needs to be made. Another possible solution would be to set up national units trained and allocated primarily, but not necessarily exclusively, to crisis management operations. It is an expensive but not an unthinkable solution. Indeed, there are already some such projects under way in the world. A lesser, though equally effective measure is the establishment of rosters of immediately available experts, both individuals and whole units.
- Coordination with the development of military capabilities in pursuit of synergies and greater coherence. In addition to the objectives already identified in this field, it is necessary to consider the participation of military personnel, individually, in civilian crisis management operations and not only in those with posts reserved specifically for military, such as EUSEC RD Congo or EUSSR Guinea-Bissau. The aim is to develop capabilities for civilian crisis management operations. It would be a mistake to think that only civilian experts can or should contribute to civilian operations and vice-versa. We should not underestimate the potential of military personnel in civilian crisis management operations in the fields of security, logistics, procurement, planning, transport or management of human resources, to cite a few examples. It is equally true that military personnel are not always enthusiastic about taking part in civilian operations.
- Cooperation with external players and fostering the participation of third states in order to share among several parties the burden of possible commitments that fall to the European Union. The European Union wants to be a global player but it is not alone in the

world. And nor is it, or will be, alone in the various theatres where its civilian operations are deployed. Direct intervention, limited in both tasks and geographical scope, is no longer sufficient to put a stop to a crisis, stem a conflict or stabilise a territory. A broad range of instruments are required which are normally not available to any one player, or indeed to the European Union, which is why several players are normally involved. The sooner activities are steered in the same direction, the greater the chances of success. The less the different players' efforts are dispersed, the fewer the resources required to resolve the problem.

- The need to define the mandate and objectives of crisis management operations clearly and realistically, without being excessively ambitious, in order to allocate the essential resources and establish priorities. Goals should be attainable and sustainable. Although not always possible, long-term commitments, for which different instruments can be used, should be avoided. Furthermore, what is understood by crisis may vary. Indeed, the Lisbon Treaty refers to an "international situation" that "requires operational action", which leaves plenty of scope for interpretation. A restrictive definition of what is meant by crisis would allow the resources available for crisis management to be administered more efficiently.
- Ongoing doctrinal development to ensure the most adequate use of the scant resources available, and flexibility in procedures, whether operational, legal, financial or administrative. The European Union is engaged in nine civilian crisis management operations, which means that there are many operational responsibilities. This should not be an obstacle to recognising the importance of and need for conceptual work.
- Capacity to adapt. This is a changing world in which not all crises are the same and, as a result, the response may vary. Even when there is a large doctrinal corpus with procedures and concepts of all kinds and the possibility of drawing on the necessary means, flexibility must always be a priority. Those in charge of crisis management must find the right responses to a particular situation, refine them if the situation changes or the means available are insufficient, and try to anticipate future threats or demands. The lessons learned from the activities carried out, in which the opinion of the hosts should also be taken into account, criticisms of mistakes made and exchanges of experiences with other players are powerful tools for facilitating the necessary capacity to adapt to different circumstances.

- Bear in mind the needs of the personnel posted to crisis management operations. An important share of this responsibility falls to the national authorities, who should generate suitable incentives for encouraging their civil servants to take part in these activities. National strategies or similar documents can be suitable means of channelling this need. The structures in charge of crisis management in the European Union also share this responsibility. Although it has been said that when speaking of personnel money is not the main concern, it is necessary to acknowledge—financially too—the hardship of being deployed to hostile territories far away from home and everyday life. When planning missions special attention should be given to catering to the needs of the experts deployed.
- Greater thought should be given to the role of civil society. Non-governmental organisations, associations, religious groups, trade unions or professional organisations and other institutions of civil society may also contribute to developing civilian capabilities. There can be no doubt that their experience, their knowledge of the crisis areas, their permanence in the field and exchange of information are some of the aspects worth exploring in greater depth.
- Wider use of national contingents. Owing to their very nature, the European Union’s civilian crisis management operations, except for police units with executive tasks (IPUs), have been distinguished by the fact that they combine personnel of different nationalities and prevent various experts from the same country working as a team. However, we should not rule out the possibility of making nationals of the same Member State responsible for certain functions or for deployment in some detachments. In such cases the requirement of mastery of the official language of the mission could be relaxed, amounting to greater recruitment possibilities, more fluid communications between the members of the contingent and a de facto commitment for the contributing country to continue to supply personnel to relieve those already posted. This would not necessarily detract from the European identity of the activities performed or pose a risk of attempts to impose the national system in the host country, as the national contingents would be subject to the chain of command of the operation, like the rest of the components, and would follow the instructions of the Head of Mission in accordance with the mandate received.
- Continuation of the Civilian Headline Goal 2010. The need for a comprehensive approach to crisis management encompassing all

the civilian and military instruments and the advisability of seeking synergies between the development processes of civilian and military capabilities has been discussed for several years. As pointed out at the beginning of this section, it is not illogical to think that the headline goals for civilian and military capabilities could be harmonised in the more or less near future or even merged into a single headline goal for European Union capabilities. Talks will begin during the second half of 2010 on how to follow up both processes, which reach completion at the end of the year, though the results are still uncertain.

- The involvement of JHA players. Most of the personnel involved in civilian crisis management operations are responsible to the national authorities in charge of the police forces, the judiciary and the prosecution service. An essential task is to persuade them that collaboration with their subordinates in the European Union's external action is also beneficial to internal security. We have the necessary means—it is the will we are lacking.
- It is necessary to assume the risks. The deployment of civilian personnel in a hostile environment has its hazards. Although difficult to accept, it is generally assumed that armies may suffer casualties when performing tasks outside national territory. The same is not true of police or prison officers. So far there have been no regrettable casualties in civilian operations, but in the event of their occurrence we cannot dismiss the possibility of an adverse reaction from public opinion, which is no doubt a consideration that weighs on the mind of the political authorities.
- Command and control structure at strategic command level. Civilian crisis management operations require a clearly defined chain of command. The current model dates from 2007 and its implementation has proved to be effective, but its very success calls for a certain amount of reflection. Nine civilian operations, even if some are small scale, may be beyond the scope of control of a single commander with the support of an operational headquarters, the CPCC, for conducting them, and not a large number of personnel. It would not make sense to repeat the military model of a commander and headquarters for each operation deployed, but it is a possibility worth considering for major missions. Another solution would be to conceptualise and broaden the current model of support elements in Brussels, so that the CPCC could be enlarged with a module consisting of the elements required to conduct the new

operation but without placing an additional burden on the latter's scant workforce.

- Centralised procurement of the assets required for CSDP missions. Except for cases where local procurement is more convenient, the purchase of equipment, currently the responsibility of the Head of Mission, could be centralised through the CPCC. Apart from getting round the recurring problems of shortage of suitable candidates for the posts involving these tasks, centralising procurement in Brussels entails obvious advantages on account of the professionalism of the people in charge and the standardisation of procedures.

The considerations set out on the previous pages can easily be improved and expanded on. The truly complicated task is to put any of these suggestions into practice, as it is not easy to reconcile the interests of 27 Member States on European Union foreign policy issues, especially if they involve undertaking specific actions, as is required for the development of civilian capabilities.

CHAPTER FOUR

MILITARY CAPABILITIES

MILITARY CAPABILITIES

JOSÉ ENRIQUE DE AYALA MARÍN

INTRODUCTION

Throughout the ten years which have elapsed since the European Security and Defence Policy (ESDP) was set in motion, the common capabilities of the European Union (EU) in the field of security and defence have progressively grown and become consolidated, allowing the Union to conduct 23 operations in four continents —among them six military and three civil-military— with considerable success. However, the level achieved is still substantially lower than could be attained for a group of 27 states —among them the United Kingdom and France, the third and fourth largest military powers in the world— who spent a total of 200 billion euros on defence in 2009 and have 1,800,000 military personnel. The low percentages of deployment and the problems arising in the development of essential equipment, such as the A-400-M transport aircraft, show that there are still major difficulties in equipping the Union with the defence capabilities it requires.

The process of improving these capabilities continues and will do so in the future, as unless they are enhanced the political aims of reinforcing European security or controlling a crisis that could affect Member States or signify a humanitarian disaster cannot be realised. The significant shortfalls which still exist in the EU as a whole can be remedied, as the Member States have the necessary technological and economic capability. The coordination instruments, refined by experience, and the new opportunities arising from the entry into force of the Lisbon Treaty will no doubt make it possible to progress along this path until the EU has an effective military capability of its own which —together with the civilian crisis management instruments— will make it a credible and prominent global player on the international stage.

TEN YEARS OF ESDP. THE ROAD TRAVELLED

The Anglo-French Saint-Malo agreement of December 1998 was the true origin of what would later be the European Security and Defence Policy (ESDP). With this agreement France recognised NATO's pre-eminence in guaranteeing the collective defence of its members, while the United Kingdom accepted the possibility of autonomous European actions in the defence sphere, placing emphasis on the development of military capabilities — which is what really interested London —.

When the ESDP was formalised at the Cologne summit in June 1999 — as an integral part of the Common Foreign and Security Policy — the focus was immediately on equipping the European Union with the military capabilities required to perform the tasks taken on by the ESDP, which were none other than the so-called «Petersberg tasks» agreed on by the Western European Union in June 1992: humanitarian and rescue tasks; peacekeeping tasks; and tasks of combat forces in crisis management, including peacemaking.

The Helsinki Headline Goal 2003. Capability catalogues and commitments. The Force Catalogue.

The first consequence of this approach, which was also the starting point for the development of European military capabilities, was the adoption at the Helsinki European Council in December 1999 of the Headline Goal (HHG2003), which aimed to have a European rapid reaction force of up to 60,000 personnel able to deploy in 60 days and remain in the theatre of operations for a year, and capable of performing the full range of aforementioned tasks.

It was also agreed at Helsinki to establish new political and military bodies to make possible the practical implementation of the ESDP: the Political and Security Committee (PSC), which exercises political control and strategic direction of operations; the European Union Military Committee (EUMC), which advises the PSC on military matters; and the European Military Staff (EUMS), which is the technical military body that oversees operations and assesses needs. These bodies were formally approved in December 2000 at the Nice summit and were officially established the following January.

To fulfil the HHG 2003, in October 2000 the first Capabilities Catalogue was drawn up. It was structured into seven functional areas: com-

mand, control, communications and intelligence (C3I); intelligence, surveillance, target acquisition and reconnaissance (ISTAR); deployment capability and mobility; effective combat; sustainment and logistics; and general support.

The Capability Commitment Conference, at which the 15 EU member states offered their contributions to the HHG 2003, was held in Brussels on November 2000. The offers, which were included in an EU Force Catalogue, amounted to a total of more than 100,000 men, 400 aircraft and 100 vessels, far greater than the proposed target, but only in quantity, as in certain areas the qualitative shortfalls were very significant—to the extent that the possibility of achieving the desired capability to deploy a large reaction force and maintain it for the necessary time seemed more than dubious.

Comparing the HHG 2003 requirements with the catalogue of forces pledged by the nations, in June 2001 the Helsinki Progress Catalogue was compiled. This catalogue listed the remaining shortfalls and called for further progress in order to be able to perform more ambitious missions.

The European Capabilities Action Plan and the Capability Development Mechanism.

At the Laeken summit in December 2001, the European Council issued a declaration on the operational capability of the ESDP to perform crisis management missions, although it recognised the existence of substantial shortfalls in military capabilities.

The instrument for remedying these shortfalls was called the European Capabilities Action Plan (ECAP), which was set in motion in March 2002. The purpose of the ECAP was to promote convergence between Member States in military equipment in order to facilitate the development and procurement of equipment. It focused on areas in which deficiencies were detected, such as strategic airlift, helicopters, protection against biological, chemical, nuclear and radiological threats, special operations forces and others, setting up a project group for each development made up voluntarily of Member States who so wished and led by one of them.

In March 2003 the so-called Capability Development Mechanism was established, a system for monitoring and evaluating the degree of fulfilment of the capability targets and for reviewing requirements — similar to and coordinated with the NATO capability planning system — .

The Thessaloniki European Council declared in June 2003 that the HHG2003 had been formally reached and that the Rapid Reaction Force was fully operational to conduct the full range of Petersberg tasks, although it recognised the still existing limitations and shortfalls, while reiterating the Member States' commitment to address them.

Command and control of European operations. The Berlin Plus arrangements.

Apart from the aforementioned political and military bodies which act at strategic policy level, the implementation of autonomous EU operations called for Operational Headquarters (OHQs) capable of planning and leading a military or civil-military mission from a distance. The idea of establishing a European OHQ clashed with the reluctance of certain Member States to duplicate structures that already existed in NATO. After lengthy negotiations that were hampered by some Member States' different perceptions of the autonomy of the organisations and —above all— by the disagreement between Greece and Turkey over criteria, the so-called Berlin Plus arrangements were concluded in December 2002. This set of seven agreements granted the EU access to NATO planning and conduct capabilities when NATO does not wish to engage in a particular operation. The problem is that, under these agreements, NATO reserves the right to monitor the operation and even has the possibility of withdrawing its support, meaning that, in practice, the EU became subsidiary to NATO as far as the implementation of military operations is concerned. A veto from just one NATO member can prevent this mechanism from being set in motion.

Finally, 17 March 2003 saw the exchange of letters between the Secretaries General of NATO and the EU Council enshrining the principles for EU-NATO consultation and cooperation procedures. The immediate consequence that month was the launch of the EU's first military operation, Concordia, in the Former Yugoslav Republic of Macedonia, using NATO assets, which lasted until December that year. The second EU operation implemented under the Berlin Plus arrangements is Althea —still under way— which took over from the NATO Stabilisation Force (SFOR) in Bosnia-Herzegovina in December 2004.

The second possibility of directing an EU operation is by using one of the five OHQs offered by the Member States: the French OHQ in Mont Valérien, Paris; the British OHQ in Northwood; the German OHQ in Potsdam, Berlin; the Italian OHQ in Rome; and the Greek OHQ in Larissa.

Between June and September 2003, the EU launched its first fully autonomous mission employing this system—operation Artemis in the Democratic Republic of the Congo using the French OHQ for planning and execution, as France was the framework nation and the main force contributor. The second mission in this African country, EUFOR RD Congo conducted from April to November 2006, was directed from the German OHQ. From January 2008 to March 2009 the operation in Chad/Central African Republic was again directed from the French OHQ and, finally, operation Atalanta, in progress in the waters around Somalia since December 2008, is being directed from the British OHQ at Northwood.

In April 2003, Germany, France, Belgium and Luxembourg proposed setting up a European OHQ at Tervuren on the outskirts of Brussels, but the opposition of other Member States —which are reluctant for the ESDP to develop outside NATO control— nipped this initiative in the bud. Instead, the European Council held that December decided to strengthen the EUMS and exchange liaison teams between the EUMS and the Supreme Headquarters Allied Powers Europe (SHAPE).

Pursuant to this decision, in 2005 an agreement was reached between the two organisations to set up permanent cells: an EU cell in the Allied Command Operations (ACO), the SHAPE's successor, and a NATO liaison cell in the EU Military Staff. That year a civil-military cell was established within the EUMS to conduct contingency and crisis response planning, which could reinforce the OHQ designated to direct an operation and even activate a Centre of Operations as an embryo of what could become a European Operations Headquarters.

As a result, since January 2007 the EU has theoretically had a third option for conducting operations of up to Battlegroup size (some 2,000 men) from Brussels, through the EU Centre of Operations set up within the EUMS using part of its personnel as a core and increasing it with troops from Member States wishing to take part. This limited capability has meant that the Centre of Operations has not been used to direct any military operations up until now.

The problem of command and control of ESDP operations remains unresolved; in fact, the EU still lacks a capability of its own to plan and conduct medium- or medium-to-large-scale operations, even within the Petersberg range. If the Berlin Plus system is used, the EU's independence and freedom of action are logically constrained by the need to draw from a different organisation —NATO— and enlist the help of non-EU

members, even though the task of directing the operation will always fall to the second in command of the ACO, who is European. In the event that an OHQ offered by a Member State is used, it is necessary to reinforce it with personnel from other countries taking part in the operation—who neither are members of that HQ nor will normally have worked with it—as well as to reconcile its national duties with the multinational responsibilities of the mission it heads.

The European Security Strategy and the Headline Goal 2010. The Battlegroups.

At Brussels in December 2003 the European Council approved the European Security Strategy (ESS) enshrined in the document entitled «A more secure Europe in a better world» submitted by the then High Representative for the ESDP, Javier Solana. The document defined the strategic environment in which the EU moves, listed the main risks for Europe, its essential interests, its alliances, and strategies for addressing these risks, albeit in a global and generic fashion as its purpose was to provide a general guideline for the CFSP and the ESDP.

The ESS clearly pointed out the need to provide a rapid response to crises that could erupt very far from the European continent—which required a force projection capability that the EU as a whole did not have. The experience of operation Artemis in the Democratic Republic of the Congo showed that the Headline Goal adopted at Helsinki was inadequately matched to the characteristics of missions of this kind. As a result, in June 2004 the European Council approved a new force goal at Brussels: the Headline Goal 2010 (HG2010), which placed greater emphasis on the qualitative aspect of capabilities than simply on quantity, focusing requirements on full interoperability of the forces, equipment and command structures of the Member States together with a bigger deployment, projection and sustainment capability.

The HG2010 includes the concept of tactical groups or Battlegroups, which was first presented by France, Germany and the United Kingdom at the 2004 summit in Berlin. The Battlegroups are based on a battalion-type formation including combat and service support assets making up approximately 1,500 personnel. They should be capable of deploying within 10 days outside European territory for all kinds of crisis management missions, including combat missions, and be sustainable for up to 4 months with resupply.

Although the initial estimate was for nine of these groups, twenty nations offered capabilities for forming thirteen Battlegroups, nine of them multinational, at the military Capability Commitment Conference held in Brussels in November 2004. There are currently a total of sixteen of these units in which all the Member States, except for Malta, take part in some way or another, including those considered neutral, such as Austria, Finland and Sweden, and third countries —Norway, Turkey— which do not belong to the EU. Annex I lists the Battlegroups available to the EU.

Since 2007 the EU has two of these Battlegroups on standby in rotating six-month periods for possible rapid deployment. Nevertheless, none of them has yet been deployed, and this has given rise to debates among Member States and doubts about their real efficiency. During the Congo crisis, in 2008, France proposed sending a Battlegroup to the Kivu area, but the reluctance of Germany and the United Kingdom prevented its deployment.

This is a further example of how the EU Member States always reserve the power to decide on how many and what type of forces to deploy in each specific case, irrespective of any previously approved force estimates, commitments or goals. It is therefore not sufficient to improve the Union's military capabilities—or even to enhance its interoperability, its ability to act multinationally; rather, it is necessary to agree on and meet deployment criteria that are acceptable to everyone and function with a certain amount of automatism. Otherwise, it will be virtually impossible in practice to deploy the Battlegroups at such short notice as envisaged in the HG2010.

THE EUROPEAN DEFENCE AGENCY

Practically at the same time the HG2010 was adopted, in July 2004 the European Defence Agency (EDA) was set up to develop military capabilities, promote research and technological development in the defence field, foster cooperation in armaments and create a competitive defence equipment market, reinforcing the industrial and technological base of European defence.

These functions are designed to enhance the performance of European defence by promoting coherence between Member States. A comprehensive approach to the development of capabilities will help define future requirements more clearly and could give rise to collaboration in

armaments, research and technology and even in the operational field. Furthermore, greater collaboration will provide opportunities for industrial restructuring and for progressing towards a continental-scale demand and market which can compete globally.

The structure and tasks of the EDA

The EDA is an agency of the European Union. The High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton, heads the agency and chairs its decision-making body, the Steering Board, made up of the defence ministers of the 26 participating Member States (all of them except for Denmark, which has had an opt-out clause in all security and defence matters since the Maastricht Treaty) and the European Commission. The Steering Board also meets regularly at the level of national armaments directors, capability directors and R&T directors. The Steering Board is subject to the authority of the European Council and the guidelines it provides.

The agency projects itself outwards. Its «shareholders» are the Member States and its stakeholders include the Council and the Commission, as well as third parties such as the Organisation for Joint Armament Cooperation (OCCAR) and NATO. The agency enjoys a special relationship with Norway through an administrative agreement.

The agency's tasks are as follows:

- To work towards a more comprehensive and systematic approach to defining and achieving the military capabilities laid down in the ESDP.
- To promote European defence R&T as an essential instrument both in restructuring the defence industrial and technological base and in defining and meeting future capability requirements, including the cooperative use of national funds in the context of the priorities identified by the European defence R&T strategy.
- To promote European cooperation in defence equipment, both to contribute to the Union's military capabilities and to contribute to the restructuring of the European defence industry.
- To collaborate with the European Commission in advancing towards an internationally competitive European defence equipment market.

Its first major result came in November 2005 with the adoption by the defence ministers of a voluntary Code of Conduct for the procurement of equipment of military application which for the first time broke away from

the established practice of exempting this sector from the rules on cross-border competition that are applied to other public procurements in the Member States. The Code of Conduct became operational on 1 July 2006 and since then the Member States have published their invitations to tender in an electronic bulletin of the EDA, although it does not apply to certain sectors, such as nuclear weapons, for national security reasons.

The EDA directs more than 40 research and technological development projects. In November 2006 a basic R&T programme was approved to develop new protection technologies for the European armed forces, with a budget of more than 55 million euros provided by 20 countries. Every year it establishes a work plan specifying the stages to be completed that year of the projects already in progress and others to be started up, particularly in relation to the European R&T strategy.

The Long-Term Vision and the Capability Development Plan.

In October 2006 the EDA published the Long-Term Vision (LTV), a report drawn up to serve as a guide to defence planner for developing the military capabilities which the ESDP will require over a 20-year horizon in an increasingly complex and demanding environment. The LTV was endorsed by the EU defence ministers at the meeting of the EDA steering board in Levi, Finland, albeit as an initial, non-regulatory document.

The LTV sets out to answer the questions of what the world will be like in 2025, what ESDP operations will be like, what tools will be needed then to support the European Security Strategy, and what problems and dilemmas defence planners will have to address. All in all, as pointed out by Javier Solana —then responsible for the EDA— it is a reference for ascertaining what decisions need to be made now so to ensure that the EU has right the military capabilities and possesses a suitable defence technological and industrial base in the third decade of this century.

Building on the LTV, in July 2008 the 26 Member States participating in the EDA adopted the Capability Development Plan (CDP) defining the future needs and military priorities of the ESDP and agreed to use it as a guide to future national investments in defence equipment and to seek opportunities for collaboration.

The CDP contains practical proposals; however, it is not intended as a supranational plan but rather to provide support for national plans by facilitating their coordination. It identifies 24 areas of action that need to

be developed or improved, and at the end of 2008 the schedules and budgets for action in the following tranche of twelve were agreed on:

- Measures for countering man-portable air-defence systems.
- Computer network operations.
- Mine counter-measures in littoral sea areas.
- Comprehensive approach and military implications.
- Military human intelligence and cultural/language training.
- Intelligence, surveillance, target acquisition and reconnaissance.
- Medical support.
- Chemical, biological, radiological and nuclear defence.
- Third-party logistic support.
- Counter-improvised explosive devices
- Increased availability of helicopters.
- Network enabled capability.

The implementation of the CDP has led to the absorption of the ECAP programmes by the EDA, which has become the sole agency responsible for studying and developing the EU's military capabilities, although responsibility for implementing particular projects falls to the nations who take part in them, sometimes through multinational organisations such as the Organisation for Joint Armament Cooperation (OCCAR) — formed by six Member States— in the development of the Airbus A-400 transport aircraft and other projects. Since 2009 the CDP has been channelled through annual work programmes based on the European Defence Research and Technology Strategy, the European Armaments Cooperation Strategy and the European Defence Technological and Industrial Base, all of which were approved by the EDA in 2008.

The new policy guidelines and their influence on the development of military capabilities.

In view of the obvious difficulty of getting all 27 Member States to approve a new European Security Strategy, the European Council of December 2008 adopted the document entitled «Report on the implementation of the European Security Strategy. Providing Security in a changing world» at Brussels. The new document, submitted by the High Representative for the ESDP, is an informal review of the ESS of 2003 in the light of the current situation and contains proposals for improving its implementation in the following aspects: coordination and strategic vision in the adoption of decisions; adapting the command structures and ca-

pabilities of the Headquarters; collaboration and burden-sharing arrangements in essential and scarce military capabilities such as strategic airlift, helicopters, space assets and maritime surveillance; and development of a competitive defence industry driven by the EDA, among others.

The same European Council adopted three declarations: on Strengthening the European Security and Defence Policy, on Strengthening International Security, and on Strengthening Capabilities. These three declarations constitute a policy guide for developing the ESDP in the immediate future.

The declaration on strengthening capabilities lays down specific measures that need to be implemented immediately, such as:

- To improve force projection in operations by modernising helicopters and training their crews, through a tactical training programme led by the EDA, and the establishment of a multinational unit of A-400-M aircraft
- To strengthen information gathering and space-based intelligence through the provision of Cosmo Skymed and Helios 2 satellite images to the EU Satellite Centre in Torrejón (Spain) and preparation of a new generation of observation satellites (Muisis programme).
- To increase the protection of forces and their effectiveness in operations by launching at the EDA a new programme of maritime mine clearance to replace current systems by 2018, and by launching a surveillance UAV project.
- To strengthen interoperability and the ability to work together through exchanges of officers and improved functioning of the European Security and Defence College.

These initiatives should be implemented through specialisation, pooling and the equal sharing of costs between the voluntary participants in each project

MILITARY CAPABILITIES IN THE LISBON TREATY.

The Lisbon Treaty, which entered into force on 1 December, introduces very important amendments to both the Treaty on European Union (TEU) and the Treaty Establishing the European Community, now called the Treaty on the Functioning of the European Union. Some of these modifications give significant impetus to the Common Foreign and Security Policy (CFSP) as they increase the competences and responsibilities of the new High Representative for Foreign Affairs and Security Policy

and endow this policy with new instruments such as the European External Action Service, which will be set in motion over the coming months. Specifically in the sphere of the ESDP, which under the new treaty is now called the Common Security and Defence Policy (CSDP), there are fewer novelties, but practically all of them are geared to enhancing the military and civilian capabilities of the Union and its Member States to conduct the missions adopted in the treaty.

Article 43 of the consolidated version of the TEU incorporating the amendments introduced by the Lisbon Treaty describes the CSDP missions which can be performed using civilian and military means: joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. The first, third and last of these categories are new with respect to earlier versions, and the full range has therefore come to be called Petersberg Plus tasks. The TEU furthermore states that all these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories. It is evident that launching more missions requires having more capabilities—once again, not only quantitative but in particular qualitative, in order to perform certain specialised tasks.

The same is not true of the clause on mutual assistance contained in Article 42.7 of the consolidated version of the TEU, as this clause, which is very similar to Article V of the amended Treaty of Brussels, is more nominal than real. Indeed, like the latter, it attributes responsibility for collective defence to NATO, «which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation». As a result, neither the TEU nor the Treaty on the Functioning of the European Union contains any provisions allowing for the development of the mutual assistance clause; were it included, such a provision would undoubtedly have a decisive effect on the requirements for the Union's military capabilities.

The Lisbon Treaty formally legitimises the European Defence Agency— which, as we have seen, has been active for over five years— at the highest level and establishes Permanent Structured Cooperation as a means of cooperation between Member States which assume greater commitments in developing defence capabilities. These are the two basic instruments which will enable the Union to progress towards improving these capabilities.

Permanent Structured Cooperation and its influence on military capabilities.

Permanent Structured Cooperation is the most important novelty introduced by the Lisbon Treaty in CSDP matters. It is a very special sort of enhanced cooperation which no longer requires the approval of the Council as it is included in the treaty, and its goals and functioning are predetermined. It will be implemented within three months of the notification of the Member States who wish to participate in it.

According to article 42.6 of the consolidated version of the TEU, Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. For this purpose, Member States which wish to participate in the permanent structured cooperation, fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation, shall notify their intention to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy.

An important novelty is that 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 on permanent structured cooperation, the Council may adopt a decision suspending the participation of the Member State concerned. Similarly —and this applies to all enhanced cooperation— if a participating Member State decides to withdraw from permanent structured cooperation, it shall notify its decision to the Council, which shall take note that the Member State in question has ceased to participate.

The Protocol (10) which regulates this cooperation states in article 1 that it shall be open to any Member State which undertakes, from the date of entry into force of the Treaty of Lisbon, 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 defence equipment programmes, and in the activity of the European Defence Agency; and
- 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 battlegroup, with support elements including transport and logistics, capable of carrying out the tasks defined in the CDSP, 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.

These requirements are currently met by 26 of the EU Member States –all of them except Denmark, which does not belong to the EDA— and this cooperation can therefore be absolutely inclusive. It is thus far from being an instrument whereby certain countries, those keenest on integration in defence matters, can advance towards greater mutual commitments. Indeed, the treaty itself states very clearly that permanent structured cooperation will not affect the implementation of CSDP missions or decision-making processes.

The aim is thus exclusively to promote the development of common defence capabilities. Article 2 of the Protocol states that the countries participating in this cooperation shall 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;
- 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;
- 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;
- 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 shortfalls perceived in the framework of the «Capability Development Mechanism»; and
- e) Take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency.

In combination with the EDA, Permanent Structured Cooperation is therefore a comprehensive instrument for developing the Union's defence capabilities in all fields, with the varying participation of all the Member States who so wish. The only thing that this initiative cannot replace is strategic analysis of the EU's involvement in security and defence matters and rational capability planning stemming from the latter.

The pioneer groups and the project groups

Evidently not all the EU Member States have the same possibilities of progressing in the development of defence capabilities, or the same political will to do so in an integrating framework. In order to overcome these differences —which could paralyse Permanent Structured Cooperation between 26— there are alternatives such as the launch of ad-hoc projects and the establishment of pioneer groups which progress more quickly in enhancing and pooling their capabilities.

In the second half of 2008 the French Presidency of the European Council proposed launching different ad hoc projects focusing on capabilities and open to all Member States in the form of voluntary participation. A few of the cooperative programmes launched by the French presidency are still at the «operational definition» stage, such as the future heavy-duty helicopter or the mine clearing project. In a few other cases, the pre-definition phase has been completed and the programme is about to be launched, such as the MUSIS observation satellite programme already included in the CDP. The idea is to establish in each case a coalition of the willing, with the encouragement of the presidency and the use of the EDA as a toolkit. There is potential for other programmes of this type in the near future. For this purpose the successive rotating presidencies of the Council should strive to launch new programmes under this format if given the opportunity. In addition, each presidency should manage, in terms of efficiency and integration, programmes of this kind launched during earlier presidencies, which is necessary in order to ensure the coherence and continuity of efforts in this field.

The other system involves setting up pioneer groups which, between them, establish more demanding rules, acting in the framework of Permanent Structured Cooperation or simply coordinated by the EDA. The criteria to be met by these groups could be, among others: allocation of a higher percentage of defence expenditure to the procurement of defence equipment, which could account for 35%; earmarking of 2% of

the defence budget to research and technological development projects; a higher percentage of deployable forces out of total personnel, which could be established at 8%; the progressive free movement of defence products among the members of the group; the setting up of multinational military units; and the pooling of capabilities and specialisation.

As in other areas of building European Union, the setting up of groups of Member States which progress more rapidly in a particular area will give impetus to the rest and subsequently pull along the slowest states towards improving and pooling the Union's defence capabilities, without detriment to the existing official mechanisms.

EUROPEAN MULTINATIONAL UNITS

Functional capabilities act as force multipliers or are requirements for enabling the force to be projected and to perform its mission. But basically, the settlement of crises with a military component requires the deployment on the ground of units capable of bringing the assigned mission to a successful conclusion. Given their size, the Battlegroups are evidently only the first stage in this deployment, which needs to be completed, often with much larger forces that, in the case of the EU, will logically belong to more than one Member State.

The efficiency of these units once they are deployed will depend largely on their ability to act together and, therefore, on the interoperability not only of their equipment but also of their procedures, and also on how well they understand each other. Awareness of this reality led some EU Member States to attempt, in peacetime, to set up permanent multinational units with different characteristics and degrees of integration depending on each case, which furthermore conveyed a message of political cohesion and solidarity in the security field vis-à-vis the uncertainty of the post-Cold War period and the permanent curtailment of national defence budgets.

The experience of working together in these units and the convergence of employment doctrines undoubtedly enable the efficiency of a combined action to be improved and pave the way for greater future integration, as well as bringing to light important problems such as those stemming from the different kinds of logistic support each nation's units requires. The practice of performing real exercises and operations is leading to solutions, such as specialisation or pooling, which address

—at least partially— this logistic fragmentation which is the main source of problems in the projection and sustainment of multinational forces.

Existing multinational formations

Although the first European multinational unit dates from 1973, it was from the 1990s onwards that a certain number of multinational military forces began to be formed in Europe with different degrees of integration and different configurations. Many of them were set up within NATO to address the change in force structure and the reduction in the number of military units following the end of the Cold War, as is the case of the Allied Rapid Reaction Corps (ARRC). Others are intended to improve purely European capabilities and facilitate military integration with a view to reinforcing European autonomy in the defence field, first in the framework of the WEU and, from 1999 onwards, at the service of the European Security and Defence Policy (ESDP) of the European Union. Nonetheless, both types are generally available to both organisations and even for direct use in the framework of the United Nations (UN) or the Organisation for Security and Cooperation in Europe (OSCE) if the participating nations so decide.

Annex II features a list of the most important existing European multinational units, excluding—for the aforementioned reasons—the Battlegroups. The differences between them are very substantial, beginning with the level of engagement accepted by the nations which provide the component forces. These range from those with integrated units—which are the exception—such as the UK-Netherlands amphibious force or the Franco-German brigade, to those with permanently assigned formations, such as the ARRC (although they can in fact incorporate different ones), to those which only have identified or earmarked forces that vary from situation to situation, some of which have evolved from the previous categories, such as the case of Eurocorps.

Another major difference applies to the number of framework-nations responsible for managing and deciding on their use, which vary from forces with a single framework-nation, such as the ARRC, to those with two (Spanish-Italian Amphibious Force, German-Dutch Army Corps), three (Northeast Army Corps), four (Euroforces) and even six (Eurocorps following the integration of Poland). As decisions, particularly those relating to force employment, have to be unanimous, it is evident that the larger the number of framework-nations the more difficult it will be to

manage the force, especially if there is no substantial political cohesion between them or a shared vision of security and defence matters.

The size of the multinational forces is also quite variable. In the case of the ground forces it ranges from reinforced battalion level (Baltic Battalion, EU Battlegroups) to brigade (Franco-German), division (Eurofor) and army corps size or —in the case of the General Headquarters— Land Component Command (Eurocorps, ARRC).

There are multinational but not joint land, naval and air forces. Joint-combined structures are only envisaged in operations, either in the framework of the NATO Joint-Combined Force or in the deployment of the EU Battlegroups. Evidently this does not facilitate joint training, but it does allow considerable flexibility in configuration depending on the requirements of each operation.

Finally, in Europe there are multinational structures which do not come under the category of Forces and therefore do not feature in the list in Annex II, but contribute to enhancing the efficiency of the group of nations who take part in them by coordinating their individual efforts. Such is the case of the Nordic Coordinated Arrangement for Military Peace Support (NORDCAPS), which was established in 1997 by Denmark, Finland, Iceland, Norway and Sweden to coordinate their participation in peace operations and does not have permanent command or force structures but promotes combined training and exercises; or the European Amphibious Initiative (EAI) set up in December 2000 by Spain, France, the Netherlands and the United Kingdom to harmonise the operational concept, training and readiness of the amphibious forces of these nations and to perform combined exercises.

The creation of new multinational units

Multinational forces have obvious technical and political advantages. Nevertheless, experience in real operations has shown that their use in their peacetime configuration —that is with the units assigned or earmarked to them— is not habitual, as nations reserve the right to decide the deployment of those forces they consider most appropriate to each operation or have available at the time, irrespective of the structure to which they have been assigned in theory. What is more, it is common for an operation to involve more countries than those participating in any of the existing multilateral formations, which means that the force structure logically varies. This experience has caused interest in setting up perma-

nent multinational units to progressively wane and initiatives for creating new forces have decreased to the extent that none of any significant size has emerged in the past decade except for the European Gendarmerie Force, which is not strictly military, and the European Union Battlegroups, which belong to a category of their own as they only acquire their full configuration during periods of activation.

It is easier for permanent multinational Headquarters to be used to form the backbone of the command structures of a multinational operation, enlarging them with personnel from the nations which are participating in the operation but do not belong to the HQ in peacetime. This system takes advantage of the experience of working together accumulated by this HQ during its existence and also provides it with a matchless opportunity to develop its operational capability in a real mission. The use of a permanent HQ in a real operation has the added advantage that it is already set up and can deploy much faster than any ad-hoc HQ that would need to be established. Furthermore, its structure is already consolidated and the posts shared out, even if room needs to be made for personnel from other nations, which avoids many problems when it comes to configuring it.

As a result, the European multinational forces are evolving towards the establishment of rapidly deployable, modular and multifaceted Headquarters capable of assuming different roles or different command levels depending on the mission in question and the organisation on whose behalf they are acting (NATO, EU, UN), and of taking in forces that are very varied in quantity and quality in accordance with the respective activation order. This enhances flexibility and prevents having assets paralysed because they do not adapt exactly to the mission—which was one of the disadvantages of forces of this kind in cases where units were permanently assigned.

Integration and structuring of the multinational units

Multinational forces are a clear political symbol of the determination of the EU Member States to achieve integration in a very sensitive area in which reluctance to hand over national sovereignty or decision-making ability to European authorities continues to be a major hindrance. The European nations are unlikely to agree to the full integration of their military units into unified European armed forces, at least in the medium term. But the progressive establishment of multinational forces in ac-

cordance with a common plan, until the time comes for all or most of the operational units of the Member States to be part of some such force structure, can be an excellent alternative to formal integration if European command structures are established in parallel to direct them, and provided that the nations' political will allows their continuing training and automatic use when so required by a community decision.

The most realistic solution is to limit multinational military integration to the Headquarters of the force, creating a pool of forces as wide-ranging as possible at its disposal, thereby setting in motion a common, coherent European-level structure which can be used flexibly by activating one or more HQs as required for each case, assigning them the forces they need for the operation in question. Naturally, under this system it will be difficult for these forces to all have received the same training, and the unification of programmes and doctrine will be more necessary than ever.

This fledgling European force structure should begin by streamlining and integrating as far as possible the existing HQs and multinational forces, which in practice have hardly any connection between them, except for the Franco-German Brigade which, in theory, is under operational control of the Eurocorps. The fact that this HQ, which is the largest and has the most experience of the purely European multinational units—it is capable of assuming the role of ground component of a deployed force—has no organisational connection whatsoever with Eurofor, another multinational ground HQ of a smaller size, clearly illustrates the lack of coordination between these units, which have been set up on the initiative of certain nations without any logical plan and without a clear general purpose in mind. The streamlining of these structures into an effective organisational system and the progressive assignation of operational units from the EU Member States to this streamlined structure should lead in future to a greater synergy of the—ever scarce—national defence assets and to an exponential improvement in European military capabilities.

LOOKING AHEAD

Much ground has been covered to date towards improvement of the EU's common military capabilities, a path on which it set out at Helsinki in December 1999. Nevertheless, it is evident that the Union is still far from having achieved the capability it needs to perform the missions it has taken on in security and defence and to progress towards full autonomy in this field. Shortfalls and limitations still exist, in both command

and control capability and the quantity and quality of the military units available and, of course, in some functional areas which are essential to the performance of the missions that the new strategic environment will increasingly call for.

The European Defence Agency, with more than five years' experience under its belt, and Permanent Structured Cooperation, when started up, are instruments that are very well suited to giving definitive impetus to attaining and structuring defence capabilities that allow the EU to become a credible global actor with a significant role on the multilateral strategic stage that is currently taking shape, and with a similar status to other global powers such as the EU and China. An added effect of outstanding importance is that this progress will help reinforce the European defence industrial and technological base, creating a globally competitive single European market for defence equipment. All this will basically generate synergy between the capabilities of the EU Member States, leading to much more effective use of the —still paltry— resources which can be allocated to defence. The idea is thus to spend better, not to spend more.

Nevertheless, following the entry into force of the Lisbon Treaty there are several paths yet to be fully explored with the potential to make an important contribution to the current process of improving defence capabilities. They are furthermore perfectly compatible with the treaty, despite not being specifically mentioned in it. The following section, which is not intended to be exhaustive, lists some of those which could bring about decisive changes in the efficiency and credibility of Europe's Common Security and Defence Policy (CSDP) within an approximate horizon of 10-15 years.

The European defence White Paper. Towards a Headline Goal 2020.

The European Security Strategy (ESS) of December 2003 is too general a document to serve as a guide for developing the CDSP, even though its principles are naturally applicable. In addition to its periodic reviews, for which a report on its implementation such as the one approved by the European Council in December 2008 is no substitute, the ESS must be developed in sectoral aspects, and more specifically as a chief priority in the particular field of security and defence.

Decisions and joint actions in the CSDP field cannot be based on circumstantial and unfocused criteria; they must be adopted in accordance with a pre-established plan that clearly points out the risks, strategic and

geographic priorities and requisites for the use of civilian and military capabilities. Likewise, the improvement of these capabilities cannot be fragmentary but must follow a line of development in close keeping with the analysis of the future situation and of the requirements this situation will call for.

It is therefore necessary to draw up a White Paper on European security and defence to study in detail Europe's needs in this field and plan the development of the necessary capabilities. The end result should be the establishment of a new Force Headline Goal for 2010 that is based much more closely than the previous ones on an analysis of risks, threats and possible responses, including intervention and deployment criteria accepted by all the Member States in order to avoid problems such as those which are arising over the deployment of the existing Battlegroups in operations.

The European Council declaration of December 2008 on strengthening capabilities may be considered a preview of the missions the CSDP should be equipped to carry out in the future, notwithstanding any modifications stemming from the result of the analysis conducted in the White Paper. The declaration mentions the specific tasks the EU should be capable of performing in years to come: to deploy 60,000 personnel within 60 days for a major operation; to plan and conduct simultaneously two major stabilisation and reconstruction operations for at least two years; two rapid response operations of limited duration; an emergency operation for the evacuation of European nationals in less than ten days; a surveillance/interdiction mission; a civil-military humanitarian assistance operation lasting up to 90 days; and nearly a dozen civilian ESDP missions, including a major mission (with up to 3,000 experts) lasting several years.

This level of ambition—or whatever level is confirmed by the conclusions of the White Paper—should be the true guideline once its specific implications have been developed for both the preparedness of the force and the setting up of joint projects on military equipment.

Common doctrine and procedures and European training for professionals

Multinational military intervention in complex operations, normally with little time for preparation, requires the units that intervene to be interoperable not only with respect to equipment but also as to doctrine and procedures so that they are able to act together without major problems. The drawing up of a single doctrine and set of rules common to

all the armed forces of the Member States —based on existing NATO documents— beginning with the highest level units and followed by their progressive adoption by the Member States would be of inestimable aid in enhancing this type of interoperability.

Cooperation between the armed forces of the Member States in training professionals could also be an excellent means of contributing to «intellectual» interoperability and boosting the efficiency of combined action. An increase in shared experiences, invitations and training or specialisation courses, together with an ambitious programme of military exchanges similar to the Erasmus or Socrates programmes, will hugely facilitate mutual knowledge and understanding, which are essential in multinational operations. Training in English —the military lingua franca— should be extended to all officers and NCOs and at least 75% of troops.

The European Security and Defence College —established on a decision of September 2004— whose in-class activity is greatly limited, should give way to the creation of a European Military School where officers, NCOs and selected troops from the Member States receive training that complements their national training at their respective levels in order to be able to interoperate with armies from other Member States, and common specialisation courses. In addition, common modules could be adopted for the European defence and security training given to all national armies at the respective national schools.

Lastly, it would be necessary to adopt common standards for the training and evaluation of units, and to start up a joint and combined exercise programme covering all the advanced phases of training of the units earmarked or assigned to multinational forces or expected to participate in CSDP missions.

Policy guidance and autonomous command and control capabilities

Nine fully or partially military EU operations —four of which are currently in progress— the numerous defence projects in which the Member States or part of them are engaged, and the new prospects offered by the Lisbon Treaty are good reasons for institutionalising a Council of Defence Ministers of the European Union—either with a specific formation, which is more difficult to achieve, or as a particular format of the Council on Foreign Relations. The institutionalisation of the Defence Council, which would also be chaired by the High Representative, would make it possible to monitor and regularly issue guidelines for the development of the CDSP.

On the next level down, operational level, the command and control instruments currently available to the EU are clearly insufficient to support the CSDP and settle without external assistance crises affecting the Union directly or indirectly and requiring a joint action. Neither access to NATO assets under the Berlin Plus arrangements nor use of national HQs can be permanent solutions. The limited capability of the EU Operations Centre makes it clearly deficient in the capabilities required in an increasingly demanding global environment.

It would therefore be necessary to consider setting up a European Operation Headquarters (EOHQ) capable of planning and directing joint and combined operations of the Member States. It must have the initial capacity to plan and direct one major or two medium-scale operations concurrently, without time limits, and when fully operational two major or one major and two medium-sized operations concurrently. It could be based on one of the HQs of this level currently made available to the EU by five Member States, by making it permanently multinational, but this is not a wise solution as the HQ would remain answerable to the national authorities in addition to being multinational, and the country of origin would logically make a much larger contribution than the rest. The idea would be to revive the Tervuren initiative approved on 29 April 2003 by Germany, Belgium, France and Luxembourg, which was finally abandoned owing to the opposition of other EU Member States, either on a new basis or building on existing planning capabilities, including the EU Centre of Operations. The European Operations Headquarters would report to the Council of Defence Ministers if institutionalised or otherwise to the Council for Foreign Relations through the EU Military Committee, and would liaise permanently with the NATO Allied Command Operations.

At a second stage it would be necessary to address the establishment of Headquarters of component commands: ground, air and naval forces. This can be done on the basis of the Eurocorps Headquarters for ground forces, that of Euromarfor for naval forces, and that of the European Air Group for air forces. The latter should aim to be capable of integrating the aerial defence of European airspace, although it may take time to achieve this capability. The other two should be capable of projecting a ground, naval or amphibious force Headquarters which could become the headquarters of a joint force with contributions of the related components up to army corps or reinforced naval air group level. These component commands should be capable of directing the forces of their respective armies assigned to them by the Member States and could be placed under the operational command of the EOHQ.

The European force structure and European force catalogue.

The streamlining of the existing European multinational structures and units would be a major step towards achieving more effective and more easily employable European military capabilities.

In the case of land forces this could be done by coordinating the doctrine, communications and logistics of Eurocorps, the Allied Rapid Reaction Corps, the German-Netherlands Corps and the Multinational Corps Northeast. One or several of them could take on the role of Land Component Command in operations, preferably one of the first two, which involve more countries. Eurofor could be made subordinate to Eurocorps to ensure better coordination. All the Member States would be invited to join one of these major units and to assign or earmark their most important operational forces to it.

At the same time, the Battlegroups should be assigned to one of these corps in order to act as the first entry unit of deployment or the first element to arrive at the theatre of operations, to be later supported and augmented by it if necessary, following the Battlegroup model of the Franco-German Brigade with respect to Eurocorps.

As for the naval force, Euromarfor could provide the basis for establishing a permanent Headquarters for naval forces, also at Component Command level, to which units would be assigned on a case-by-case basis, or by establishing permanent or semi-permanent naval forces for each mission. Likewise, a European amphibious force could be set up on the basis of the existing UK-Netherlands and Spanish-Italian forces.

As for the air force, it would be necessary to bolster the European Air Group to enable it to serve as a component command integrating all or most European countries and to create, under it, a European air force of variable configuration capable of adapting to missions outside European territory, in addition to guaranteeing the defence of European airspace.

The goal is for most of the operational units of the EU Member States to be assigned or earmarked for integration into the multinational structures once these structures have been reformed, coordinated and enlarged, at least until meeting the force headline goal to be established in the White Paper on European defence and later in its successive versions. All these units would be placed under the operational control of the European Operations Headquarters once it had been declared opera-

tional, normally through the component commands and, in the case of the Battlegroups, through the multinational corps to which they had been assigned, or directly if assignment had not taken place.

The foregoing should not prevent these forces being used in a NATO or UN framework or even in voluntary coalitions if so decided by the Member States, though it would be advisable to establish a consultation mechanism within the Council of EU Defence Ministers —or the Council of Foreign Relations as the case may be— to coordinate their assignment and establish employment priorities.

The force headline goal 2020, which should be defined in the European defence White Paper mentioned in previous paragraphs, should give rise to a force catalogue which, in the light of the possible missions defined by the European Council of December 2008, could amount to a force, deployable in stages, of eighteen ground brigades (some 60,000 men); three naval air groups and three amphibious forces (some 40/50 vessels); and twelve squadrons of bombers, in addition to air-to-air refuelling and airlift units (between 200 and 250 aircraft). Ground forces will include the 16 existing Battlegroups. It should be possible to project and sustain all these forces in a single deployment in the event of serious conflict, although under normal conditions one-third would be used at a time for rotating six-month periods. In other words, the aim is to combine the quantitative target of the HHG 2003 with the qualitative target of the HG 2010 in order to achieve, by 2020, a military capability tailored to the possible requirements of the time, considering that by then the EU will be playing a more active role in its own defence and in global security.

The financing of CSDP missions

The financing of missions, in most of which not all Member States take part even though all benefit from the improvement in security they may bring about, is an issue that needs to be resolved in order to boost the efficiency of the CSDP. The Athena mechanism, started up in 2004 to administer the financing of common costs deriving from EU operations with military or defence implications, was given its current form in May 2007. The mechanism is administered under the authority of the Special Committee, a body comprised of representatives from the contributing countries. Most of the common expenses are assumed by the countries participating in an operation, and this is more of a deterrent than an incentive to contribute to CSDP missions.

The Lisbon Treaty tackles this problem. Article 41.3 of the consolidated version of the TEU states that the Council shall adopt a decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for CSDP tasks.

The Council shall act after consulting the European Parliament. Preparatory activities for the tasks which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions. The Council shall adopt by a qualified majority, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, decisions establishing:

- a) The procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;
- b) The procedures for administering the start-up fund;
- c) The financial control procedures.

When the task planned cannot be charged to the Union budget, the Council shall authorise the High Representative to use the fund. The High Representative shall report to the Council on the implementation of this remit.

This solution will expedite the financing procedure, which will furthermore be fairer and will allow the EU to act faster and more effectively wherever it decides to send a mission in the framework of the CSDP, encouraging the Member States to take part in it.

Promotion of the European defence technological and industrial base (EDTIB)

Without a strong, streamlined and globally competitive EDTIB, the EU's aim of equipping itself with sufficient and autonomous defence capabilities would stand no chance of success. Support for a European-level defence industry is essential to the survival of this industry. Investment in innovation and technological development should account for 2% of Member States' budgets (currently only three countries meet this requirement) in order to guarantee that in the future the Union will be on a par with other world powers and will be independent from them in achieving its military capabilities.

The voluntary Code of Conduct established by the EDA should be extended to the creation of a genuine common market for the procurement of

armaments and military equipment between the Member States that take part in it, and should be compulsory at least for 75% of materials. Common procurement decisions would be discussed at the Council of Defence Ministers — or, as the case may be, of Foreign Relations — of the European Union.

It is furthermore necessary to unify or coordinate EU competition rules in order to foster the success of the strongest companies at continental level. This should include regulating public capital, controlling foreign investments and the exportation of arms, in addition to possible related subsidies

But it is even more important for the EU Member States to be capable of defining a scenario and requirements that are sufficiently stable to allow the European defence industry to make plans and investments with some guarantee of continuity, and for investments in equipment to increase progressively to more than 30% of total defence expenditure—a level currently attained by only four European states.

Equipment interoperability and coordination of logistic support

It is necessary to conduct a detailed analysis of the interoperability of the land, naval and air forces of the EU Member States, in order to identify critical aspects and plan solutions in order of urgency, starting with the compatibility of the communications systems, an essential requisite for them to be able to operate together. The projects of the EDA and, above all, the priorities of the CDP would thus be underpinned by a rational guide that would partly prevent the current fragmentation of the projects.

in the most critical sectors it would be necessary to adopt a system whereby certain nations specialised in some military capabilities that would be used for the benefit of them all, subject to a detailed agreement on their use, which could be established and monitored by the EUMC in accordance with the Member State that assumes responsibility. In certain functions, such as strategic transport, European Commands could be established which would administer a pool of forces made available to them by the Member States with previously agreed employment criteria.

As for logistic support, it would be necessary to progress towards a European integrated logistic system by assigning roles and responsibilities to the different nations for each logistic function through the system of pilot nation or lead nation, including the different means of transport, and the provision and maintenance of common or compatible equipment. These procedures have already been used partially in operations with notable success.

The ultimate aim is, within a 10- or 15-year horizon, for interoperability to have improved to an optimal level in which the command, control and communications systems of the Member States would be fully interoperable and would use the same software; the fuel employed would be the same (a maximum of three types) for all vehicles; and 90% of munitions and armaments, and 60% of equipment and vehicles would be the same.

This high degree of interoperability of equipment, coupled with a common doctrine, shared responsibilities, specialisation and pooling, autonomous and efficient structures of command and control, and a qualitative and quantitative multinational force structure appropriate and sufficient to fulfil the proposed missions, would undoubtedly provide the EU with the military capabilities it requires to meet its goals in relation to the security of the Member States and their citizens, and to contribute to global stability as a foremost player on the international stage.

ANNEX 1

LIST OF THE NATIONS WHICH FORM THE BATTLEGROUPS AVAILABLE TO THE EU (1)

- **France**
- **United Kingdom**
- **Italy**
- **Spain**, Germany, France, Portugal
- **Germany**, France, Belgium, Luxembourg and Spain
- **France**, Belgium
- **Germany**, Netherlands, Finland (2)
- **Germany**, Czech Republic, Austria
- **Italy**, Hungary and Slovenia
- **Italy**, Spain, Greece, Portugal
- **Poland**, Germany, Slovakia, Latvia, Lithuania
- **Sweden**, Finland, Norway (3), Ireland, Estonia
- **United Kingdom**, Netherlands
- **Greece**, Bulgaria, Cyprus, Romania, Slovenia
- **Czech Republic**, Slovakia
- **Italy**, Romania, Turkey (4)

(1) The framework nation is in bold type

(2) The framework nation is rotating

(3) As a third country

(4) As a third country

ANNEX 2

LIST OF THE MAIN EUROPEAN MULTINATIONAL UNITS

Name	Year of establishment	Framework nations	Degree of integration
<i>UK-Netherlands Amphibious Force</i>	1973	<i>United Kingdom, Netherlands</i>	<i>Integrated units</i>
<i>Franco-German Brigade</i>	1989	<i>France, Germany</i>	<i>Integrated units</i>
<i>Eurocorps</i>	1993	<i>Germany, Belgium, Spain, France, Luxembourg, Poland</i>	<i>Headquarters with earmarked units</i>
<i>Rapid Reaction Corps</i>	1992	<i>United Kingdom</i>	<i>Headquarters and assigned units</i>
<i>Baltic Battalion</i>	1994	<i>Estonia, Latvia, Lithuania</i>	<i>Units on call</i>
<i>German-Netherlands Corps</i>	1995	<i>Germany, Netherlands</i>	<i>Headquarters with earmarked units</i>
<i>Euromarfor</i>	1996	<i>Spain, France, Italy, Portugal</i>	<i>Rotating Headquarters with pool of units</i>
<i>Eurofor</i>	1998	<i>Spain, France, Italy, Portugal</i>	<i>Headquarters with pool of units</i>
<i>European Air Group</i>	1998	<i>Germany, Belgium, Spain, France, Netherlands, United Kingdom</i>	<i>Military Staff with pool of units</i>
<i>Spanish-Italian Amphibious Force</i>	1998	<i>Spain, Italy</i>	<i>Headquarters and assigned units</i>
<i>Multilateral Land Force</i>	1998	<i>Slovenia, Hungary, Italy</i>	<i>Brigade Headquarters and pool of units</i>
<i>Multinational Corps Northeast</i>	1999	<i>Germany, Denmark, Poland</i>	<i>Headquarters and earmarked units</i>
<i>South-Eastern Europe Brigade</i>	1999	<i>Albania, Bulgaria, Greece, Italy, Macedonia, Romania, Turkey</i>	<i>Headquarters and pool of units</i>
<i>Polish-Ukrainian Peace Force Battalion</i>	1999	<i>Poland, Ukraine</i>	<i>Units on call</i>
<i>Multinational Engineer Battalion</i>	2002	<i>Slovakia, Hungary, Romania, Ukraine</i>	<i>Units on call</i>
<i>European Gendarmerie Force</i>	2005	<i>Spain, France, Netherlands, Italy, Portugal, Romania</i>	<i>Headquarters and pool of forces</i>

CHAPTER FIVE

TRANSATLANTIC RELATIONS

TRANSATLANTIC RELATIONS

JORDI MARSAL MUNTALA

THE FOUNDATIONS OF TRANSATLANTIC RELATIONS

The statement that North America has its roots in Europe is neither a discovery nor an original observation. The colonisation of the continent was begun by the Dutch, British and French in the north and by the Spanish and French in the south, although the deepest and longest surviving roots lay in the British settlers who fled from the wars of religion and persecutions that were ravaging Europe. These settlers were ingrained with a sense of yearning for liberty—particularly religious liberty, as puritanical Bible readers and, as such, bearers of the idea of a people chosen to perform a mission of freedom.

This provides an insight into the origin of certain beliefs repeatedly handed down among the American people since then:

- the view of the exceptional nature of the American nation (1),
- the mission of spreading freedom beyond the boundaries of the time,
- the special Anglo-Saxon relations between the United Kingdom and the United States.

The triumph of the French revolution in Europe and, subsequently, of the revolution of independence in what would later become the US forged special ties based on values of freedom, equality and brotherhood; tolerance and respect for the individual; and participation and ac-

(1) One of the latest books written from a critical, up-to-date perspective is BACEVICH, ANDREW J.: «*The Limits of Power. The End of American Exceptionalism.*» Metropolitan Books. New York, 2008.

countability—a set of values which define democracy. Democracy as a more reasonable system of coexistence and organisation for guaranteeing liberty has provided a deep link in relations between both sides of the North Atlantic.

In parallel fashion, the value of liberty also in trade and, subsequently, the affirmation of the market as the best economic system led the two to share the idea of capitalism —the sum of democracy and market freedom— as the best form of social and political organisation, of national and international coexistence. Its highest expression in the field of security was the idea that war cannot exist between democratic countries(2).

Although relations were not always easy, 19th-century political and economic developments added to these values new economic interests, which also found expression in political interests, as the basis of transatlantic relations. And if the 19th century was the century of the British Empire, the 20th century was to be that of the United States.

The US intervened in both world wars as the saviour of the European democracies, especially in the second in which the conflict was defined in terms of the ideological component of confrontation between democracies and totalitarian regimes. Indeed, the European democrats were on the verge of losing this war had it not been for the intervention of the US which, not without problems, abandoned its isolationist stance (which is also part of its collective soul) to involve itself —this time with no turning back— in the freedom and security of Europe.

And so, in a war-ravaged Europe with a frail economy and a security challenged by Soviet expansionism, American commitment again proved essential to maintaining democracy, at least in the majority of Western European countries, and to allowing their economic resurgence. The contributions of the Marshall Plan (3) and the signing of the North Atlantic Treaty giving rise to the establishment of NATO made possible the existence and progress of the western world. US intervention was neither

(2) First formulated in 1983 by Michel W. Doyle in the article «Kant, Liberal Legacies and Foreign Affairs» published in the journal *Philosophy and Public Affairs*, vol. 12, no. 3 and no. 4, it has generated extensive literature for and against this idea ever since.

(3) The Plan was approved on 2 April 1948 and in Paris on 16 April, following the Economic Cooperation Committee, the Organisation for European Economic Cooperation emerged, first as an agency for managing the Plan and later as one of the origins of the establishment of the European Economic Communities.

easy —it came up against new isolationist views (4)— nor totally selfless, as it established an initial barrier against the Soviet Union and made possible a vast market for free trade. Transatlantic relations have always been based on a sum of shared values and interests and this should not scandalise anyone.

For the European countries America's nuclear umbrella and assumption of the lion's share of the economic costs of security and defence against the Soviet threat meant that their budgets needed to pay less attention to defence expenditure and enabled them to focus their efforts on building the welfare state.

After the Cold War ended in the late 1990s, the succession of conflicts that erupted in the Balkans as a result of the disintegration of Yugoslavia triggered a situation of war to which the EU was incapable of providing a response. After much hesitation and debate, the USA decided to intervene again and NATO was entrusted with putting an end to the conflict and leading the area to stability. Once again America intervened owing to Europe's incapability. This time the warning prompted the EU to start assuming its responsibilities in the field of security and defence.

This historical background may seem excessive or unnecessary for this chapter, but it is advisable to recall and come to terms with our history to avoid falling into the dangerous trap, as often happens, of repeating it—something we should not and cannot afford to do. But what is more, I believe that without these reminders it would not be possible on either side of the ocean to grasp the depth of, and need for, a transatlantic relationship which has enabled our societies to operate in freedom and prosperity and has made the US also part of Europe in certain ways.

VISIONS OF SECURITY AND DEFENCE IN THE EU AND NATO.

The birth and development of today's EU of the Lisbon Treaty in relation to its security and defence has always enjoyed a special, and at times contradictory, situation. After dozens of years (or centuries) of confronta-

(4) It was not until April 1948 that the intervention of General George Marshall and the Defence Undersecretary, Robert M. Lowet, aroused the interest of the Republican senator Arthur Vandenberg and the Democrat Tom Connally. This crystallised on 19 May with the presentation of the so-called Vandenberg Resolution which was adopted on 10 May with only four votes against it. This resolution paved the way for the signing of the North Atlantic Treaty on 4 April 1949.

tions and wars which shaped the history of Europe, the horror of the Second World War led a few clear-sighted thinkers to consider a strategy for avoiding another war. The idea was apparently simple: let us create sufficient common interests among the (main) European countries which run deep enough to make a new war unthinkable on account of its total economic irrationality. Sharing interests forges deep alliances between democracies. Interests were thus sought in historically fundamental issues and questions essential to future economic development, thereby giving rise to the European Economic Communities based on coal, steel and energy.

The ultimate aim of the process had deep-seated reasons in the field of security and defence. A common external enemy also helps strengthen unity and the threat of the Soviet Union would also reinforce the process of European union —this was not explicitly stated— but the first steps were built on internal interests. All the documents that support the process make constant references to achieving the security and progress of the European peoples and nations, although not until a very advanced stage in the process do security and defence mechanism begin to be mentioned. This odd history has functioned reasonably well, even if it needs to be completed to be sufficiently understandable.

Attempts to forge a European defence alliance vis-à-vis the external enemy were complicated (5). In 1947 the Treaty of Dunkirk was signed by France and Great Britain and the following 17 March the Treaty of Brussels was signed with the addition of the Benelux countries, and on 30 April meetings with American and Canadian experts began to be held in London. The Western Union thus came into existence. France's wish to make deeper progress in a properly European defence and the incorporation of the Federal Republic of Germany and Italy led to a series of meetings which enabled the North Atlantic Council, at its Lisbon meeting from 20-25 February 1952, to agree to the establishment of a European Defence Community, for which a treaty was signed on 27 May. But during the parliamentary ratification process, in August 1954 the French parliament failed to ratify an initiative of which France had been the chief promoter (6). Meetings held in London between NATO and the Western Union from 28 September to 3 October made it possible for the Treaty of Brussels to be

(5) A description of the events can be found in PEREIRA, JUAN CARLOS: «*Historia y presente de la guerra fría*». Itsmo. Madrid 1989, pp. 224-233.

(6) A detailed description of the parliamentary discussion can be found in GERBERT, P.: «*La Construction de l'Europe*». Paris, 1983.

amended in Paris between 20 and 23 October, allowing the accession of the Federal Republic of Germany and Italy and establishing the Western European Union (WEU). However, the functioning of NATO forced the Union into hibernation (7). When it began to demonstrate its potential several decades later, after the end of the Cold War, it signed its own death sentence when its capabilities, with the exception of the Brussels Treaty and its parliamentary assembly, were incorporated into the European Union's now explicit process of assuming matters in 1999 (8).

The defence function in the fledgling Europe was to be assumed by an organisation structured around the capabilities and policies of American power, incorporating Canada (normally the great forgotten quantity) and, successively, an increasing number of European countries: NATO, an organisation based on transatlantic values and interests and established for the purpose of guaranteeing the collective security and defence of its members, although its documents have always referred to their economic and social progress too.

The origins of both organisations display deep similarities and deep differences. The process leading up to the EU was an inward process originating from within the countries that belong to it and share ideological, social and cultural values, and its aim was to guarantee their progress and avoid new confrontations between them.

This shared internal logic has proven efficient when applied to internal processes and problems, but it can be a mistake to apply it externally in an almost mechanical manner to external risks which, even if geographically close, are not culturally similar. The logic that has guaranteed «internal security» does not necessarily function automatically to guarantee «external security».

NATO came into being with a logic vis-à-vis external threats that has made it the most successful defence alliance in history with new candidates continually knocking at its doors despite its successive enlargements, even though, to quote one of its secretaries general, it was established to «keep Russia out, the US in and Germany down»—an expression which was rendered meaningless following the accession of the Federal Republic of Germany to the treaty.

(7) It came to be dubbed the Sleeping Beauty.

(8) The dismantling of the WEU began at the Cologne Council of June 1999 and continued at the meeting held in Marseilles the following year.

This is not the place for a detailed account of developments in the treatment of security and defence matters in the various treaties up until that of Lisbon (9), or for tracing the history of NATO (10) and its different strategic concepts; we merely wish to mention elements that help understand the current problem of transatlantic relations and their future.

Following the end of the Cold War the landscape changed, the stable and highly predictable bipolar world vanished and we are neither sure of exactly what new model we are heading towards nor capable of defining exactly what we want. It is as if, following the violent tectonic movement caused by an earthquake, we are experiencing a phase of recovery of the tectonic plates, some already existing and others new, and subsequent aftershocks. What occurs is unforeseeable until tectonic stability is re-established.

We are experiencing a phase of transition from a fairly predictable bipolar system to a new system whose characteristics are unknown and in this transition new actors, new situations, new relations and different rules (or the absence of them) for these new relations are emerging. We are defining new, broader concepts of security in which threats do not have to be basically military; we are attempting to integrate military and civilian instruments as a whole in order to avert, manage and settle crises with comprehensive and multidirectional strategies. All this is bringing about changes in the organisation, working and doctrines of the armed forces and of security and defence policies. Non-governmental players, constructive or destructive, occupy the new scenarios; each country—traditional and emerging powers alike—is attempting to carve out its place in this transitional phase in order to enjoy a decisive influence in the new model; some countries are incapable of holding their own and give rise to failed states; others are incapable of maintaining a state presence throughout their territory and end up providing havens for terrorists. The new (hybrid) conflicts are a mix of the regular and the irregular; the combat, stabilisation and reconstruction phases of conflicts overlap and coexist, often chaotically.

In this environment the EU is also attempting to define its role and NATO is working on a new strategic concept to bring a certain conceptual and operational order to this chaos.

As part of this process the EU is progressively equipping itself with civilian and military capabilities (as dealt with in previous chapters) and

(9) GREVI, G., HELLY, D., KEHOANE, D.: *ESDP. The first 10 years (1999-2009)*. EUISSS, 2009.

(10) ORTEGA MARTIN, Jorge: *La Organización del Tratado del Atlántico Norte (De Washington 1949 a Estambul 2004)*. Minisdef, 2007.

integrating them in order to implement its security strategy, the so-called Solana doctrine, adapting it to this changing environment.

THE EU'S DETERMINATION TO BECOME A GLOBAL ACTOR.

«As a union of twenty-five states with over 450 million people producing a quarter of the world's Gross National Product, and with a wide range of instruments at its disposal, the European Union is inevitably a global player», states the European Security Strategy of 2003.

«Resolved to implement a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence in accordance with the provisions of Article 17, thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and in the world», we read in the statement of the general aims of the Treaty on European Union.

And the introduction to the European Security Strategy includes the statement that «The United States has played a critical role in European integration and European security, in particular through NATO. The end of the Cold War has left the United States in a dominant position as a military actor. However, no single country is able to tackle today's complex problems on its own».

A reading of these three paragraphs provides us with a clear description of objective facts, somewhat vague intentions, and a certain complex and ambiguous attitude the EU has with respect to the US. What is the European Union and what does it want to be? What role does it wish to play in the world? The answer is neither clear nor categorical from these documents—or indeed from any other we might read, nor would the answers given by each of the EU Member States be the same. And no doubt the replies given by other international actors would be even vaguer and more dubious.

It wants to be an actor with a global role, and it has economic power, instruments for implementing a foreign policy, and a debt and special relationship with the US. It defines itself as «a global player» and wishes to «promote peace, security and progress in Europe and in the world» Does this mean that it wishes to be a world power? What kind of power? (11).

(11) VASCONCELO, ALVARO DE (ed): «*What ambitions for European defence in 2020?*». EUISS, 2009.

Or are we dealing, as some think (or wish), with a new type of international player different from world powers to date—perhaps a post-modern power in a new world order at which we have not yet arrived? If so, what would the characteristics of this new type of actor be?

During its first decades of existence in a world engaged in Cold War with a clearly defined bipolar system and particular game rules, the (not yet) European Union did not ask itself these questions —at least, not explicitly— following the aforementioned failure of the process to create a European defence. Its role was marked by its relationship with the US, on whose military protection it relied in the framework of NATO. Only when the bipolar order disappeared did these questions start to make sense. First, because they stemmed from new, confusing and unforeseeable scenarios in which all the players needed to reshuffle themselves to occupy a place in the resulting new systemic order; we are not sure if this order will be unipolar, bipolar or multipolar or of the new game rules (the Westphalian order is crumbling). But second, these uncertainties give way to the possibility and need to define the aims and ambitions of each player.

The EU is an economic giant; it could be a political giant (it will even have a large external service), but will it continue to be a military dwarf? All three capabilities were a necessity in the old order; will this continue to be the case in the new order?

The moment the EU began to ask itself these questions a new path opened up. Until then European Union had been a process of internal construction (a single market economy with its own currency, and policies geared to a certain internal harmonisation) that undoubtedly had external consequences, even irrespective of the intentions of the internal players. But this point marked the inevitable start of an outward process which would evidently have consequences on its relations with other players, including partners and friends. And this occurred in relations with the US.

The first step was what we call a Common Foreign and Security Policy (CFSP). The foreign-policy part, with its difficulties, could be based on shared values and interests, even if these did not always wholly coincide. The existence of the common market, long-term economic interests, facilitated a common foreign policy. Security policy was trickier. It could stretch to shaping —as occurred— neighbourhood policies designed to foster the stability and progress of neighbouring countries. This had favourable repercussions on security and economic interests.

But when we began to delve more deeply into the hard core of security —defence— the situation proved to be more delicate and complex owing to the different visions of the relationship with the US partner-protector and the fact that not all states belonged to NATO, and the progressive expansion of both organisations even led to the coexistence of very diverse visions of security and defence.

A further step in this process, which was acceptable to EU members (and also to NATO and the US) was the conception of the EU as a civilian power with some military capabilities. This, coupled with a series of presidencies which placed greater emphasis on the civilian aspects of security, made it possible to make headway in defining and creating civilian capabilities for crisis management. The conflicts of the 1990s, the implementation of peace operations in the framework of the United Nations, and also the optimism of the 1990s and the idea of enjoying the so-called peace dividends, reinforced and paved the way for the first steps of a European Security and Defence Policy (ESDP).

A positive aspect of this situation was the existence of civilian capabilities which, coupled with (smaller) military capabilities provided —at least in theory— a capability appropriate to the comprehensive security strategies that would later be defined as best suited to managing the crises of the nascent 21st century.

But the experience of the Balkans would appear to show that capabilities based on so-called soft power alone are insufficient to address conflicts which are not only further-reaching in potential but also, after decades of peace in the continent, are now emerging in Europe itself. And in this situation US intervention and, with it, that of NATO is once again the only real solution.

The consequence is obvious: neither is the existence of soft power alone sufficient nor does it even signify power. It is therefore necessary to progress towards acquiring greater military instruments. This entails equipping the EU with management bodies (PSC, EUMS), human resources (Headline Goal, Battlegroups), material capabilities that must be acquired or standardised (ECAP) and an agency for facilitating this (EDA). As far as the instruments themselves are concerned, progress was made, albeit with budgetary difficulties and issues of rivalry between national interests, but when it came to the policies which these instruments are supposed to serve the problems increased. And so we come to the crux of the matter: the role of NATO and relations with the US.

But in order to have a realistic grasp of the situation it is necessary to bear in mind objective defence expenditure data. Comparative figures for expenditure, expressed in euros, of the US and the aggregate figure for the EU Member States in 2008, compiled by the EDA, speak for themselves (12):

EU	US	
200,000 M	466,000 M	total expenditure
1.63	4.7	as a % of GDP
406	1532	expenditure per capita
111,198	332,699	expenditure per military
43,300 M	173,400 M	expenditure on operations
41,900 M	166,200 M	investment expenditure
8,600 M	54,100 M	R&D expenditure

In a qualitative analysis the differences would be even greater owing to the impact of the fact that the US is a single market and single buyer and to other aspects related to management and economy of scale. This situation logically has an impact on the respective defence technological and industrial bases. The existence of a gap is evident and the consequences may be serious in many respects.

To forget this starting point for the shaping of realistic security and defence policies would be a major mistake. Either expenditure is increased significantly and managed more efficiently («spend more, spend better and spend more together», as Javier Solana put it), or policies will need to be less ambitious.

The Lisbon Treaty marked a step further in this process: the introduction of a Common Security and Defence Policy (CSDP) as an integral part of the common foreign and security policy (CFSP).

This policy «shall include the progressive framing of a common union defence policy» and «this will lead to a common defence, when the European Council, acting unanimously, so decides» (13) — expressions that are already part of the language of the Union’s documents. The treaty goes on to state that «the policy of the Union in accordance with this Section shall not prejudice the specific character of the security and de-

(12) Data drawn from the latest reports compiled by the EDA on the defence expenditure of each EU country and the charts comparing expenditure and its breakdown among the EU as a whole and the US. NATO also publishes yearly the expenditure of all countries in annual series from the earliest years.

(13) Article 42.

fence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty». The complexity and prudence of this wording stem from the complexity of the situation, the different positions and distinct current wishes of each country, but future possibilities, even if they may seem and be fairly distant, are not ruled out.

The treaty also envisages the possibility of permanent structured cooperation (14) between countries that so wish, meet certain requirements as yet to be defined and assume certain commitments, as well as the so-called solidarity clause (15) vis-à-vis terrorist attacks or disasters, both natural and manmade, and a (certain) commitment (16) in the event of an armed aggression in the territory of a Member State but with the same provisos mentioned in connection with national specificities or NATO commitments.

THE EUROPEAN SECURITY AND DEFENCE POLICY IN THE EU AND NATO.

Many European countries belong to NATO, although some do not and have a tradition of neutralism (Austria, Finland), a traditionally different vision of security and defence (Sweden) or have been isolated from the Western acquis in general and specifically in defence themes (Cyprus, Malta). And in NATO, in addition to Norway, which does not belong to the EU, there is Turkey, a country from a different cultural environment which wishes to join the EU.

As we have seen, during the Cold War no serious thought was given to defining a specifically European and autonomous NATO security and defence policy that was more independent from that of the US.

But the progress made in building the EU and the end of the Cold War ushered in a new period. The EU's desire for self-assertion also in the field of security and defence has triggered reactions within NATO and from the US, and has been debated from ambiguous stances that combine recognition of the need to strengthen the EU as an ally for the defence of common values and interests —which it is very difficult for

(14) Article 46 and Protocol.

(15) Article 222 of the Treaty on the Functioning of the European Union.

(16) Article 42.7.

the US to maintain alone— with a certain fear that growth of the EU may challenge US leadership or clash with its interests.

This situation made NATO's position towards the EU complex and ambiguous. Recognition of the need to accept the European process gradually gained ground. This translated into the shaping of the concept of a European Security Identity within NATO as the expression of a specifically European pillar of the organisation. This was made possible by the intermediation of a WEU which was thus able to awaken from its long slumber. It was also acceptable to countries like the United Kingdom that have always had closer ties with US positions and shown greater ambiguity about deepening the European process. This gave rise to the 1999 Strategic Concept of Washington under the heading of European Security and Defence Identity, which states that «The European Allies have taken decisions to enable them to assume greater responsibilities in the security and defence field in order to enhance the peace and stability of the Euro-Atlantic area and thus the security of all Allies. On the basis of decisions taken by the Alliance, in Berlin in 1996 and subsequently, the European Security and Defence Identity will continue to be developed within NATO. This process will require close cooperation between NATO, the WEU and, if and when appropriate, the European Union». It also goes on to state that it «it will assist the European Allies to act by themselves as required through the readiness of the Alliance, on a case-by-case basis and by consensus, to make its assets and capabilities available for operations in which the Alliance is not engaged militarily under the political control and strategic direction either of the WEU or as otherwise agreed, taking into account the full participation of all European Allies if they were so to choose» (17).

This was made possible by the agreements established between France and the United Kingdom at Saint Malo the previous year. These agreements allowed a European defence identity to be shaped within NATO and enabled a European security and defence policy to be developed within the EU. They signified major changes of position by both signatories: the United Kingdom agreed to the EU entering the field of security and defence and France accepted the role of NATO (18). However, each no doubt had a different goal in mind: to achieve greater commit-

(17) Paragraph 30

(18) GNESOTTO, NICOLE (ed.): «*Política de Seguridad y Defensa de la Unión Europea. Los cinco primeros años (1999-2004)*». EUISS. Paris 2004.

ment in the contribution of European capabilities to NATO or to achieve greater autonomy for a European defence.

In theory, the Saint Malo agreements and NATO's Strategic Concept adopted at Washington paved the way for the strengthening of the WEU. However, in practice they led to its dismantling owing to absorption by the EU through the ESDP.

With the invasion of Iraq, this new situation was plunged into a crisis that was not overcome until France's reincorporation into the integrated command structure of NATO.

Three phases can be distinguished in this complex process (19): the first from 1999 to 2003, the second until 2007 and the third until the present. In the first, following the Kosovo campaign, the EU made the decision to create the ESDP. A work programme was established by NATO and EU in the framework of the Washington agreement and in accordance with Madeleine Albright's principles of the three Ds, «no de-coupling, no discrimination, no duplication». Although there were problems with Turkey, as we shall see they were overcome, at least momentarily, with the «EU-NATO Declaration on ESDP» of December 2002.

The second phase, lasting from 2003 to 2007, was one of turmoil. The invasion of Iraq drove a deep wedge between the EU countries and between part of them and the US. This had negative consequences on relations between the two organisations, triggering a certain internal standstill and difficulties in sharing between the organisations when it came to following the path undertaken in the previous phase, although this did not prevent them collaborating in Bosnia and Herzegovina or in Afghanistan.

The third phase, marked by the disappearance from power of the governments of the main parties in disagreement, new leaders in Germany, France and the United Kingdom and changes in the Pentagon in the USA, saw the beginning of the way out of the crisis. The new French president's radical change of stance towards NATO and other international political issues brought a rapprochement between France and the US leading to France's reincorporation into the NATO command structure and the appointment of a French general in charge of ACT Norfolk following NATO's 60th anniversary summit in Strasbourg-Kehl, which also gave the formal go-ahead to the drafting of a new strategic concept for NATO and the development of a new strategy for Afghanistan.

(19) KEOANE, DANIEL : ESDP and NATO, in ESDP. The first 10 years (1999-2009)

A central feature of relations between the two organisations is the EU's possibility of using NATO assets and capabilities, bearing in mind the real situation of the EU's resources and budgets. The position of Turkey, an EU candidate, in NATO has been a determining factor in setting the pace of this process and its progress or standstills. The agreements achieved are expressed in the so-called Berlin Plus arrangements.

Berlin Plus regulates:

- the exchange of classified information under reciprocal rules on information protection,
- access to NATO planning capabilities for crisis-management operations led by the EU,
- access to NATO command and control capabilities and headquarters for planning operations,
- procedures for the release, control, return and recall of the assets and capabilities made available,
- the competences of DSACEUR and European command options for NATO,
- rules for coherent and reciprocal requirements for reinforcement, especially for the necessary planning and military capabilities which may be required for EU-led operations,
- agreements for consultations between EU and NATO regarding the use of NATO assets and capabilities.

The use of these capabilities is subject to the principle that NATO as a whole is not willing to engage in the operation and to the unanimous approval of all NATO members.

So far the Berlin Plus arrangements have been implemented in connection with two operations (out of the twenty or so conducted by the EU): operation Concordia in Macedonia and operation EUFOR Althea in Bosnia and Herzegovina.

The agreement took a long time to reach and was not easy owing chiefly to Turkey's position with respect to its relations with the EU (20) and accession prospects and the situation of relations between Greece and Turkey with respect to Cyprus (21).

(20) Turkish accession to the European Union. CESEDEN. January 2007.

(21) A broad analysis is found in MEDINA ABELLAN, Miguel : *Competing visions of European foreign and security policy making. Turkey, the European Union and NATO*. Presented at the Garnet Conference on The European Union and International Affairs, held in Brussels on 24-26 April 2008 in Brussels. Also BILLION, Didier and LIBERTI, Pablo: *Les relations entre l'OTAN et la PESD: la perturbation chyprio/turque*. IRIS, Paris April 2009.

Turkey plays an important role for NATO on account of its geostrategic position. It is a Eurasian and Islamic —albeit constitutionally lay— country that aspires to join the EU. And Turkey uses these elements to condition and even block first the achievement of an agreement and subsequently its implementation.

During the Washington summit in 1999, a constructive attitude was adopted in order to facilitate relations with the EU, bearing in mind that at the time these relations were also going to be orchestrated through the WEU, of which Turkey was an associate member. At the end of 2001 a joint document was submitted by the United Kingdom and Turkey which excluded the East Mediterranean from the ESDP. But this document did not satisfy Greece, which refused to accept it. Following lengthy talks Greece agreed to lift its veto at the Brussels Council of October 2002 and modifications were made leading to a new text at the Copenhagen Summit in December. A strategic alliance between the two organisations was affirmed on 16 December with the «EU-NATO Declaration on ESDP». And on 17 March 2003 an exchange of letters took place between Javier Solana and Lord Robertson making it possible for the Berlin Plus arrangements to be implemented in the aforementioned Concordia and EUFOR Althea operations.

But mounting difficulties in the EU's relations with Turkey caused the agreements to grind to a halt.

The invasion of Iraq and the opposition it encountered in several European countries also complicated NATO-EU relations. There was a return to positions in favour of setting up an EU Headquarters (in Tervuren) to provide permanent crisis-management planning and conduct capabilities.

In the end this initiative floundered owing to the differences between the European countries and, with large doses of diplomacy, especially on the part of the United Kingdom, it was dismissed.

Nevertheless, all these difficulties have not hampered the advance of formal and informal mechanisms for cooperation and coordination between the two organisations with varying degrees of success, such as the «EU-NATO capability group», which attempts to coordinate the harmonisation of requirements for interoperability and the acquisition of capabilities (Prague Capabilities Initiative and ECAP) and also endeavours to synchronise the development of the Battlegroups and the NRF. Talks have been stepped up between the EU EDA and the NATO CNAD, as have contacts between NATO's IS and IMS and the EU's EUMS, making

the most of the fact that several countries have the same military representative (MILREP) for both organisations.

The approval of NATO's 2006 Comprehensive Political Guidance in Bucharest recognised the growing role the ESDP plays in international stability with its civilian and military instruments.

France's recent incorporation into the NATO Command Structure, with the appointment of a French general for the NATO ACT at Norfolk, paves the way for new positive prospects for progressing in the good relations between the two and in mechanisms such as Berlin Plus. We will return to this later on.

TOWARDS A NEW FRAMEWORK FOR EU-US RELATIONS.

We have analysed the situation of the security and defence policy of the EU and of NATO and their relations in post-Cold War contexts, especially with the entry into force of the Lisbon Treaty. But there is a player who has been and continues to be central to this relationship: the US. Its vision of the situation, its priorities and its strategies are an essential element in envisaging the future of transatlantic relations and the aspects which affect relations with the EU. The change of US administration calls for new analyses and new policies (22) which also affect Europe and towards which the EU needs to design its own analyses and policies. At the same time, as we have seen, with the entry into force of the Lisbon Treaty, the EU has made an important step towards fulfilling its aim of becoming a global player. This new context should lead both players to redefine their policies and strategies, which should help agendas to converge.

But this convergence is not necessarily bound to happen. While the new US Administration appears to be veering closer towards European sensibilities, it seems that the European side is not acting accordingly, and there continue to be major differences between EU members.

US foreign policy always tends towards a certain continuity, even if there is a change of Administration—as is only logical in any country, especially in a major power that continues to be the foremost player on the international stage. The last stage of the Bush presidency, especially

(22) It is interesting to read the analysis of Obama's foreign policy in TOVAR, Juan: El enigma de la doctrina Obama: un año de política exterior norteamericana. Real Instituto Elcano, Madrid, January 2010.

with Gates (who has remained in his job in the new Administration) as defence secretary, had already brought a number of significant changes and adjustments to US foreign and security policy.

This was based on America's military development over the past two decades. The 1990s had been marked by the coming to terms with the consequences of the so-called Revolution in Military Affairs, characterised by the espousal of doctrines attaching priority to technological superiority as a key element in strategies and the abandonment of the so-called Powell doctrine for conducting operations, which was supplanted by the changes established by Rumsfeld based on the Rapid Decisive Operations (RDOs) and expressed in concepts such as Effects Based Operations (EBOs) promoted by the Air Force and Network Centric Warfare (NCW) promoted by the Navy.

This confidence in US technology and supremacy created an optimistic vision of the conduct and results of the conflicts in which America intervened. This vision appeared to be confirmed by the speed and results of combat operations in both Afghanistan and Iraq, which caused the doctrines on different war operations developed during the presidencies of Bush senior and Clinton to be discarded. But reality proved that the conflict did not end with victory in combat; rather, the latter gave way to a phase in which stabilisation and reconstruction difficulties triggered situations of insurgency that could coincide and combine with Jihadist terrorism. And so, in an attempt to assimilate the lessons learned, doctrinal changes took place, promoted chiefly by the Army and the Marines (who had put up substantial resistance to espousing the concepts promoted by the Air Force and Navy). Once again human factors took precedence over technological factors with the recovery and updating of counter-insurgency strategies (COIN) formulated precisely by French military (Galula, Trinquier) who had fallen into oblivion in their own country. New strategies were devised for settling open conflicts in a general framework of waging war on terrorism and spreading democracy.

The Obama Administration is taking these doctrines to their final consequences and embodying them in a new vision of America's role and possibilities in the world. The American exceptionalism of which the neo-conservatives are so fond is being supplanted by a limitation of the role of the superpower and acceptance of the need for other players, which is leading to a return to multilateralism that comes close to the European strategy of effective multilateralism. At the same time limits are placed on

the goals pursued, moving from an idealism based on the «imposition» of democracy back to a realism that settles for stabilising and preventing the emergence of new failed states, pushing democratising objectives into the background.

This new vision is a challenge to the US's other partners. The Americans accept that they alone cannot solve all the problems of security, furthermore taken in its broadest sense; that they do not wish to be the world's gendarmes and the sole guarantors of democracy; and that in order to achieve results partners and allies must assume their share of responsibilities, also in the military sphere, and the costs (in all senses) this entails. The new administration is implicitly telling us: «it's up to you—our policy will depend on your response». And the EU should respond by stating what responsibilities it is willing and able to assume and the efforts it is prepared to make.

This new situation has further arisen in a geostrategic landscape whose centre is shifting from the Atlantic to the Pacific (and to the Indian Ocean) and, with it, interests are swinging from Europe to China. The EU needs to address a complex situation with consequences for its role in the world, whether or not it is a global player.

In view of the US's progressive new geostrategic vision, the role of the transatlantic agenda and its implementation and adaptation are of far-reaching significance.

At the latest meeting between the EU and the US in Washington on 3 November 2009, a joint declaration with three annexes was adopted establishing the current areas of the transatlantic agenda.

After reaffirming the renewal of a global partnership and the setting of a course for enhanced cooperation, the summit declaration went on to define areas of interest in economic matters, justice and home affairs, and regional and international affairs.

In the economic field (climate change, development, energy, cyber-security and health) it underlined commitments regarding the success of the Copenhagen summit on climate change (we later saw what became of them), greater effort to create carbon markets, reaffirmation of the G20 commitments for recovering from the crisis and returning to growth, combating protectionist measures, conclusion of a Doha development agenda agreement in 2010, intensification of work under the Framework for Advancing Transatlantic Economic Integration and the Transatlantic

Economic Council, relaunch of a dialogue on development, the establishment of a Ministerial-level Energy Council, strengthening of the cybersecurity dialogue and aspects related to collaboration in the field of health and healthcare.

In justice and home affairs, the EU and the US welcomed the joint statements adopted by their justice and home affairs ministers on 28 October on the agreements on extradition, personal data protection, issues of transatlantic mobility and security and border policies, and recognised the importance of allowing visa-free transatlantic travel.

In regional and international affairs, the declaration addressed non-proliferation and disarmament, the Iranian nuclear question, the achievement of global and lasting peace in the Middle East, commitments in Afghanistan, support for the Friends of Democratic Pakistan, assistance in building strong democracies and prosperous economies in Eastern Europe and the South Caucasus, and support for the Southeast European countries' advancement on the path to European and Euro-Atlantic integration.

Finally, three declarations were signed on dialogue and cooperation in development matters (food security and agricultural development, climate change and Millennium Goals), the establishment of an EU-US Energy Council and non-proliferation and disarmament.

The next EU-US summit in 2010 will provide a major opportunity for updating the Transatlantic Agenda and establishing specific objectives making it possible to strengthen transatlantic relations, coordinate positions vis-à-vis the main regional and international threats and, in doing so, convey a message of Euro-Atlantic assertion in the new geostrategic environment.

The importance of this summit does not only mobilise governments and administrations, but has also given rise to studies and proposals that should be taken into consideration. Notable among these for its scope and depth is the study recently conducted by some of the most important think tanks on both sides of the Atlantic under the meaningful title «Shoulder to Shoulder. Forging a Strategic US-EU Partnership» (23).

(23) The Prague Security Studies Institute, Swedish Institute, Center for European Policy Studies, Real Instituto Elcano, Atlantic Council, Center for Transatlantic Relations, Center for Strategic & International Studies, SAIS and Fundación Alternativas took part in this study.

The study analyses the situation and the changes which are occurring and reaffirms the need to maintain the transatlantic partnership in a globalised world that will help us achieve goals desirable to both parties and states that «The transatlantic partnership, while indispensable, is also insufficient. Only by banding together with others are we likely to advance our values, protect our interests, and extend our influence».

The report proposes and develops ten concrete initiatives which are worth considering:

1. Adopt a Transatlantic Solidarity Pledge, anchoring transatlantic resilience strategies in a common space of justice, freedom and security.
2. Build a barrier-free transatlantic marketplace.
3. Reform global economic governance.
4. Forge a partnership for energy sustainability.
5. Complete a Europe, whole, free and at peace.
6. Address conflicts more effectively.
7. Redouble efforts to halt the proliferation of weapons of mass destruction.
8. Improve the effectiveness of development policies and humanitarian assistance.
9. Forge an open and competitive transatlantic defence market.
10. Explore an Atlantic Basin Initiative (North Atlantic and South Atlantic).

Although the internal economic situation of the EU countries and the US may make it tempting to base international policy decisions solely on internal policy criteria, this would be a mistake as it could harm transatlantic relations and would also have long-term non-positive consequences for internal policies.

A STRATEGIC PARTNERSHIP BETWEEN THE EU AND NATO?

The 2008 report on the implementation of the European Security Strategy, «Providing security in a changing world», states that «the EU and NATO must deepen their strategic partnership for better cooperation in crisis management». And according to the NATO Declaration on Alliance Security adopted at the Strasbourg-Kehl summit in April 2009, «we are determined to ensure that the NATO-EU relationship is a truly functioning strategic partnership as agreed by Nato and by the EU».

Are we dealing merely with statements of good intentions or real wishes? Do both organisations share the same concept of what a strategic alliance is? Should we prioritise a strategic alliance of the EU with NATO or with the US? Or will these players increasingly go their separate ways?

For some we are witnessing a process of progressive changes in relations between these players. We are entering a post-American world (24)—although it seemed that we were approaching what appeared to be a unipolar world following the Cold War, reality has shown that we are heading in a very different direction. It is argued that the experience of the conflicts of the first decade of the 21st century had drawn attention to the weakness of a hyperpower which, if not with clay feet, is certainly incapable of being a world hegemon. We would appear to be witnessing the often-announced decline of the American empire, the decline of the US. The emergence of the growing power of other countries (China, India, Brazil, Russia again, etc.) would appear to be leading towards a multipolar world. This is being recognised by the new US administration which, as stated, seems to have its sights set more on the Pacific and is progressively shifting away from the Atlantic as a priority and, accordingly, from its preferential relationship (and the situation of NATO would be an expression of this) with Europe. The US would appear to be reconsidering its relations with Russia (abandonment of the missile shield in Poland and the Czech Republic, relativisation of NATO enlargement, etc.) in the face of needs such as new channels for communication with Afghanistan.

At the same time, whether it regards China as an opportunity or a future threat, it would appear to be developing new strategies towards a country that holds a substantial part of US public debt and is becoming a crucial player for settling international problems, ushering in a new type of bipolar system.

In this context the EU should also change its priorities and its strategies—basically, it must stop taking its cues from the US, as it was spurred to do during the Cold War by its US-dependant security needs. And these new strategies should also include attaching less importance to the role of NATO and, although for the time being this organisation could continue to be the framework for European collective defence, we should gradually assert our autonomy—independence even—by progressively deepening the Common Security and Defence Policy until the EU is in a position to provide the framework for European collective defence too.

(24) SHAPIRO, Jeremy and WITNEY, Nick: *Towards a Post-American Europe: a power audit of EU-US Relations*. ECFR, 2009.

Vis-à-vis a strategy of dependence upon the US and of taking our cues from its interests, we should thus progressively assert our independence and even become a counterweight, thereby making it possible to develop relations with the new emerging national players with which strategic alliances should be established. Our preferential relationship with the US would thus become one of various strategies and we would promote strategic relations with a particular player depending on Europe's interests and priorities at the time.

There are two strategies for achieving these goals: the first is more traditional, the second more post-modern. The first would involve gradual assertion as a traditional power by strengthening our economic weight and political instruments and accepting the need for significant budgetary increases in order to become a military power too. The second would entail considering that the new globalised and multipolar environment calls for bolstering civilian capabilities—soft power—to achieve our interests in a world based on a new, much fairer order and with international institutions which could even eventually exercise world government at a higher level than national governments.

The strategy of pure dependence seems impractical bearing in mind the real changes which are occurring, although we do not know how deep or even how radical they may be. The strategy of pure independence does not seem very realistic bearing in mind both the difficulty of achieving significant budget appropriations for defence and the fact it may be somewhat naïve to hope for this more or less ideal order.

But between these two courses there is the possibility of a strategy that is more realistic and in keeping with our capabilities and real wishes. It should be a strategy of adapting to the new scenarios, and entails a new vision of the EU's relations with the US and with NATO.

This new vision should be based on several elements. Agreement on the values of democracy continues to be crucial to the transatlantic relationship, but we must accept that democracy comes in different forms in each cultural context and that it is neither possible nor effective to spread it with the use of force. This does not mean to say that we must always renounce the use of force, which will sometimes be essential—rather, we need to define under what conditions we are willing to use it, in what manner, and with what limits. An open vision of democracy may be more conducive to spreading it and to shared visions with other countries outside the western sphere.

We must accept that the interests of different parties will not always coincide and that we need to find game rules that provide us with sufficient autonomy to defend ourselves effectively. We must thus address openly the different approaches to some international problems (Middle East, Central Asia, Russia, etc.) by identifying points in common and reaching compromises in non-coincident aspects.

In order for this to be possible, we Europeans should assume our responsibilities in a realistic manner, otherwise the US tendency to break away from Europe may become more marked and only by assuming responsibilities and commitments will we succeed in maintaining its ties with Europe. Taking our share of responsibilities means, among other things, that we must «spend more, spend better, spend together» on defence capabilities (both military and civilian) and continue along the path of establishing a single defence market to ensure more effective management of costs and procurements, by promoting the EDA and strategic alliances between companies both sides of the Atlantic.

This strategy involves deepening the process of NATO's transformation and the adoption of a new strategic concept defining what sort of strategic alliance there should be between NATO and the EU and the comprehensive approach that should govern crisis management strategies. This implies that NATO continues to be a political and military alliance for transatlantic collective defence but will also continue to engage in crisis management missions that require the use of high military capabilities.

When defining the comprehensive approach, which involves integrating military and civilian capabilities for crisis management in varying proportions depending on the characteristics and developments of the crisis, NATO will not equip itself with its own civilian capabilities.

This means —as, for example, in Afghanistan to date— that in order to implement a comprehensive strategy NATO must seek the necessary civilian capabilities. This can continue to be done through the contribution of national civilian capabilities by the countries (as with the PRTs in the ISAF operation in Afghanistan) or through arrangements with multinational organisations having such capabilities, such as the EU.

The 2005 study «European Defense Integration: Bridging the Gap between Strategy and Capabilities» (25) led by Michèle A Flournoy and Julianne Smith, proposed building a Berlin Plus in Reverse system which

(25) Compiled by the CSIS, Washington.

would allow NATO access to civilian and police capabilities of the EU for crisis management operations, in the same way that the Berlin Plus arrangements allowed the EU access to NATO military capabilities, as discussed earlier.

This proposal was part of a broad-ranging study and a series of proposals for defence integration in the EU and its relationship with NATO, and has subsequently been repeated, although some hold the view that the proposal could reaffirm the idea of the EU solely as a soft power that supplies civilian capabilities to a NATO that does not have them and would subordinate the EU's role to NATO in the process of crisis management, thereby establishing crisis management missions (over and above the collective defence mission) as its tasks.

At the same time, if the EU is to perform operations with higher military requirements, at least for a time, it will need to seek them outside the EU. This takes us back to the question of the Berlin Plus agreements (26). Some are of the opinion that these arrangements are not operational or even that as long as the EU continues to depend on them it will be impossible to develop a genuine military capability that enables it to be autonomous and make its own decisions on the basis of this capability.

However, the European Security Strategy states that «The EU-NATO permanent arrangements, in particular Berlin Plus, enhance the operational capability of the EU and provide the framework for the strategic partnership between the two organisations in crisis management». Although it is true that this document dates from 2003 and there have been serious problems implementing it ever since, it is equally true that the 2008 report on the implementation of the European Security Strategy does not question these arrangements but, recognising the progress and difficulties, states that «we need to strengthen this strategic partnership in service of our shared security interests, with better operational co-operation, in full respect of the decision-making autonomy of each organisation, and continued work on military capabilities».

The basic problem (though not the only one) is, as we have seen, Turkey's blocking stance. And we may sense that if it is not allowed to join the EU the agreements will not be fully operational. Evidently the EU's attitude towards Turkey cannot be determined by the implementation of the Berlin

(26) En «EU and NATO: co-operation or competition» pp 10-12, compiled by the Policy Department External Policies, of the European Parliament in October 2006.

Plus arrangements, although non-acceptance of Turkey may have consequences beyond this question and could block NATO-EU relations.

The EU must find an answer to the situation of Turkey in keeping with basic strategic interests in which internal and geostrategic aspects may come into play. We cannot forget that Turkey enjoys a central geostrategic situation between Europe and Asia, and not only on account of the passage of oil and gas pipelines, and also between Europe and the Middle East, where it can play a major role in relation to the Arab-Israeli conflict. Nor should we be unaware of its position in relation to the conflictive Caucasus region and its position and connections with countries of Central Asia, with several of which it shares cultural and linguistic ties; or its position with respect to the Iranian area. We should also consider water-related aspects in an area where this resource plays a potentially conflictive role. And it is a country with an Islamic culture but is constitutionally lay.

A solution not sufficiently satisfactory to Turkish wishes and interests (27) could lead to growing disaffection towards the western world and its values and interests and a rapprochement with others. This, bearing in mind the foregoing, could have disastrous consequences for European and western security. If the Berlin Plus arrangements remain blocked, it will still be very difficult to devise another framework for EU-NATO agreements, as the basic problem would continue to exist. Only a solution to this problem will allow us to refloat, adapt and deepen the mechanisms provided for in Berlin Plus and make possible the existence of a real strategic alliance between the two organisations (28).

FINAL THOUGHTS.

The entry into force of the Lisbon Treaty consolidates the EU's security and defence policy as a common policy, at least on paper. The new situation raises two questions that need to be answered: what do we need to do to ensure it is effective in practice as well? And what are the implications for transatlantic relations, both EU-NATO and EU-US?

We have analysed and underlined some issues in this chapter, especially in relation to the second question. But the possible answers to both are

(27) It is necessary to clarify the positions of the EU countries given the difficulties of a process in which some might propose not integration but the formula of «everything but the institutions»

(28) See the aforementioned text by Didier Billion and Fabio Liberti.

related. We are talking about questions of political will and common level of ambition of the countries that make up the EU — many of which also belong to NATO— and therefore about the will and ambition of the EU itself.

The CSDP will not be a reality but a political will that translates into commitments to integrate policies and endow them with sufficient resources to guarantee their effectiveness. Will, ambition and commitment will set the pace and results of the CSDP and will determine whether it will be possible to give real consideration to the role we accord transatlantic relations in general and in the security and defence field in particular.

Broadcasting the wish for the CSDP to be autonomous and independent with respect to the US and NATO will amount to no more than playing to the gallery unless we equip ourselves with sufficient resources, accept the costs and are capable of devising an authentically European Union Common Foreign and Security Policy based on the definition of the EU's common interests—which cannot be simply the sum of the national interests of each Member State or of some of them. Capabilities are required for any policy, they need to be paid for and that requires political will. And it will be the pace of progress of European integration that determines this will. Having the instruments, the military and civilian capabilities for shaping a comprehensive security and defence policy is a question of resources and management, but their use is a question of political decision, as the CSDP, as the Lisbon Treaty states, is part of the CFSP. Without a CFSP that is truly accepted by all the countries we may even have the capabilities for a CSDP but will be incapable of putting it into practice. It will be the result of a process and progress will be made step by step, as has been done up until now and as is customary in the process of building the EU.

When we reach the end of the process (a common defence), we will be able to consider a radical approach to transatlantic relations. While the process is under way we should gradually adapt these relations to the situation at each particular moment. And this situation will be marked by developments in the geostrategic situation, the strategy of the US and each country's will within the EU and with it the possibility of advancing in common positions and actions of the EU.

At present, although some speak of a «post-American Europe» and a «post-European America» (29), there are still basic ties: we share the

(29) HOOP SCHEFFER, Alexandra de: *Après l'«effet Obama»*. *Reflexions sur la relation Etats Unis/Europe ou le triomphe du «pragmatisme mutuel»*. Fondation Robert Schuman, 2010.

values of democracy and, at least, some interests. It is still advantageous for both sides to maintain the transatlantic link. The temptation to give priority to other strategic alliances exists for both but would be negative for everyone.

The transatlantic link continues to be crucial to international peace and security. Implementing this link will no doubt require a great deal of pragmatism from both sides and it will be progressively adapted to situations. Today NATO continues to be a privileged expression of this link for western security and defence and for international stability. At present the relationship within NATO continues to be a relationship between countries. As the CSDP advances, we will be able to make headway in a relationship between the US and the EU in the field of security and defence, bilaterally, and within NATO. Failure to get the pace right could trigger crises in transatlantic relations, and these crises are ostensibly more detrimental to the European side of the relationship.

It is necessary to update our relations, we need each other; NATO needs to be adapted through the new Strategic Concept (30) and the implementation of the comprehensive approach for crisis management; it is necessary to bring up to date the relationship agreements between the EU and NATO; the US must redefine its role in the world and the EU must specify its ambitions (what sort of player do we want to be? Do we want to be just an actor or a scriptwriter too?) and assume the consequent commitments and our share of responsibilities.

The privileged transatlantic relationship has marked the second half of the 20th century. If we wish to continue advancing towards a fairer and more democratic order, an equally democratic security, and all-round progress, then maintaining, updating and deepening the transatlantic links remains a crucial and unavoidable need.

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CHAPTER SIX

EUROPEAN UNION-RUSSIA RELATIONS, THE «EASTERN PARTNERSHIP», THE FUTURE OF THE OSCE, AND THEIR CONSEQUENCES FOR THE COMMON SECURITY AND DEFENCE POLICY (CSDP)

EUROPEAN UNION-RUSSIA RELATIONS, THE «EASTERN PARTNERSHIP», THE FUTURE OF THE OSCE, AND THEIR CONSEQUENCES FOR THE COMMON SECURITY AND DEFENCE POLICY (CSDP)

FRANCISCO JOSÉ RUIZ GONZÁLEZ

INTRODUCTION

When addressing the question of relations between the European Union (EU) and the Russian Federation, the majority of analysts, using a line of argument developed during the years of Vladimir Putin's presidency (2000-2008), have a clear vision about how they should be pursued and support this vision with a series of key ideas so widespread that they are almost clichéd.

Firstly, it is fairly widely held that Russia is not even a European nation on account of its legacy from the Eastern Roman Empire and Byzantium, its vast Asian territory and the attitude of its rulers—more characteristic of eastern satraps than of civilized western statesmen.

Furthermore, so it is claimed, hardly any common interests can be identified as being shared by the EU and Russia, and the few that exist cannot be addressed between a 21st-century post-modern entity like the EU and a dysfunctional, nostalgic and aggressive power like the Federation, which continues to play the 19th-century geopolitical game of spheres of influence.

In this dynamics, Russia is preventing the democratic development of the neighbouring states, where modern and pro-western leaders lead movements to shake off the Russian yoke that is the legitimate *de facto* heir of the Soviet regime, responsibility for whose actions throughout the seventy years of Communism (such as the famine in Ukraine in the 1930s) should be attributed to the current Federation.

What is more, nor can progress be made in one of the few areas in which Europe may have an interest in dealing with Russia —the en-

ergy supply the EU needs to maintain its current economic development and wellbeing— because the Kremlin uses its resources as a geopolitical weapon, periodically cutting off supplies in an arbitrary manner.

In short, the establishment of a strategic partnership with Russia is by no means a priority for the EU in the opinion of those who uphold this view. They maintain that the West should limit itself to merely pointing out the shortfalls of Russia's political system and its lack of respect for human rights at all the available forums (Organisation for Security and Cooperation in Europe, OSCE, the Council of Europe, the European Union itself).

However, readers will not find these arguments — which are only too well known and entirely respectable and enjoyed a heyday following the Georgian crisis of August 2008— in the present chapter but very different ones offering an alternative vision of what EU-Russia relations should be like.

Beginning with the question of whether or not Russia belongs to Europe, this essay sets out to show it has been, is, and will continue to be a European nation; that its interaction with the rest of the continental powers has been constant since the 9th century; and that precisely the greatest threats to its security have been successive invasions from the West, which have contributed decisively to shaping Russia's perception of its security.

As regards interests, taking respective security strategies as a reference, readers will find that the EU and Russia identify practically the same risks and threats. This should make it possible to establish common strategies for addressing them, especially as the Russian armed forces possess some of the critical capabilities that the EU has not yet managed to develop under its Common Security and Defence Policy but are essential to the implementation of its missions.

With respect to the undeniable position of strength today's Russian leaders enjoy in what they consider to be their «sphere of interest (not influence)», it will be seen how, on occasions, the leaders of the «new independent states» resulting from the disintegration of the USSR have based the shaping of their national identity on the pursuit of an external enemy —almost always the new Russia— with the added problem of the Russian ethnic minorities remaining inside their borders, many of which were established artificially in the Soviet era.

In energy matters we will see how, as in any business transaction, there is a party that wishes to sell its goods (in this case Russia) and

one that wishes to buy them (in this case the EU), and that neither is interested in interrupting this flow of goods and currency which makes for a symbiotic relationship. A very different matter is the problem of the conduct of the countries of transit, which is so evident that it has led Russia and western countries like Germany to «bypass» these countries by means of new gas pipelines.

Lastly, the chapter sets out to show that the EU-Russia global strategic partnership agreement, long called for by Russia, is of an importance comparable to that of relations with the US, and should encompass all fields of collaboration. However, given the subject of the chapter we will concentrate on the Common Foreign and Security Policy and the relevant component of what is now the Common Security and Defence Policy (1).

The conclusion to be drawn is therefore that now, when we are celebrating the entry into force of the Lisbon Treaty following which Europe will be better placed to assume its role as global actor on the international stage, is the time to intensify relations and collaboration with Russia in its pursuit of effective multilateralism and promotion of stability in its immediate neighbourhood. This effort should begin by providing a response to the proposal for a new European security architecture on which to ultimately build a space of common security stretching from Vancouver to Vladivostok.

RUSSIA'S EUROPEAN IDENTITY THROUGHOUT HISTORY

Russia as eastern frontier of European civilisation

Although Russian history skips back and forth between Europe and Asia, this section will focus on Russia's interaction with its western neighbours, describing only the milestones which, on account of their significance, have helped shape Russia's security culture and strategic perception of threats or are relevant to proving that Russia belongs — indisputably, in my opinion — to the Old Continent.

(1) Although not the subject of this essay, it should be pointed out that in the field of promotion of the rule of law, human rights and democratic values, the line of action should be to develop specific programmes in collaboration with Russian civil society, which help re-establish mutual confidence and overcome the undeniable problems of the Russian political system, applying the same pragmatic approach that the West employs with much more autocratic regimes than that of the Kremlin.

According to «Nestor's Chronicle» (2), Kievan «Rus» was founded in about 880 by the Varangian (Scandinavian) prince Oleg, who led a rebellion against the Khazar Khanate in 884 (3). In 907 Oleg himself led a failed assault on Constantinople, and in 911 signed a trade treaty with the Byzantine Empire, establishing a relationship which would have a determining influence on Russian history.

In 988 Prince Vladimir embraced Christianity. The so-called «baptism of Rus» was a choice. Russia opted for Europe, and fought against the Asian peoples of the Orient to defend its new identity and independence. This struggle ended in failure with the invasion of the Mongol hordes and the conquest and destruction of Kiev in 1240.

Russia's interaction with the nations to its west

That year, 1240, witnessed Russia's first important interaction with the West, which was not in aid against the Mongols but the invasion at the Neva of a large Swedish army that was defeated on 15 July by the Russian national hero Alexander Nevsky. When the Teutonic Order invaded Russia in 1242, Nevsky again led the resistance, and the Catholic knights were defeated on the frozen Lake Peipus. Had it not been for these victories, Russian national identity might have been completely erased from the face of history.

Following the fall of Constantinople in 1453 and the wedding of Ivan III, Grand Duke of Moscow, to Sophia Paleologue, niece of the last emperor, in 1472, the Russian sovereigns proclaimed themselves legitimate heirs to the imperial tradition, adopting as a shield the two-headed eagle of the Eastern Roman Empire, thus converting Moscow into the «third Rome». When Ivan III was offered the Habsburg crown in 1488, he turned it down, arguing that his authority stemmed from his ancestors and had

(2) The Russian Primary Chronicle or Nestor's Chronicle (in Russian: Пóвeсть вpeмeнны́х лeт, literally «Tales of Bygone Years») tells the history of Kievan Rus between 850 and 1110, and was written in Kiev around 1113. Unlike other medieval chronicles written by European monks, Nestor's Chronicle is unique in its kind as there is no other written testimony of the early history of the east Slavic peoples.

(3) The Khazars were a semi-nomadic Turkic people of Judaic faith who founded their khanate in the north of the Caucasus in the 7th century. In the 8th century, in alliance with Byzantium, they fought successfully against the Arab caliphates, preventing the invasion of Eastern Europe and the spread of Islam in a similar role to that of the Franks at the battle of Poitiers (in 732), which halted the advance of Islam in the West. The rise of Kievan Rus marked the end of the history of this people.

God's blessing, and did not need to be legitimated by the West (4). This decision may be considered one of the most important in both Russian and European history.

The Lithuanian-Polish dynastic union of 1368 became a fully-fledged commonwealth in 1569 with the «republic of the two nations». It was at odds with the first sovereign to be called «tsar», Ivan IV (better known as «the Terrible»), who ruled Russia from 1530 to 1584 and extended the eastern frontier as far as the Volga after defeating the Tartars in Kazan and Astrakhan (5). The Polish/Lithuanian-Russian struggle materialised in the occupation of Moscow in 1610 and its subsequent liberation on 4 November 1612, a date which, highly significantly, Russia has returned to celebrating as a national feast day since 2004 as it did between 1649 and 1917.

Peter the Great (1682–1725), impressed by the progress of the West, played a pivotal role in adapting the country to the European system of states. Following the «Great War of the North», Russia snatched from Sweden four provinces in the Gulf of Finland, where it built its new capital, St Petersburg, as a «window onto Europe» to replace the more Asian Moscow.

Catherine II «the Great» (1762-1796) continued the work of Peter I. In the south she warred against an Ottoman Empire in decline and extended the frontier as far as the Black Sea (6). After that, with the collaboration of Austria and Prussia, she annexed the east of the Polish-Lithuanian Commonwealth during the «Partitions of Poland» and moved the frontier to Central Europe. By the time Catherine died, her expansionist policy had converted Russia into one of the major European powers.

(4) TARNAWSKI Eduard, *Historia, mitos y fábulas para comprender la política rusa hoy*, La Ilustración Liberal, April-June 2007.

(5) Under Ivan IV, Russia even extended beyond the Urals, colonising the Obi valley. These conquests secured the Empire's eastern borders, and the Nomadic peoples never again invaded Russia's European territory. Thenceforward all threats would be in the form of successive invasions from the West.

(6) In this southward expansion, the Tsarina defeated the khanate of Crimea, a vassal state of the Ottoman Empire, incorporating into the Russian Empire the entire Black Sea coast between the Crimean peninsula and Odessa. These territories, which had never belonged to «Kievan Rus», were arbitrarily incorporated into the Soviet Socialist Republic of Ukraine after the revolution of 1917, are a source of conflict between Russia and present-day Ukraine, and are home to the largest ethnic Russian minority, who largely vote for candidates in favour of a better relationship with the Kremlin (such as Yanucovych in 2004).

Her grandson Alexander I (1801-1825) managed to annex Finland at the expense of Sweden in 1809, helped defeat Napoleon after the French invasion of Russia in 1812, adopted the title of King of Poland in 1815, and forged the Holy Alliance with Austria and Prussia that September to oppose the liberal movements in Europe. During this period Russia played an important political role, but its failure to abolish slavery hampered any kind of economic progress.

In 1853 Tsar Nicholas I aspired to become the champion of the Orthodox Christians under the rule of the Ottoman Empire. But if Russia were then to seize control of the Dardanelles and Bosphorus straits, gaining access to the Mediterranean, its rise would be unstoppable; therefore, when war erupted the Europeans took the side of the sultan in what became the Crimean War. Russia felt betrayed by the West and, had England and France not come to the Turks' aid, Istanbul would be Constantinople again today.

While Europe grew unstoppably during the industrial revolution, Russia, under the autocratic reigns of Alexander III (1881-1894) and Nicolas II (1894-1917), lagged behind the West as never before. This considerable backwardness caused the Empire serious problems that culminated in the revolutions of 1905 and 1917, giving rise to the birth of the Soviet Union.

The first conclusion is that the history of Russia (which, incidentally, is inseparable from that of Belarus and that of Ukraine) cannot be understood without its interaction with the rest of the nations that successively shaped the history of Europe. Even accepting the existence of a civilisation distinct from that of the «West», and which —to paraphrase Huntington (7)— we may term «Orthodox», many of the countries which make it up (Greece, Bulgaria, Romania) have been fully incorporated into the Euro-Atlantic organisations. In short, Orthodox civilisation may not be western, but there is no doubt that it is fully European.

As a second conclusion, we find that once Russia secured its eastern border in the 16th century, the successive invasions the country suffered no longer came from the nomad peoples of the steppes but from the

(7) «Several scholars distinguish a separate Orthodox civilisation, centred in Russia and separate from Western Christendom as a result of its Byzantine parentage, distinct religion, 200 years of Tartar rule, bureaucratic despotism [first Tsarist and subsequently Communist], and limited exposure to the Renaissance, Reform and Enlightenment and other central Western experiences». HUNTINGTON, Samuel P, *The Clash of Civilizations and the Remaking of the World Order*, Touchstone Editions, 1997, pp. 45-46.

European nations (Sweden, Poland-Lithuania, France, United Kingdom, and Germany) with which they vied for greater influence. This fact has contributed decisively to shaping Russia's vision of its security and defence, and helps explain its obsession with not being encircled, and with establishing glacis (or buffer zones) of nations that isolate it from potential threats.

GEOPOLITICAL DEVELOPMENTS IN RUSSIA AFTER THE END OF THE COLD WAR

Having summed up the process of Russia's interaction with Europe, omitting the Soviet Union era (8), it is important to recall the events that led to the birth of a new Russia after the Cold War ended. After the danger of regression represented by the failed coup d'état of August 1991 was warded off, the disintegration of the USSR in December ushered in what we might call one of the biggest geopolitical retreats in history; at the western border Russia returned to the sixteenth-century boundaries established by Ivan «the Terrible».

During this process, characterised by the creation of the Commonwealth of Independent States (CIS), the former empire progressively relinquished the formation of joint armed forces, an economic area with the rouble as currency, dual citizenship and the maintenance and joint surveillance of external borders. In return, Russia was sole heir to the Soviet Union's nuclear power, its permanent seat with veto power on the UN Security Council, its foreign possessions and its sizeable foreign debt.

Yeltsin and the decline of the Federation. Attempts at integration into the West

The Russian authorities' vision of the period, in consonance with that of authors like Francis Fukuyama, was that the «end of history» had been reached in Russia-West relations and a new period of shared trilateral

(8) We may view the Communist period (1917-1991) as an interval in Russian history and the current Federation as heir to the last years of the Tsarist Empire (when, after the revolution of 1905, the Tsar ceded part of his absolute power to the Duma) or of the liberal revolutionary regime headed by Alexander Kerensky in 1917. In any event, it should be remembered that this period witnessed a new invasion from the West, that of Hitler's Germany, which claimed some 20 million Russian victims, most of them civilians.

global leadership was dawning, with the EU and the US as partners. Unfortunately for Russia, what they held to be concessions made by a nation which had been capable by itself of toppling the Communist regime was regarded by westerners as the minimum reparations due for the damages caused by the Soviets during the Cold War, from which Russia emerged as a defeated power(9).

Interaction with the West in the 1990s therefore did not lead to Russia's desired integration into the new world order. A poor, chaotic and disorganised nation, it had to look on as NATO's successive eastward enlargements (which western leaders had assured would not occur) (10) progressively diminished its buffer or neutral glacis, evidencing its geopolitical defeat. Neither was NATO going to disappear (as Russia initially hoped) nor was it going to open its doors to Russia (initial collaboration was relegated to the North Atlantic Cooperation Council, NACC).

Geopolitical defeat was further exacerbated by geo-economic humiliation in the form of conditional aid from the International Monetary Fund (IMF), the end of the monopoly on the transport of oil from the Caspian to Europe (with the financing of the Baku-Tbilisi-Ceyhan pipeline), and the financial crisis of 1998 (with a brutal devaluation of the rouble).

In 1999, western criticisms of the second Chechen war, Polish, Czech and Hungarian accession to NATO and the organisation's military campaign against Yugoslavia over the Kosovo crisis (11) marked the height of Russia's humiliation and resentment (12), with most of the nation living in dire poverty.

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- (9) TRENIN, Dimitri. *Russia's Spheres of Interest, not Influence*, Centre for Strategic and International Studies, «The Washington Quarterly», October 2009, p. 5.
- (10) The promise was made to the still president of the USSR, Mikhail Gorbachev, by James Baker (US secretary of state) during the 2+4 negotiations for German reunification, that NATO would not budge «an inch» eastwards. Baker subsequently attempted to justify his statement by claiming that he was referring to the possible presence of NATO troops in East Germany and not to Eastern Europe as a whole.
- (11) **At the time the rhetoric of the Russian leaders was especially harsh: «I have already told Nato, Americans and Germans: Don't push us to military action, since that will certainly lead to a European war or even a world war».** Statements made by Yeltsin to various western media in April 1999.
- (12) **The Russian foreign minister Andrei Kozyrev, known in Russia as «Mr Yes» for always adapting to the position of the West, came to state that «it's bad enough having you people telling us what you're going to do whether we like it or not. Don't add insult to injury by also telling us that it is in our interest to obey your orders».** SIMES Dimitri K., *Losing Russia*, Foreign Affairs, Nov/Dec 2007, p 40.

Putin and Russia's resurgence. Attempts at collaboration with the West.

Russia's prime minister from September 1999 (de facto successor of Yeltsin), and president from January 2000, from the beginning of his term in office Vladimir Putin asserted Russia's difference and sought collaboration with the West instead of integration into the West; the culminating moment came with its offers of cooperation following the attacks of 11 September.

When he came to power, Putin proved he had a strategic vision of the direction in which the country should be steered to overcome the chaos of the 1990s and expressed it in the document entitled «Russia on the threshold of the millennium», drafted with the assistance of the newly established Centre for Strategic Reform. In it Putin undertook to provide Russians with what they most needed: «stability, certainty, and the possibility of planning for the future —their own and that of their children— not one month at a time, but for years and decades» (13).

Russia's greatest weakness was the state of its finances. In 1999 the country was bankrupt, had a 16.6 billion dollar loan from the IMF and only 8 billion dollars in foreign currency reserves. Fortunately for Putin, rising oil prices (from 10 dollars per barrel in 1998 to 35 in 2000) enabled him to start remedying the situation. Therefore, from the beginning of Putin's term in office, Russia's huge energy resources were the factor that made possible the reforms undertaken in pursuit of his «strategic vision» of the country.

A potential area of collaboration between the West and Russia at the time was the fight against Islamic fundamentalism and international terrorism. Putin's first decision, still as prime minister, was to renew hostilities in Chechnya. He immediately attempted to secure US collaboration against al-Qaeda and the Taliban, concerned by Chechen Islamic guerrilla fighters' connections with Osama Bin Laden's organisation and the fact that Afghanistan was the only nation that maintained diplomatic relations with the rebels.

This overture was ignored by Bill Clinton, who was frustrated by Russia's stance in the Balkans during the Kosovo crisis and viewed Russia not as a potential collaborator but as a nostalgic, dysfunctional and financially weak power at whose expense the USA stood the most to gain. Georgia's President Shevardnadze was thus encouraged to apply

(13) GADDY Clifford G., KUCHINS Andrew C., *Putin's Plan*, The Washington Quarterly, spring 2008, p. 121.

for NATO membership, and orders were given to the US embassies in the former Soviet republics of Central Asia to work against Russian influence in the region.

It took three thousand deaths on 11 September 2001 for the US to change its attitude towards Russia and for Moscow to experience a surge of powerful emotional support for America. Putin reiterated the offers of collaboration ignored in 1999, allowed American aircraft to fly over Russian territory, supported the establishment of US bases in Central Asia and facilitated contacts with the Northern Alliance, which was provisioned and trained by Moscow and immediately available to attack the Taliban—all of this (only naturally) with a view to its own national interests in Chechnya.

Russia as an isolated power in a multipolar world. The Russian «sphere of interest»

Subsequent developments in international relations, marked by the unilateralism of the Bush Administration, the beginning of the Global War on Terrorism (GWOT) and the invasion of Iraq in 2003, marked a shift towards a third trend—Russia's self-definition as a major independent power with global interests.

In summer 2006 Moscow recovered its financial sovereignty when it fully cancelled its external debt thanks to the steep rise in the price of oil since the middle of 2004. After sorting out its financial chaos, Russia set about addressing the changes in the international environment, many of which it considers illegal and the result of its weakness during the Gorbachev and Yeltsin eras. Examples of the foregoing include Kosovo, NATO expansion, the missile defence shield, the CFE (Conventional Forces in Europe) Treaty and others in which, in Russia's view, the unilateralism of the USA and the West appear to have taken advantage of its debilitation.

Each Russian action perceived as defiance of the existing order has triggered a reaction to exclude the Kremlin from some key institutions of the international system (for example, by allowing negotiations for the Federation's accession to the World Trade Organisation, WTO, to drag on for sixteen years), which, in turn, has led to harsher rhetoric from Russia. The US withdrawal from the Anti-Ballistic Missile (ABM) Treaty of 1972 particularly wounded the Kremlin's pride as it was one of the last vestiges of Russia's superpower status.

2003 was a key year regarding developments in Russia's position. It withdrew its forces from Bosnia and Kosovo, relinquishing its influence in the Balkans; in November it suffered a setback when the Moldovan government (following western advice) rejected the peace deal negotiated with the Slavic rebels of Transnistria (supported by Moscow); the idea was launched of a Single Economic Space with Ukraine, Belarus and Kazakhstan; the ineffective Collective Security Treaty Organisation (CSTO) was successfully transformed into a smaller but relatively functional organisation; and finally, crisis management was performed in Georgia by assisting Saakashvili —in a little known episode— in re-establishing the authority of Tbilisi in the separatist region of Adjara.

With these measures, during Putin's first term in office Russia made a major effort to integrate the CIS countries, forge alliances and expand its presence on the basis of so-called «soft power» (political leadership by strengthening economic and cultural ties). However, this strategy was blown to pieces by the «colour revolutions» of 2003-2005, which, in Moscow's view, were encouraged and backed by the West. Leaving out Central Asia, Washington's position with respect to two key countries for Russia, Ukraine and Georgia, warrants a separate mention.

The case of Ukraine is particularly sensitive for Russia owing to the historic ties that bind the two states and the Russian ethnic minority that fell under Kiev's sway after Ukraine gained its independence (it should be recalled that the Crimean peninsula was arbitrarily incorporated into the Soviet Socialist Republic of Ukraine by Nikita Khrushchev in 1954, to celebrate the 300th anniversary of Russian-Ukrainian reunification). America's posture was to back Yuschenko's «orange revolution» and encourage him to apply for NATO membership, even though these are two highly sensitive issues for Russia and Ukrainian society itself is deeply divided over them.

In the case of Georgia, positions are even more radical. Moscow supports the two rebel territories that do not recognise Tbilisi's authority, Abkhazia and South Ossetia, by granting Russian nationality to its inhabitants and deploying troops which, under the pretext of peace-keeping, are used to undermine Georgia's ability to regain control over these areas. For its part, the US firmly backs Georgia's President Saakashvili by equipping and training his army in exchange for his staunch support for American foreign policy, ignoring what Russia takes to be blatant provocations and episodes of persecution of his political ri-

vals—something that is openly criticised by Washington when it occurs in Moscow (14).

The most important embodiment of the growing tension was probably the famous address delivered by Vladimir Putin in Munich in February 2007 harshly criticising US foreign policy, with statements to the effect that the US interferes dangerously in the sovereign affairs of other nations, imposing its economic, cultural and education policies.

Bush retaliated by insisting on granting NATO Membership Action Plans (MAPs) to both Ukraine and Georgia at the Bucharest summit in April 2008 —an initiative vigorously opposed by Germany (15) and France— and continuing with the plans to install part of the ballistic missile defence shield in Polish and Czech territory. The confrontation between the United States and the Federation came to a head during the six-day war between Russia and Georgia in August 2008.

After the war in the Caucasus, Russia's new president, Dimitri Medvedev, made it clear that Russia would continue to defend the country's spheres of «privileged interest» and its citizens abroad. According to Medvedev, all nations have their interests and it is only natural for the Federation to view the former Soviet republics as key areas. At the end of 2008, the foreign minister, Sergey Lavrov, also made a number of statements on the unique relations and common civilisation that binds Russia and the CIS countries.

With this new outlook, the geographical limits of the tsarist and Soviet empires, including their newly independent countries, represent to Russia an element of the pole of power it aspires to build in order to avoid encirclement by the other major powers. This objective encompasses security and defence initiatives, such as the aforementioned CSTO, and also economic initiatives such as the Eurasian Economic Community

(14) Georgia sent troops to Iraq in 2004 as part of the US-led coalition. Furthermore, the only political counterweight to Saakashvili (elected president in January 2004 with a surprising 96% of the vote), prime minister Zhvania (who was in favour of more cordial relations with Russia), died in 2005 supposedly as the result of a gas leak in his home. Saakashvili's diplomatic style in his relations with Russia became clear when he stated publicly in Poland in 2006 that Russia is «a barbarous tribe of Huns».

(15) The reasons given by the German chancellor, Angela Merkel, range from the fact that the initiative is not fully backed by the respective populations, especially in Ukraine, to the fact that both countries have major internal security problems that disqualify them from belonging to the Alliance.

(EurAsEC), organisations to which the same group of countries belongs (Belarus, Armenia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, the latter with successive comings and goings).

In short, Russia's current vision of the world is a mixture of competition and collaboration between major powers, and its lines of action involve reinforcing its status in institutions of world governance (G8, G20, United Nations Security Council, informal groups such as BRIC) and —most relevant to the purpose of this analysis— the trilateral security structure proposed for the Euro-Atlantic area, comprising the US, the EU and Russia, which will be studied in detail later on.

RUSSIA'S CURRENT VIEW OF ITS FOREIGN AND SECURITY POLICY

Before determining what interests it shares with the European Union, it is necessary to sum up the basic documents which reflect Russia's vision of its international relations and security and defence model.

New «Foreign Policy Concept of the Russian Federation» of 2008

On 12 July 2008 President Medvedev approved the document entitled «Foreign Policy Concept of the Russian Federation» (16). Replacing that of June 2000, it provides a key to evaluating in what direction relations with the West may develop. A statement at the beginning of the document helps understand the Russian mentality, as one of the basic objectives of its external action is «to achieve strong positions of authority in the world community that best meet the interests of the Russian Federation as one of the influential centres in the modern world, and which are necessary for the growth of its political, economic, intellectual and spiritual potential».

In the document the Kremlin proposes a strategic partnership with the United States in order to overcome the barriers of the ideological principles of the past and concentrate on real threats. It underlines Russia's interest in ensuring that US actions in the world are based on the principles and rules of international law, beginning with the UN Charter, and calls for a sound economic base and pragmatism to underpin the bilateral relationship, respecting the balance of interests.

(16) Document available from the Kremlin website, www.kremlin.ruH.

With respect to the European Union, the document reiterates that it is a priority for Russia to agree on a strategic partnership treaty with the EU establishing more advanced forms of mutual cooperation in all spheres (economy, external and internal security, education, science and culture). In this respect, it is in Russia's interests to strengthen the EU, one of its foremost partners in trade, economic matters and foreign policy.

But the most important paragraphs refer to the shaping of a new Euro-Atlantic area of security. The chief objective of Russian policy in Europe is, the document states, to create a truly open and democratic system of collective security and cooperation ensuring the unity of the region, from Vancouver to Vladivostok, in order to prevent the reoccurrence of fragmentation and the reproduction of bloc-based approaches which still persist in Europe in the form of organisations (read NATO) established during the Cold War period. All this should be achieved in the framework of equal interaction between Russia, the EU and the US, which would strengthen the positions of the Euro-Atlantic states in a globalised world.

«National Security Strategy of Russia through to 2020»

On 13 May 2009 the Kremlin published a new, important document approved the previous day by Medvedev, which outlines Russia's actions in the field of national security until 2020. It is perfectly in line with the aforementioned «Foreign Policy Concept of the Russian Federation» and is notably harsh in stating (albeit implicitly) that the United States and NATO are the chief threats, not only to the Federation but also to global security.

It thus asserts that NATO is responsible for the current instability of the security architecture in the Eurasian region, that a further expansion of the Alliance beyond Russia's borders (read to take in Ukraine and/or Georgia) is unacceptable, and that the possibilities of collaboration would be reduced considerably with the intended deployment in Eastern Europe of America's ballistic missile defence shield.

Without expressly mentioning the US, the list of threats includes the policies of certain countries aimed at achieving overwhelming supremacy in the military sphere, especially in the field of strategic nuclear forces. To address the threat, the document states that Russia must seek a way of keeping up with the American superpower in the field of strategic offensive missiles. Nevertheless, it also states that Russia will adopt a pragmatic and rational approach in order to avoid a costly arms race similar to that of the Cold War period.

Lastly, it is also worth stressing the novel manner in which threats are defined in the document, as in addition to traditional menaces such as terrorism and nuclear proliferation, it includes other non-military threats such as AIDS, alcoholism and the impact of the global economic crisis, characteristic of modern concepts such as «human security», and sets as strategic objectives improving citizens' quality of life and diversifying the national economy, given its excessive dependence on sales of raw materials.

This document—the product of the aforementioned mounting tension between Russia and the West following Putin's second term in office and the post-Georgian-war period—marks a step backwards with respect to the document of the guidelines for the reform of the Russian armed forces, the so-called «Urgent tasks for the development of the Armed Forces of the Russian Federation» adopted by defence minister Sergey Ivanov in October 2003. The so-called «Ivanov doctrine» enshrined in it played down references to the threat represented by NATO and placed emphasis on new missions and threats such as international terrorism and small-scale conflicts.

MAIN INTERESTS SHARED BY RUSSIA AND THE EU

When examining the possible collaboration between two members of the international community—in this case the EU and Russia—the first aspect that needs to be studied is whether they share common interests, as if not agreements can hardly be expected to materialise. If the cooperation studied is in security and defence matters, it is necessary to seek common ground in their respective strategies.

Perception of risks and threats to international security.

The «National Security Concept of the Russian Federation» dated January 2000 (coinciding with the start of Putin's presidency) listed in detail the chief risks and threats to security at the beginning of the 21st century: proliferation of weapons of mass destruction, organised crime and drug trafficking, regional conflicts, environmental problems and nuclear insecurity. To address them, cooperation with the European Union is Russia's third priority after cooperation within the CIS and the desired strengthening of the OSCE.

As for the EU, the «European Security Strategy (ESS)» of December 2003 states that a large-scale aggression against a Member State is un-

likely, and that the threats Europe faces are more diverse, less visible and less foreseeable, including: terrorism, the proliferation of weapons of mass destruction, regional conflicts, failed states and organised crime. To address them, it states under the heading «working with our partners» that «we should continue to work for closer relations with Russia, a major factor in our security and prosperity». The 11 December 2008 report on the implementation of the ESS adds to those already quoted the threats against cyber-security and energy security and climate change.

From this study it may be deduced that the perception of risks and threats to international security is practically identical for the EU and for Russia. Both are declared enemies for Islamist international terrorism and have been the targets of some of the most serious indiscriminate attacks (Madrid and Beslan in 2004, London in 2005). They also belong to the «quartet» (along with the UN and the US) which attempts to settle the Middle East conflict and their naval forces are collaborating in the fight against piracy in the Indian Ocean, as well as in the NATO antiterrorist operation «Active Endeavour» in the Mediterranean. Finally, although Russia's position has been calculatingly ambiguous to date, there is no doubt about the significant role that falls to it to play in the Iranian nuclear issue.

In short, their interests are practically the same, as is their geographic area of interest (whether called «immediate neighbourhood» as the EU terms it or the Russian «near abroad»), and therefore only lack of political will can prevent cooperation in the respective security and defence policies. Nevertheless, given its far-reaching implications, we will pay special attention to energy security.

Gas geopolitics in Europe. Russia's key role

Russia's position with respect to the production of gas and its sale to the former Soviet republics is little short of a monopoly given the antiquated centralised layout of the gas pipelines. For example, in 2009 Gazprom purchased the entire 5 bcm (billion cubic meters) exported by Kazakhstan and the 15 bcm available in Uzbekistan for exportation. Turkmenistan is a special case, as up until 2004 the country kept up the pretence of a direct trade relationship with the main consumer of its gas, which is none other than Ukraine. In practice, as this gas was transported across Russia, this trade in fact hinged on the good will of Gazprom.

This situation changed radically when the price of gas in Europe began to rise in 2003 and when the «orange revolution» took place in Ukraine in

2004. Until then Russia supplied Ukraine with gas at subsidised prices similar to those of its own domestic market, but following the rise of power of Victor Yushchenko in January 2005 Moscow adopted a much tougher stance, making it clear that prices would be raised, as if Ukraine and Turkmenistan were unable to establish their own supply agreements without the involvement of the country of transit (17).

Since then Gazprom has been purchasing the lion's share of Turkmenistan's gas output, some 50 bcm per year, and has supplied some 55 bcm a year to Ukraine. Of this amount, 75% is actually from Turkmenistan and only the remaining 25% is Russian gas. The agreement which put an end to the gas war between Russia and Ukraine in 2006 basically established a considerably higher price for gas of Russian origin than what Gazprom would charge for Turkmen gas.

This arrangement functioned until 2008, when Russia began to speak of paying «European prices» to the Central Asian countries, with figures in the region of 340 dollars per thousand cubic metres, which would justify charging Ukraine some 380 dollars. The problem is that nothing appears to indicate that Russia is really paying such sums: Uzbekistan declared a price of 305 dollars for 2009, Tajikistan was receiving 300 dollars and it seems that Russia was paying even less for Turkmen gas. The result was the eruption of a new gas war between Russia and Ukraine in January 2009 of which Eastern and Central Europe bore the brunt, even more so than in 2006.

All these crises underlined the complicated role of Ukraine as a country of transit for EU-bound Russian gas, and that of Russia as country of transit for the gas produced in Central Asia, particularly Turkmenistan. Projects to diversify transit routes towards the EU were therefore stepped up, involving the construction of new gas pipelines.

Russia's option (and that of several Western European countries) is to bypass Ukraine as a country of transit (and the eastern members of the EU) through two new construction projects. The first is «Nord Stream»,

(17) The most obvious example of the unreliability and lack of fair trading practices of the former Soviet republics was Turkmenistan's signing of an agreement with Ukraine on the morning of 19 December 2005 to supply 40 bcm during 2006, at a price of 55\$ per thousand cubic metres, and one with Russia that afternoon to supply 30 bcm during 2006 at a price of 65\$ per thousand cubic metres, half of which was to be supplied in the first quarter of the year—which in practice amounted to the entire output, leaving no gas for Ukraine.

or the North European Gas Pipeline which will run from St Petersburg to Germany across the Baltic. Although the actual construction is progressing at a steady pace, the problem lies in determining whether, once it comes into service, Russia will make available the 55 bcm it aims to supply annually to Western Europe (18). The southern equivalent is «South Stream», the South European Pipeline, which would connect Russia's Black Sea coast with Bulgaria, although its excessive cost (calculated at 20 billion dollars) and foreseeable supply of only 20 bcm make it considerably less feasible than Nord Stream.

The EU is also promoting its own alternative to these Russian projects in order to diversify its sources and lessen its dependence on Russia. This involves securing the so-called «South Corridor» with the construction of the «Nabucco» gas pipeline, which is designed to connect the gas fields of Azerbaijan with the heart of Europe and will run for 3,000 km across Georgia, Turkey and the Balkans. It is budgeted at 8 billion euros, of which the European Investment bank is putting up 25% and the European Commission itself 250 million, and its final supply capacity is expected to reach about 30 bcm.

However, once again the problem lies not in building the infrastructure but in achieving enough gas to make it worthwhile. Although Azerbaijan could supply between 12 and 16 bcm, it is essential to connect it with the Central Asian republics, particularly Turkmenistan and Kazakhstan, via the «Trans-Caspian» gas pipeline. If we consider that these countries, as explained earlier, are Russia's main suppliers and, furthermore, are diversifying their clientele by building gas pipelines that run to China, we can appreciate the complexity of the situation (19).

Nabucco therefore depends on two other major developments at each of its ends: in Europe, the interconnection with the «Poseidon» gas pipe-

(18) This gas should originate chiefly from the fields of the Federation, and its availability will depend on the pace of development and level of Russian and foreign investment (basically from Western Europe) in the new gas resources. The significant appointment of former German chancellor Gerhard Schroeder as chairman of «Nord Stream AG» will no doubt help achieve this goal.

(19) The construction of the Trans-Caspian gas pipeline is being financed by RWE of Germany and OMV of Austria, two of the promoters of Nabucco. Forecasts for Caspian gas exports to the Chinese giant are for 10 bcm in the case of Kazakhstan and up to 40 bcm in the case of Turkmenistan. On 14 December 2009 the «gas pipeline of the century», which spans a distance of 8,000 km from Turkmenistan to China and will initially carry 4.5 bcm, became operational.

line designed to supply 8 bcm via Greece and Italy and, in the opposite direction, to link gas supplies from the Maghreb to Central Europe. At the Asian end, supply would be guaranteed by Iran's huge reserves (the second largest in the world after those of Russia), but this option depends on the development of the nuclear programme of the Islamic Republic.

It is appropriate to end this section by mentioning quote from «Russia's Energy Strategy through 2030», adopted this past August 2009. The document envisages a 10% increase in oil production up to 530 million tons per year (of which 300 million will be exported), and a 40% rise in gas production, bringing it up to 900 bcm (some 350 bcm to be exported), and estimates that 2.1 trillion dollars will need to be invested in the sector until 2030 in order to cut power distribution grid losses from 12% to 7%, among other things.

The government expects 90% of investment to come from private sources. As the Russian private sector will hardly be willing to invest in a market dominated by state corporations (Gazprom, Rosneft and Transneft), the conclusion is that it will be the major European companies which, through strategic partnerships, can provide not only the capital but also the essential know-how required to modernise the obsolete infrastructure dating from the Soviet era and start exploiting new reserves to provide the envisaged increase in output, which would strengthen the web of mutually dependent relationships.

EU and Russian positions vis-à-vis the Energy Charter Treaty

The Energy Charter may be traced back to the end of the Cold War and to the line of thought underpinning what we might consider the founding document of the new Europe—the Charter of Paris, which resulted from the «end of history» and from the definite victory of the political and economic systems of the western bloc, and was signed in 1990 in the framework of the then Conference for Security and Cooperation in Europe (CSCE).

The Energy Charter was signed in December 1991 (coinciding with the permanent disintegration of the USSR and the establishment of the CIS). It was the formulation of a multilateral regime in energy investment, trade and transit matters, and gave rise to a first round of negotiations that dragged on for three years until a legally binding treaty was drafted (the Energy Charter Treaty, ECT) with a set of provisions on trade, transit and investments in the energy sector.

With respect to its geographical scope, given that the USA pulled out of the negotiations in 2003 and other producer countries such as Saudi Arabia, Venezuela and Iran only have observer status, the ECT has become a bilateral EU-Russian Federation matter, and is therefore one of the cornerstones of this relationship in terms of energy security.

The most complicated aspect of the development of the treaty was the transit of resources, as the obligation, expressed in article 7.1, of the contracting parties not to distinguish or discriminate on the basis of the origin, destination or ownership of energy materials was insufficiently defined, making it necessary to adopt a «Transit Protocol» in 2000.

When negotiating the Protocol Russia argued in favour of its right of first refusal on long-term supply contracts (with merely commercial criteria in terms of quantity of resources and prices) when they do not comply with transit contracts (referring to access to conduits, transit tariffs and even frequent thefts during transit), a right that is unacceptable to the EU. In turn, the Union wished to shorten the duration of both types of contract in order to encourage competition.

As an agreement was not reached, Russia decided to make ratification of the ECT conditional on the agreement on the Transit Protocol. Gazprom's influence on the process is undeniable, as the opening up of a corridor between Central Asia and Europe would deprive Russia of the control it currently exercises, as described. Another conflictive issue is the role of the «conciliator» with the power to decide on tariffs and supply in the event of a dispute between the parties. Gazprom no doubt prefers to negotiate the supply from the Central Asian countries and transit bilaterally with Ukraine.

Following the gas crisis of January 2009, President Medvedev proposed a new Energy Charter to replace that of 1991, centring not only on consumer countries but also on the producer and transit countries. Russia is in favour of including the US and other producer countries outside the Euro-Atlantic area in the treaty, as well as new energy sources such as nuclear energy. It is calling for the conciliation mechanism to be modified and the idea of non-discrimination to be introduced into the phase prior to investment.

Acceptance of Russia's proposal is a problem whether it is considered as a bilateral Russia-EU agreement, which would need to be ratified by the 27 member states (including those which systematically oppose any agreement with the Federation) or as a substitute for the Treaty of 1994,

to which many European states are opposed from the outset. However, the initiative is important to overcoming the current impasse triggered by the fact that, in practice, the obligations under the ECT affect only the former Soviet republics, as EU members are able to use community legislation to get round them.

In short, this issue seems to be at a standstill. What does seem clear is that it would be in Europe's interest for its possible strategic alliance with Russia to include a bilateral «Energy Charter Plus Treaty» covering the whole process from production to consumption, including transit, with conciliation mechanisms that are satisfactory to both parties and proper legal guarantees to ensure the permanence and reliability of contracts regardless of their duration.

A multipolar approach to the treaty, bringing in producer countries from other geographical areas, would ultimately be detrimental to Europe, as the current Gas Exporting Countries Forum could develop into the heralded «gas OPEC», amounting to a real strategic siege on gas supplies to the Union (20).

FORMAL EU-RUSSIA COOPERATION

Although the formal cooperation mechanisms progressively established in EU-Russia relations are an example of the triumph of the process itself over its practical content, they need to be studied in order to ascertain how they could be optimised, especially bearing in mind the recent entry into force of the Lisbon Treaty and the EU's negotiations of a new comprehensive agreement with the Federation to replace the one which expired in 2007.

The 1997 Partnership Agreement and EU-Russia Cooperation

During the 1990s the EU attempted to apply to Russia the same strategic guidelines as to the Central European countries: to hasten a change in its system and conversion into a market economy by means of external pressure. For this purpose it designed a Partnership and Cooperation

(20) The Gas Exporting Countries Forum formally adopted its charter at the Moscow meeting in December 2008, is formed by Russia, Iran, Venezuela, Bolivia, Libya and Algeria, among other countries, and has so far refrained from regulating gas prices and from coordinating gas field exploitation, but will reach agreements in the field of investments.

Agreement (PCA), signed in 1997. The PCA, with 10-year duration, envisaged market liberalisation and the harmonisation of standards on the basis of the *acquis communautaire*, political dialogue, technical cooperation and progressive coordination in police and justice affairs.

If this mechanism did not enjoy greater success this was due basically to the Russian financial crisis of 1998, which ended up dislocating the market relations which had begun to take shape in 1991, and to the inefficiency of the Yeltsin Administration. But by devaluing the rouble, the crisis of 1998 made it possible to reorganise the internal market again starting almost from scratch and a led to the definite acceleration of the plundering of resources and the formation of an economic oligarchy which Vladimir Putin had to address on assuming the presidency.

The key issue is that the PCA is not a true strategic agreement between the EU and Russia. Nevertheless, another set of initiatives which did adopt this approach arose during the 1990s: the Madrid European Council of 1995 (coinciding with the adoption of the «New Transatlantic Agenda» with the US) adopted the document entitled «EU strategy for future EU-Russia relations», one of the stated objectives of which was to consolidate peace, stability and security in order to prevent new dividing lines in Europe, but without establishing practical channels through which Russia could collaborate to address the new security challenges.

The signing of the Treaty of Amsterdam in 1997 equipped the EU with a new political tool in the field of CFSP, the possibility of adopting «common strategies» for certain countries or regions. The first of these strategies was precisely the «EU Common Strategy on Russia» adopted at the Cologne Council in June 1999. It establishes four areas of action, two of which are related to the Union's security and defence project (stability and security; and common challenges in the European continent).

The document lists important principles: that EU-Russia cooperation should promote not only regional security but also global world security; that «joint foreign policy initiatives» could be adopted for Russian participation in WEU missions (the Union's military wing in that period); and that closer collaboration was needed in defining a new security architecture in Europe in the framework of the OSCE. However, in a curious parallel process, NATO began its eastward expansion by taking in Poland, Hungary and the Czech Republic in 1999, and consolidated it with the major enlargement of 2004, forgetting the possible role of the OSCE and perpetuating the dividing lines that were to be avoided.

The four «Common Spaces» of 2003 and their roadmaps

At the EU-Russia Summit held in St Petersburg in May 2003 it was agreed to reinforce bilateral relations by creating four «Common Spaces» in the framework of the PCA of 1997, based on common values and shared interests. These are the Economic area, the area of Freedom, Security and Justice, that of External Security and that of Research and Education.

Two years later, at the Moscow Summit of May 2005, it was agreed to develop instruments to put the common spaces into practice. This gave rise to the so-called «Roadmaps» establishing concrete goals and specifying the actions required to achieve them. In view of the scope of this article, we will focus on the space of External Security and its roadmap.

After stating that the EU and Russia share responsibility in maintaining security and stability both at the European level and beyond their borders, it established the following priority areas for enhanced bilateral cooperation:

- Strengthened dialogue and cooperation on the international scene.
- Fight against terrorism.
- Non-proliferation of weapons of mass destruction and their means of delivery, strengthening export control regimes and disarmament.
- Cooperation in crisis management.
- Cooperation in the field of civil protection

These areas are enshrined in the joint work to promote the role of the UN, the OSCE and the Council of Europe (it is highly significant that there is no mention of NATO, to which 21 of the 27 EU countries belong) in building an international order based on effective multilateralism and on the EU's interest in involving Russia (which is essential) in resolving «frozen conflicts» in the continent (Transnistria, Abkhazia, South Ossetia and Nagorno-Karabakh) and in promoting democracy in Alexander Lukashenko's Belarus.

As for the fight against international terrorism, the document stresses the importance of promoting the early finalisation of the UN Comprehensive Convention Against International Terrorism, while in the field of non-proliferation it pursues universal adherence to, and greater effectiveness of, all the relevant instruments (such as the Australia Group against biological and chemical weapons and the Missile Technology Control Regime, MTCR).

When examining in detail the roadmap for the common space of External Security (21), we find that, apart from the aforementioned general objectives, it establishes the following measures for crisis management, which is precisely the area with the greatest scope for practical application, in the field of the CFSP/CSDP:

- Promotion of contacts between military and civilians involved in crisis management structures of the EU and Russian Federation.
- Establishment of a standing legal and financial framework in order to facilitate cooperation in crisis management operations.
- Conclusion of an agreement on information protection.
- Exchange of experience in specific areas such as logistical aspects of operations, naval forces cooperation in navigation and hydrography, and cooperation of the EU Satellite Centre with Russia.
- Consideration of possibilities for cooperation in strategic air transport.
- Cooperation in the field of training, with observation and participation of representatives from the other party in both exercises and courses.
- Strengthening of the EU-Russia academic network for research in crisis management through exchange of research fellows between the EU ISS and its Russian counterparts for the purpose of joint studies.

Although in such cases the most difficult part is, of course, progressing from simply listing theoretic principles of cooperation to actually putting them into practice (in the case of Russia this difficulty is exacerbated by its ever-existing misgivings), there can be no doubt that the roadmap for this common space is well designed, and the sectoral objectives established should serve as a guide in Russia's future cooperation with the CFSP/CSDP following the entry into force of the Lisbon Treaty.

Russia's practical collaboration in the CFSP/CSDP

Until the entry into force of the Lisbon Treaty the level of Russian cooperation in concrete aspects of the CFSP/CSDP was far below potential. At the Helsinki Council of 1999 the decision was adopted to allow Russia to be invited to take part in EU-led missions and at the Nice Council of 2000 Russia was offered a mechanism for consultations with the Political

(21) The complete 2005 document on the roadmaps is available at http://ec.europa.eu/external_relations/russia/docs/roadmap_economic_en.pdf, and the measures on the common space of External Security occupy ten pages of it (from 34 to 43).

and Security Committee for crisis management during the routine phase. This mechanism could be broadened with the presence of Russian representatives on the «Committee of Contributors» of the EU Military Staff, in the event that Russian troops were to take part in the operation.

In «hard security» issues, it is evident that the Federation's armed forces possess key capabilities for EU action in the framework of both the European Rapid Reaction Force and the Battlegroups. Notable among these capabilities are strategic airlift, communications and positioning satellites (with GLONASS as an alternative to the American GPS), and considerable experience in the deployment and maintenance of military contingents in the theatre of operations, such as those present in the Balkans until 2003.

The situation is very different when it comes to «soft security», as Russia is perceived as the source of most threats (organised crime, all kinds of illegal trafficking, money laundering) as a result of which there is a tendency to tighten border controls and limit the granting of visas for the free movement of people. This poses a major problem to Russia, owing above all to the situation of the Kaliningrad enclave isolated between Lithuania and Poland.

For possible future collaboration, the entry into force of the Lisbon Treaty, with its new Common Security and Defence Policy tools, may eventually facilitate cooperation in specific operations or in the development of capabilities. For example, a possibility which could be explored is for Enhanced Cooperation or Permanent Structured Cooperation—which does not involve all Member States—to allow those which do take part to conclude collaboration agreements with the Federation. The European Defence Agency will play an important role in this field, especially with respect to interoperability and the development of capabilities.

INFLUENCE OF THE EUROPEAN NEIGHBOURHOOD POLICY IN THE EAST.

The European Neighbourhood Policy (ENP) was developed in the context of the EU's major enlargement in 2004, with the goal of preventing the emergence of dividing lines between the Union and its new neighbours and consolidating the stability, security and wellbeing of them all. It thus also addresses the strategic objectives established in the European Security Strategy.

The ENP was outlined in a Commission Communication entitled «Wider Europe» of March 2003, which was followed by a more elaborate Strategic Document on «European Neighbourhood Policy» published in May 2004. This document sets out the manner in which the EU proposes to work more closely with countries sharing a land or sea border with the EU —and later extended to countries sharing a border with candidate countries such as Turkey (which made it possible to include the nations of the South Caucasus)— and therefore includes northern Africa, the Middle East and Eastern Europe, the area we will be focusing on.

In its Communication of December 2007, the Commission stated the objectives and areas requiring additional efforts from the EU in order to carry the ENP forward in 2008 and the following years:

- Greater commitment to fostering economic integration and improving market access.
- More ambitious progress in migration management: facilitating legitimate short-term travel, facilitating the granting of visas for certain types of visitors.
- Greater EU support for sectoral reforms carried out by partner countries in key areas (among others, energy and climate change).
- More people-to-people contacts and more exchanges in the educational field.
- Greater commitment to addressing frozen conflicts in neighbouring countries, making use of the whole range of instruments at the EU's disposal.
- Greater political and regional cooperation.

As can be seen, although all these points may come under the broader concept of «human security», the last two are fully relevant to the CSDP.

Characteristics and practical effects of the ENP in the CIS countries. The new «Eastern Partnership»

The core feature of the ENP is the bilateral «Action Plans» established between the EU and each of the partner countries. These plans set forth an agenda of political and economic reforms, with short- and medium-term priorities. So far the following action plans have been adopted and set in motion in the area: in 2005 with Moldavia and Ukraine, and in 2006 with Armenia, Azerbaijan and Georgia, but not yet with Belarus.

The Communication from the Commission to the European Parliament and the Council on the Implementation of the ENP in 2008 (22) explicitly refers to the difficulties caused by the war between Russia and Georgia in August and to the second gas war with Ukraine which began in December, both in the same year, a fact which underlines (though it is not mentioned) the far-reaching importance of EU-Russia relations in furthering this Common Policy.

In the field of CFSP/CSDP there are specific mentions of Ukraine and Armenia (which widely align themselves with common declarations and are actively involved in related matters) and Azerbaijan (which has taken small steps forward in settling the Nagorno-Karabakh conflict, with the EU maintaining its support in the negotiating framework of the OSCE's «Minsk Group»). However, the latter is a good example of how risks to continental security cannot be addressed through the ENP on account of its aforementioned bilateral nature, and the EU can only tackle the issue separately with Armenia and Azerbaijan.

Therefore in 2009 (at the Prague Summit) the EU launched a new initiative, the so-called «Eastern Partnership» (23), which includes Azerbaijan, Armenia, Belarus, Georgia, Moldavia and Ukraine, to further and complement current bilateral relations and to continue building stability and multilateral confidence. In the sphere of the CFSP, it is stated that existing conflicts hamper cooperation activities, and the need is therefore underlined to settle them as soon as possible on the basis of the principles and rules of international law and the decisions and documents adopted in this new framework.

Cooperation projects are addressed in four thematic platforms of which only one, that which focuses on energy security (24), is linked to the CSDP. This approach is somewhat limited, as a more general security platform could have been envisaged which, encompassing energy issues, would also deal with CFSP coordination with these nations in areas of common interest and their potential contribution of capabilities to the CSDP.

(22) Available at http://ec.europa.eu/world/enp/pdf/progress2009/com09_188_en.pdf.

(23) Joint Declaration of the Eastern Partnership at the Prague Summit, 7 May 2009, available at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/es/er/107630.pdf.

(24) The other three deal with good governance, economic integration and contacts between people.

What is more, it does not seem to make much sense that the thematic platforms of the Eastern Partnership do not coincide with the common spaces of EU-Russia cooperation, or indeed that the programmes for cooperation with the «common neighbourhood» (to use the Union's own definition) are not coordinated in the framework of the strategic Partnership between the two entities, which would help allay misgivings and misunderstandings. Indeed, Russia has stated, through its ambassador to the EU (25), that basically it does not oppose this effort, provided that it does not contribute to creating new divisions or artificial tensions between the nations involved (through an artificial dilemma: a promising future with the EU v. receding in time and space towards Russia).

EU-Russia convergences and divergences in the post-Soviet area

Although this chapter examines the agreements and disagreements between the EU and Russia since the end of the Cold War, it is necessary to underline two of the main obstacles to deepening the strategic relationship between them: the Union's lack of internal cohesion, especially following the enlargement to 27 countries, and the action of a third party, the US, which incidentally has little concern for the problems its attempts to secure greater influence in Eurasia may cause the EU.

The Union's major enlargement of 2004 to take in its new Eastern European members also marked the start of problems of all kinds with the Russian Federation, including historical resentment, the perception of Russia as a real threat to its territorial integrity and sovereignty and even the substantial Russian minorities who inhabit those countries. This affects the Czech Republic (less), Poland and Lithuania (much more) and, especially, Latvia and Estonia. The consequences are very serious; for example, Poland's veto at the start of the negotiations for renewing the PCA in 2006 brought the talks to a standstill for two years.

Regarding the US, some issues mentioned earlier, such as the intention to install the missile shield in Poland and the Czech Republic, NATO's continued eastward expansion, and growing US influence and pressure in the «new Europe» (formed by former Warsaw Pact members) are examples of actions which are only detrimental to EU interests, as they are

(25) Declarations of Vladimir Chishov reported by Deutsche Welle-World on 25 May 2009, article «*Cumbre UE-Rusia: ¿borrón y cuenta nueva?*» available at <http://www.dw-world.de/dw/article/0,,4270227,00.html>.

blatantly provocative towards Russia. The new Obama Administration's change of direction is helping defuse tensions in this field.

Vis-à-vis these issues the Union needs to apply internal discipline, in order to adopt common positions and speak with a single voice, and external rigour in order to put them into practice and defend its own interests—which do not always coincide with those of the US. That the new partners should harbour misgivings about Russia is very understandable and respectable, but history is no excuse for using the rights associated with Union membership as a means of exacting revenge, especially considering that the *acquis communautaire* has been based on reconciling old enemies, such as France and Germany, and that Russia and Germany are on good terms despite the atrocities committed by the Nazis against the Slavic peoples during the Second World War.

On the positive side of the scale, it should be underlined that the Caucasus conflict of 2008 showed that Russia is incomparably more open to the mediation and collaboration of the EU than that of any other state or international organisation, as the Union is perceived as a more objective actor with greater legitimacy for settling conflicts in Europe. It therefore responded in a few days to the proposals of the then president of the Union, Nicolas Sarkozy, and agreed to internalisation of the conflict (with the EUMM Georgia mission), which it had rejected for 15 years. Putin himself has officially declared that Ukraine's possible EU membership would not be a problem for Russia, unlike its NATO candidature, which is anathema to Moscow.

THE OSCE AND THE NEW EUROPEAN SECURITY ARCHITECTURE MODEL

The Organisation for Security and Cooperation in Europe (OSCE) is currently underestimated, as it is the only pan-European organisation to which both the US and the Russian Federation belong, together with all the EU nations and other European, Caucasian and Central Asian states.

It is useful to remember that in the debates leading to the establishment of what was then the CSCE (Conference instead of Organisation) in 1975, the USSR placed considerable emphasis on the inviolability of borders and territorial integrity, whereas the West focused negotiations on human rights. As a result the «Helsinki Final Act» envisaged three security «baskets»: political and military, economic and environmental,

and humanitarian, foreshadowing concepts such as the «Comprehensive Approach to Security» which various security and defence organisations are currently defining and implementing.

The role of the OSCE for the Russian Federation and the EU

Russia regards the OSCE as a crucial forum as it is the only Euro-Atlantic organisation in which it enjoys the same status as other regional powers. Indeed, at the end of the Cold War Russia intended to make the Conference the centre for coordination and European decision making on security and defence issues, though it failed to achieve this aim because other nations, particularly NATO members, preferred to use other frameworks for this purpose.

The parallel development of Russia and the OSCE in the past decade has led to increasing mistrust and evident Russian disillusionment with the organisation. As explained, Yeltsin's Russia could not put up any resistance to the changes that occurred during that decade, and eventually settled for informal integration in other collaboration frameworks, instead of persevering in its attempt to make the OSCE the cornerstone of the Euro-Atlantic security architecture.

However, the most important consequence of the policies of strength pursued during Vladimir Putin's presidency with respect to the OSCE and its development is the emergence of growing criticism of western attempts to make the organisation focus exclusively on its humanitarian dimension and on drafting multiple proposals for resuming the spirit of «co-operative security» enshrined in the establishment of the CSCE in 1975.

With respect to the EU, there can be no doubt about the role that falls to it to play in the future development of the OSCE, especially in bridging the gap between the increasingly radical stances of the US and Russia. Naturally, the final ratification of the Lisbon Treaty, which strengthens the Common Foreign and Security Policy, is a key factor in giving the EU a bigger part in the future definition of the new European security architecture.

As established in the aforementioned ESS of 2003, one of the EU's priorities is to promote the establishment of its «neighbourhood» and the OSCE's founding spirit of cooperative security can be a particularly useful tool in achieving this aim, much more than the action of NATO which, by definition, excludes part of the continent.

The OSCE thus continues to be important to the EU for several reasons: it codifies many of the main principles on which the *acquis communautaire* is built (democracy, the rule of law, human rights); it provides a unique platform (owing to its number of members) for pan-European talks on regional security; and it has vast experience to offer in areas of interest to the Union, whether the Balkans, the southern Caucasus or Central Asia.

The political and military dimension: crisis management, platform for cooperative security, disarmament policies (CFE Treaty)

According to the political and military definition of the OSCE, the organisation applies exclusively to interstate relations and, primarily, to military questions, and therefore includes issues such as disarmament, the establishment of mutual confidence building measures, and the security dialogue. Since the early 1990s these issues have been joined by conflict prevention, crisis management and post-conflict rehabilitation. More recently it has been attempted to apply the term to efforts at stemming transnational threats such as terrorism, organised crime and arms trafficking.

In this connection it is important to underline as a historic landmark of the OSCE the Istanbul Summit of 1999 (26), which adopted the important «European Security Charter» listing common challenges including the new risks and threats to world security, established the OSCE as the frame of reference with its three areas of action grouped under the new Field Missions, and hit upon the idea of setting up a «Platform for Cooperative Security» in order to reinforce coordination with the other security-related regional organisations and institutions.

As for efforts to limit conventional weapons in Europe, although the 1990 Treaty on Conventional Forces in Europe (CFE) and the 1999 update were not negotiated by all OSCE members, they have many links to its political and military dimension, particularly the adoption of the «Confidence and Security Building Measures (CSBMs)». Indeed, the objections expressed by 26 nations to the ratification of the amended CFE Treaty,

(26) In addition to the then 55 OSCE member states, the summit was also attended by representatives of the EU, the Mediterranean partners (Algeria, Egypt, Jordan, Morocco and Tunisia), cooperation partners (Japan and South Korea), the UN, and various regional and sub regional initiatives, which gives an idea of the organisation's potential to address global challenges to world security.

especially the US's flat refusal, are one of the key clashing points with Russia (27).

As for confidence building measures, the most recent milestone is the approval of the so-called «Vienna Document» (28) encouraging the adoption of bilateral, multilateral or regional CSBMs in order to complement OSCE-wide measures with additional (politically or legally binding) measures adapted to specific regional needs. The condition is that they respect the basic principles of the OSCE and are not detrimental to the security of third parties, which ties in with the fundamental concept of «indivisibility of security».

As for the role of the OSCE in settling conflicts, in the three stages of prevention, crisis management and post-crisis rehabilitation, the organisation may be the most suitable framework for addressing the settlement of the so-called «latent conflicts» which stem from the end of the Cold War and have given rise to «de facto states» (29), areas that are virtually independent but not internationally recognised and have the potential to develop into open confrontations between OSCE states, such as the conflict between Russia and Georgia in August 2008.

The humanitarian dimension: the problem of minorities, Field Missions

The progressive institutionalisation of the OSCE during the 1990s exerted particular influence on the humanitarian dimension. The progressive institutionalisation of the OSCE during the 1990s had particular repercussions in the humanitarian sphere. The establishment of the post of High Commissioner for National Minorities (HCNM) was fairly successful,

(27) Russia considers that there is no excuse for not ratifying the adapted CFE Treaty, since the Federation has complied without exception with all the commitments acquired on signing the CFE in 1990. However, the US claims that one of the principles of the CFE Treaty is that sovereign states may decide under what conditions they host foreign military forces in their territories, something which Russia does not respect in the cases of Moldavia and Georgia.

(28) Document adopted at the aforementioned Istanbul Summit of 1999, and available in full at http://www.osce.org/documents/fsc/1999/11/4265_en.pdf.

(29) The most significant, mentioned early, are Nagorno-Karabakh (which split off from Azerbaijan with Armenian support), Abkhazia and South Ossetia (which split off from Georgia with Russian support), Transnistria (which split off from Moldavia with Russian support), and Kosovo (which split off from Serbia, although in this case the secession enjoys greater international recognition).

and its scope of action and usefulness, far from dying out, continue to be of great importance today. For example, following the closure of the missions in the Baltic republics in 2002, the existence of sizeable Russian minorities continues to pose problems (30), and the EU enlargements have triggered friction with the border countries owing to the limitation of movements resulting from a restrictive visa policy.

Much more problematic is the action of the Office for Democratic Institutions and Human Rights (the ODIHR, which, significantly, is based in Warsaw). One of its main activities, the monitoring of elections, is highly controversial insofar as it involves discrediting political regimes when elections are not classified as free and fair. This has been perceived as a deliberate catalyst of changes at the service of western interests—particularly as there are no formal mechanisms whereby the nations under supervision can challenge the reports of the election observers.

The radicalisation of positions is particularly marked in this area: the United States openly supports the action of the ODIHR, describing its conduct in the monitoring of elections as an example to the world, while Russia claims that the Office's autonomy has led to a complete absence of control, which is unacceptable to nations. It is particularly critical of the ODIHR's ability to decide what level of attention should be paid to each election on the basis of political rather than technical criteria (31).

Over time the Field Missions have come to be identified as interference by OSCE in the internal affairs of the host nations, giving rise to growing resentment that needs to be steered in a different direction by modifying their nature. What is more, although the Baltic states were included in the initial geographical scope of the Missions, they were excluded in 2002 under intense political pressure prior to their accession to the EU and NATO, which contributed to creating the impression that the organisation was geographically limited to the countries resulting from the disintegration of the USSR and Yugoslavia, despite not being the only states with problems of security and democratic deficits. The Missions

(30) Russian ethnic minorities account for no less than 30.3% in Estonia and 33.6% in Latvia. Altogether some 20 million Russians were left outside the Federation's border following the disappearance of the Soviet Union.

(31) The main example that is generally quoted is the fact that the repetition of the second round of the presidential elections in Ukraine on 12 December 2004 was supervised by thousands of observers, whereas the Uzbek legislative elections held on the same day and of far-reaching significance to the country given the structure of its political system attracted the attention of only a few dozen observers.

have thus come to be considered a stigma that associates the host nation with instability, which is evidently detrimental.

Draft Russian proposal for a new «Treaty on Euro-Atlantic Security»

As stated, the model currently proposed by Russia for the new European security architecture is based on the need to promote conflict prevention, abolish for good the bloc policy inherited from the Cold War, avoid ideological connotations in debates on security, include all nations in the system, and ensure that Russia takes part on an equal footing with other powers (32). As can be seen, putting this model into practice would require bolstering the OSCE as the framework for debating and defining the new security architecture and radically restructuring NATO, which is considered the biggest vestige of the Cold War and bloc politics.

The proposal has materialised into an initial draft that was published by the Kremlin on 29 November 2009 (33). The prologue of the Treaty (which it wants to be legally binding) mentions as guidelines for security relations in Europe the United Nations Charter, the 1975 Helsinki Final Act of the CSCE, the Manila Declaration on the Peaceful Settlement of International Disputes of 1982, and the aforementioned European Security Charter of 1999.

Salient features of the articles are the basic principles of a security that is indivisible and equal for all countries (art. 1); that decisions adopted by the nations in the framework of alliances, coalitions or organisations should not significantly affect the security of other signatories to the treaty (art. 2); that in the event of an armed attack against a party to the treaty the rest of the parties should consider it an attack against themselves, providing the necessary assistance (including military, art. 7); and that the nation under attack may convene an Extraordinary Conference of the Parties to decide on possible collective measures (art. 8).

Finally, article 10 states that the treaty shall be open for signature not only by all states of the Euro-Atlantic and Eurasian space (from Vancouver to Vladivostok), but also by various multinational organisations (the

(32) As the Russian president, Dimitri Medvedev, stated in his address to the Council on Foreign Relations in Washington DC in November 2008, «...Russia is not a member of any political-military alliances today. [...] But we are interested in making our voice heard in *Europe*. [...] *We would like to have a forum where we could discuss all the different problems*». This forum could (and in my opinion should) be OSCE itself.

(33) Available at <http://eng.kremlin.ru/text/docs/2009/11/223072.shtml>.

EU, OSCE, CSTO, NATO and CIS are mentioned), thereby recognising their important role in the new post-Westphalia strategic landscape in which the weight of sovereign nation-states as sole actors on the world stage has progressively diminished with the emergence of phenomena such as «failed states».

This first draft of the treaty sets out Medvedev's proposal first announced on 5 June 2008 in Berlin, and has the double merit of challenging the current status-quo (which cases such as Kosovo and Abkhazia/South Ossetia are proving to be inadequate) and of being open to comments and talks with the rest of the nations. As Dimitri Trenin states, the treaty proposal is not perfect, but the Russian initiative should not be ignored (34). Regrettably, this was precisely the initial reaction of NATO's secretary general, Mr Rasmussen, who declared following the NATO-Russia Council meeting of 4 December that he sees no need for a new treaty and that the existing organisations are a sufficient guarantee of the security of the Euro-Atlantic area.

CONCLUSIONS AND PROPOSALS

When addressing Russia's complex relationship with the European Union, some authors underscore, as a principal change, that «Russian leaders today yearn not for integration with the West but for a return to a special Russian greatness» (35). This analysis is erroneous, as the Federation is too large and too complex to be integrated into the European institutions as an ordinary member. This was attempted during Yeltsin's two terms as president, but proved unfeasible and is a possibility which has been almost completely ruled out by both Russia and the EU.

This era was followed by Putin's first term as president, when Russia aspired to cooperate with the West —in the case of the EU by establishing a global strategic agreement— and to spread its influence in its immediate environment by implementing confidence building measures while laying the foundations for domestic recovery in order to pull the country out of the pit into which it sank in the 1990s.

Subsequent developments in international relations have ushered in a third stage in which Russia defines itself as an independent superpower

(34) TRENIN, Dimitri, *From a «Treaty to Replace All Treaties» to addressing Europe's Core Security Issues*, Carnegie Endowment for International Peace, December 2009.

(35) KAGAN, Robert, *The Return of History and the End of Dreams*, Alfred A. Knopf 2008, p. 17.

with global interests, adopting a position of strength in its foreign relations. This new phase is detrimental to European security as a whole and to Russia's own interests (36), and hampers its practical cooperation with the EU. The primary objective should therefore be to succeed in returning the Federation to its stances of 2000-2004.

For this purpose, from all the issues addressed throughout the chapter, we may extract the following overarching ideas or conclusions about Russia, its relations with the European Union, policies in the common neighbourhood and its possible collaboration in the field of the CSDP:

- Russia has been, is, and will continue to be part of Europe and has always played an important role in its security.
- Successive invasions from the West have shaped Russia's perception of threats over the years.
- Russia's vision of its foreign policy is based on seeking a strategic partnership with the two other major actors on the Euro-Atlantic stage, the US and the EU.
- Russia promotes the reshaping of the global European security architecture, as it regards the current architecture as a vestige of the Cold War, inappropriate to meeting the new security challenges in a globalised world.
- The EU and Russia share an interest in combating the new threats to international security which are identified in their strategies and coincide almost completely.
- The quasi-symbiotic relationship between the EU and Russia in the energy field makes this one of the key issues in bilateral relations.
- The EU-Russia Partnership and Cooperation Agreement of 1997 is not a suitable tool as it excludes important questions such as external security issues.
- The «Common Spaces» of 2003 and their «Roadmaps» of 2005 — the framework up until now for Russia's limited collaboration in the Union's ESDP — should be the basis for negotiating a new Strategic Partnership.

(36) Among other things—and there is no harm in remembering this—because, irrespective of the Russian authorities' grandiose vision, the Federation contributes only 2% of world GDP, continues to be immersed in a major demographic crisis, has an output equivalent to 25% of that of the US, has not been capable of taking advantage of the years of economic prosperity to diversify its exports other than raw materials, and has not modernised its infrastructures since the end of the USSR.

- The common neighbourhood is an «area of special interest» to the Russian Federation and is a crucial area for the EU as a source of potential future members and security problems (instability, «frozen» conflicts, illegal trafficking of all kinds).
- The «European Neighbourhood Policy», the basis for bilateral relations with all the EU's border states, is insufficient for the East, and its supplementary policy, the «Eastern Partnership», has been held back from the outset by lack of coordination with Russia and by its failure to include security matters.
- The currently undervalued OSCE is an appropriate framework for discussing Russia's proposal for a new European security architecture.
- The three dimensions of the OSCE, the principles of the Helsinki Final Act of 1975, the European Security Charter of 1999 and the concept of a «Platform for Cooperative Security» are fully applicable to the current strategic landscape.

From all these conclusions, subject to the full development of the CSDP and its new instruments enshrined in the Lisbon Treaty, the following specific proposals may be put forward. They range in scope from more global, at the political level of external relations, to the more limited sphere of cooperation in the EU's CSDP:

- Adopt a single EU position towards relations with Russia, based on political realism, pragmatism and the promotion of the effective multilateralism enshrined in the European Security Strategy, making clear to the more reluctant countries that the EU is not a tool for settling past grievances.
- Give priority to the negotiations in progress for renewing the PCA of 1997, proposing a genuine global strategic agreement covering the four common spaces of 2003 and putting into practice the roadmaps that develop them.
- Bilateral negotiations with Russia of an «Energy Charter Plus Treaty», as a compromise solution between the two parties will always be better than a parallel race to diversify suppliers and gas pipelines, which entails playing into the hands of countries that are much more politically unstable.
- Coordinate with Russia the development of the «Eastern Partnership» insofar as it involves the common neighbourhood. Ensure that the Partnership's «thematic platforms» coincide with the «common spaces» with Russia. Consider the Partnership a step prior to eventual incorporation into the EU, a possibility that Russia does not rule out.

- Establish specific working programmes to coordinate Russian co-operation with the EU/CFSP/CSDP on the basis of the roadmap for the common space of external security.
- Develop of the formal mechanisms for Russia's cooperation and participation in the permanent structures of the CSDP in order to facilitate its eventual involvement in operations of interest to both sides.
- As part of the review of the 2010 Headline Goal for the development of military capabilities, identify gaps that can be filled by the Russian armed forces and programme their use in crisis management operations once a reasonable legal and financial framework has been defined.
- Allow Russia to collaborate in future Enhanced Cooperation and Permanent Structured Cooperation, particularly in the «pioneer groups» which develop specific capabilities, with the support of the European Defence Agency, boosting interoperability.
- Give fresh impetus to the OSCE as a forum for debate on the Russian proposal for a new European security architecture, as it brings together the three key actors in the Euro-Atlantic area, in addition to many other countries in the region.
- Return OSCE to its original concept of cooperative security by exploiting its ability to adopt a «comprehensive approach» to crisis management, and using it as a forum for negotiating the settlement of the continent's «frozen conflicts».
- Modify the OSCE's humanitarian dimension by gearing field missions to specific objectives that are quantifiable and of limited duration, and adjust the working procedures of the ODIHR to support electoral processes with regulations and know-how instead, as is occasionally the case, of discrediting the results a posteriori.
- Promote the final ratification of the adapted CFE Treaty as the basis of mutual confidence and because it represents a return to the spirit of the «Vienna Document» of 1999.

Finally, it should be recalled that, in his aforementioned address in Berlin in June 2008, President Medvedev of Russia expounded on a new concept to replace what he described as the obsolete «Atlantism». He defined this new concept as the common «Euro-Atlantic civilisation» according to which Russia and the United States are the two branches of European civilisation. Idealism aside, it is easy to understand the far-reaching importance of the concept, as, with the colonisation of Siberia and the American West, these two «branches» stretched as far as a common border on the other side of the world, looking out over a Pacific

Ocean towards which the geopolitical centre of the world has been inexorably shifting since the end of the Cold War.

Therefore, following the entry into force of the Lisbon Treaty, it is up to a united Europe to assume its role of global actor and responsibility for maintaining international peace and security, and to bolster its leadership in the Euro-Atlantic space in order to join forces with the US and Russia in promoting stability in what Zbigniew Brzezinski calls the «global Balkans» (37) that emerged at the turn of the century. Otherwise Europe will continue to be what its critics brand an «economic giant, political dwarf and military worm» that is doomed to play an insignificant role in the new world context and incapable of offering an added value to its natural strategic allies.

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(37) «*The new Global Balkans—the arc of crisis ranging from the Persian Gulf to Xinjiang—will become less explosive if the resources of the three most successful regions of the world [...] are harnessed in a joint response to the security threat posed by turmoil in that large region*». BRZEZINSKI, Zbigniew, *The Choice: Global Domination or Global Leadership*, Basic Books, 2005, p. 226.

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RECOMMENDATIONS

RECOMMENDATIONS

ENRIQUE MORA BENAVENTE

UPDATING OF THE EUROPEAN SECURITY STRATEGY.

The European Security Strategy (ESS) published at the end of 2003 was a milestone in the development and consolidation of the Common Foreign and Security Policy (CFSP) and the European Security and Defence Policy (ESDP). This high quality document stating the possible threats to the Union's security, the means of addressing them and the policies that needed to be developed considerably facilitated strategic thought and the allocation of human and material resources to the different policies.

But we live in a constantly and rapidly changing world. And strategic thought should reflect these changes. In addition, the Union has changed following the entry into force of the Treaty of Lisbon. Its new institutional organisation has a particular impact on everything pertaining to external action.

It is therefore necessary to carry out an update of the ESS that goes well beyond a simple exercise in reviewing its implementation like that conducted at the end of 2008.

The High Representative for Foreign Affairs and Security Policy should launch a process of reflection leading to the updating of the ESS. Holding seminars and encouraging reflection within the PSC would be the most appropriate methods of conducting this exercise. The HR could make the presentation the new Strategy coincide with the setting in motion of the European External Action Service in order to symbolise the concurrent renewal of EU thought and action.

DRAFTING OF A DEFENCE WHITE PAPER

Strategic thought should find prompt expression in security matters with the drafting of a Defence White Paper. This Paper should conduct a detailed study of defence needs and project the development of the necessary capabilities, both civilian and military.

The drafting of the White Paper would result in the preparation of a new Headline Goal for 2020. The Goal should include principles of action, intervention and deployment accepted by all the Member States.

DEFINITION OF A CLEAR POLITICAL STRATEGY FOR EACH OPERATION

An updated ESS will allow each ESDP operation to be set in the framework of a clear political strategy. However, even in the absence of an ESS, the EU should only launch an ESDP operation after defining a political strategy which has been debated and adopted at the relevant levels. This strategy should specify the following points at least:

- Nature of the problem or conflict.
- EU interests at stake.
- Political goals pursued by the intervention.
- Parameters of the political solution sought.
- Evaluation of the available resources in the light of the objectives pursued.

These elements should be part of the Crisis Management Concept and should be transmitted appropriately to the parties and to European public opinion through the relevant communication strategy.

STREAMLINING OF STRUCTURES

The project to incorporate the structures of the Common Security and Defence Policy (CSDP) into the future European External Action Service may have a decisive effect on its operational capability. It is therefore recommended that this decision be carefully evaluated. There is no example in the world of a diplomatic service that includes crisis management instruments.

Aside from this general recommendation we believe that a few adjustments need to be made to the Union's crisis management structures.

Although the recent establishment and setting in motion of the Crisis Management and Planning Directorate (CMPD) with the rank of deputy directorate general has marked a positive step forward, greater uniformity is needed in the degree of dependence of the various departments involved.

The Civilian Conduct and Planning Capability (CPCC) should be raised to the rank of a DG in order to place the military and civilian sides on an equal footing. All these structures should be made directly answerable to the High Representative.

COOPERATION WITH THIRD STATES IN THE COMMON SECURITY AND DEFENCE POLICY.

United States

Of the European Union's relationships, the transatlantic link continues to be the densest and most important. The shared values and ideas and the flow of people to and from the other side of the Atlantic, and the extent of trade relations make the relationship with the United States a unique asset for the European Union.

Therefore, relations in the field of security cannot continue to be confined to the NATO framework. The European Union and the United States should develop a bilateral cooperation relationship under the CSDP. The synergies would be evident and would enable both actors to enhance their efficiency in some specific operations.

To this end, the High Representative should receive from the European Council a mandate to negotiate a framework for joint participation in CSDP operations with the United States. This framework should necessarily be different from the one generally applied to third states and should reflect the importance of the United States as a partner and the development possibilities of the CSDP.

Russia

Russia is both the EU's largest neighbour and a strategic partner of primary importance. Irrespective of the inevitable problems and habitual differences found in any neighbourly relations, the EU should develop a privileged relationship with Russia in the framework of the CSDP.

The recommendations for achieving this are:

- Give the necessary priority to negotiations for renewing the PCA pursuing a global strategic agreement encompassing the four common spaces and putting into practice the roadmaps which develop them.
- Establish specific work programmes to structure Russia's cooperation with the CSDP based on the roadmap for the common space of external security.
- Identify complementary areas in capabilities and define a reasonable legal and financial framework for their possible use.

Turkey

Turkey, as an EU candidate, cannot be treated simply as a third state. The Union stands much to gain by developing fuller relations with Turkey in the framework of the CSDP. Ways of cooperating more closely with Turkey in crisis management should therefore be explored. This process should be kept separate from the ups and downs of the accession negotiations.

ESTABLISHMENT OF A PERMANENT HEADQUARTERS

Dependence on external Headquarters is a serious hindrance to the full development of the military facet of the CSDP. The establishment and staffing of the Centre of Operations marked a positive step in the right direction. However, its small size and the constraints placed on its functioning by various decisions of the PSC cause it to lack the minimum requirements for planning and directing military operations of a certain size. The entry into force of the Treaty of Lisbon provides an opportunity to review this situation. The Military Staff of the European Union should therefore be entrusted with studying the various possibilities of establishing an EU Headquarters.

CIVILIAN CAPABILITIES

Shortage of these capabilities has been a constant feature since the outset of the ESDP. With some exceptions, most of the operations have been short staffed. We realise that it is difficult for Member States to part temporarily with judges, police and other highly qualified civil servants holding posts and on active service, as they are difficult to replace for specific

periods. However, only through such contributions will the Union be able to deploy operations that benefit all its Member States and their citizens.

Two types of action are recommended:

- Make provision in national legislations for civil servant sin any field of activity to enjoy improved job prospects after serving for long enough periods on Union missions.
- Establish units devoted to overseas action within the police forces and make them available to the CSDP.

IMPLEMENTATION OF THE RECOMMENDATIONS ADOPTED IN THE DECLARATION ON STRENGTHENING CAPABILITIES

This Declaration was adopted by the European Council in December 2008. In particular, we consider it is feasible and urgent to:

- Improve force projection in operations by modernising helicopters and training their crews, through a tactical training programme led by the EDA,
- Establish a multinational unit of A-400-M aircraft.
- Strengthen information gathering and space-based intelligence through the provision of Cosmo Skymed and Helios 2 satellite images to the EU Satellite Centre in Torrejón (Spain) and preparation of a new generation of observation satellites (Muisis programme).
- Increase the protection of forces and their effectiveness in operations by launching at the EDA a new programme of maritime mine clearance to replace current systems by 2018, and by launching an identification, reconnaissance and surveillance UAV project.

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