

## Note from the Editors

Ana E. Juncos, University of Bristol, Emma J. Stewart and Richard G. Whitman, University of Bath.

This issue of *CFSP Forum* is the first since the completion of the ratification process of the Lisbon Treaty and two articles in this issue deal with the Treaty. The first article by Hayden and Tonra examines the CFSP as an issue in the Irish referendum on Lisbon. The second by Juncos looks at the task ahead in implementing aspects of the Lisbon Treaty. The remaining article in this issue by Chappell looks at the Battlegroup concept and its prospects for the future.

We would very much welcome your suggestions for future content. Please contact us via email at [cfspforum@lists.bath.ac.uk](mailto:cfspforum@lists.bath.ac.uk)

### Contents

CFSP in the Irish Referendum	1
Deploying the EU Battlegroups	7
Implementing the Lisbon Treaty	12

## CFSP in the 2009 Irish Referendum on the Lisbon Treaty

Dan Hayden and Ben Tonra, University College Dublin

The Irish government's initial reaction to the 2008 defeat of the referendum on the Lisbon Treaty centred on identifying the precise issues which had led to the 'no' vote. As part of this analysis the government commissioned Millward Brown IMS to conduct a detailed quantitative and qualitative survey.<sup>1</sup> In their subsequent analysis of this data, a research team from the UCD Geary Institute concluded that the referendum result had been a function of general attitudes towards European integration, respondents' knowledge of the EU, a number of specific policy issues and some domestic political factors.<sup>2</sup> One of

---

<sup>1</sup> Millward Brown IMS, *Post-Lisbon Treaty Referendum Research Findings*, September 2008, available at [http://www.imsl.ie/news/Millward\\_Brown\\_IMS\\_Lisbon\\_Research\\_Report.pdf](http://www.imsl.ie/news/Millward_Brown_IMS_Lisbon_Research_Report.pdf).

<sup>2</sup> Richard Sinnott, Johan A. Elkind, Kevin O'Rourke and James McBride, *Attitudes and Behaviour in the Referendum on the Treaty of Lisbon: Report*

the specific policy issues identified was a concern with protecting Irish neutrality.

In their analysis of the survey data, Sinnott et al noted that while the neutrality issue ranked highly among those who had voted 'no', it was – at least compared to the earlier two referenda on the Nice Treaty – not as salient an issue. Relative to a 'lack of information' (42 percent), 'loss of sovereignty' (18 percent), a 'bad idea in general' (13 percent) or as an expression of 'anti-government and/or anti-politician' sentiment (9 percent), 'neutrality and military issues' was cited as a central motivation for 8 percent of 'no' voters. Neutrality and military issues may not have been the most salient issue of the campaigns, but they were very consistent across both referenda. Certainly, for those who felt that 'Ireland should do everything it can do to strengthen its neutrality', a 'no' vote was a logical outcome and Eurobarometer surveys have underlined the consistent significance of this issue as a motivating factor.<sup>3</sup>

On 11 December 2008, the EU Council agreed an outline package of measures designed to facilitate the holding of a second referendum in Ireland. This package included a legal guarantee on neutrality which, along with two other guarantees on social policy and taxation, was registered with the United Nations and is due to be appended as a protocol to the next EU accession treaty.<sup>4</sup> The

guarantee on neutrality provided, *inter alia*, that '[t]he Treaty of Lisbon does not affect or prejudice Ireland's traditional policy of military neutrality' and that '[t]he Treaty of Lisbon does not provide for the creation of a European army or for conscription to any military formation.'

### **The Campaign and CFSP**

The number of Common Foreign and Security Policy (CFSP) issues that were dealt with during the 2009 Lisbon treaty debate was relatively small. The core issues were: general compatibility of the Treaty with the practice and principle of Irish neutrality, the European Defence Agency and an alleged 'militarisation' of the European Union.

### **Neutrality and the Mutual Assistance Clause**

There are neither constitutional nor legislative provisions which define the nature of Irish neutrality. Efforts by smaller political parties and campaign groups either to legislate for neutrality or to enshrine it in the constitution, have come to naught. In lieu of any formal delineation of the concept or its implications, Irish governments have repeatedly invoked the 'tradition' of Irish neutrality as one which simply defines the state as having a status as a 'non-member' of any military alliance.

While many would decry the poverty of that definition of neutrality, and research suggests that the Irish public understands neutrality to be a much wider and norm-rich concept, consecutive Irish governments have maintained this formulation. As a result, those campaigning for a 'yes' in the 2009 referendum argued forcibly that the Lisbon Treaty was entirely

---

*Prepared for the Department of Foreign Affairs (UCD Geary Institute, 6 March 2009), available at*<http://www.foreignaffairs.gov.ie/uploads/documents/ucd%20geary%20institute%20report.pdf>.

<sup>3</sup> European Commission, Special Eurobarometer Survey Ireland: Lisbon Treaty Referendum 2009, October 2009.

<sup>4</sup>[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/108622.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/108622.pdf)

compatible with traditional Irish neutrality and, indeed, even strengthened by it.<sup>5</sup> For their part, 'no' campaigners invoked much broader definitions of neutrality (starting with the 1907 Hague Convention) and consequently argued that the Lisbon Treaty was either a further substantive move away from neutrality, or indeed a definitive end to that policy. One of the main campaign groups on neutrality, the Peace and Neutrality Alliance (PANA), for example, insisted that '[t]he Lisbon Treaty truly sets the foundations for a fully-fledged EU military alliance with the inclusion for the first time of mutual solidarity/defence clauses and with the new doctrine of Structured Cooperation'.<sup>6</sup> Attention was frequently drawn to the similarity between the Article V provisions of the 1954 (Modified) Brussels Treaty and the mutual assistance clause in the Lisbon Treaty which were presented as being equivalent.

Campaign groups cited the mutual assistance clause and the analysis of several policy makers, academics and political figures to underline their argument that this created –within the Union – a military pact. They also insisted that Permanent Structured Cooperation would create an army of the EU outside the decision-making control of the whole Union. They quoted, for example, Jan Techau as arguing that the Lisbon Treaty possessed 'the qualities of a military pact, granting mutual

assistance to its members', while MEP Andrew Duff was said to argue that '[t]he Treaty of Lisbon has taken the final step in exporting all WEU competences into the European Union', including its mutual defence obligations.<sup>7</sup>

### **European Defence Agency and Militarisation**

Advocates of the Lisbon Treaty argued that providing an explicit treaty base for the European Defence Agency (EDA) would normalise it within the legal structures of the treaty, thereby allowing for greater transparency and oversight. They also argued that the agency would potentially deliver positive returns to Irish military preparedness in international peacekeeping. For opponents, however, the EDA represented a definitive step towards the militarisation of the European Union and Ireland's integration with the international arms industry. Socialist Party leader and newly elected MEP for Dublin Joe Higgins, for example, argued that the function of the EDA was to increase military spending by member states and that to vote yes was to 'endorse a trade in these weapons of death.' He argued that 'five of the most powerful states in the European Union account for a third of arms sales worldwide.... To ask the people of Ireland to endorse a trade in these weapons of death is in my view, disgusting.'<sup>8</sup> At the same debate, former MEP Patricia McKenna said that '[t]he EDA which was set up at the behest of the arms industry is given legal status in this treaty and will have huge influence

---

<sup>5</sup> Tom Carron, 'Don't be complacent — Pat Cox', *The Anglo Celt*, 30 September 2009, available at <http://www.anglocelt.ie/news/roundup/articles/2009/09/30/391604-dont-be-complacent-045-pat-cox/>

<sup>6</sup> PANA, *Vote No to War NATO and the Lisbon Treaty*, available at [http://www.pana.ie/download/Battle\\_Doc-Pana.pdf](http://www.pana.ie/download/Battle_Doc-Pana.pdf).

---

<sup>7</sup> PANA, available at <http://www.pana.ie/idn/eu-pana-nov04.doc>.

<sup>8</sup> Today FM, *Last word with Matt Cooper: The Lisbon Debate*, 24 September 2009, available at <http://vimeo.com/6791939>.

over the military spending of member states because it will assess our military capabilities.’ Claims that the EDA was the result of arms industry lobbying went largely uncontested. These frames were commonly repeated and the EDA was portrayed as an instrument invented for, and controlled by, a burgeoning and morally bankrupt European arms industry. Its role was characterised by one leading national broadcaster and journalist as ‘...bringing in the dogs of war into the centre of the European Union.’<sup>9</sup>

In the course of the debate, the EDA was inseparable as an issue from the provision under Article 17.3 TEU that ‘Member States shall undertake progressively to improve their military capabilities.’ This provision was widely translated as presaging significantly increased national defence expenditure and was usually contextualised with a quotation ascribed to Javier Solana that ‘[i]t is an absolute requirement for us to spend more, spend better, and spend more together.’<sup>10</sup> In response to these arguments, the Irish Minister for Defence Willie O’ Dea pointed to the text of the legal guarantee which insisted that national defence spending remained the exclusive purview of the member states and that as a consequence ‘we don’t have to increase military expenditure, there’s nothing in the treaty, there’s no sanction... it’s written into the guarantee that it is entirely within our control how much we

spend’.<sup>11</sup> This was also a point underlined by the independent Referendum Commission in its nationally-circulated information on the Lisbon Treaty. For his part, former EP President and director of one of the leading pro-Lisbon campaign groups, Pat Cox, addressed the issue more directly and was one of the few voices justifying the existence of the EDA. He highlighted EDA-sponsored research on the protection of armoured personnel carriers and insisted that ‘[t]he capabilities issue is very clear... Ireland has participated, by choice, in one of the projects of the European Defence Agency since its foundation, and it is to improve capabilities.’<sup>12</sup> These latter arguments, however, did not gain much purchase in the public mind. One journalist summed up the issue, and the yes campaign’s evident discomfort with it by saying “‘to undertake progressively to improve their military capabilities” - that sounds very much like a textbook definition of militarisation.’<sup>13</sup>

The ‘no’ campaign framed this issue as a choice between spending more on arms at the expense of public services like education or health. By contrast, many on the ‘yes’ side of the debate appeared uncomfortable in addressing the military capability issue at all, preferring to instance this as yet another example where Ireland would either have a veto, or would be free to opt out. No detailed, substantive case for improving Irish military capabilities was made by those campaigning for a ‘yes’ vote, notwithstanding two high-profile and

---

<sup>9</sup>TV3, *Tonight With Vincent Browne*, 17 June 2009, available at <http://www.tv3.ie/videos.php?video=10318&locID=1.65.169&date=2009-06-17>.

<sup>10</sup> Quotation ascribed repeatedly to *EU Observer*, November 20th, 2007.

---

<sup>11</sup> RTE News, Prime Time, *Campaign Daily*, 24 September 2009.

<sup>12</sup> RTE News, Prime Time, *Lisbon Treaty Debate Special*, 24 September 2009.

<sup>13</sup> RTE News, Prime Time, *Campaign Daily*, 24 September 2009.

critical recent failures in equipping the Irish Defence Forces.

Over the course of the campaign, however, two events bolstered spirits in the 'yes' camp. First, UN Secretary General Ban Ki Moon visited Dublin in early July. Speaking at Dublin Castle, he addressed directly the issue of cooperation between the EU and the UN. He insisted that

Ireland's participation in EU military and civilian missions is fully compatible with its traditional support of the United Nations. This is not a zero-sum game in which more support for one institution means less for the other. We are in this together. There is no competition between the two. We share values and objectives and are on a welcome path of ever closer cooperation.<sup>14</sup>

Given that the Lisbon Treaty was often presented by the 'No' side as a further move away from the UN and towards NATOised European Union,<sup>15</sup> this intervention was significant. A similarly important contribution was made in a press conference towards the end of the campaign which brought together former senior figures in the Irish Defence Forces. At their press conference, Lt. Gen Colm Mangan, a former Chief of Staff, noted that '[w]hen I think of the sacrifices our soldiers made in the Congo, Lebanon and other places it saddens me to hear the current

campaign of those opposed to Lisbon who seem to ascribe imperialist and militarist motives to the men who gave so much in the cause of peace.'<sup>16</sup>

## Conclusion

The main difficulty with the articulation of the EU's objectives in the realm of CFSP in Ireland is that little effort has been made nationally either to promote the European Union's role as a security actor, or, indeed, to draw attention to its successful track record. The central messages of the European Security Strategy, which mirror well-established Irish foreign policy values like the use of soft power, addressing the root causes of conflict and tackling issues such as development, justice and human rights, are virtually absent from the debate. Instead, government and many campaigners prefer to insist, in effect, that nothing has changed, that Irish neutrality is uncompromised and that Irish veto power (and the abstention option) within CFSP and Common Security and Defence Policy (CSDP) is the best bulwark against Irish entrapment in the military preferences of Europe's former colonial powers and present-day middle powers. Indeed, as often as not it was UN and multilateral military operations in Iraq and Afghanistan which were most often cited within the Lisbon Treaty debate as being exemplars of 'European' foreign and security policy. Such claims illustrate wide-spread scepticism surrounding the intentions of other European states on the world stage.

---

<sup>14</sup> Available at <http://www.iiea.com/news/ban-ki-moon-addresses-dublin-castle>.

<sup>15</sup> People before Profit Campaign Leaflet, "'For Public Services, Peace and Democracy Vote 'No' To the Lisbon Treaty'", September 2009.

---

<sup>16</sup> Mike Dwane, 'Lisbon: Former army chief battle it out over treaty's role for the military', *Limerick Leader*, 3 October 2009, available at <http://www.limerickleader.ie/news/Lisbon-Former-army-chiefs-battle.5692765.jp>.

The normal processes of political discourse have thus far failed to define Irish foreign policy within an EU context. While in opposition, parties profess an interest in stirring a debate on the values, direction and expression of foreign policy, once in office they quickly revert to a default, defensive position. Nonetheless, while CFSP issues figured strongly in the campaigns of those opposed to ratification of the Lisbon Treaty, they were not game-changers or central to the result. However, the ambivalence and discomfort of 'yes' campaigners on these issues, their abiding unwillingness proactively to argue the case for CFSP and CSDP and an Irish role therein, leaves further hostages to either an unfortunate 'cost' of membership or — worse still— as a continuing 'threat' to a principled, ethical and ambitious Irish foreign policy. This arguably weakens Irish foreign policy, but it also potentially diminishes the constituency of 'like-minded' states within the Union. ♦

## **CFSP Forum Call for Contributions**

The editors invite submissions for future publication in this bi-monthly online European foreign policy journal.

Articles should be 2,000-3,000 words in length with footnotes. This is an opportunity for young researchers, established scholars and practitioners to publish topical articles on all aspects of the CFSP/ESDP. For previous issues see <http://www.fornet.info/CFSPforum.html>

Please note that we cannot guarantee publication of every article submitted.

**Please email your article to [cfspforum@lists.bath.ac.uk](mailto:cfspforum@lists.bath.ac.uk)**

## **Calls for Papers**

We welcome details of call for papers for conferences themed on aspects of European foreign policy. Please confine details of the calls for papers to 250 words.

**Please send details of calls for papers to [cfspforum@lists.bath.ac.uk](mailto:cfspforum@lists.bath.ac.uk)**



# Deploying the EU Battlegroups: Mission Impossible?

**Laura Chappell, Institute for European Integration Research, Austrian Academy of Sciences**

The EU Battlegroups were created to give the EU an increased rapid reaction capability. However, recently questions have arisen concerning their applicability, an issue which has become increasingly salient. This is highlighted by the fact that the deployability of the EU Battlegroups was placed on the agenda at the recent informal meeting of defence ministers which took place in Gothenburg on 28 and 29 September 2009. This article analyses the deployment challenges which are connected to the Battlegroup Concept. It is emphasised that despite the levels of declared commitments, Battlegroup missions have thus far been rejected, underlining problems relating to political willingness and the narrow scope of the concept. Nonetheless, it is stressed that the Battlegroups have provided a catalyst for the improvement of some member states' military capabilities. Finally the article will consider differing views concerning the viability of the concept, including whether the Battlegroups should be disbanded, remain as they are or be altered to make them more deployable.

## **The Battlegroup Concept: an Overview**

The EU Battlegroup Concept originated from a joint Anglo-Franco summit at Le Touquet in 2003 and was introduced as a French, British and German initiative to the Political and Security Committee

in February 2004. Each Battlegroup consists of 1500 armed forces personnel; they should be deployable for a minimum of 30 days, extendable up to a maximum of 120 days and can be formed either unilaterally or multilaterally. A decision to launch an operation should be taken five days after the agreement by the Council and should be launched ten days after the decision of the EU. The Battlegroups were at initial operating capacity from January 2005 until December 2006 and have been at full operating capacity since January 2007, whereby two Battlegroups are kept on standby and rotated every six months.

On paper, the member states are committed to the concept, as highlighted by their declared pledges to provide Battlegroups. 25 out of 27 member states plus five non-EU countries are participating and 13 of the 16 available slots from the second half of 2009 to the second half of 2013 are filled, with Germany and France contributing to the greatest number of Battlegroups. Additionally, 11 and possibly 12 member states will act as Framework Nation for the Battlegroups, highlighting that a leadership role can be undertaken by medium and even small member states. However, the fact remains that the Battlegroups have yet to be deployed. While they were considered for three potential missions, it was subsequently decided that other tools or organisations were better suited to the task.

## **The Scope of the Battlegroup Concept**

One of the main problems is the narrowness of the concept's scope. In two of the three potential missions it was decided that the Battlegroups were

unsuitable because they could not fulfil the mission remit. The first such instance relates to what became EUFOR RD Congo which involved the deployment of 2300 personnel to provide security during the Presidential and Parliamentary elections in 2006. At the time a German-led Battlegroup was on standby; however the concept was only at initial operating capability. Additionally, as Jacoby and Jones highlight 'misgivings over being the lead nation, coupled with the Bundeswehr's lack of high risk deployment experience and the volatile nature of the situation provided the government and Bundestag with sufficient cause for concern'.<sup>1</sup> However, German officials stress that the nature of the mission did not require a rapid reaction response and so the Battlegroups were not the right tool to use.<sup>2</sup> Germany then became the Framework Nation (FN) for the subsequent EUFOR RD Congo mission in which France as the second country involved in the German-led Battlegroup also heavily participated in. The potential use of the Nordic Battlegroup was then initially suggested for use in Chad and the Central African Republic in 2007. Koehl has suggested that 'but for the intransigence of Ireland, the Nordic Battle Group would have been the obvious choice to deploy to the Chad-Sudan border, rather than the ad hoc force that actually was sent'.<sup>3</sup> However, it appears that instead the remit fell outside of the Battlegroup concept, due

to the duration of the mission (12 month mandate) and the number of required personnel (which stood at 3700).<sup>4</sup>

The question therefore arises as to what kind of crisis could it be for which a European Battlegroup would be the right answer? It cannot be militarily a very big crisis, nor can it require a large military intervention otherwise the Battlegroups are too small.<sup>5</sup> The Battlegroups were based on the Artemis mission to the Congo in 2003 which acted as a template for how the Battlegroups would work. Essentially a Battlegroup could be used as an initial entry force or a bridging force in an emergency situation where rapid reaction forces are necessary. However as yet there has not been an Artemis II type mission that has been deployed.

This also connects to a general problem concerning what types of missions the EU wishes to undertake – in other words when, where and how should the EU use force? While the European Security Strategy and the report on its implementation underlines the threats the EU faces and broad strategies for combating them, there is no document which specifically deals with these types of strategic questions. As Witney highlights 'there has been little evidence of any coherent plan underlying the EU's interventions. Though the European Security Strategy provides a good set of general principles, this does not explain why, for example, five out of the 20 operations have been in Congo'.<sup>6</sup> A

---

<sup>1</sup> Wade Jacoby and Christopher Jones, 'The EU Battle Groups in Sweden and the Czech Republic: What National Defense Reforms Tell Us about European Rapid Reaction Capabilities', *European Security*, 17/2 (2008), p. 332.

<sup>2</sup> Confidential interviews conducted by the author with German civil servants, Berlin, 2006.

<sup>3</sup> Stuart Koehl, 'Swedish Fly; The Joint Strike fighter tries to fend off the competition', *The Daily Standard*, 18 March 2008, p. 2.

---

<sup>4</sup> Jacoby and Jones, 'The EU Battle Groups in Sweden and the Czech Republic', p. 328.

<sup>5</sup> Confidential interview conducted by the author with a German civil servant, Berlin, 2006.

<sup>6</sup> Witney, Nick, *Re-Energising Europe's Security and Defence Policy*, (London: European Council on Foreign Relations, 2008), p. 7.



European White Book would therefore enable the EU to better identify the tasks it wishes to carry out, relevant scenarios, where the EU's interests lie and what capabilities it needs to acquire to meet these objectives.<sup>7</sup> This would help in the deployment of the Battlegroups because interests and potential scenarios would already be identified which would need to reflect, up to a point, the interests of the member states.

### Political Willingness

The second general problem encompasses political willingness and is connected to two issues: where a Battlegroup should be sent and financing. In the case of the former, EU member states have not always been willing to participate when called upon to do so. For example, there were problems getting member states to contribute enough troops to EUFOR RD Congo.<sup>8</sup> Thus for some member states, there is a reluctance to participate in missions in certain areas of the world for lack of immediate defence interests. While Germany led EUFOR RD Congo, the country has only contributed four officers to the OHQ for EUFOR TCHAD/RCA and was opposed to sending the jointly led German-French Battlegroup to eastern Congo to support the UN which came up for discussion in

the second half of 2008. UN Secretary General Ban Ki-moon had requested a temporary EU bridging mission and the French had subsequently suggested the use of the Battlegroups. However this proposal was not only rejected by Germany, but also the UK who was also acting as FN for the other Battlegroup on standby at the time. Indeed Federal Foreign Minister Steinmeier is reported as saying that 'there remain doubts among many Member States whether a few 100 European soldiers will make a significant difference militarily'.<sup>9</sup> No mission has thus far been agreed on and instead emphasis has been placed on diplomacy, aid and the suitability of regional forces/the African Union to fill the gap.<sup>10</sup>

In addition, the financing of a Battlegroup operation has been raised as an issue, particularly by the smaller member states, which also came up at the recent informal meeting of defence ministers. As with all military ESDP operations, Battlegroup missions are financed through common costs, known as the Athena mechanism, which in a normal operation accounts for around 10% of the costs including the OHQ, FHQ and infrastructure and the costs lie where they fall principle. In the case of the former this is determined on a country's gross national income while in the case of the latter this is borne by the participating member states. For the Battlegroups however, currently common costs also include transport costs which are high with a single Antonov flight to Afghanistan for example being around \$250,000 while

---

<sup>7</sup> See Dr Petros M. Kareklas, *The Further Development of the ESDP – Do we need a European White Book?* Paper presented at the 7<sup>th</sup> Congress on European Security and Defence, Berlin, November 2008, available at <http://www.european-defence.com/>, accessed 3 February 2009, p. 5. For more information on this issue, see Sven Biscop (ed.), 'The Value of Power, the Power of Values: A Call for an EU Grand Strategy'. *Egmont Paper* 33 (Academia Press: Gent, October 2009).

<sup>8</sup> Witney, *Re-Energising Europe's Security and Defence Policy*, p. 7.

---

<sup>9</sup> The Associated Press, *Sarkozy: African, not EU forces, to fight in Congo*, 12 December 2008.

<sup>10</sup> EU Observer, *Europe to tackle Somali pirates but not Congo rebels*, 11 November 2008.

the leasing of four C-17s costs the UK \$200,000 per aircraft.<sup>11</sup> However, this financing agreement was only put in place for a temporary period of time, which finishes at the end of the year, at which point transport costs will be moved to 'the costs lie where they fall' principle. This has caused concern among smaller and/or poorer countries who are unlikely to be able to meet these costs. For larger member states however, this might make them more predisposed to agree to deploy a Battlegroup if they are not participating, as the common costs will be lower.

### **Continuity or Change? The Future of the Battlegroups**

Considering their lack of deployability thus far, should the Battlegroup concept remain, be altered or be abolished? It is wrong to assume that the Battlegroups in their present form have no utility. The concept has undoubtedly provided a catalyst for change in many member states and has allowed more military leaders to come forward as has been the case in regards to Sweden as well as Poland.<sup>12</sup> In the case of the latter, the Battlegroup concept has brought up certain issues and challenges such as whether they should create their own OHQ, the question of strategic lift as well as meeting the tight deadlines for deployment. Nonetheless, the question remains as to whether the EU created a concept which is not in reality usable. On the other hand just because the EU now has a 'fire department' does not mean that the organisation should start

lighting fires.<sup>13</sup> Countries such as Germany, for example, are against widening the Battlegroups' mandate, a position which the Germans made clear at the latest informal meeting of defence ministers.<sup>14</sup> However, on the other hand, the Battlegroups' non usage could relegate it to the shadows of ESDP, joining the Helsinki Headline Goal as a concept which was much talked about but which failed to deliver. The 'use it or lose it' question might suggest that the Battlegroups should be disbanded. This is the opinion of the Sozialdemokratische Partei Deutschlands's working group on security and defence policy which highlights that the Battlegroups do not have a future as they are not needed for the most likely crisis prevention tasks and bind important capacities and capabilities.<sup>15</sup> As Jacoby and Jones have emphasised, the Swedes could only provide a modest contribution to EUFOR TCHAD/RCA because 'as long as the NGB was still on standby status, it could ill afford to release many of its limited assets'.<sup>16</sup> However disbanding the Battlegroups could dent the EU's security and defence credibility.

<sup>11</sup> Anand Menon, 'Empowering Paradise? The ESDP at Ten', *International Affairs*, 85/2 (2009), p. 239.

<sup>12</sup> In the case of Sweden see Jacoby and Jones, 'The EU Battle Groups in Sweden and the Czech Republic'.

<sup>13</sup> Confidential interview conducted by the author with a German civil servant, Berlin, 2006.

<sup>14</sup> Bundesministerium der Verteidigung, *EU-Battlegroup im Fokus der Diskussion*, September 2009, available at [http://www.bmvg.de/portal/a/bmvg/kcxm/04\\_Sj9SPykssy0xPLMnMz0vM0Y\\_QjzKLd4k3cXcCSYGZbub6kTCxoJRUFV-P\\_NxUfW\\_9AP2C3IhyR0dFRQAUUV8Re/delta/base64xml/L2dJQSEvUUt3QS80SVVFLzZfRF8zM1BW?yw\\_contentURL=%2FC1256F1200608B1B%2FW27WBKA6399INFODE%2Fcontent.jsp](http://www.bmvg.de/portal/a/bmvg/kcxm/04_Sj9SPykssy0xPLMnMz0vM0Y_QjzKLd4k3cXcCSYGZbub6kTCxoJRUFV-P_NxUfW_9AP2C3IhyR0dFRQAUUV8Re/delta/base64xml/L2dJQSEvUUt3QS80SVVFLzZfRF8zM1BW?yw_contentURL=%2FC1256F1200608B1B%2FW27WBKA6399INFODE%2Fcontent.jsp), Accessed 13 October 2009.

<sup>15</sup> Arbeitsgruppe Sicherheits- und Verteidigungspolitik der SPD-Bundestagsfraktion, *Transformation Garant für eine leistungsfähige Armee*, 21 April 2008, available at [http://www.spdfraktion.de/cnt/rs/rs\\_datei/0,,9570,00.pdf](http://www.spdfraktion.de/cnt/rs/rs_datei/0,,9570,00.pdf), accessed on 5 November 2008, p2.

<sup>16</sup> Jacoby and Jones, 'The EU Battle Groups in Sweden and the Czech Republic', p. 328

Finally in line with the 'use it or lose it' approach, a third way forward would be to alter the concept to make it more usable. As Komorowski states, 'the development and preparation of the Battle Groups is reasonable only when we are ready to use them. Hence, it would be profitable to take a more flexible and pragmatic approach to the principles governing use of the Battle Groups.'<sup>17</sup> Thus the Polish approach is to ensure the usability of the Battlegroup concept even if this entails an altering of some of the principles on which the concept is based. Nonetheless, from a Polish viewpoint, they should not be used for missions that fall outside of the Petersberg Tasks, a suggestion which was put forward by the Swedish Presidency.<sup>18</sup> Additionally, it has proposed the idea of 'borrowing' a Battlegroup for missions such as the one in Chad, which was not a rapid reaction mission as highlighted above. Thus, 'on the basis of a declaration of intentionality, member states making up a GT – 1500 may declare a force within the Battlegroup that could be used as a first entry force or, temporarily, as a force to plug gaps in the force generation process for EU military operations'.<sup>19</sup> While this would be voluntary and Germany has undertaken 'not to block the initiatives of those who hope to allocate their Battlegroups to purposes other than those set out in the

current concept',<sup>20</sup> the effectiveness of voluntary flexibility mechanisms has to be questioned. This is due to the fact that it would depend on whose Battlegroups were on standby as to whether the countries involved would be prepared to deploy their Battlegroups for a broader array of tasks. Financing also plays a role here in that it would be up to the participating member states to meet the costs of any deployment of a Battlegroup or a section within one for other types of missions.

## Conclusion

Although making the Battlegroups more flexible builds on the utility of the concept as it stands while making the capabilities which have been developed more usable (thus overcoming the concept's narrowness), this might not necessarily solve the effectiveness problem. Essentially, the Battlegroup concept is based on member states taking their turn to be on standby and to be ready to deploy if the need should arise. If certain member states are more enthusiastic than others, then the Battlegroups are not a reliable tool. This is particularly important if we consider the case of Germany who is participating in a third of the Battlegroups. Another problem concerns the size of the Battlegroups – in many instances they have been considered too small to be able to fulfil a potential operation's objectives. However, making them larger introduces other problems, in particular getting member states to make greater military contributions as well as tying down yet more capabilities. Even if a section of a Battlegroup is slotted into a larger ESDP operation,

---

<sup>17</sup> Stanisław J. Komorowski, *Poland's Objectives in European Security & Defence*, Paper presented at the 7th Congress on European Security and Defence, Berlin, November 2008, available at <http://www.european-defence.com/>, accessed 3 February 2009, p. 3.

<sup>18</sup> Agence Europe, *The Day in Politics*, 26 September 2009 and confidential discussion with a Polish Civil Servant, 2009.

<sup>19</sup> Agence Europe, *The Day in Politics*, 26 September 2009. GT stands for 'Groupement Tactique' or Tactical Group.

---

<sup>20</sup> Agence Europe, *The Day in Politics*, 30 September 2009.

there are issues concerning how this would work in practice, including interoperability. Additionally, in making the Battlegroups more flexible, care has to be taken not to undermine their rapid reaction capability for which they were originally designed. Further discussions on Battlegroup flexibility will be held at the Jumbo Council (the General Affairs and External Relations Council expanded to include the defence ministers) on 16 November. What is for certain is that creating a more capable and active military tool is needed if the EU is to demonstrate that it is serious about closing the gap between declarations and capacity for action. ◇

## Recent monographs and edited books on European Foreign Policy

We welcome details of recently published books on aspects of European foreign policy. Please provide publication details to the editors (and include details of contents and an abstract of 500 words detailing the contents of the volume) at [cfspforum@lists.bath.ac.uk](mailto:cfspforum@lists.bath.ac.uk)

## The Implementation of the Lisbon Treaty<sup>21</sup>

**Ana E. Juncos, University of Bristol**

After years of protracted discussions and three failed referenda, the Lisbon Treaty has been finally ratified after the last hurdle, the signature of Czech President Vaclav Klaus, was cleared out of its way. While diplomats and EU officials in Brussels will rush to finalise a decision on the appointment of the EU's top jobs (President of the European Council, the High Representative and the President of the Commission), there are a number of issues that remain unclear in the text of the Treaty. However, the impact of the Lisbon Treaty will greatly depend on the actual implementation of these provisions. The following sections analyse in more detail some of the key challenges surrounding the implementation of the Lisbon Treaty and how some of the reforms in the area of foreign and security policy could be implemented.

### Leadership and Co-ordination in European Foreign Policy

Together with the President of the Commission, the President of the European Council and the High Representative will be the new 'faces' of the EU in the world. Although personalities will certainly matter, the performance of these three top jobs will depend on the institutional competences and resources allocated to them. The Treaty sets out the main responsibilities of these three positions, but there are many issues that are left only vaguely defined by the document. Thus the

---

<sup>21</sup> This is a summary of the Final Report of the Working Group on European Foreign Policy entitled 'A more coherent and effective European Foreign Policy?', (London: The Federal Trust for Education and Research, February 2009). Available at <http://www.fedtrust.co.uk/>.

possibility of institutional competition remains open.

As far as the issue of the EU's external representation is concerned, it can be argued that the Treaty points towards an implicit division of labour between the President of the European Council and the High Representative, as the former will have to ensure the external representation of the Union 'at his level and in that capacity' and 'without prejudice to the powers' of the latter. One could expect that the President of the European Council will focus on representation at the level of heads of state, while the High Representative will conduct political dialogue at the ministerial level. Coherent external representation will therefore require intensive co-ordination and liaison between their respective staff in order to prepare Council meetings and summits with third parties. The ability to defuse conflict will also crucially rest on the willingness of the President of the European Council and the High Representative to cooperate.

Moreover, the actual influence that both institutional figures will be able to exercise will at least in part depend on the resources at their disposal. It is, however, unclear how much staffing will be allocated to the President of the European Council. Will his or her administrative support be drawn from existing Council Secretariat resources, or will they be new recruits? Will they be EU officials or seconded national officials? In the case of the High Representative, the Lisbon Treaty foresees the creation of a new External Action Service to support this post, but as will be discussed below, the institutional location, size, staff and competences of this service are still to be agreed. How these logistical issues are resolved will greatly affect the role that the Presidents of the European Council and the Commission and the High Representative will be able to play.

The picture becomes more complicated if other aspects of the EU's external action are considered. The Treaty affirms that '[w]ith the exception of the common foreign and security policy... [the Commission] shall ensure the Union's external representation.' The President of the Commission will thus have a significant role in external representation when it comes to such important issues as trade or development aid. Channels of co-ordination will need to be established between the President of the Council, the High Representative and the President of the Commission in areas other than the CFSP. The logic of the Lisbon Treaty would suggest that the High Representative should be the normal first port of call for interested third parties. However, EU partners will still have to keep at least three phone numbers if they want to deal with the EU: those of the President of the Commission, the President of the European Council and the High Representative. Who to contact will depend on which policy areas and at which level discussions are taking place.

On the other hand, for the first time, the High Representative will under the Lisbon Treaty have the right of initiative and the resources and expertise to make foreign policy proposals. This provision constitutes a major innovation of the Treaty – particularly since the High Representative will also be the Vice-President of the Commission – and it may well over a period of time substantially strengthen this position. However, the intergovernmental nature of CFSP and the unanimity requirement means that consensus among the member states will still be essential before any decision can be agreed upon. The room for manoeuvre and the influence of the High Representative will therefore greatly depend upon the willingness of the member states to support common positions, something that cannot be taken for granted.

For its part, under the Lisbon Treaty, the Commission can only submit joint CFSP



initiatives with the High Representative, although it has the right of initiative in other areas of external action. Although this provision is intended to ensure a single voice coming from the Commission on CFSP issues, one could argue that the role of the Commission has been weakened by the Treaty in favour of the High Representative. However, it is also true that it might result in the contrary, especially if one considers that the Commission has thus far been very reluctant to resort to the right of initiative in the second pillar. A High Representative with strong links with the Commission can bring this important actor back to the CFSP. In sum, much will depend on whether the High Representative identifies himself or herself with the group of Commissioners or with his/her colleagues in the Foreign Affairs Council, with both equally, or with neither.

From the letter of the new Treaty, it is clear that the monitoring of the implementation of the CFSP/ESDP is the responsibility of the High Representative: he or she 'shall ensure the implementation of the decisions adopted by the European Council and the Council.' How he or she will ensure implementation, and in particular, compliance by the member states, is however a different matter. The High Representative will also need to co-ordinate his/her activities with those of the President of the European Council who, as the chair of the European Council, might also want to monitor the implementation of the European Council conclusions. Nonetheless, it is difficult to imagine how the President of the European Council will be able effectively to perform this duty, especially if this post has limited staff and resources available.

In his/her capacity as Vice-President of the Commission, the High Representative will also shoulder the 'responsibilities incumbent on it in external relations and for co-ordinating other aspects of the Union's external

action.' It is not clear however which precise areas will be under direct responsibility of the High Representative: will it be only those covered by the Directorate General for External Relations (DG Relex) or perhaps also other areas such as Development, Humanitarian Aid, Enlargement and Trade. This uncertainty raises in turn further questions as to how the High Representative will interpret his/her remit. He or she can adopt a narrow approach and focus on the administrative management of EU external action or conversely, he or she may concentrate on the diplomatic and political aspects of this job. In the latter case, the High Representative will then need to appoint deputies to deal with different policy areas, e.g. Foreign Policy, Common Security and Defence Policy, European Neighbourhood Policy and Parliamentary Affairs. But even a narrow interpretation of this job will involve a vast range of duties such as chairing the Foreign and Affairs Council, attending the Commission's meetings, conducting the political dialogue with third parties and running the External Action Service.

Finally, the High Representative will also play an important role in the co-ordination of the EU's external action, although here too he or she may end up working in competition with other actors. Within the Commission, the High Representative will 'co-ordinate' the whole range of the Union's external action, such as trade, co-operation and humanitarian aid, or the external aspects of internal policies such as agriculture or environment. From the letter of the Treaty, it would appear that the High Representative enjoys some authority over other colleagues dealing with external policies. Meanwhile, the President of the Commission will retain responsibility for ensuring that the Commission 'acts consistently, efficiently and as a collegiate body.' Hence, one pressing question is what would happen in case of disagreement between other Commissioners and the High



Representative; would the President of the Commission have the last say? Currently, the President of the Commission chairs the Group of Commissioners on External Relations consisting of the Commissioners for External Relations, Trade, Development and Humanitarian Assistance, and Economic and Monetary Affairs. The Commissioner for External Relations, Benita Ferrero-Waldner, is the Vice-chair of this group. Thus, the question is whether this group will retain its current format or the High Representative will take over its chair from the President of the Commission.

Another potential source of inconsistency in the Union's external action might be the Presidency of the Council. As mentioned above, the Presidency will still chair other Council formations in policy areas other than the CFSP. Thus, the President of the European Council will have to ensure co-ordinated action not only with the High Representative in the CFSP field, but with the Presidency of the Council in other policy areas. Co-ordination will also be required between the activities of the Foreign Affairs Council, chaired by the High Representative, and the General Affairs Council chaired by the Presidency (as is also the case with the committees and working groups under the responsibility of these two Council formations). It is also not clear if the Commission will have a (non-voting) representative in the Foreign Affairs Council, or if it will be represented by the High Representative, although it would be reasonable to assume the former.

### **The European External Action Service**

Prior to the signing of the Lisbon Treaty, some preparatory work on this issue took place in 2004 and 2005, before the French and Dutch referenda, which led to the adoption of a joint progress report in May 2005 by the High Representative and the Commission. While the European Parliament had expressed its

view that the Service should be located in the Commission, the report described the Service as 'sui generis', something that did not help clarify its precise status. Other issues regarding the composition and size of the Service also remained unresolved. Preparatory work on the External Action Service has been re-launched after the second Irish referendum. The European Parliament has continued to support the idea that the External Action Service should be part of the Commission, but this option cannot count on much support from the Council. It appears that there is an agreement that all the Commission and Council Secretariat's departments with competencies in external relations should be adequately represented in this new External Action Service, although it is still not clear if that will also be the case with DG Trade, Enlargement and the EuropeAid Cooperation Office. Issues regarding the staffing of this Service (i.e. size, recruitment, legal status, etc.) are also currently under discussion. Negotiations on the specific tasks, staff and resources assigned to this Service will be difficult and will need to concentrate on the institutional placement of this service, structure, specific competencies, budget and recruitment, career structure and salaries of its personnel.

### **Common Security and Defence Policy**

In the area of security and defence policy, the main challenges of implementation refer to those provisions introducing more flexibility in ESDP, namely, enhanced cooperation, permanent structured cooperation and 'coalitions of the willing.' The Lisbon Treaty allows for a group of states to establish enhanced cooperation in order to deepen their cooperation in a given policy area, including in defence matters (Art. 20). Enhanced cooperation is considered by the Lisbon Treaty as a 'last resort' mechanism, to be used only when 'the objectives of such cooperation cannot be attained within a reasonable

period by the Union as a whole' (Art. 20.2). Although the Treaty increases flexibility in CSDP by allowing enhanced cooperation in this area, the requirement of unanimity in the Council is much more demanding than the current qualified majority voting foreseen in the Nice Treaty. Furthermore, the fact that other member states may attend deliberations relating to these issues might increase reluctance to resort to this formal mechanism, to the advantage of other informal 'like-minded groups.' In sum, as in past practice, provisions on enhanced cooperation within ESDP may well represent a theoretical possibility, without ever becoming a realized option.

Permanent Structured Cooperation on the other hand holds more potential to assist cooperation between the member states. The Treaty provides for 'cooperation between member states whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area'. Although it is not envisaged as a procedure for the deployment of EU missions, this mechanism should facilitate capability development and the pooling of assets, in turn increasing ESDP operational capabilities. The 'Protocol on Permanent Structured Cooperation' contains the provisions about how to proceed with this form of cooperation, although there are still many open questions as to how it is going to be operationalised.<sup>22</sup> For example, it is still not clear which member states will be able to participate in the Permanent Structured Cooperation. Unlike enhanced cooperation, Permanent Structured Cooperation does not require a minimum of member states to be launched. Rather membership will depend on the criteria used to assess the eligibility of the participants. It is still unclear what the

'higher criteria' for joining a Permanent Structured Cooperation will be as those mentioned in the Treaty, Protocol 10, are still rather vague. Yet, it is likely that if the criteria are too strict or related only to capability this could lead to a two-speed or multi-speed Europe in the area of defence. For example, a criterion that sets a defence budget of 2% of GDP as threshold for participation will have such consequences since most of the current member states face financial constraints to reach that level of expenditure. The member states will also need to determine what the role of the European Defence Agency would be and how it would contribute to the development and implementation of assessment criteria.

The Treaty also foresees the possibility of entrusting ESDP operations to a group of member states 'which are willing and have the necessary capability for such a task.' The procedure to establish a 'coalition of the willing and able' is much less convoluted than in the case of Permanent Structured Cooperation. While this has been common practice in the past within the ESDP framework and outside – as seen during the crisis in Albania in 1997 – introducing the possibility to establish 'coalitions of the willing' in the Treaty might render this practice more legitimate and transparent, avoiding some of the controversies of the past.

## Conclusion

The Lisbon Treaty will introduce significant changes at the highest administrative level of EU foreign policy. In contrast to the six-month rotating EU Presidency, the new President of the European Council could bring more continuity and, if held by a strong personality, more visibility to the EU. However, in its current form, it is unclear what added value this new institutional figure will bring specifically to the CFSP, where the High Representative's leading role has been

---

<sup>22</sup> For a detailed examination of this issue, see Sven Biscop, 'Permanent Structured Cooperation and the Future of the ESDP', 20 *Egmont Paper* (Egmont, Brussels, 2008).

maintained by the Lisbon Treaty. In areas other than the CFSP, the President of the Council will also have to co-ordinate his/her activities with the President of the Commission and the Presidency of the EU. In sum, the institutional innovation of the Presidency of the European Council will do little to increase coherence in EU external action as it will not put an end to questions about who speaks for Europe. Only a careful delimitation of spheres of competence could prevent duplication and overlaps between the President of the European Council, the High Representative, the President of the Commission and the EU Presidency. The implementation of other provisions contained in the Lisbon Treaty– in particular regarding the External Action Service and the ESDP – will also be challenging and will very much depend on the willingness of the member states to make European foreign policy work. ♦