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**The evolution of the Common Foreign and Security Policy.
A case of an imperfect ratchet fusion**

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The evolution of the Common Foreign and Security Policy

A case of an imperfect ratchet fusion¹

1. Common Foreign and Security Policy: an institutionalist perspective

1.1 Political relevance and academic offers

The Common Foreign and Security Policy (CFSP) and its evolution over the last four decades are of high political and academic relevance: the Second Pillar of the European Union (EU) constitutes a key element of the European construction as well as one cornerstone of the national foreign policies of its Member States. It is increasingly perceived as an important though strange actor within the international system. The CFSP, as it stands today, after the signing of the Treaty of Nice, does not, however, automatically document a clearly designed and commonly accepted master plan. On the contrary: to avoid doctrinal debates the ‘founding fathers’ of the European Political Cooperation (EPC) and later the creators of the Second Pillar of the EU system opted for a pragmatic and ambiguous institutional construction open to different interpretations (Nuttall 1992, Rummel and Wessels 1978). Consequently, various concepts of the aims and methods of a joint international presence of the EU and its Member States continue to exist.

¹ This chapter is based on findings of a research project entitled ‘The Common Foreign and Security Policy of the European Union – intergovernmental network or collective actor’ which is carried out at the Institut für Europäische Politik, Berlin, with the support of the Deutsche Forschungsgemeinschaft. The authors would particularly like to thank Nicole Alecu de Flers for her assistance.

Institutional and procedural reforms and adaptations as concluded in several treaty amendments over the last two decades have not overcome this fundamental ambiguity.

To grasp this rather unique phenomenon various schools of thought have emerged over the years, which offer helpful approaches to explore, explain and evaluate its main features (Weiler and Wessels 1988, Pijpers, Regelsberger and Wessels 1988, Ginsberg 1999, 2001).

Thus the classical (neo-)realist approach interprets the structures and results of the CSFP as a typical product of behavioural patterns of nation states in times of interdependence and globalisation (Link 2000). In order to secure their national interests, governments participate in a European regime of coordination. Among sovereign states it offers attractive policy options for specific issues and within certain periods. CFSP thus remains a primarily intergovernmental framework – despite its procedural differentiation, its enlargement of scope and increasing links with the EC Pillar. The constraints of the international environment may increasingly force individual governments to ‘speak with one voice’. However, they remain the sole ‘players’ in a ‘game’ in which sovereignties are pooled only as long as vital national interests converge. In such an understanding EC institutions may have no say at all. The EC bodies should be subservient to the ‘high politics’ (Hoffmann 1966) of the key national leaders. Instead, an institutional structure and procedures will be constructed in which unanimity reigns and decisions are taken by those traditionally in charge of foreign policy. Legitimate rule can only be exercised by representatives of the nation states. Depending on the dynamics of the international system, the EU might need to become a ‘superpower’, but it should not and will not turn into a ‘superstate’ (Blair 2000). The institutional evolution would thus clearly be limited to marginal adaptations and fine-tuning of intergovernmental ‘modes of governance’ (for the term see Wallace 2000b: 28-35, Kohler-Koch 1999: 20-6, Wessels and Linsenmann 2002).

In an opposing view, the CFSP is understood as a part and as a result of a comprehensive and fundamental integration process leading to a *finalité* in the shape of a

federal state – even if in a distant future (see also the chapters of Crum and Kohler-Koch, this volume).

Based on the assumption of functionalist spill-overs the formerly loose and intergovernmental EPC/CFSP diplomacy is expected to gradually move towards a system with clear supranational elements. In this neo-federalist perspective (Pinder 2001a, 2001b) EC institutions are constructed to turn into relevant actors inside the CFSP system. Through constant treaty revisions by intergovernmental conferences their roles would thus be strengthened to the detriment of the traditional actors which might even be replaced by supranational institutions one day. The vision of a European federation expects procedural adaptations with greater competences for those European organs that are not dominated by the nation states, i.e. the European Commission and the European Parliament. Increased success of such a communitarised foreign policy system would enhance a common European identity as an actor not only in the international system but inside the EU for its citizens as well. Loyalties are shifted to the EU level in a ‘process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities towards a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states. The end result of a process of political integration is expected to lead to a new political community, superimposed over the pre-existing ones’ (Haas 1958: 16, see also Monnet 1976, Hallstein 1972). Legitimation is then achieved by an effective output performance (Scharpf 2000).

1.2. Our approach: testing a ratchet fusion

Within this set of divergent and analytical explanations, our approach starts with the core assumption that the process and the products of intergovernmental conferences (IGCs) like Maastricht, Amsterdam and Nice are milestones in the European unification process in general and also in the area of foreign and security policy. They produce history-making

decisions (Peterson 1995: 72) as critical junctures and formative events; at those focal points key actors of Member States as ‘masters of the treaty’ (German Constitutional Court 1993, 1995) create and revise opportunity structures, with incentives and constraints for both themselves and for Community actors. These institutional and procedural arrangements offer access to and influence on the preparing, taking, implementing and controlling of political decisions (Maurer and Wessels 2002) over an increasing scope of common foreign policy activities.

In a historical retro perspective, we thus observe a nearly regular treaty-making – some kind of a hidden constitutionalisation – in the area of the CFSP during the last two decades. One IGC sets up subjects and dates for the following one. The latest IGC that started in October 2003 was unique insofar as it debated a Draft Constitutional Treaty (European Convention 2003) that had been designed before in a broad public debate among both parliamentarians and government representatives from the EU member states and the applicant countries as well as representatives from the EU (European Parliament, European Commission). However, Heads of State and Government at 25 failed to reach consensus on the text in December 2003 despite an Italian Presidency eager to find solutions to the most contested issues (Conference 2003). The Brussels failure does not mark the end of shaping and fixing the final institutional and procedural configuration of the EU system over all and the CFSP Pillar in particular. In the area of CFSP and in particular for ESDP the reform process will continue, if not via another IGC in 2004, at least through Council or national decisions for specific subjects.

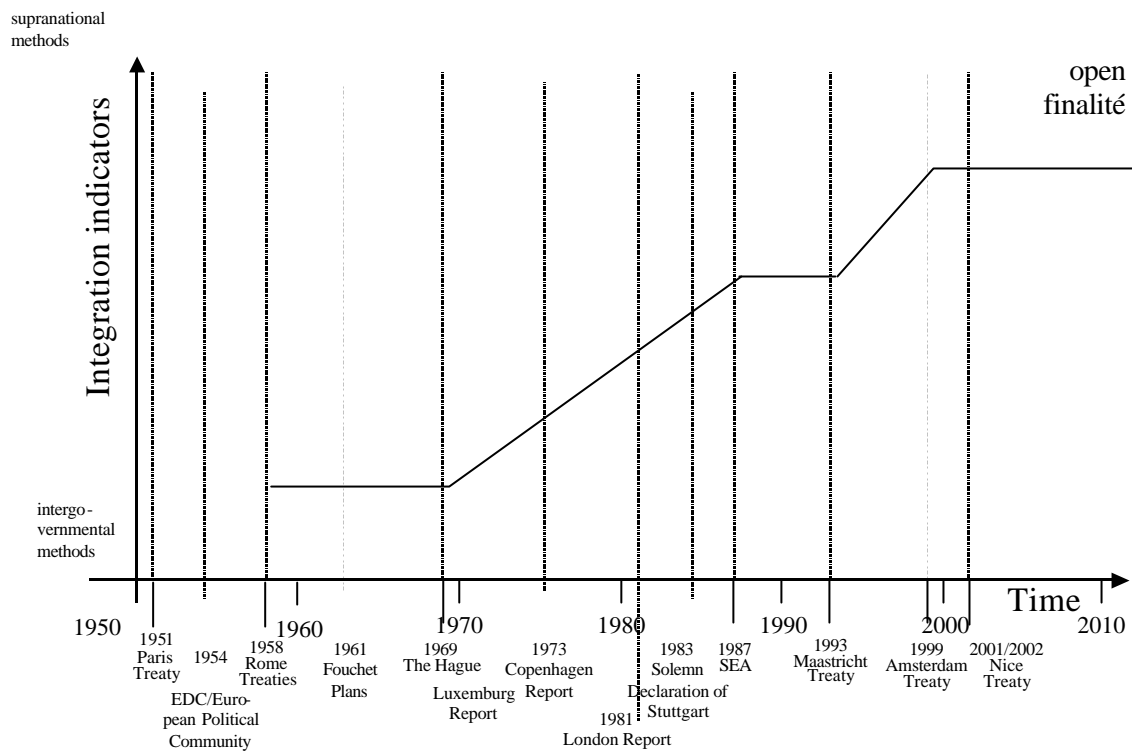
To explain the evolution of the CFSP in a comprehensive way, however, the analysis of legal provisions must be confronted with real patterns of the ‘living constitution’ (Olsen 2000: 6, Maurer and Wessels 2002) over a considerable time span. Especially, links between treaty-making and the normal patterns of political actors in institutions need to be considered (Scharpf 1997). In such a dynamic perspective we understand the EPC/CFSP evolution as part

of a 'fusion' (Wessels 1997) in a 'ratchet' process (Wessels 2001b: 6–7) of a cascade integration ladder (Maurer and Wessels 2002).

Via IGCs in particular national actors have step by step created, amended and revised institutional and procedural incentives and constraints. National and European actors increasingly employ these opportunity structures to use EU instruments for coping with external challenges perceived by all as common problems. By relying on a limited set of legal and real integration indicators (see earlier works by Lindberg and Scheingold 1970, Grabitz *et al.* 1988, Stone Sweet and Sandholtz 1998, Pollack 2000), we can identify recurrent patterns which indicate a process of a *de facto* stronger involvement of national and EC actors in a kind of 'Europeanisation' (Olsen 2002: 4) or 'Brussellisation' for joint activities and pressure in the international system.

In a fusion perspective, this move towards an EU location means a shift of political attention and personal resources to the Brussels arena (Maurer, Mittag and Wessels 2002) without necessarily implying a direct communitarisation in strict legal terms. The thesis of a ratchet fusion assumes and predicts that this evolution is irreversible: 'plateaus' of a certain status quo might be reached from time to time and for a longer period (see figure 1). A spill-back from these levels, however, would falsify the major argument of our thesis.

Figure 1: CFSP construction dates



2. Constructing the rules: the evolution of the legal constitution from the fifties to Nice 2000

In line with our evolutionary approach we shall now analyse the basic texts to identify how the ‘masters of the treaty’ (German Constitutional Court 1993, 1995) have created opportunity structures for national and Community actors in this policy field. The institutionalisation of a common foreign and security policy at the European level can so far be described as an incremental process, which led to the formulation of aims, norms, methods and institutions of the envisaged cooperation; each step towards a new plateau was caused by a specific European and international context and by a set of multiple motives of the participating governments.

2.1 Failing forerunners 1951-1962: the federal European Defence Community versus the intergovernmental Fouchet plans

In the immediate aftermath of the Second World War plans to integrate key sectors of national sovereignty – such as the former war industries coal and steel and also defence – in a new European framework found considerable support in the countries which were to become the founding fathers of the Paris Treaty on the Coal and Steel Community (1951) and later on of the Rome Treaties (1957). Plans for the creation of a European Defence Community (EDC) on the basis of proposals from the then French Prime Minister Pléven in 1950 suggested a far-reaching integration of military forces under a joint command structure, a single budget and joint armament programmes. Integration in the military field and the European Coal and Steel Community in 1951 were supposed to develop under a common ‘roof’ in the form of a European Political Community. The latter was supposed to constitute the over-arching integrated structure enabling the Member States to consult each other on their foreign policies in a permanent manner and within common institutions including modes of a joint external representation. However, due to French worries about a loss of sovereignty the already signed EDC treaty provisions in the end were not ratified by the Assemblée Nationale (1954). The strategic concept of achieving supranational political integration in Europe by focussing on defence and foreign policy therefore remained merely a visionary concept (Schoutheete 1986: 11, Wessels 1999: 1-4).

Similarly unsuccessful ideas, again with a French connotation, to initiate cooperation among the signatories of the EC Treaties emerged in the early sixties. In contrast to the integrationist approach of the earlier concepts, the Fouchet Plans, named after a spokesman of de Gaulle, suggested the opposite institutional strategy. Traditional intergovernmental cooperation was seen as the preferred mode for foreign policy issues as matters of defence had already been transferred to NATO and the revised Brussels Pact, which was transformed into the Western European Union (WEU) during the years 1954/55. Gaullist policy annoyed

the partners of France and provoked a 'no' to the Fouchet proposals, which were increasingly perceived as French means of 'invading' the supranational character of the EC institutional set-up, to produce competition with NATO and to prevent the United Kingdom from participation, as desired by other EC countries.

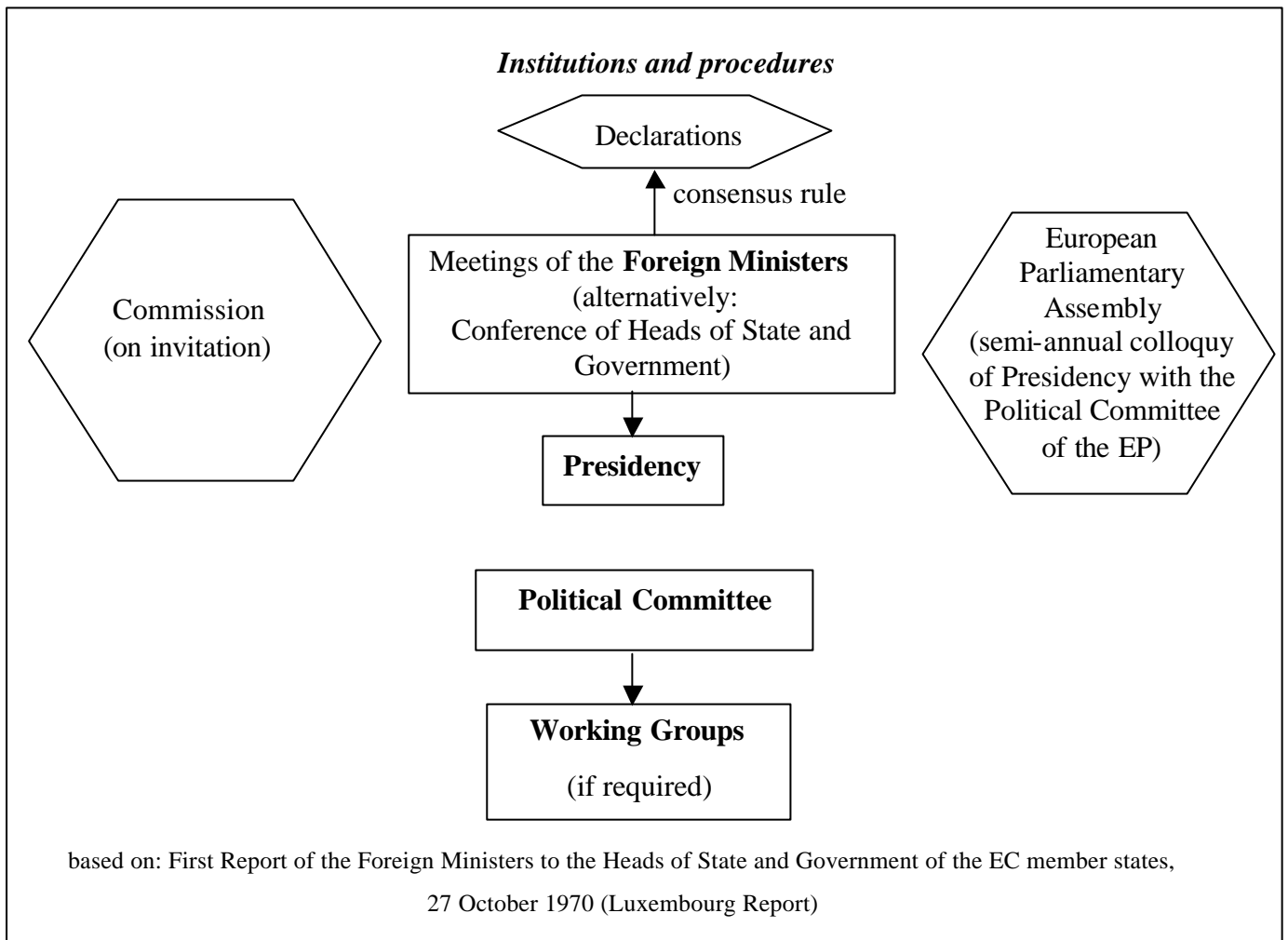
One lesson of the two failures was that no consensus was possible on a comprehensive master plan with a clear institutional *finalité*, which would be installed by a constitution-like jump into a new legal framework. Incremental and modest steps were apparently the only strategy to advance.

2.2 The EPC reports: the period of political commitments between 1969-1983

Not until the transformation of the international and European context at the end of the sixties did the formerly six EC governments decide to again reflect on ways to enhance the process of political unification in Europe.

The summit of The Hague in 1969 then launched a new but modest start to the process of finding a way how Europe could contribute to events and developments in the world in a way that would correspond to its responsibilities: the foreign ministers and their top diplomats, the political directors, now defined the first principles and procedures to co-operate in this field (Rummel and Wessels 1978, de Schoutheete 1986, Nuttall 1992). Due to the experiences of the past and basic differences among the 'founding fathers' of EPC about the nature of such an undertaking, a cautious and ambiguous approach prevailed. The objectives and mechanisms were prudently formulated and laid down in a legally non-binding agreement known as the Luxembourg or Davignon (the then Belgian Political Director) Report of 27 October 1970. This text expressed that 'Europe must prepare itself to exercise the responsibilities which to assume in the world is both its duty and a necessity on account of its greater cohesion and its increasingly important role' (Luxembourg Report 1970: point 9).

Figure 2: Early EPC: Institutions and procedures



performance in international crises in the late seventies, like the Soviet invasion of Afghanistan or the taking of US hostages in Iran, steps were undertaken to re-enforce the concertation reflex among the participating governments by a crisis mechanism, which was to enable them ‘increasingly to shape events and not merely to react to them’ (London Report 1981). For the first time the Ten recognised the usefulness of the Commission's participation in the EPC at all levels and broadened the EPC agenda prudently towards the ‘political’ aspects of security. Their approach, however, remained intergovernmental, consensus-based and outside an EC-linked legal framework.

Attempts of two integrationist foreign ministers of that time, the German Hans-Dietrich Genscher and his Italian counterpart, Emilio Colombo, to translate the achievements of EPC

into legal provisions and to bring them closer to the Community structure for the sake of efficiency and greater consistency of Europe's international performance failed in the early eighties (Genschler and Colombo 1981). At that time no consensus for such a qualitative leap could be reached, and the passing of another political agreement, the Solemn Declaration of Stuttgart, named after its place of signature under the German Presidency in 1983, was perceived as the ultimate compromise. Even this modest outcome could not satisfy all of the Ten: the Greek government, the 'enfant terrible' in EPC at that time after the Socialist victory in Athens, issued a general reserve on the obligations of the EPC, which could be perceived as a loss of national sovereignty, while the Danish 'no' referred 'only' to the extension of EPC to 'political and economic' aspects of security.

2.3 From the SEA over Maastricht and Amsterdam to Nice and beyond: formalisation via treaty-making 1986-2003

The Single European Act: legal confirmation of previous pragmatism

In the wake of the southern enlargement of the Community in 1986 the Member States wished to give new impulses to the integration process, which focused on the creation of the Single Market. However, the EPC, too, had become a central element for foreign policy formulation at national level and from the perspective of its participants deserved a further strengthening (Forster and Wallace 2000: 465). As part of the overall debate on reforming the institutional set-up from 1984 to 1986, the EPC received its first legal basis in the first comprehensive intergovernmental conference to amend and reform the treaties. Title III, Art. 30 of the Single European Act (SEA) of 17/28 February 1986 stated that '(T)he High Contracting Parties being members of the European Community' – an explicit hint at the exclusion of third countries from the 'club' – 'shall endeavour jointly to formulate and implement a European foreign policy' (Art. 30, point 1 SEA). Compared to the earlier reports, the treaty text speaks more clearly of the Member States' obligations to consult each other

before their own positions were fixed and to refrain from national decisions ‘which impair their effectiveness as a cohesive force in international relations or within international organisations’ (Art. 30, point 2 SEA). In the case of deviant behaviour of member countries, however, no sanction mechanisms were foreseen. The SEA widely confirmed the institutions and procedures of the daily EPC business (Art. 30, points 3-4, 10 SEA), which remained intergovernmental and required decisions based on consensus. A new item was the creation of a small administrative unit located at the General Secretariat of the Council in Brussels, which was to assist the presidency in the management of the EPC (Art. 30, point 10g SEA). With regard to the gradual enlargement of scope of the EPC, it is important to note that the treaty not only reaffirmed the need for cooperation in the ‘political and economic’ matters of security but that achievements in this field were seen to essentially contribute ‘to the development of a European identity in external policy matters’ (Art. 30, point 6 SEA). Finally, the treaty contained the first revision clause for the EPC, i.e. to examine the provisions five years after the entry into force of the SEA (Art. 30, point 12 SEA). This formula paved the way for the quasi-regular construction of legal and institutional adaptations from the middle of the eighties till the first decade of the third millennium.

Maastricht: from a diplomatic ‘club’ towards a formalised Pillar of the EU

Dynamic forces inside the Communities, e.g. progress towards the Internal Market and EMU, as well as a changed international environment most obvious with the end of the Cold War and German unification, were the driving forces for a further strengthening of the EPC in the early nineties. As a part of an expressed common will on behalf of the signatories of the EC treaties to achieve an ‘ever closer union of the peoples of Europe’ (Art. A TEU, Maastricht Version (MV)²) the Twelve were ready to enter a qualitatively new stage in their cooperation in foreign policy. The transformation of the EPC into a Common Foreign and

² That is the Treaty on European Union, which came into force in 1993 as the product of an intergovernmental conference that was concluded at the European Council in Maastricht in 1991.

Security Policy of the European Union (CFSP) signals a leap forward in various respects, as the CFSP is incorporated into 'one single institutional framework' (Art. C TEU MV).

The new provisions set out the general objectives and rules of the European construction and created the three Pillars under a common roof. The closeness of EC and CFSP structures is obvious in so far as an EC organ, i.e. the Council, became the central decision making body in the CFSP (Art. J.2, J.8,2 TEU MV) and the roles of the European Commission and the European Parliament were confirmed. Art. C TEU also demanded the coherence of all foreign policy activities for which the Council and the Commission were made jointly responsible.

On the administrative level, the Political Committee remained the central body for the preparation and implementation of CFSP policies. However, it entered into a competitive situation with the Committee of Permanent Representatives (Coreper), which is traditionally in charge of the Council's work (Art. 151 TEC MV) and which acts as a gate-keeper towards CFSP attempts to 'invade' the Community Pillar. The administrative set-up of the CFSP was to be covered by the Community budget.

Furthermore, for the first time majority voting was introduced to the CFSP. Compared to EC rules there are, however, certain specific modalities: majority decisions not only require 62 weighted votes but they must at the same time comprise two thirds of the Member States (Art. J.3,2 TEU MV). Majority voting is applicable only in specific cases, i.e. the implementation of joint actions, while the objectives, means and duration of the concrete measures were to be defined by prior consensus.

Questions of security and defence are no longer taboos on the CFSP agenda. Especially the Western European Union, so far the relatively independent defence component of Europe, was to be understood as an integral part of the development of the European Union (Jopp 1997). The Twelve attributed considerable weight 'to include all questions related to the security of the Union, including the eventual framing of a common defence policy which

might in time lead to a common defence' (Title V, Art. J.4 TEU MV) and undertook specific measures to improve the liaison between the CFSP institutions and those of the WEU. Thereby they emphasised a particular guiding role for the European Council. A revision clause was inserted to review the CFSP provisions and present the results to the European Council in 1996 'with a view to furthering the objective of this Treaty, and having in view the date of 1998 in the context of Article XII of the Brussels Treaty' (Art. J.4 point 6 TEU MV).

Amsterdam: a rationalised intergovernmentalism

Soon after the Maastricht provisions had taken shape, new external challenges like the growing conflict in the EU's immediate neighbourhood in ex-Yugoslavia and, moreover, its weak performance in this crisis re-opened the debate on the appropriateness of the CFSP. So did the EU's image of an anchor of economic growth and political stability, as the emerging democracies surrounding the EU twelve/fifteen members (as from January 1995 on with the accession of Austria, Finland and Sweden) often perceived it.

Another IGC leading to the European Council of Amsterdam 1997 produced procedural amendments to improve the EU's internal efficiency and external visibility and effectiveness (Dumond and Setton 1999, Monar 1997a: 249, Griller et al. 2000: 373, Regelsberger and Schmalz 2001: 249). Among the novelties were: a provision to move from the consensus requirement towards the possibility of constructive abstention (Title V, Art. 23 TEU Amsterdam Version (AV)); new ways to achieve an extension of majority votes through the introduction of the instrument of 'common strategies' (Arts. 13 and 23 TEU AV) though national safeguard and fall back clauses were inserted, i.e. a national veto is made possible in case of 'important and stated reasons of national policy' (Art. 23,2 TEU AV). Besides, the office of a High Representative for the CFSP (Art. 18,3 and 26 TEU AV) was created to assist the presidency in both management and external representation. Modifications of the old troika system towards more continuity (Art. 18 TEU AV) were introduced, as was the

installation of a Policy Planning and Early Warning Unit (PPEWU) at the Council Secretariat under the authority of the High Representative for the CFSP.

The Amsterdam Treaty (Monar and Wessels 2001) also renders the security and defence aspects of CFSP more precisely. It introduces the 'Petersberg tasks' (Art. 17 TEU AV), i.e. the EU's competence for humanitarian and rescue tasks, peace-keeping, crisis management including peace making and combat forces.

The institutional and procedural amendments and revisions illustrate the clear preference of the Member States to improve the efficiency of these procedures without giving up their ultimate say. The coordination became more legalised, but the heads of governments did not introduce any 'hard' sanctions against non-compliant members. They rationalised their intergovernmental set-up without a qualitative move towards a communitarisation. In contrast, such a step was taken in justice and home affairs by moving asylum and immigration issues from the Third to the First Pillar (Monar 2001).

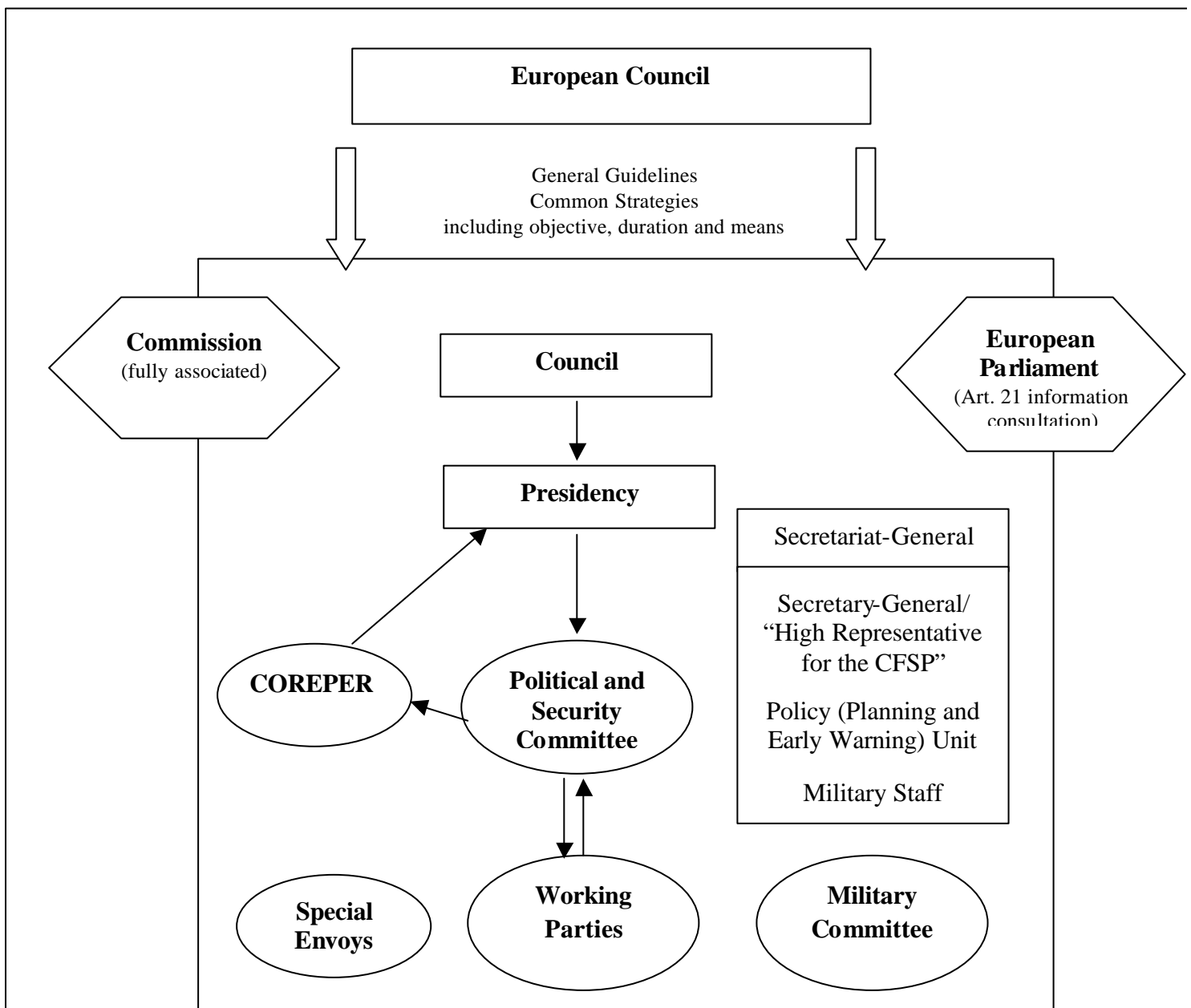
Nice: scope extension to military tasks – (C)ESDP

Shortly after the provisions of the Amsterdam Treaty came into force in May 1999, another debate started on revising and amending the treaties just signed. It was driven mainly by the 'left-overs' of Amsterdam, i.e. fundamental questions on EC institutional provisions, which had remained unsolved in the earlier IGC but which were pressing in view of the forthcoming Eastern enlargement of the EU (see also the chapter by Laursen, this volume). At the beginning, the need to consider another reform of the CFSP provisions was widely felt to be premature and only slight legal adaptations seemed necessary. These would reflect recent dynamism in certain areas of CFSP without, however, provoking a debate on sensitive issues, particularly in the area of security and defence.

However, matters of European security and defence were not completely out of sight. EU's experience with the Kosovo crisis and the altered course in British policy towards an

autonomous European capacity produced unexpected dynamism in CFSP practice (Jopp 2000: 243; Regelsberger 2000: 233). The Fifteen entered into intensive deliberations on an EU Rapid Reaction Force and on institutional and organisational adaptations (Military Committee, Military Staff). As in the early days of EPC these new steps started informally and were then gradually transformed into Council decisions.

Figure 3a: Mature CFSP Institutions



based on: Nice Treaty of 26 February 2001 (Title V, Art. 11-28 TEU)

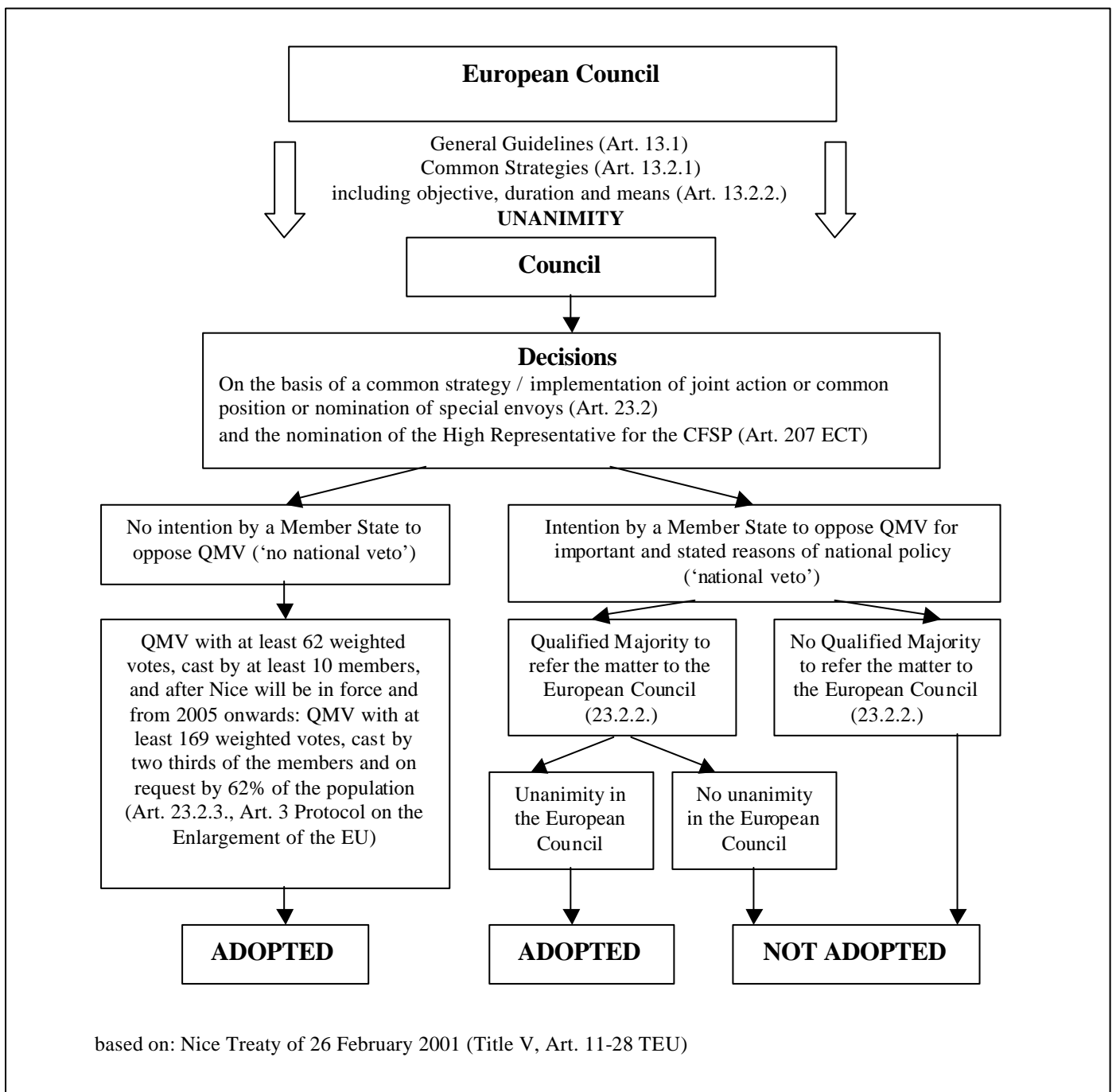
The outcome (Regelsberger 2001, Algieri 2001, Wessels 2001b) of the third IGC which ended with the Nice European Council in December 2000 and the signature of 26 February 2001, offers for the CFSP a modest extension of majority voting in the case of the appointment of the High Representative for the CFSP – as the Secretary General of the Council – (Art. 207 EC Treaty Nice Version (NV)) and of nominating special envoys (Art. 23,2 TEU NV). In institutional terms the treaty revision takes up again real developments: the Political Committee, traditionally already the central CFSP body to prepare and implement ministerial decisions, plays a growing role particularly in cases of crisis management operations (Art. 25 TEU NV). Its new function is also reflected in a change of name to Political and Security Committee (PSC), while other details, as its composition, location or the chairmanship, are by intention not fixed in the treaty itself but through a Council decision (Decision 01/78/CFSP of 22 January 2001).

Furthermore, the Nice treaty foresees adaptations in Art. 17 TEU which correspond to an earlier decision of the WEU Council to transfer major functions of this organisation to the EU (except for the mutual military assistance clause of the contracting WEU parties) – an almost revolutionary development if one recalls the massive disputes among the Fifteen even over the gradual integration of the WEU bodies into the EU before 1998.

Finally, it is worth mentioning that the heads of state and government agreed to introduce some sort of an ‘enhanced cooperation’ also to the Second Pillar (Art. 27a-e TEU NV, Regelsberger 2001: 159, Wessels 2001a: 205), based on the conviction that in an enlarged EU situations might occur where a group of the ‘willing’ could go ahead with a specific policy serving the common interests and objectives of the CFSP. The articles mentioned suggest an enhanced cooperation of at least eight Member States in those cases where the implementation of a joint action (Art. 14 TEU AV) or a common position (Art. 15 TEU AV) cannot be taken up by all. However, enhanced cooperation ‘shall not relate to matters having military or defence implications’ (Art. 27b TEU NV). This limitation to

specific cases counters initial ideas of some governments to make the provisions applicable also for the sensitive area of security and defence where unanimity at Fifteen plus might be difficult to arrive at. However, the modest compromise reached in Nice after long controversies also had to pay tribute to the concerns of several small Member States which feared to be marginalised and excluded from core groups – an experience they had witnessed already in the course of the Bosnia Contact Group and the Kosovo crisis (Algieri 2001: 62, Regelsberger 2001: 60).

Figure 3b: Mature CFSP Decision Making Procedures



The European Convention 2002-03: a new architecture for CFSP in the Draft Constitutional Treaty

Nice does by no means signal the end of the CFSP reforms. On the contrary, the prospect of EU enlargement and other external challenges like 11 September 2001 and the war against Iraq in 2003 forced the Fifteen to redefine their “place” as that of a European “power” capable of assuming an active role in a global world (European Council 2000, 2001). Intensive debates in the newly established European Convention between January 2002 and July 2003 resulted in the Draft Constitutional Treaty which was to become the basis of the Intergovernmental Conference, the necessary legal framework to revise the existing TEU provisions. Though initially accepted as a “good basis” for the IGC negotiations the Brussels European Council in December 2003 failed to achieve an agreement on the future European Constitution. While fundamental divergences of views on the voting system could not be overcome the CFSP provisions though modified during the IGC compared to the proposals of the Convention did not provoke the failure.

The Draft Treaty Establishing a Constitution for Europe (CONV 850/03) has both confirmed and reformulated major provisions of the EU’s ‘legal constitution’. The ‘preamble’, the ‘Union’s values’ (Art. I2) and the ‘Union’s objectives’ as well as the ‘principles and objectives’ (Art. III-194) of the ‘Union’s external action’ (Art. III-193) put strongly forward an active role dominated by the idea of a ‘civilian power’. More than before opportunities are opened to pursue these goals by acting as a ‘peace power’ but also by means of ‘combat forces’ (Arts. I-40; III-210). In order to improve the operational capabilities of the EU the draft text introduces new modes of flexibility in the area of security and defence. In contrast to the Nice version of the TEU the new provisions offer ‘structured cooperation’ (Art. I-40; III-213) for those among the member states most advanced in military capabilities and able and willing to implement the most demanding ESDP missions. A Defence Union with mutual military guarantees is, as previously, not put forward. The standard formula of a

'progressive framing of a common defence policy, which might lead to a common defence' (Arts. I15, 40;) is repeated. Remarkably enough, however, the Convention proposes to establish 'closer cooperation' (Art. I40,7) in case a member state has become victim of an armed aggression on its territory.

Concerning the evolution of the institutional architecture of the CFSP the Constitutional Treaty follows traditional lines of the past and adds some innovations. First of all, it reinforces the overarching weight of the European Council (Arts. I20-21; III-194-196) which is to identify the strategic interests and objectives of the Union which relate to both the CFSP and to other areas of the external action of the Union and to decide about the general guidelines, including matters with defence implications. Institutional innovations like the establishment of an extended Presidency of the European Council and explicit competences for the chair to represent the EU externally at this level and to convene extraordinary sessions if the international situation so requires will add to the enlarged responsibilities of the EU political top. Simultaneously the new provisions are not free of ambiguities and signal potential conflicts with the also newly established post of a Union Minister for Foreign Affairs (Art. I-27). He is the major institutional invention of the Constitutional Treaty. Compared to the existing High Representative for the CFSP his successor will not only have a formal right of initiative for the whole CFSP/ESDP business but act as the key spokesman towards the outside and exercise important functions for the internal formulation, mediation and decision-taking of CFSP matters since he/she will permanently chair the Foreign Affairs Council (Art. I-23,2). Besides, and after different experiences with various persons speaking (Presidency, Commission, High Representative, Troika), the Convention proposals foresee the fusion between several areas of external action, i.e. Second Pillar issues and the EC's external relations in even one person, i.e. the Union Minister for Foreign Affairs who is to become Vice-President of the Commission simultaneously. Though these provisions could open a

broad and multifunctional scope of opportunities at the same time they might also create a set of inter-institutional and intra-institutional constraints on this new post.

Compared to the innovative steps described above progress in the field of majority voting has been rather modest in the area of CFSP. The protagonists of its extension widely failed against massive opposition from the traditional supporters of the unanimity principle like the United Kingdom. The Draft Treaty (Arts. I-24; III-201) confirms the existing rules and suggests to go beyond these principles if the European Council defines new items for this procedure (ESDP matters will remain excluded) or the Union Foreign Minister takes the initiative on specific issues and in close collaboration with the Heads of State and Government in the European Council.

3. Using the treaty rules: evolutionary patterns of the living constitution

After several steps of constructing an institutional and procedural set up, the EU and its Member States today dispose of a unique 'legal regime' (Smith 2001) or 'CFSP legal order' (Wessel 1999) to jointly formulate and implement a Common Foreign and Security Policy including matters of European Security and Defence. It evolved over more than thirty years from a loose set of vague and ambiguous political commitments towards a system based on a differentiated set of legal provisions within a formal framework. This construction of the 'legal constitution' indicates an institutional growth and considerable differentiation of the rules of cooperation in the foreign policy of the EC Member States.

We have, however, to observe and to analyse the real modes of governance. Over the past two decades, a considerable evolution towards a more and more sophisticated system, in which national politicians and diplomats are interlocking with the Community actors, becomes obvious. This living constitution is documented in the patterns of engagement of actors as well as the use of the procedures, in particular for producing policy outcomes.

3.1 Involvement of actors

As constitutional developments above illustrate, both the number and variety of actors in the CFSP and ESDP of today have little in common with the early days of the EPC and are beyond the already more sophisticated system of the early nineties (Bretherton and Vogler 1999). More and more national and community actors use an even growing institutional set up.

Today, the Second Pillar of the EU finds at its hierarchical top the European Council with meetings at least twice a year, according to the EU treaty (Art. 4 TEU NV), while in reality at least the same number of informal sessions are convened in addition. Its task is to give overall guidance and to define the principles of the joint endeavours including those on defence. In time of crisis the European Council will meet at a short notice.

The Council in its composition of foreign ministers and, if needed, including the ministers of defence – a clear novelty since 2000 – prepares the discussions of the European Council and is politically responsible for all main decisions in CSFP. What had seemed unthinkable in the first two decades of the EPC has become normal by now, i.e. Foreign Ministers meet in the Council at monthly intervals at the sites of the EC institutions to discuss all foreign and security issues. Above all, its work is no longer exclusively prepared by the Political Committee/PSC but in cooperation with the Committee of Permanent Representatives, which is according to Art. 207 EC Treaty (NV) traditionally in charge of the Council preparations. Not surprisingly, this shared responsibility at the administrative level occasionally creates unproductive conflicts over the distribution of competencies.

At the administrative level we witness a ‘Brussellisation’ of the diplomatic apparatus and thus the creation of a ‘core network’ (see for the term Wessels and Linsenmann 2002): the constant broadening of the CFSP agenda has given rise to an intensive use of a great number of working parties for regional subjects, like the Middle East or Latin America, as well as for functional topics, e.g. human rights issues (Wessels 2000: 181). Other expert

groups, like the one on civil crisis management, were established only recently for improving the Fifteen's performance in ESDP. Another category of groups deals with the proper functioning of the CFSP itself, like the European Correspondents of the national foreign ministries, and its close association with the Community business, especially the group of Political Councillors in the permanent representations of the EU Member States in Brussels. The working parties meet at regular intervals, twice per presidency at least, and report regularly to the Political and Security Committee, the key institution at diplomatic level in CFSP.

Since its inception under the Swedish presidency in the first half of 2001 this body works at high intensity, i.e. in twice-weekly meetings. The fact that the members of the PSC are by intention permanently placed in Brussels and that they are composed of high level officials/ambassadors from the permanent representations of EU Member States to the Union (according to Council Decision 01/78 CFSP of 22 January 2001) has accelerated the decision-making process and opened the way not only for a better daily coordination between the CFSP and EC Pillar for the sake of consistency but also for a strengthening of the common European interests. However, these positive effects of 'Brussellisation' have found their limits so far in certain international crisis situations like the Iraq war in 2003 and partly in the events of 11 September 2001 where fundamental national interests were concerned and questions of national security and peace or war occurred. Despite the fact that the intensive contacts among the CFSP staff in Brussels might have occasionally limited or at least changed the influence of traditional actors in the national foreign ministries the work of the PSC cannot successfully be done without a constant link to the diplomats "at home". It needs to be supplied both with information and instructions from the capitals. Besides, the Political Directors, forming the previous Political Committee, are not out of the game. On the contrary, the PSC in the above mentioned composition has to tackle the daily business while the Political Directors meet at

certain intervals to concentrate on selected key issues and to define mid-term perspectives for important areas.

The dynamics in ESDP matters have also massively contributed to the institutional growth over the past few years most obvious in the installation of the EU Military Committee, from 2001 onwards as a permanent structure, and the establishment of the EU Military Staff in the Secretariat General of the Council at a size of 130 officers (as of 2001 onwards). Most recently and as a consequence of the first crisis management operations of the EU since 2003 (EU Police Mission in Bosnia to be followed by a military operation to take over from SFOR; EU Military operation “Concordia” and Police Mission “Proxima” in Macedonia; EU Military Operation “Artemis” in Congo) preparations are underway to establish an “Agency in the field of defence capabilities” (Council Press Release 2003) and a “cell with civil/military components” (Presidency Conclusions 2003: point 89), i.e. some sort of military Headquarters under the roof of the Council Secretariat and under the authority of the High Representative for the CFSP (Conclusions of the Presidency 2003) which will add to the complexity of the present institutional structure of the CFSP.

In view of our trend analysis also this part of the ‘Brussellisation’ could bear similar socialisation results as the EPC in the first two decades of its existence did, especially as many actors have already shared experiences within NATO bodies. However, the very different administrative cultures and working methods of the military and those in the Council Secretariat and Foreign Offices could produce some dividing lines in the day to day work. Some experts even speculate that there is something like a ‘Fourth Pillar’ in the making by the military establishment. Others predict a strengthening of intergovernmentalism which might even spill over into the Community Pillar. The fact that the European Commission is not (yet) admitted to the Military Committee, although it is fully associated with the CFSP at all levels according to the treaty provisions (Art. 27 TEU NV), could indicate a trend into such a direction.

The post of the High Representative for the CFSP, for which the former NATO Secretary General Javier Solana has been appointed in 1999, represents another major feature of the institutional innovations of the late nineties (Verderame 2001: 22). Formally, the position of the High Representative is clearly subordinated to the Council and its members: he 'shall assist the Council (...) in particular through contributing to the formulation, preparation and implementation of policy decisions, and, when appropriate acting on behalf of the Council at the request of the Presidency, through conducting political dialogue with third parties' (Art. 26 TEU NV). In CFSP practice Solana has managed to use these functions extensively in close cooperation with the presidencies. He enjoys considerable authority both among the Fifteen and outside the EU borders (Frisch 2000). He has been frequently charged with specific mandates and takes part in the formulation of key issues of CFSP and also ESDP. Also in the internal CFSP hierarchy Solana managed to clarify and strengthen his position. This applies towards the special envoys who have to carry out their tasks under his authority and partly towards the PSC which he might chair in crisis situations after consultation with the presidency (Decision 01/78/CFSP of 22 January 2001).

The role of the Commission has also been strengthened in the CFSP over the years: in particular its co-responsibility for a coherent approach in foreign policy (Art. 3 TEU NV) and for implementing CFSP decisions especially when it comes to a distribution of funds give importance to the Commission's participation. With the 'rise' of other actors in CFSP, and especially of the High Representative for the CFSP, however, also competition has emerged for the Commission as the spokesperson of the EU. This competition applies primarily to the Commissioner in charge of external relations and CFSP, who sees an overlap in competences in the area of civil crisis management and perceives institutional complications with the post of the High Representative for the CFSP.

As stated above it was and still is the explicit intention of the EC Member States to prevent the European Court of Justice from jurisdiction over CFSP acts. To the extent,

however, that the Second and First Pillar issues become interrelated, e.g. in the case of sanctions, situations might occur where the CFSP could interfere with the competences of the EC thus provoking a violation of the EC treaties for which the Court's ruling could be demanded (Smith 2001). Another example of genuinely Community actors 'invading' the CFSP scene points at the fact that in CFSP actions financed through the EC budget the European Court of Auditors can exert control over the Second Pillar. This has happened several times meanwhile, e.g. in the case of the EU administration of the Bosnian city of Mostar, and with a rather negative result on not only how the earmarked money was spent but also with regard to inefficient internal coordination between Council and Commission (Court of Auditors 2001).

3.2 Use of procedures

Trends in the CFSP output

For a systematic overview on the patterns of real activities we will take a look at the published policy results. As Table 1 (below) illustrates, the policy output of today's CFSP has largely increased compared to what the EPC produced before. Both in terms of quantity (i.e. agenda according to regional and functional issues) and quality (i.e. differentiation of instruments and contents) the differences are obvious.

Table 1: EPC/CFSP 1970-2003 forms of output

	1970	1972	1973	1986	1987	1990	1994	1997	1998	1999	2000	2001	2002	2003	total
a) declarations	-	2	10	54	63	115	110	123	141	123	184	196	197	138 ⁷	1456
b) common positions ¹	-	-	-	-	-	-	8	13	22	35	33	20	24	24	179
c) joint actions ²	-	-	-	-	-	-	14	15	20	20	21	19	20	32	161
d) common strategies ³	-	-	-	-	-	-	-	-	-	2	1	-	-	2 ⁸	5
e) decisions ⁴	-	-	-	-	-	-	-	-	-	-	5	6	-	3	14
f) conclusion of international agreement ⁵	-	-	-	-	-	-	-	-	-	-	-	2	3	15	20
g) enhanced co-operation ⁶	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

¹ introduced in Maastricht (Art. 15 TEU AV)

² introduced in Maastricht (Art. 14 TEU AV)

³ introduced in Amsterdam (Art. 13 TEU AV)

⁴ on CFSP institutional aspects

⁵ according to Art. 24 TEU

⁶ introduced in Nice Treaty 2001 (Art. 27 a-e TEU NV)

⁷ This includes only the European Union statements and presidency statements on behalf of the European Union which were published from January until November 2003.

⁸ These are common strategies amending earlier common strategies in order to extend the period of their application.

Source: Own calculations based upon the Bulletins of the EC/EU and Annual Reports of the Activities of the EC/EU.

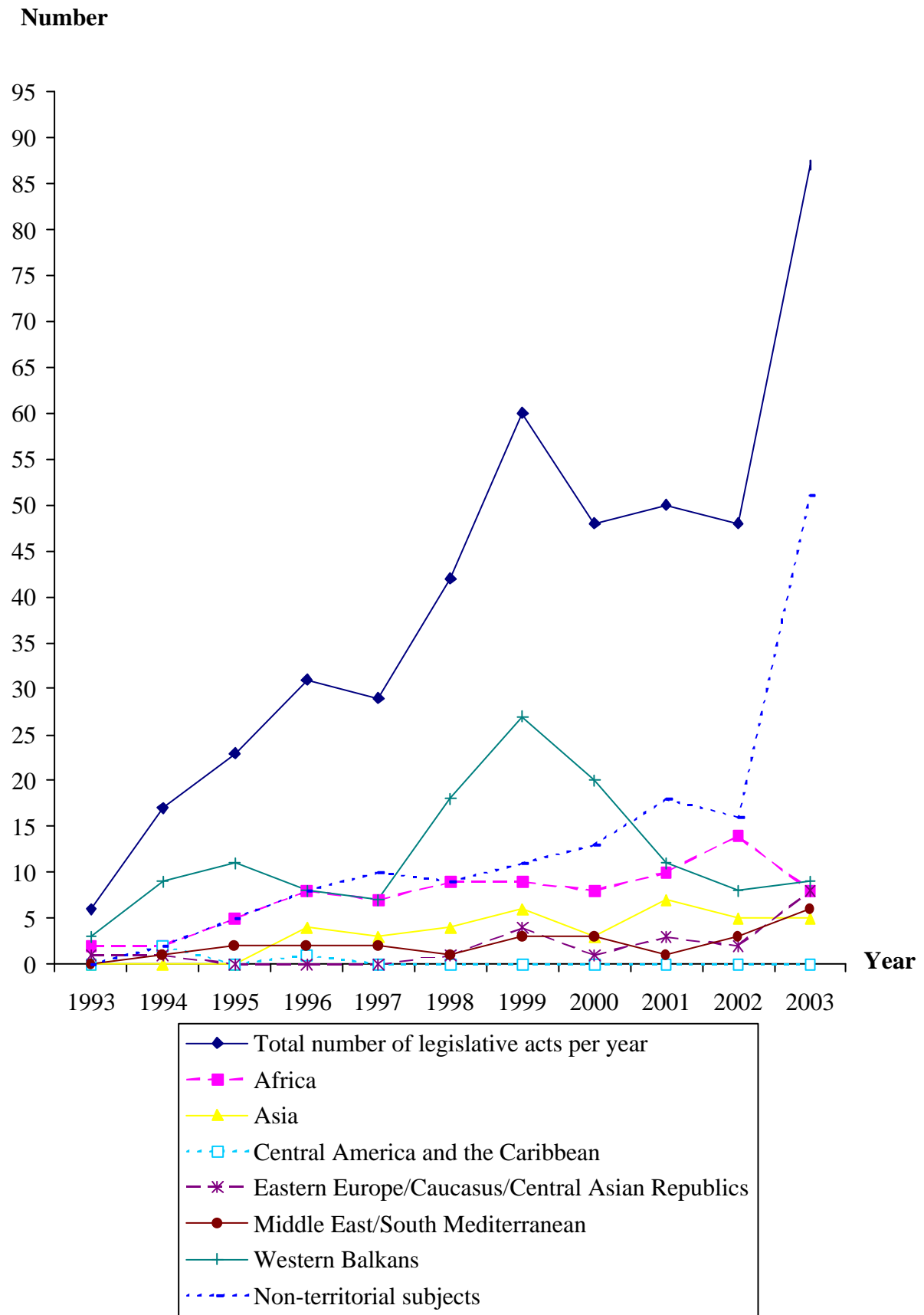
Legislative acts according to <http://ue.eu.int/pesc/>

In contrast to the early days of the EPC when ‘speaking with one voice’ focused on the Arab-Israeli conflict and the Conference on Security and Cooperation in Europe, the CFSP agenda of today has a really global outlook (Durand and de Vasconcelos 1998; Holland 1997; Regelsberger 2000-2003). It is largely determined by the course of events and the Fifteen (plus the ten applicants which participate at all CFSP levels since the signature of the Accession Treaty in April 2003) undertake considerable efforts to respond to them in a fast and precise manner.

Declarations have remained an adequate tool to do so despite the harsh and often unjustified criticism of a 'mere' declaratory European diplomacy. As reactions of the third parties concerned often confirm 'words' may have a significance in foreign policy though they may not always be enough to demonstrate the EU's self-claimed capacity to act. Compared to earlier texts those of today reflect a far more sophisticated '*acquis politique*' which is constantly adapted to new circumstances and which interferes in very concrete terms with the affairs of the addressees. This is true not only for issues in the immediate neighbourhood of the EU, like the CFSP statements on the domestic political system in the EU candidate countries or towards developments in the Western Balkans, but also for other world regions as the CFSP statements on political events e.g. in Asia or Africa demonstrate.

Interventions against the violation of human rights also belong to the traditional arsenal of the Fifteen's foreign policy instruments and show considerable growth rates in recent years (rise from 175 demarches by the presidency in third countries in 2000 to 487 demarches in 2002; see Council of the EU 1998, 1999, 2000; Regelsberger 2000-2003). They are frequently undertaken as silent diplomacy but it is also the EU's explicit understanding to work towards a strengthening of the human rights at international fora like the United Nations. In the UN bodies in New York – except in the Security Council – and elsewhere the 'voice' of the Fifteen is widely accepted by the other participants and the EU countries have successfully improved their profile by tabling joint drafts in the negotiations, by letting the presidency speak on their behalf and by voting unanimously in around 75-80 per cent of the resolutions put to a vote in the period 1996-2002 (Sucharipa 2003: 796) while consensus had remained with 46 per cent in the seventies and had declined in the early eighties to 39 per cent (Sucharipa 1999, Stadler 1987).

Figure 4: CFSP output 1993-2003: geographical distribution of issues



In order to become more pro-active in its performance the Maastricht treaty introduced the new instruments of 'joint actions' and 'common positions'. After some time of misperceptions of the proper use of the one or the other the following practice of these new so-called legislative acts has emerged: 'common positions' reflect an overall approach of the EU towards a third country, and so far mainly those of the ACP group, or contain specific sanctions against a state which have to be implemented afterwards either via Community regulations or national law. 'Joint actions' are to express a particular interest of the EU and its Member States towards a country or region which manifests itself in visible activities 'at place' (Art. 14, 1 TEU NV). They refer to geographical zones close to the EU like the former Yugoslavia, Russia or the Middle East. Examples of such very concrete decisions limited in time and staffed with operational resources were the election observations in Russia, in South Africa and the Occupied Territories in the first half of the nineties. Today joint actions cover among others the work of the EU's Special Representatives who help to bring stability and peace to the Middle East (Moratinos, Otte), to South East Europe (Hombach, Busek), Macedonia (Léotard, Le Roy, Brouhns), Bosnia (Lord Ashdown), Afghanistan (Klaiber, Vendrell), the Great Lakes Region in Africa (Ajello) and most recently (2003) for the South Caucasus (Talvitie). Other joint actions of the day contain the EU's support for the UN administration of Kosovo, assistance to the setting up of police forces in Albania and the EU Monitoring Mission in the Federal Republic of Yugoslavia.

The other new instrument, the common strategy, introduced with the Amsterdam Treaty only in 1999, has been used only three times so far. Designed to express the EU's vital interests towards a country or a region by formulating a comprehensive approach it is not surprising that Russia, the Ukraine and the Mediterranean were among the priorities, but strangely enough not yet the Balkans. Prepared by the Council and formally passed by the European Council these common strategies have received considerable criticism. They are seen as reflecting nothing but a shopping list without indications on the Fifteen's major fields

of interests and recall what has been determined and implemented already elsewhere, some also inside CFSP argue (Solana 2001). Besides, critics point at the fact that the publication of a common strategy works against its use in times of crisis as a sanction instrument and therefore reduces its value as a whole. Furthermore common strategies have not produced the expected majority decisions in CFSP when implementing the relevant parts of it by common positions and joint actions. However, common strategies seem to play a helpful role in terms of coherence of EC, CFSP and national policies (Schmalz 1998) because the formulation of the text requires much concertation among the actors involved at the different levels and fosters a harmonisation of views among them.

Majority voting: dead treaty letters

In comparison to an increasing output, the real patterns of CFSP decision-making remain characterised by the traditional intergovernmental style. The consensus rule was the guiding principle of the old EPC and it has remained so even in the mature CFSP. Protagonist hopes to accelerate the decision-making process through majority votes have not been fulfilled yet. The respective treaty provisions (Art. 23 TEU AV) are admittedly modest and limited to the implementation of common strategies, joint actions and common positions, however these opportunities have not been seized by governments. Even the idea to use them as a 'threat potential' to find a common line more rapidly has found no evidence so far. The German presidency in the first half of 1999 was keen on setting a sign after the Amsterdam provisions had come into force but had to accept considerable resistance on the part of several partners. Subsequent presidencies traditionally more sceptical of the value of majority voting did nothing to promote the application of procedures. These patterns of no-use documents the irrelevance of some of the major treaty provisions.

Financing CFSP via the EC budget

Despite the variety of procedural modes and the inherent opportunities for a greater efficiency of the decision making, the Fifteen continue to prefer the intergovernmental procedures practised now for decades. However, there is one area where Community rules also reign into the CFSP Pillar: the budget. As the masters of the Maastricht Treaty wished to see a more visible and operational CFSP, the question of financing such concrete activities became obvious. It was at first tackled in a rather vague mode offering either Community resources to be decided upon unanimously in the Council or requiring national contributions from the Member States which they were to specify according to a system yet to be defined (Art. J.11 TEU MV). Since money was scarce in the capitals even the most energetic supporters of an intergovernmental CFSP Pillar were ready to take recourse to the EC budget to finance some of the first joint CFSP actions. What they were eventually not aware of was that this implied the acceptance of the EC rules for the budgetary procedure with the Council and the European Parliament acting as the budgetary authority on an equal footing. Year-long disputes (Monar 1997b: 57) followed until the next intergovernmental conference. In Amsterdam the existing treaty provisions were amended (Art. 28 TEU AV) and improved (Griller *et al.* 2000: 417) stating that CFSP operational expenditure is covered by the EC budget except for CFSP decisions with military or defence implications. Besides, in May 1999 an inter-institutional agreement was signed by the Council, the European Parliament, and the European Commission which defines the procedures and categories of the CFSP expenditure. In this specific area parliamentary participation and some sort of control is probably most direct since the Council is obliged to inform the EP regularly on those actions which imply financial commitments. The importance, however, is limited since one also has to be aware of the fact that CFSP expenditure (47 million euro in 2000) only comprises around 0.05 per cent (in 2000) of the total EC budget and roughly 1.0 per cent (in 2000) of all those budget lines covering external EC policies (in total 4825 million Euro). This marginal

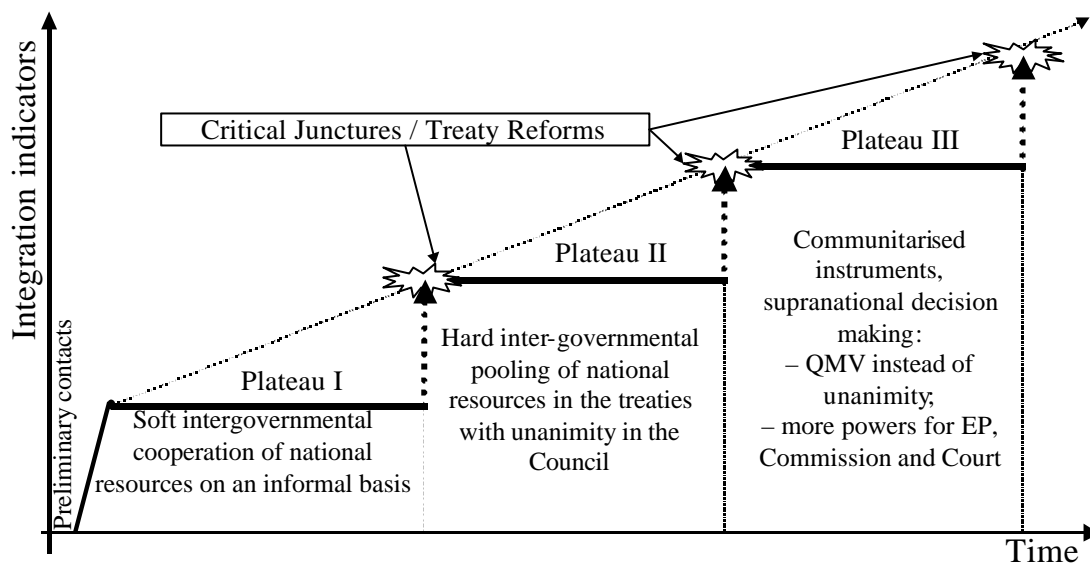
expenditure limits the direct influence of the European Parliament which has to improve its still rather modest participation in the formulation of the CFSP policies (as laid down in Art. 21 TEU)

4. Conclusions and perspectives

4.1 Dynamics and limitations of the fusion process

In testing the thesis of a ratchet fusion we observe the following trends: First, the evolution of formal provisions documents a ratchet process. IGCs have regularly revised the legal constitution upwards on the integration ladder in incremental steps (see figure 5). We would locate the CFSP in its Nice version at the higher end plateau II. However, compared to other policy fields like EMU and certain policies belonging to the field of Justice and Home Affairs, treaty changes have not yet moved it onto the third major level, that of supranational communitarisation, and the draft Constitutional Treaty of 2003 doesn't either.

Figure 5: The integration cascade: a micro view of ratchet fusion



Based on Wessels (2001b)

Second, the evolution of real patterns in the living constitution shows a trend towards an intensive use of institutions and procedures to produce an increasing and more differentiated output. However, the mainly supranational elements have largely remained dead letters.

Third, the analysis of both dimensions signals that political attention and personal resources have been shifted to Brussels. The fusion process increasingly links national actors in a differentiated horizontal intergovernmental set up but national resources are not yet communitarised as in other policy fields. And in international crises national actors even tend to re-emerge to run the machinery among themselves and/or in specific alliances among the EU member states.

The trend of this imperfect ratchet process is based on fusion dynamics which are created by mutually reinforcing learning processes and treaty-making, i.e. legal and real

evolutions are closely linked. The argument starts from a counter-intuitive finding that several national actors in different periods of the post war history, including post 1989-times, and in an ever-increasing number of European countries have invested their time, attention and human resources into the EC/EU system including increasingly the CFSP and since the late 'nineties' also the European Security and Defence Policy (ESDP). Irrespective of their country and party origins they have repeatedly created, extended and revised institutional and procedural incentives and have increasingly and extensively used their own opportunity structures. Faced with external shocks from the international system, national actors of different generations and party political orientations have looked again and again for an efficient and effective problem-solving framework. The original 'choices for Europe' (Moravcsik 1999) were thus reiterated at several occasions.

In creating opportunity structures by treaty articles national actors tried to keep their formal autonomy and national sovereignty especially in foreign and security policy. The search for efficiency was matched by the continuous effort to keep key decisions of the CFSP under ultimate national control.

A key body for analysing this process is the European Council. The Heads of State and Government and the President of the Commission identify their problems collectively and push for effective actions. Once perceived as a major problem-solving framework for foreign policy new and additional challenges were increasingly allocated to this set of institutions. Thus not necessarily 'objective' internal or external events and developments were the causes for the trends we observed, but the way actors in Member States learned to esteem the use of the CFSP for their own purposes. These mechanisms and processes work to a considerable degree because they are perceived as serving the self-interest of national and Community actors. The competition of actors for access and influence in the EU policy cycles is a major incentive to move upwards in the ratchet fusion. Thus, all actors try to profit from a positive sum game.

This general role attribution to EU institutions also supports the fundamental legitimacy of the EU system. The often claimed deficits in the accountability and transparency would then be only of an 'academic' nature. The steps for creating legal provisions and using them intensively might be more an indicator for the fact that at least the political establishment has identified the EU as their system in the deep sense of a fundamental political community (Easton 1965: 177) as a major arena for dealing with vital issues. Thus this move to Brussels explains the complexity of the procedures, the diffusion of responsibilities and the lack of transparency, but also the pooling of legitimacy resources – all phenomena well known in federal systems.

The institutional and procedural evolution and their intensive employment that we described with some data are thus both dependent and independent variables. Once started, the process generates itself. The socialisation within daily interactions shapes a European way of thinking which leads to new or reformed institutional arrangements.

As a consequence, the choice for Europe is no longer an option to be taken or refused freely by national leaders at whatever occasion. The scope of national autonomy gets narrower and the range of options becomes more EU oriented with each treaty amendment. The corridor for national policy options becomes narrower, though for the CFSP it remains still broader than for other sectors, e.g. monetary policies.

National and supranational Community actors share responsibility and accountability in mixed and merged structures and with policy instruments pooled from both national and EU-level. Such a collective decision-making with a continuous enlargement of the political scope does, however, imply a hybrid institutional set up with an unclear distribution of roles and instruments. In such a complex and multi-level system transparency is lacking and the need for institutional adaptations and reforms emerges. The inefficiency and ineffectiveness of the system is thus a built-in driving force for further constitutional engineering. Thus we can

observe fusion dynamics in which institutional revisions each time create new pressing needs for further reforms.

4.2 Towards a next step in the fusion ladder?

Will these trends of an ever-closer fusion by a step by step ladder be broken? Or will the process go on 'forever' towards an unknown destiny, i.e. towards an open *finalité*? The key to this question is the common perception among national actors that this set up serves one's own problems in what ever way. Three general scenarios might be possible:

Dynamics for a real step forward

The overall dynamics of the EU-system and the difficulties of the present institutions and procedures will create sufficient incentives for the Heads of State and Government to take a decisive step towards some kind of a supranational/federal set of rules for running an efficient and effective Common Foreign and Security Policy. Challenges and shocks from the international system will be perceived as pressures to push national politicians on the fusion cascade towards the third mode of governance (see figure 5) – perhaps at the beginning with another rather incremental but real transfer of powers – especially in the area of defence; this would lead to an upgrading of ESDP/CSDP to some kind of collective defence alliance.

Another refining of the intergovernmental status quo

Foreign and especially defence policies remain in the intergovernmentally oriented mode, which gives national actors sufficient opportunities to use autonomously their own resources if perceived as necessary. This 'high politics' area would stay resistant to the usual spill over pressures. The Heads of State and Government might take steps towards a further rationalisation of the intergovernmental coordination of national instruments in the next IGC, but they would not cross the borderline towards supranational procedures to use methods of

communitarised resources. Even more: the greater focus on essential defence issues at the European level with a strong preoccupation on behalf of national actors and traditional consensual procedures could even spill back towards the management at the lower end of the conventional CFSP. This scenario is supported by proposals such as nominating a permanent president of the European Council among its peers.

An ongoing fusion

In this scenario the dilemma between institutionalising an efficient machinery for an effective international EU role and the guarantee for an ultimate national say will continue. The Convention and the subsequent IGC will produce further ambitious procedures: The search for a 'superpower without a superstate' will push the 'masters of the treaty' to look for modes of governance which will strengthen the EU as an actor without really transferring sovereignty. The proposal of a 'double hat', i.e. to entrust one person with both the office of the Union Minister for Foreign Affairs and the Vice President of the Commission, would follow this set of expectations.

Imperfect as it is, CFSP and its younger relative, the ESDP, will remain of high relevance for both the political world and academic research. Even more than 30 years after its inception under 'EPC' the CFSP has not yet reached its final stage neither in the form of the legal nor the living constitution.

Bibliography

- Algieri, Franco (2001): "Die europäische Sicherheits- und Verteidigungspolitik - erweiterter Handlungsspielraum für die GASP", in: Weidenfeld, Werner (ed.): *Nizza in der Analyse*, Gütersloh: Verlag Bertelsmann Stiftung, pp. 161-201.
- Blair, Tony (2000): *Europe's Political Future*, Speech to the Polish Stock Exchange, 6.10.2000 (<http://www.fco.gov.uk/news/speechtext.asp?4913>).
- Bretherton, Charlotte/ Vogler, John (1999): *The European Union as a Global Actor*, London/New York: Routledge.
- Duke, Simon (2000): *The Elusive Quest for European Security. From EDC to CFSP*, Oxford: Macmillan Press.
- Dumond, Jean-Michel/Setton, Philippe (1999): *La politique étrangère et de sécurité commune (PESC)*, Paris: La Documentation Française.
- Durand, Marie-Francoise/de Vasconcelos, Alvaro (1998): *La PESC. Ouvrir l'Europe au monde*. Paris: Presses de Sciences Po.
- Dyson, Kenneth/Featherstone, Kevin (1999): *The Road to Maastricht. Negotiating Economic and Monetary Union*, Oxford: Oxford University Press.
- Forster, Anthony/Wallace William (2000): "Common Foreign and Security Policy", in: Wallace, Helen/Wallace, William (eds.): *Policy-making in the European Union*, 4th edition, Oxford: Oxford University Press, pp. 461-492.
- Frisch, Thomas (2000): *Der Hohe Vertreter für die GASP – Aufgaben und erste Schritte*, Ebenhausen: Stiftung Wissenschaft und Politik.
- Genscher, Hans Dietrich/Colombo, Emilio (1981): Die Genscher/Colombo-Initiative zur Europäischen Union, in: *Amtsblatt der Europäischen Gemeinschaften : Verhandlungen des Europäischen Parlaments. Sitzungsperiode 1981-1982* (16-20 November 1981) pp. 1-277, pp. 232-254.
- Ginsberg, Roy H. (1999): "Conceptualizing the European Union as an International Actor: Narrowing the Theoretical Capability-Expectation Gap", in: *Journal of Common Market Studies*, Vol. 37, No. 3, Sept. 1999, 429-54.
- Ginsberg, Roy H. (2001): *The European Union in International Politics*, Lanham: Rowman and Littlefield.
- Grabitz, Eberhard/Schmuck, Otto/Steppat, Sabine/Wessels, Wolfgang (1988): *Direktwahl und Demokratisierung. Eine Funktionsbilanz des EP nach der ersten Wahlperiode*, Bonn: Europa Union Verlag.

- Griller, Stefan/Droutsas, Dimitri P./Falkner, Gerda/Forgo, Katrin/Nentwich, Michael (2000): *The Treaty of Amsterdam. Facts, Analysis, Prospects*, Wien/New York: Springer.
- Haas, Ernst B. (1958): *The Uniting of Europe*, Stanford: Stanford University Press.
- Hallstein, Walter (1972): *Europe in the making*, London: Allen and Unwin.
- Hoffmann, Stanley (1966): „Obstinate or Obsolete: the Fate of the Nation-State and Case of Western Europe“, in: *Daedalus*, pp. 862–915.
- Holland, Martin (1997): *Common Foreign and Security Policy: The Record and Reforms*, London/Washington: Pinter.
- Jachtenfuchs, Markus (2001): “The Governance Approach to European Integration”, in: *Journal of Common Market Studies*, Vol. 39, No. 2, pp. 245-264.
- Jopp, Mathias, (1997): “The Defence Dimension of the European Union: The Role and Performance of the WEU”, in: Regelsberger, Elfriede/de Schoutheete de Tervarent, Philippe/Wessels, Wolfgang (eds.): *Foreign Policy of the European Union – from EPC to CFSP and beyond*, Boulder/London: Lynne Rienner Publishers, pp. 153-169.
- Jopp, Matthias (2000): „Gemeinsame Europäische Sicherheits- und Verteidigungspolitik“, in: Weidenfeld, Werner/Wessels, Wolfgang: *Jahrbuch der Europäischen Integration 1999/2000*, Bonn: Europa Union Verlag, pp. 243–250.
- Jopp, Mathias/Regelsberger, Elfriede 2003: „GASP und ESVP im Verfassungsvertrag – eine neue Angebotsvielfalt mit Chancen und Mängeln“, in: *integration*, Vol. 26, No. 3, pp. 550-563.
- Kohler-Koch, Beate (1999): “The Evolution and Transformation of European Governance”, in: Kohler-Koch, Beate/Eising, Rainer (eds.), *The Transformation of Governance in the European Union*, London/New York: Routledge, pp. 14-35.
- Lindberg, Leon N./Scheingold, Stuart A. (1970): *Europe's Would-Be Polity. Patterns of Change in the European Community*, Englewood Cliffs: Prentice Hall.
- Link, Werner (2001): *Die Neuordnung der Weltpolitik. Grundprobleme globaler Politik an der Schwelle zum 21. Jahrhundert*, 3rd edition, Frankfurt: Beck.
- Mauß, Hanns W. (1997): „Europa als Weltmacht? Perspektiven für die gemeinsame Außen- und Sicherheitspolitik“, in: Jäger, Thomas/Piepenschnieder, Melanie (eds.): *Europa 2020. Szenarien politischer Entwicklung*, Opladen: Leske und Budrich, pp. 81-95.
- Maurer, Andreas/Wessels, Wolfgang (2002): “The EU matters: Structuring self-made offers and demands“, in: Wessels, Wolfgang/Maurer, Andreas/Mittag, Jürgen (eds.): *Fifteen into One? The European Union and Member States*, Manchester.

- Monar, Jörg (1997a): "The European Union's foreign Affairs System after the Treaty of Amsterdam. A strengthened capacity for external action?", in: *European Foreign Affairs Review*, no. 2, pp. 413-436.
- Monar, Jörg (1997b): "The finances of the Union's Intergovernmental pillars. Tortuous experiments with the Community Budget", in: *Journal of Common Market Studies*, No. 1, pp. 57-78.
- Monar, Jörg (2001). "Justice and home affairs after Amsterdam: the treaty reforms and the challenge of their implementation", in: Monar, Jörg/Wessels, Wolfgang (eds.): *The European Union after the Treaty of Amsterdam*, London/New York: Continuum, pp. 267-295.
- Monnet, Jean (1976): *Mémoires*, Paris, Fayard.
- Nuttall, Simon (1992): *European Political Cooperation*, Oxford: Oxford University Press.
- Olsen, Johan P. (2000): *Organizing European Institutions of Governance. A Prelude to an Institutional Account of Political Integration*, ARENA Working Papers WP 00/2.
- Olsen, Johan P. (2002): *The many Faces of Europeanization*, ARENA Working Papers WP 01/2.
- Peters, Guy (1999): *Institutional Theory in Political Science. The 'New Institutionalism'*, London/New York: Cassell Academic.
- Peterson, John (1995): "Decision-making in the European Union: Towards a Framework for Analysis", in: *Journal of European Public Policy*, no. 2/1, pp. 69-93.
- Peterson, John (2001): "The choice for EU theories: Establishing a common framework for analysis", in: *European Journal of Political Research* 39, pp. 289-318.
- Pierson, Paul (1996): "The Path to European Integration: A Historical Institutional Analysis", in: *Comparative Political Studies*, 19, 2, pp. 123-163.
- Pijpers, Alfred/Regelsberger, Elfriede/ Wessels, Wolfgang (eds.) (1988): *A common foreign policy for Western Europe? European political cooperation in the 1980s*, Dordrecht: Nijhoff.
- Pinder, John (2001a): "Nice – Towards a federal or an intergovernmental Europe?", in: Jopp, Matthias/Lippert, Barbara/Schneider (eds.): *Das Vertragswerk von Nizza und die Zukunft der Europäischen Union*, Bonn: Europa Union Verlag, pp. 50-57.
- Pinder, John (2001b): *The European Union. A very short introduction*, Oxford: Oxford University Press.
- Pollack, Mark A. (2000): "The End of Creeping Competence? EU Policy-Making since Maastricht", in: *Journal of Common Market Studies*, no. 3, pp. 519-538.

- Pollack, Mark A. (2001): "International Relations Theory and European Integration", in: *Journal of Common Market Studies*, Vol. 39, No. 2, pp. 221-244.
- Regelsberger, Elfriede (2000-2003): „Gemeinsame Außen- und Sicherheitspolitik“, in: Weidenfeld, Werner/Wessels, Wolfgang (eds.): *Jahrbuch der Europäischen Integration 1999/2000-2002/2003*, Bonn: Europa Union Verlag.
- Regelsberger, Elfriede (2001): „Die Gemeinsame Außen- und Sicherheitspolitik nach ‚Nizza‘ - begrenzter Reformeifer und außervertragliche Dynamik in der ESVP“, in: *integration 2/01*, pp. 156-166.
- Regelsberger, Elfriede/de Schoutheete de Tervarent, Philippe/Wessels, Wolfgang (eds.) (1997): *Foreign Policy of the European Union – from EPC to CFSP and beyond*, Boulder/London: Lynne Rienner Publishers.
- Regelsberger, Elfriede/Schmalz, Uwe (2001): "The common foreign and security policy of the Amsterdam treaty: towards an improved EU identity on the international scene", in: Monar, Jörg/Wessels, Wolfgang (eds.): *The European Union after the Treaty of Amsterdam*, London/New York: Continuum, pp. 249-266.
- Rosamond, Ben (2000): *Theories of European Integration*, Houndmills: Palgrave.
- Rummel, Reinhardt/Wessels, Wolfgang (eds.) (1978): *Die Europäische Politische Zusammenarbeit*, Bonn: Europa Union Verlag.
- Scharpf, Fritz W. (1997): *Games Real Actors Play: Actor-Centered Institutionalism in Policy Research*, Boulder, Colorado, Oxford.
- Scharpf, Fritz W. (ed.) (2000): *Democratic legitimacy under conditions of regulatory competition. Why Europe differs from the United States*, Madrid: Centro de Estudios Avanzados en Ciencias Sociales.
- Schmalz, Uwe (1998): "The Amsterdam provisions on external coherence. Bridging the Union's foreign policy dualism?", in: *European Foreign Affairs Review* no. 3, pp. 421-442.
- Schoutheete, Philippe de (1986): *La coopération politique européenne*, Brussels: Labor.
- Smith, Michael E. (2001): *Diplomacy by Decree: The Legalisation of EU Foreign Policy*, in: *Journal of Common Market Studies* no. 1, pp. 79-104.
- Solana, Javier (2001): Common Strategies Report, in: *Europe Documents*, No. 2228, 31 January 2001.
- Stone Sweet, Alec/Sandholtz, Wayne (eds.) (1998): *European Integration and Supranational Governance*. Oxford: Oxford University Press.

- Sucharipa, Ernst (1999): „Nationale Belange spielen weiter mit. Die Europäische Union auf dem Weg zu einer gemeinsamen UN-Politik“, in: *Der Überblick. Quartalsschrift der Arbeitsgemeinschaft Kirchlicher Entwicklungsdienst*, no. 4, pp. 79-82.
- Sucharipa, Ernst (2003): „Die Gemeinsame Außen- und Sicherheitspolitik (GASP) der Europäischen Union im Rahmen der Vereinten Nationen“, in: Frowein et. al. (eds.): *Liber amicorum Tono Eitel*, Heidelberg: Max Planck Institut, pp. 773-797.
- Verderame, Gianfranco (1999): “Le traité d’Amsterdam et ses suites: instruments de réalisation d’une identité européenne dans le domaine de la politique extérieure”, in: *Revue du Marché Unique*, pp. 15-29.
- Wallace, Helen (2000a): “The Policy Process”, in: Wallace, Helen/Wallace, William (eds.): *Policy-Making in the European Union*, Oxford: Oxford University Press, pp. 39-64.
- Wallace, Helen (2000b): “The Institutional Setting”, in: Wallace, Helen/Wallace, William (eds.): *Policy-Making in the European Union*, Oxford: Oxford University Press, pp. 3-37.
- Weiler Joseph/Wessels, Wolfgang (1988): “EPC and the challenge of theory“, in: Pijpers, Alfred/Regelsberger, Elfriede/Wessels, Wolfgang (eds.): *A common foreign policy for Western Europe? European political cooperation in the 1980s*, Dordrecht: Nijhoff, pp. 229-258.
- Wessel, Ramses A. (1999): *The European Union's Foreign and Security Policy. A Legal Institutional Perspective*, The Hague/ Boston/London: Kluwer Law International.
- Wessels, Wolfgang (1997): “An Ever Closer Fusion? A Dynamic Macropolitical View on Integration Processes”, in: *Journal of Common Market Studies* Vol. 35, No.2, pp. 267-299.
- Wessels, Wolfgang (2000): *Die Öffnung des Staates. Modelle und Wirklichkeit grenzüberschreitender Verwaltungspraxis 1960-1995*, Opladen: Leske und Budrich.
- Wessels, Wolfgang (2001a): “Nice results. The Millenium IGC in the EU’s evolution”, in: *Journal of Common Market Studies*, Vol. 39, No. 2, pp. 197-219.
- Wessels, Wolfgang (2001b): *The evolution of the EU System. Amsterdam and Nice “ratchet” fusion in the making*, contribution to the 7th ECSA Biennial International Conference, Workshop: From Amsterdam to Nice: Comparing European Integration’s Major Theoretical Contenders, Cologne.
- Wessels, Wolfgang/Linsenmann, Ingo (2002): “EMU’s impact on national institutions: Fusion towards a ‘gouvernance économique’ or fragmentation?”, in: Dyson, Kenneth

(ed.): *European States and the Euro: Playing the Semi-Sovereignty Game*, Oxford: Oxford University Press.

Wessels, Wolfgang/Maurer, Andreas/Mittag, Jürgen (2002): “The European Union and member states: analysing two arenas over time”, in: Wessels, Wolfgang/Maurer, Andreas/Mittag, Jürgen (eds.): *Fifteen into One? The European Union and Member States*, Manchester, pp. 11-37.

Documents

Annual Report of the Council to the European Parliament 1998, <http://ue.eu.int/pesc/>.

Annual Report of the Council to the European Parliament 1999, <http://ue.eu.int/pesc/>.

Annual Report of the Council to the European Parliament 2000, <http://ue.eu.int/pesc/>.

Conference of the Representatives of the Governments of the Member States 2003: “Addendum to the Presidency Note”, CIG 60/03 ADD1.

Council Press Release No.321/14500/03.

Court of Auditors: “Special Report No 13/ 2001 on the management of the Common Foreign and Security Policy (CFSP), together with the Council’s replies and the Commission’s replies”, *Official Journal of the EC* C338 of 30 November 2001.

European Convention 2003: “Draft Treaty Establishing a Constitution for Europe” CONV850/03.

European Council (2000): *Declaration 23 on the future of the Union*, adopted by the European Council in December 2000 and annexed to the Treaty of Nice, http://europa.eu.int/comm/justice_home/unit/charte/en/declarations-nice.html.

European Council (2001): *Laeken Declaration – The Future of the European Union*, adopted by the European Council on 15 December 2001, http://europa.eu.int/futurum/documents/offtext/doc151201_en.htm.

German Constitutional Court 1993 (1995). “Judgement of October 12, 1993”, in: Oppenheimer, Andrew (ed.), *The Relationship between European Community Law and National Law: The Cases*, Cambridge: Cambridge University Press.

Presidency Conclusions 2003: Brussels European Council 12 December 2003.

Press and Information Office of the Federal Government (ed.) (1982): “First Report of the Foreign Ministers to the Heads of State and Government of the European Community of

27 October 1970 (Luxembourg Report)”, in: *Ibd.: European Political Cooperation (EPC)*, Wiesbaden, p. 30.

Press and Information Office of the Federal Government (ed.) (1982): “Second Report of the Foreign Ministers to the Heads of State and Government of the Member states of European Community of 23 July 1973 (Copenhagen Report)”, in: *Ibd.: European Political Cooperation (EPC)*, Wiesbaden, p. 43.

Press and Information Office of the Federal Government (ed.) (1982): “Report on European Political Cooperation issued by the Foreign Ministers of the Ten on 13 October 1981 (London Report). Part I”, in: *Ibd.: European Political Cooperation (EPC)*, Wiesbaden, p. 272.

Social Democratic Party (2001): *Responsibility for Europe, Germany in Europe*, Resolution of the National Conference of the Social Democratic Party of Germany, Nuremberg 19–22 November 2001, www.spd.de/english/politics/Beschluss_Europa%20EN_101201.pdf.