



# POLICY BRIEF

## THE EUROPEAN PARLIAMENT IN EU FOREIGN POLICY: A PLEA FOR MORE AUTHORITY

**Summary:** The draft Constitutional Treaty for the EU provides for the new post of European Foreign Minister and the establishment of a new European External Action Service (EEAS), or Foreign Ministry of Europe. With the 'no' votes in the French and Dutch referendums in May and June 2005, these proposals may appear to some observers to be pretty much dead in the water. While the politics of European integration are going to get much hotter in the coming two years than at any time since 1992, the problems that caused the European Council to support the creation of new measures will not go away simply because the draft Constitutional Treaty is under threat. This Policy Brief reviews a recent plea from the European Parliament for a stronger voice in the constitutional arrangements for EU foreign and security policy.

In the wake of the referendum results in France and the Netherlands, there is a new recognition that European leaders must address the democratic deficit in EU decision-making. This will give the Parliament new leverage to press its case that it should have a greater say in shaping the proposed Constitutional measures affecting the EU's foreign and security policy. The charged political environment may offer the Parliament the chance to bargain for specific increases in its authority (enhanced scrutiny powers over the new EEAS, the European Defence Agency, and the financing of EU military operations). The parliament is also looking for recognition of its role in EU diplomacy. Whether or not the Parliament succeeds in these bids will depend on its ability to speak with one voice and to actively make this voice heard in national capitals in the coming one to two years.

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*A Policy Brief from the Foreign Policy Centre provides commentary and practical recommendations on topical problems confronting Britain, Europe or the international community. The views are not necessarily those of the Foreign Policy Centre. This Policy Brief has been written by Grace Annan.*

## INTRODUCTION

On 21 March 2005, the Committee on Foreign Affairs (AFET) published a statement entitled *'Report on the annual report from the Council to the European Parliament on the main aspects and basic choices of CFSP, including the financial implications for the general budget of the European Communities – 2003'*.<sup>1</sup> Instead of limiting the report's scope to the subject narrowly defined, Elmar Brok, the rapporteur and noted parliamentary activist in EU international affairs, took the opportunity to present a vision of an expanded role for the European Parliament in the EU's Common Foreign and Security Policy (CFSP). In issuing the report, the Parliament thereby took a stand in the debate between the Council and the Commission over the control of new bodies created by the Constitutional Treaty.

The previous October, CFSP had reached a watershed thanks to the agreement of the Council to set up a European External Action Service that would assist a new EU Minister on Foreign Affairs in the preparation and implementation of CFSP. Given the vague indications in the Constitutional Treaty regarding the relation between some new bodies on the one side and the Commission and the European Parliament on the other, there is considerable room to influence the new arrangements. In this report, AFET argues that the Constitutional Treaty fell short of breaking new ground regarding the role of the Parliament in foreign and security affairs: Some of its current powers were not extended whilst others were not recognised, the report argues.

Under current constitutional arrangements in the EU, the role of the European Parliament in CFSP is limited to two tasks: scrutiny of the EU executive and approval of the general budget.<sup>2</sup> Scrutiny powers are all the more important for the European Parliament given the reluctance of the EU executive branch (the Council or Commission) to consult the Parliament on CFSP matters prior to 'legislating' on them without prior reference to the Parliament. By contrast, shared authority on the annual budget obliges the executive branch to cooperate with the Parliament early on in its preparation. Notably, key to the approval of the budget are members of the Budget Committee (COBU) and AFET, since they review the issues at stake regarding CFSP in the two readings on the annual budget in the Parliament. The AFET report aims to make a case for enhancing these powers in the name of greater accountability and transparency and a more efficient implementation of CFSP.

The third critique in the AFET report focuses on the implementation of foreign and security policy. The report seeks to promote the importance of inter-parliamentary relations ('parliamentary diplomacy') in CFSP. It thereby raises questions about the scope of the Constitutional Treaty.

This Policy Brief does not look at the issue of ratification of the Constitutional Treaty. Rather it first focuses on what the European Parliament believes to be shortcomings of the

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<sup>1</sup> European Parliament, Committee on Foreign Affairs (AFET), 'Report on the annual report from the Council to the European Parliament on the main aspects and basic choices of CFSP, including the financial implications for the general budget of the European Communities – 2003', (Rapporteur: Elmar Brok), 8412/2004 – 2004/2172 (INI). This report is referred to below as AFET Report.

<sup>2</sup> Except for expenditure on military and defence operations as well as cases where the Council unanimously decides against the involvement of the European Parliament, Art. 28 of the Treaty on the European Union, 1993.

institutions of CFSP if the new measures provided for in the Constitution are implemented. It does so with specific reference to:

- Scrutiny of operations undertaken by the European External Action Service (EEAS) and the European Defence Agency (EDA)
- Financing of military operations and
- Implementation of CFSP through ‘parliamentary diplomacy’.

The Policy Brief then discusses whether the European Parliament’s requests in this field are excessive. It closes with recommendations for enhancing the role of the European Parliament in CFSP.

On the one hand, the ‘demands’ in the AFET report are bold attempts by the Parliament to assert a more influential role in CFSP. Yet, on the other hand, the powers sought are not essentially new, but rather an enhancement of current authorities. Rather than calling for radically new powers, the Parliament is asking the Council to acknowledge its potential for further contributions in CFSP and its right as the democratically elected representatives of EU citizenry to exercise greater influence.

### **SCRUTINY OF THE EEAS AND EDA**

The Constitutional Treaty is the latest stage in the uphill struggle of the European Parliament towards full legislative participation in European foreign and security policies. In this report, the Parliament ‘considers it necessary that the Commissioner for External Relations and the High Representative for CFSP, now that the Constitutional Treaty has been signed, should apply new standards by fully informing, consulting and further involving Parliament on all CFSP and ESDP issues’ (p.7).

Indeed, the creation of the EEAS and EDA reflect the growing determination of the EU to act as a global political force. These planned organisations will represent a pooling of community and intergovernmental resources that aims at assisting the executive branch of CFSP in its tasks. It is therefore understandable that their operations fall under the auspices of the Council.<sup>3</sup> Yet these bodies are not directly accountable to the European Parliament. This is all the more regrettable, according to the Parliament, in the light of weak ‘before the fact’ consultation with the Parliament by the Council and Commission on CFSP. The scrutiny power is the main means for the European public to acquire significant amounts of detailed information on Council and Commission activities.

The as yet undecided composition of the EEAS poses some questions about the extent to which the Parliament will be able to scrutinise it. Given that the EAS is going to ‘comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States’,<sup>4</sup> will it fall under the Parliament’s existing scrutiny power over the Commission? The AFET report seeks to answer this question by reference to its existing power and by demanding an extension of that power. The AFET report:

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<sup>3</sup> Constitutional Treaty, Art.III-296/3, III-311/2.

<sup>4</sup> Constitutional Treaty, Art. III-296.

recalls the need to preserve Parliament's competencies and to maintain the accountability of the new Service as a whole vis-à-vis Parliament, in particular as regards the integration of parts of the Commission into the new Service (DG Relex, EC Delegations, etc.) ... so that the future Service can follow an integrated Community model as part of the Commission whilst remaining wholeheartedly loyal to the Council in intergovernmental issues.<sup>5</sup>

Security policy and the European Defence Agency (EDA) present more of a challenge in terms of existing scrutiny power given that it sits firmly in intergovernmental relations in the Council and outside existing scrutiny power of the Parliament. The EDA's main aim is to 'support the Member States in their effort to improve European defence capabilities in the field of crisis management'.<sup>6</sup> The Constitutional Treaty does not mention consultation with the European Parliament on the set up or the operation of the EDA.

And yet, the participation of the Commission in projects and programmes of the EDA as well as its exchange of knowledge with the agency<sup>7</sup> will provide the Parliament with another opportunity to press for more involvement in security policy. The Parliament seeks to ground its claim for scrutiny over the EDA on the 'need to ensure, in particular, democratic accountability and transparency' (p.7).

## **FINANCING OF MILITARY OPERATIONS**

The Parliament does not enjoy scrutiny powers with regard to EU military and defence operations, which fall under the financial control of Council members. The Treaty on the European Union of 1993 (Art. J11) provides for a distinction between intergovernmental (administrative) and community-based (operational) funds, with the latter being subject to the scrutiny by the Parliament. The draft Constitutional Treaty strengthens the role of the Parliament by abolishing the distinction between administrative and operational expenditure, stipulating that both should be charged to the parliamentary-controlled Union budget (Art. III-313). This provision, even if it never enters into force, provides the Parliament with considerable moral authority to push for scrutiny of all EU expenditure on military activities.

In the AFET report, the Parliament not only pushes for a greater say in the supervision of EDA as noted above; it further demands a greater involvement in the financing of Union activities in the field of military operations. The Parliament 'insists it is no longer possible to distinguish between the financing of civil or military expenses in the context, in particular, of ESDP operations, and more specifically those undertaken solely by the Union and planned and conducted through its Civil/Military Cell' (p.12-13). It consequently demanded that 'joint costs for military operations within the framework of ESDP should be funded from the Community budget (as already occurs in the civil sphere in the case of police operations) and not from a subsidiary budget or a start-up fund of the Member States, as currently provided for' (p.13).

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<sup>5</sup> AFET Report, p. 7.

<sup>6</sup> *ibid.*

<sup>7</sup> Council Joint Action 2004/551/CFSP of 12 July 2004 on the establishment of the European Defence Agency, Art. 24, Declaration 3, [http://ue.eu.int/uedocs/cmsUpload/1\\_24520040717en00170028.pdf](http://ue.eu.int/uedocs/cmsUpload/1_24520040717en00170028.pdf).

In its explanatory statement, the Parliament justifies its critique with two points. First, it notes that ‘such funds escape the democratic control of both national parliaments and the European Parliament’ (p.17), a fact which it says places CFSP in the hands of poorly scrutinized, intergovernmental departments and agencies. Second, and according to the Parliament ‘probably worse’, the different modes employed in financing ESDP operations put the largest financial burden on the member states with the largest number of troops. This makes those states ‘more reluctant to engage significantly in future operations’ (p.17). The Parliament proposes that ESDP operations, either in the fight against terrorism or in cases of natural disasters, should be funded from the community budget (p.13).

As bold as these statements may sound, they are based on past difficulties of member states in funding CFSP activities. Tight national budgets following economic recession and EMU criteria left many member states with no choice but to accept community funds for CFSP operations.<sup>8</sup>

Further, developments since the Inter-institutional Agreement on the Financing of CFSP in 1997, such as the introduction of Activity Based Budgeting (ABB) in 2004, have increased coordination of policy priorities between the EU executive branch and the Parliament. As noted by DG External Relations in the Commission, applicants for Union funding need to convince a number of decision-makers, such as the Political and Security Committee, as well as AFET and COBU, of the political relevance and sound financial application of funds received.<sup>9</sup> Moreover, the earmarking of up to 20 per cent of the CFSP budget for emergency cases ensures the availability of funds in case of a crisis.<sup>10</sup> Hence, the high level of coordination of political priorities during the preparation of the annual budget ensures subsequent funding once approved by the Parliament.

## **PARLIAMENTARY DIPLOMACY**

The European Parliament places the draft Constitution’s conferral of legal personality on the Union at the heart of its critique of constitutional shortcomings in the field of CFSP. In reference to this conferral, the Parliament requests to be ‘assigned a role in line with the high level of parliamentary diplomacy with which it contributes to the development of CFSP’ (p.12).

From the AFET Committee’s perspective, parliamentary diplomacy does not constitute an alternative to established, intergovernmental forms of diplomacy, but rather is a complementary tool. It further stresses that the wealth of experience the European Parliament has gained in terms of parliamentary diplomacy is an undeniable asset which the Council and the Commission already profit from, albeit on an irregular basis. Parliament’s contribution is derived from the intensive work carried out by its network of more than 30 standing parliamentary delegations, as well as from regular inter-parliamentary conferences, such as those held every two years with the Latin American countries (since 1974), with the African, Caribbean and Pacific countries twice-yearly at the EU-ACP Joint Parliamentary

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<sup>8</sup> Andreas Maurer, Daniela Kietz and Christian Völkel, ‘Interinstitutional Agreements in the CFSP: Parliamentarisation through the Backdoor?’, 2005 <http://aei.pitt.edu/archive/00003072/>.

<sup>9</sup> European Commission, ‘The CFSP Budget, Frequently Asked Questions: Budgetary Flexibility’, [http://europa.eu.int/comm/external\\_relations/cfsp/fin/faq.htm](http://europa.eu.int/comm/external_relations/cfsp/fin/faq.htm).

<sup>10</sup> Ibid.

Assembly, and also with the Mediterranean countries and the Arab world in the framework of the Euro-Mediterranean Parliamentary Assembly.<sup>11</sup>

The Parliament believes that an official incorporation of parliamentary diplomacy into the implementation of CFSP would allow the Union to ‘correct the clear imbalance attached to the different geographical areas so that the CFSP becomes a real global policy for the Union and not just a simple amount of certain priorities areas’ (p.16).

Moreover, the AFET report calls on the EU to increase the representation of the ‘Union as a whole’ in multilateral organisations, most notably, the United Nations, the Organisation for Security and Cooperation in Europe and the Council of Europe. The Parliament thus offers its diplomatic services to the Council and the Commission and further reminds them to involve it in Union negotiations with third countries, ‘where appropriate’ (p.12).

### **IS THE EUROPEAN PARLIAMENT GOING TOO FAR?**

CFSP is one of the most dynamic fields of EU policy-making and has been reformed in and between all Treaties since the EU was came into existence in 1993. As with many other EU policies such as the European Monetary Union, European foreign and security policy is expanding into formerly intergovernmental spheres of decision-making. The quest for greater unity and coherence in EU foreign and security policy has reinforced the need for Parliament’s cooperation as well as that between national, intergovernmental and community actors. The introduction of new bodies and mechanisms to increase CFSP efficiency has awoken a need within the committees of the Parliament (AFET and COBU) to protect their rights of scrutiny and participation.

The European Parliament has already shown a capacity to exploit the vague wording of some treaties setting up new CFSP bodies to insert itself into the essentially inter-governmental process of renegotiating them. The Parliament presses for a new Inter-institutional Agreement (IIA) between the Parliament, the Council and the Commission to ‘interpret’ treaties on the claimed need to avoid a deadlock in ‘Operation CFSP’. Given a shared will to make concessions for the coherence and efficiency of CFSP, IIAs tend to favour the least powerful CFSP actor, the Parliament itself.<sup>12</sup> Indeed, the budgetary authority of the Parliament has been significantly enhanced since the 1997 IIA on the financing of CFSP.

EU foreign and security policy cannot be a showcase of clear-cut separation of powers. All three institutions (Council, Commission and Parliament) are involved in EU legislation at some stage. The close cooperation needed allows the Parliament to voice its concern about aspects of CFSP that might technically lie outside its formal powers.

In sum, the continuing rapid evolution of EU foreign and security policy offers the European Parliament the scope for becoming an ever-more influential voice in CFSP. In particular, post-referendum negotiations on the management of CFSP may allow the Parliament to promote its current activities. They further offer the Parliament the chance to bargain for specific new authorities (over the EEAS, the EDA, and the financing of EU military

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<sup>11</sup> The author acknowledges the contribution of Mr J. Javier Fernández Fernández, AFET Secretariat, regarding this paragraph.

<sup>12</sup> Maurer, Kietz and Völkel, ‘Interinstitutional Agreements in the CFSP’, p.17.

operations); and for greater official recognition of the Parliament's role in EU diplomacy. The draft Constitutional Treaty strongly encourages inter-institutional cooperation on CFSP and thereby prepares the ground for enhanced authority of the Parliament.

The Parliament's success in exploiting these opportunities will depend more on itself than the grant of the Council, the Commission or Member states. For the parliament to increase its authority in the areas outlined in the AFET report, it must present itself as an important institution that enjoys strong links with actors at the EU, national and non-governmental levels. It must speak with one voice on these claims and work vigorously to make this voice heard in national capitals in the coming one to two years.

## RECOMMENDATIONS

**To enhance its authority, the Parliament should develop much closer ties with other legislative bodies, especially in EU member states,** or even the US Congress. Such exchanges would allow the EP to get up-to-date information on national policies in the field of CFSP and further foster its indirect influence on the Council by feeding into scrutiny of member states at national level.

**The Parliament should build up stronger relations with the Council's CFSP Working Groups.** AFET could rely on inter-parliamentary delegations and fellow Committees to counter the 'information dominance' of the CFSP Working Groups.<sup>13</sup> By exchanging views on external relations in an informal setting, AFET could learn first hand about the policy priorities of experts from member states and the Commission. In return, the CFSP Working Groups could build stronger relations with those who must approve the annual budget.

**The Parliament should forge closer links with significant non-official actors, such as institutes and think tanks with an interest in CFSP issues.** They are important sources not only of new policy ideas but also of critical perspectives on Council and Commission activities.

**With regard to the public, the Parliament should promote a greater visibility of its work in its concerns on CFSP.** To this end, it should increase the visibility of inter-institutional coordination since this could promote the idea of a European Parliament as a relevant factor in EU policy-making. One step in the right direction would be to accommodate the representative offices of the Parliament and of the Commission abroad under one roof.

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<sup>13</sup> The AFET Report (p.19) suggests setting up a joint working group with the Committee on Civil Liberties, Justice and Home Affairs on the fight against terrorism.