

Foreign Minister of Europe

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Preface by Javier Solana

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Preface

The Treaty establishing a Constitution for Europe is a document of critical importance. But recognising *that* something is important is not the same as understanding *why* this is the case. In this new work, published by the Foreign Policy Centre, Brian Crowe looks at some of the foreign policy innovations of the Treaty, and in particular the creation of a Union Foreign Minister. He does so in admirably clear and concise fashion. As a former "insider" he can discern the cosmetic from the crucial changes. As an independent observer he makes his judgements without fear or favour.

The Treaty is important because it establishes a new political foundation for a European Union that has changed profoundly since its inception. Today the Union spans a continent and is increasingly expected – by both its citizens and international partners – to assume responsibilities that were not apparent to the original founders.

Since the signing of the first Rome treaty in 1957 the European Union has changed dramatically. It has been given powers in new areas, including foreign policy. Membership has grown from a small club of six countries to a Union of twenty-five. A continent that was shattered by war and divided by ideology has been transformed into an attractive and prosperous model of co-operation and a net exporter of stability.

This transformation has been a remarkable success, but without the new Treaty the Union will not realise its full potential. In the foreign policy field at least, the importance of the Treaty lies not in the granting of new powers to the Union. It lies instead in new mechanisms designed to allow the Union to better perform the tasks already expected of it. These innovations will help the Union to act more effectively and decisively.

We have seen substantial improvements in the foreign policy delivered by the European Union in the past five years. We have

shown that Europe can be more than the sum of its parts. But we all know that much more can be done: more coherence, more consistency, more continuity and better delivery. Creation of the post of EU Foreign Minister is the principal foreign policy innovation in the Treaty. It is a huge challenge, which will fall to me, as future Foreign Minister, to take up.

The Treaty, like an architect's blueprint, is a guide to success and not a guarantee of success. Achieving our aims will require some things that no treaty, no matter how innovative, no matter how carefully drafted, can deliver. We need above all a new culture of co-operation between Council, Commission and Member States, a culture that values the pragmatic ahead of the orthodox, that embraces change and innovation, and that is generous enough to give space and time for that innovation to prove itself.

Implementing the new Treaty in this spirit of co-operation will allow the international contribution of the European Union to be substantial and positive in the years ahead.

Javier Solana

EU High Representative for the Common Foreign and Security Policy

Executive Summary

To move beyond the useful but to-date limited successes of the Common Foreign and Security Policy (CFSP) of the European Union (EU), some fundamental changes are needed. The empowerment of a new EU Foreign Minister who is at the same time Vice-President of the Commission responsible for External Relations will go far towards providing the EU with a more effective, better coordinated and rapidly-acting foreign policy capability. However, by transgressing the separation of powers inherent in the EU's institutional arrangements until now, it will cause frictions which the incumbent will be hard put to manage.

With a foot in each camp, the Minister will need the confidence of both the Commission and Council. The active support of the latter is however indispensable, both from larger states capable of conducting foreign policies outside the EU framework (as in the Balkans Contact and other semi-recognized groups in the mid-1990s) and from smaller ones who will not follow unless their concerns are respected. Experience suggests that there are various ways in which this can be done. These are analysed in the paper.

The Minister will increasingly be able to lead for the EU as member states gain confidence in him and in the new External Action Service, but a pro-active role for the Minister will also be essential. At the same time member states will need consciously to give a higher priority as an end in itself to having common foreign and security policies.

In an important sense the EU's CFSP is a function of US foreign policy, and the EU-US relationship is in many ways more important to the health of the trans-Atlantic relationship than the US-European relationship in NATO. A common EU approach to dealing with our great ally is correspondingly necessary for a really effective CFSP, but may not be attainable soon. The Minister will have an important role in trying to steer the EU through the pressures from London, Paris, Berlin, Washington and other capitals.

The particular international experience and influence of some member states are not something the Minister and the rest just have to put up with, but rather an asset which needs to be brought to bear for the greater effectiveness of the EU as a whole. The 'contact group' and other informal groups of self-selected member states are outsiders which will never be popular with those left out. But especially in an EU of 25-plus, these outsider mechanisms need to be accepted as often the only effective way of developing common policies and acting as interlocutors for the EU's partners, legitimised by the Minister.

While firmly in the Contact and similar restricted groups, the UK nonetheless has a good record in supporting the CFSP. But it needs to be working towards a CFSP in which member states support the Minister, rather than have the Minister participate merely to legitimise what they are doing nationally. In other words, over time more of the responsibility should move from member states to the Minister as his track record builds up.

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Introduction

Between 1989 and 1993, the twelve members of the then European Community conducted an active, if ultimately unsuccessful, Balkans policy in the framework of European Political Cooperation (EPC), before the Common Foreign and Security Policy (CFSP) created by the Treaty of Maastricht in 1993 even existed. Since then the CFSP has had successes, notably in the Balkans in the early 2000s. But if the CFSP is going to take that extra step which would allow the EU to be the international actor and power which it aspires to be, it needs some fundamental changes. It is hard to be optimistic, but legitimate to be hopeful, that these can be achieved, not in one big bang...that is unrealistic...but incrementally as confidence develops in the arrangements and key players who will make or break the CFSP.

The changes will include:

- ❑ a recognition within the EU that a common policy is itself a high priority,
- ❑ an understanding (not least between the UK and France) over how to deal with the United States,
- ❑ better use of the EU's resources in effective and timely fashion in support of the EU's foreign policy decisions,
- ❑ allowing a greater say within the EU framework to member states bearing the major burden of any EU action (especially but not only militarily), and (last but not least),
- ❑ leadership and decision-making arrangements which will enable the EU to operate effectively in real time.

The new post of EU Foreign Minister¹ will have a key role to play in all these changes.

¹ The remainder of this paper will regularly use the term 'Minister' as short-hand for references to the EU Foreign Minister where it would be clumsy to repeat the whole title of Minister.

The institutional arrangements and problems

The very creation of an EU Foreign Minister with real authority is an important recognition of the need for more effective leadership than has come from the six-monthly rotating presidencies of variable capability, priorities and credibility, both internally and with the EU's main interlocutors, notably the US. The responsibility for managing the CFSP and chairing the Foreign Affairs Council, which the Minister will take over from the Presidency under the terms of the constitutional treaty, will put him² in a strong position. So will holding the Vice-Presidency of the European Commission. But the Minister runs the risk of schizophrenia in triple-hatted accountability to the Council which he chairs and leads; to the Commission of which he will be the Vice-President responsible for external affairs; and to the President of the European Council who will represent the EU abroad 'at his level'. The Minister risks also having serious (and time-consuming) management responsibilities for a large budget and trade and cooperation agreements with third countries, as well as for the creation and running of the new External Action Service which will serve him.

While institutional arrangements are far from being the only or even the main consideration, it is necessary to recognise their importance. Unlike the foreign minister of a member state, the Minister will have no authority based on the importance of his country or other reasons why others have to pay him attention. Unlike even the smallest member state, he has no vote and therefore no veto. Such power base as he will have will depend on such nebulous but crucial factors as his own personality, the confidence member states have in him and the acceptability of his proposals and actions, all of these building on the authority bestowed on him by the treaty and the framework which it creates for him to operate in. It has been the absence of such authority which has so handicapped Javier Solana

² The use of the words 'he', 'him' and 'his' are shorthand references for both genders. It is simply too clumsy in paper laced with so many references to one personal post to continually say 'he/she', 'him/her', or 'his/hers'.

as High Representative for the CFSP (HR/CFSP), despite the impressive but limited success he has achieved through the force of his own personality, energy and skills. So some discussion of the new institutional arrangements is unavoidable.

The creation of the post of Minister is widely and rightly seen as one of the most important changes wrought by the new treaty. It does not, as is widely and inaccurately thought, combine the jobs of the HR/CFSP in the Council and of the Commissioner for External Relations. Rather it gives these two separate functions to the same person and adds some others. He is to replace the rotating Presidency in the external relations field (except, somewhat anomalously, in the Committee of Permanent Representatives even when it is considering external relations issues). Accordingly he will chair the Foreign Affairs Council with a mandate to make proposals, implement Council decisions and represent the EU in the area of CFSP and European Security and Defence Policy (ESDP). He is to have his own bureaucratic support in an External Action Service answerable to him as Minister and composed of officials from the Council Secretariat, Commission and member states.

At the same time, as a Vice President of the Commission, the Minister is to 'ensure the consistency of the Union's external action' (ie cross-pillar, in the old terminology) and he will be responsible in the Commission for its external relations, bound accordingly by Commission procedures (although the UK succeeded in adding to this provision in Article I-28 a devilish little phrase 'to the extent that this is consistent with paragraphs 2 and 3', which are the paragraphs giving the Minister responsibility for the CFSP and chairing the Council).

In addition to all this, the Minister must work with a President of the European Council appointed for 2 ½ years (renewable once) who 'shall at his or her level and in that capacity ensure the external representation of the Union' on CFSP matters, albeit 'without prejudice to the powers' of the Minister.

The EU's external representation outside the CFSP field will continue to be exercised by the President of the Commission in which the Minister is a Vice President.

Evaluation of the new arrangements

A tangled web indeed, with competitive functions embodied in a single person, the Minister, with loyalties to at least three different constituencies (President of the European Council, the Foreign Ministers whom he is to chair and the College of Commissioners where he is a Vice President). Old conflicts between the Presidency, HR/CFSP and Commission in the external relations field may be removed by these arrangements. But it is not obvious that new and more difficult conflicts have not been set up. Up to now it is not conflicts between Solana and Patten that have been a serious problem (although competence arguments have sometimes been quite sharp at lower levels). Rather it has been rivalry stemming from successive Presidencies unwilling to delegate their responsibility under the existing treaties for managing the CFSP and chairing the Council. Yielding pre-eminence to someone whose function under the treaties is still merely to 'assist' the Presidency has been a 'bridge too far' for most Presidency Foreign Ministers eager to gain political profile back home from their six-month tenure.

Most commentators have seen the bestowing on a single person of the HR/CFSP and Commission functions as the key change. It is indeed important, although the convergence between Council and Commission that it brings could have been achieved in other ways without the institutional contradictions which the new arrangements will create. (For example, the HR/CFSP could have attended Commission meetings with the right to speak, or the relevant Private Offices/Cabinets could have exchanged liaison officials.) The really important change in the new treaty is however not this. It is rather the combining of the functions of Presidency and HR/CFSP, with the empowerment that goes with that. The chairing of the External Relations Council and the duty to make proposals on CFSP will give him considerable authority, an authority which he will however need to manage carefully in relation to his membership of the College of

Commissioners (not least in taking advantage of the weasel-wording introduced by the UK referred to above). One of his most difficult relationships may indeed be with the President of the Commission, who must reconcile himself to having as a Vice President someone who, as Minister appointed by the European Council and answerable directly to the Foreign Affairs Council, is in large part removed from his authority. Additionally the Minister could have a difficult relationship with the President of the European Council. The latter's role in the field of external relations is specifically 'without prejudice to the powers of the Minister'. But if human nature is any guide, the President will find it hard to resist the temptation to stride the world stage as an international statesman.

The pillar structure lives on

It will be evident from all this, but nonetheless worth bringing out explicitly, that the new Treaty changes the old pillar structure only in presentational terms. Although no longer called pillars one and two, pillar one's 'community method' of decision-making (on a proposal by the Commission, increasingly by qualified majority vote (QMV), answerable to the European Parliament (EP) and subject to the jurisdiction of the European Court of Justice (ECJ), will continue to apply where it applied before. (In oversimplified but shorthand terms, in the fields of aid and trade). Similarly, CFSP decisions will continue to be excepted from the Commission's sole right of initiative as from the jurisdiction of the EP and the ECJ, with decisions overwhelmingly by unanimity (QMV being permitted only for certain implementing decisions). The Commission's role is even a reduced role by comparison with the existing treaties: it will have no right to make proposals on CFSP matters other than in support of the Minister, who will not be bound by his Commission colleagues' views on CFSP issues. The Commission is of course already excluded from any role on military matters).

The decision-making paths will also continue to be different: CFSP issues will continue to be dealt with by the Political and Security Committee (PSC), which will be chaired by a deputy of the Minister. Other external relations issues will continue to be dealt with by the

Committee of Permanent Representatives (Coreper), chaired by the rotating Presidency (as pointed out above, anomalously, since the issues will then be referred for decision to the Foreign Affairs Council chaired by the Minister). The fate of the external relations working groups below PSC/Coreper level, which deal with both CFSP and economic issues, is not decided by the new treaty. But it would be in the logic of the treaty for them to be chaired by the Minister's staff (insofar as the treaty's provisions in this whole field can be said to have logic). It would also be in the logic of the new institutional arrangements for the Minister himself or a senior member of his staff to attend Coreper for all external relations items. Incrementally the eventual logic, in any new treaty, will be to have a Coreper for external relations incorporating the present PSC, thus combining at the ambassadorial level the CFSP and economic issues which are already combined at the working group level and the Ministerial/Council level. Other formations of Coreper would deal with other issues. This does however raise difficult questions about how to ensure the coordination of external with domestic EU policies, which is no doubt why the idea has been talked about but not pursued.

The External Action Service (EAS)

The Foreign Policy Centre will publish a separate paper on the External Action Service (EAS) and it is discussed here only to the extent that its responsibilities will reflect, if they do not actually define, the Minister's area of direct authority.

Perhaps through infelicitous drafting, the EAS is created in the CFSP chapter of Part 3 of the constitutional treaty (article III-296.3). To regard the EAS as just a CFSP instrument would however be contrary to the whole intention of the treaty, which is to combine the EU's external relations instruments, whether CFSP or Community, under the single command of the Minister. It must be assumed that the EAS will do this. Nonetheless the question arises how far the Minister's and the EAS' remit extends. Many vested interests are affected, especially in the Commission where the EAS' gain could be seen by many as the Commission's loss, in effect a zero sum game

for the Commission, through the removal to the EAS of staff and functions. The decision will be taken by the European Council itself, acting on a proposal from the Minister 'after consulting the European Parliament and after obtaining the consent of the Commission'. So there will be plenty of room for argument and dissension.

Discussion between the institutions is only just starting, with the outcome inevitably uncertain. However a credible outcome would be to put in the EAS all the Commission's geographical desks/responsibilities now spread among several Commissioners and Directorates General (DGs). This would affect all the desks in the present DG for External Relations (Relex), the Western Balkans, Turkish, Romanian and Bulgarian geographical desks now with DG Enlargement, and the African desks now with DG Development. The Council Secretariat is more straightforward: the EAS would take the whole External Relations and Politico-Military Affairs DG, the Policy Unit and probably the Military Staff, but probably not the Situation Centre because of its importance to Justice and Home Affairs Ministers.

Such an outcome would give the Minister very large responsibilities, including the direction of the aid and trade provisions of the EU's Association/Partnership and Cooperation Agreements with the countries for which he is responsible. Trade policy/WTO, enlargement and aid policy are largely separate subjects and could remain under their own Commissioners outside the EAS (but drawing on its geographical expertise), while still subject to the coordinating role of the Vice President (coincidentally Minister) in his role of ensuring coherence in the Commission's external relations.

Even without responsibility for trade policy, enlargement and aid (and with AidCo, which actually disburses the money, as a separate agency outside the EAS), such extensive responsibilities, on top of his responsibilities as Chairman of the Foreign Affairs Council responsible for managing the CFSP, would severely tax one man unless he had someone to share them with. In a sensible world the Minister should have at least one Commission deputy (the obvious candidate being the present External Relations Commissioner) to take the management of his Commission empire off his shoulders.

This would however need to be reconciled with the 'sacred' principle that Commissioners are equal (although the Minister is after all a Vice President), and with the fact that the Treaty does not provide for a Commissioner to operate in (or over) the EAS, let alone in the CFSP field – since CFSP and economic aspects will be integrated in the EAS.

The President of the European Council, who will be based in the Secretariat General, would likewise draw on the EAS (and on the Minister himself) for his support in external relations: it would be very conflictual for him to have anything more than an exiguous foreign policy staff of his own.

Commission role in a Council chaired by its Vice-President

The Minister's chairmanship of the Council gives rise to an interesting question. The Commission's role in the Council is quite different from that of the Presidency/Chairman. How then is the Commission to be represented in a Council chaired by a Commission Vice-President: should the Commission role be subsumed into that of Chairman's? If not, should it be represented by someone from the EAS, who is however, by definition, under the orders of the Chairman? Or by someone quite different outside the area of competence of the EAS/Minister altogether? If so, by whom? And what then happens to the responsibility of the Minister in his Vice Presidential capacity for ensuring the coherence of the Commission's position in external relations?

The implications for the Minister

Whatever the answer on Commission representation in the Council (and in official-level bodies chaired by the Minister's staff), an EAS with the responsibilities identified in the preceding paragraphs would give to the Minister control of the political and economic instruments of the EU's relations with all third countries and regions, surely the

main intent of the treaty drafters. Where however will his loyalties lie?

As a member of the College, the Minister will be expected to attend its weekly meetings (absences permitting) and to play his part in its collegial discussions/decisions/proposals. Since he will need to get his aid and trade proposals (old pillar 1) through the college, he will have to have the confidence and support of the President and his fellow Commissioners. However, no matter how time and attention-consuming this is, the main source of his authority will be the confidence he commands among the member state foreign Ministers: no amount of authority over Commission-controlled instruments will make up for the loss of this.

His ability to achieve it will be tested constantly: wearing his Council hat and chairing the monthly Foreign Affairs Council, he will be in regular touch with his Ministerial colleagues on issues like the Balkans, the Middle East, Iran, Congo, and non-proliferation (to mention only some obvious ones), be responsible for the implementation of the CFSP (often involving travelling), and meeting foreign leaders (again often travelling to do so). At least he will be able to do so on his own, replacing the cumbersome and ineffectual Troika of Presidency, succeeding Presidency, HR/CFSP and Commission, since all of these functions will be vested in his own person.

Combining all his different roles, and allocating his effort among them, will be a challenge for the Minister, even for a workaholic like Javier Solana. But his main challenge will thus be to command the confidence of the member states. Since CFSP decisions, certainly for primary policy, will still be by unanimity among the member states, he will have to command the confidence of all 25 of them.

An EU of 25 makes the role of the Minister both more important and more difficult. Real policy discussion round a table with 25 Ministers is problematic. At the same time the support or at least acquiescence of all them is necessary for the unanimous decisions which are the norm in CFSP. To avoid this producing only lowest common denominator policies, usually on unimportant or

uncontroversial issues, the Minister will need to develop arrangements outside Council meetings, coming to the Council with pre-cooked positions which command the support of as many of the EU's players as possible, and certainly of the most important ones.

On some issues, such as Congo or East Timor, these will not always be the large member states. However more often than not, and on the big international issues, notably those involving the US, they almost invariably will be. This means that the Minister must be able at least tacitly to deal more with the big EU actors than the others, while at the same time not seeming to take the others for granted.

Contact Groups: Background

Partly because of enlargement and partly out of pragmatism, Member states are realistic enough to accept this, providing it is not rammed down their throats. They are more-or-less reconciling themselves to a reality which many at first resented furiously when it first developed just a decade ago with the establishment of the so-called Contact Group on Bosnia.

This happened in 1994, not entirely coincidentally during a Greek Presidency with which the US was not prepared to deal as the spokesman for the EU. In consequence the Presidency, and thus effectively the EU itself, was for a time largely excluded from Balkan policy while the US (and Russia) to all intents and purposes dealt with the 3 or 4 large EU member states in the Contact Group. These came to the Council for little more than the EU's rubber stamp of approval. They took questions and listened to what their colleagues said, but they did not take instructions.

The resentments and friction have died down over the years. The Presidency (and the Council Secretariat, to provide continuity beyond the six-month presidencies) came to be invited to the meetings (eg at Rambouillet in 1998 to negotiate a settlement with Milosovic and the Kosovar Albanians). Although they participated more or less passively, their presence was seen to safeguard at least symbolically an EU interest beyond what could be offered by

France, the UK, Germany (EU3) or Italy (whose commitment to EU solidarity was powerful when excluded, only to disappear when included). The Contact Group was paralleled by other meetings in a variable geometry of formats, usually on the Balkans. The EU3 were always present, with rotating other participation: quads with the US but without Russia, quints of varying composition, sometimes an EU5, sometimes Europeans plus the US.

Since 2000, with the arrival of Javier Solana, the HR/CFSP (or at official level his representative) is also typically invited, providing reassurance to the excluded that their interests are being watched over, although the HR/CFSP is always subject to the suspicion that he knows which side his bread is buttered on, namely that of the large member states.

The arrival of Javier Solana at the end of 1999 changed the dynamic in other ways too. Although it took him a while to establish himself, not least because of the insistence of Presidencies on their prerogative of running CFSP, by the end of 2000 he was carving out an increasingly large and important role on the Balkans, taking the lead for the EU in crises in Serbia-Montenegro and Macedonia (where successive Presidencies were happy to leave time-consuming spadework to him), and in the Middle East (where however successive Presidencies have continued to insist on participating in the Quartet despite the fact that, at Kofi Annan's invitation, he represented the EU alone at the first meeting). But behind it all the EU3 have continued to act themselves, whether in the Balkans (where after all they have troops), Africa (cf France in the Ivory Coast), Iran or the Middle East, not to mention Iraq. Where they act together (Iran is the most obvious example, but also in the ESDP area), they are, in effect and without making any great secret of it, seeking to establish an informal "directoire" to lead EU foreign policy. While this is a practical necessity for an effective CFSP in an EU of 25, if not in one of 15, the concept of a "directoire" is unacceptable to the others and resentments are latent, always ready to burst into the open.

Higher priority for common policies

The Minister will have a crucial role in managing this difficult relationship between the ins and the outs, both those who accept that because of their size they are inevitably out and even more those on the margin who think they should be in (mainly Italy, but also Spain, Poland, Netherlands). Dealing as he must with the big EU players without losing the others will be a continuing challenge for him. But for all the authority which the new treaty will give him, his ability to exercise it will depend as much on the member states as on him. They (and especially the larger ones) must get their act together. How?

In the first place they really need to want common policies, in other words, in the cliché phrase, they must demonstrate “political will”. This can only mean giving a higher priority, as an objective in itself, than most now do to having a common policy on the matter at issue, giving practical recognition to the founding principle of the CFSP that national policies not shared by the EU as a whole will carry less, and perhaps no weight in the wider world. A higher priority for the achievement of common policies will require a greater accommodation, and sometimes subordination by some countries, including among the EU3, of their preferences to other people’s for the sake of having a common policy.

This is very hard to achieve on important issues. Iraq was a bridge too far. But it has been done. Back in 1991, before the EU and the CFSP even existed, the twelve member states of the then EC rallied to the German position on the recognition of Croatia despite the fact that it was widely thought to be mistaken, drove a coach and horses through the EC’s agreed existing policy (no recognition of any Yugoslav republic until they had reached agreement among themselves), and had as its foreseeable (and foreseen) sequel the brutal war that followed in Bosnia. The member states were thus capable, on at least one occasion, of giving a higher priority to having a common policy than to their view of the merits of that policy.

The recognition of Croatia was a case of most member states preferring to be wrong together than right separately. That is hardly a recipe for future success. Member states must feel confident that a sensible approach has been sufficiently thrashed out for everybody to sign up to it, or at least (in accordance with the treaty) to “constructively abstain”. There is no simple formula for achieving this happy state, but it will need to include:

- ❑ Real policy debates within the EU, in confidence (the EU is far too leaky), so that everybody feels part of the decision-making process. Such debates do already take place, notably at the six-monthly informal foreign Ministers’ meetings (Gymnichs) and over restricted lunches at the monthly Councils, as well as, for example, among Political Directors. But they are relatively rare, have overloaded agendas and, at 25, can hardly be called intimate. This paper is not the place to solve the problem: but it needs to be solved. The Minister, his networking skills and his power of proposal will be an important part of the solution
- ❑ Agreement on the issues justifying a special effort to have a common policy. The Israel/Palestine issue is clearly one (where actually there is more or less a common policy). Another should be Russia, where there is evidently not a common policy, despite the selection of Russia at the Vienna European Council in December 1998 as the subject of the EU’s first Common Strategy under the new Amsterdam Treaty. The drawing up of that Common Strategy was indeed a lesson in how not to draw up a common policy; it is a largely vacuous public document doing little more than catalogue existing policies, activities and wish-lists. It was accompanied by no serious discussion of the fundamentals of the EU’s relationship with Russia and by an all too ready willingness to cheapen language by the use of terms like “strategic partnership”, with regard more to their short-term “feel good” value than to reality.

Who is in charge?

The Minister, empowered as he will have been by the treaty, is clearly only one of the EU's foreign policy actors, and not the most important one. As Vice President of the Commission he can bring to bear the aid and trade instruments under the Commission's control. But he cannot even do that without the agreement of the Council. The member states composing the Council, especially the larger ones with an active international profile, are themselves individually important actors. How member states have worked in the past can give some instructive pointers to the way they will work in the future, including on the latitude they will give to the Minister, in the development of the CFSP. A striking thing about the three examples discussed below is their diversity.

First, the Balkans: Javier Solana started to establish an ever expanding niche for himself on behalf of the EU from late 2000 over the Serbian elections and in the successive crises in southern Serbia/Presevo, Macedonia and Serbia/Montenegro. The Presidencies of the time found it too arduous to keep up with, or give the time to, fast moving, complex situations, and were happy in effect to delegate to Solana. The Council at large was delighted that somebody was prepared to put their back into these issues on behalf of the EU. Solana's hard work and success greatly enhanced his stature with member state governments who had frankly been asking themselves in the early months of 2000 after he took up his appointment where the beef was. With full credit to Solana for thus succeeding in breaking out of the constraints of a Presidency-managed CFSP (as discussed above), he was in fact following in the footsteps of earlier EU (then EC) special representatives in Bosnia in the early 1990s, David Owen and Carl Bildt. The Council appointed and basically asked them to get on with it within the framework of the (sadly unsuccessful) policies it laid down. This pattern of Council delegation to its high-level representative (in future the Minister) is thus well established in the CFSP tradition, and an obvious route for the future. It is the context in which Javier Solana felt able to say, without contradiction, in an interview in the *Financial Times* of 12 July 2003: 'As time goes by I do whatever I want. I know what

people think. I pursue my own agenda. I don't have to check everything with everyone. I would rather have forgiveness than permission. If you ask permission, you never do anything'.

Second, Iran: The self-selected mission of the EU 3 Foreign Ministers to Tehran during the Italian Presidency in the first half of 2004 was a manifestation of what happens when one or more member states feel strongly that they cannot work in the EU framework, in this case with the Italian Presidency: they either do nothing, which was unthinkable in the face of the potential development of an Iranian nuclear weapons capability and the US reactions to that; or they go it alone, outside the EU, which is what they chose to do. A consequence of excluding the Presidency was the exclusion also of the HR/CFSP as well as the Commission. In bureaucratic justification, they did have a separate locus for acting outside the EU, namely as Governing Board members of the IAEA and of the UN Security Council, in neither of which the EU as such has any status. Nonetheless they were representing EU policy both generally and because the EU's offer of a trade and cooperation agreement and a relationship with the EU was seen as an important inducement to Iran to give up nuclear weapons development.

The visit of the EU3 Foreign Ministers, having appeared to achieve the desired result (suspension of enrichment and processing activities), it was hard for member states (and even the US) to criticise. It was nonetheless widely regretted that at least the HR/CFSP had not been brought in. Conscious of these grumblings and of the need to keep the EU together, the EU3, in their second attempt to bring the Iranians onside, this time at Political Director level, did include the HR/CFSP. On that basis they got the endorsement of the European Council on 4/5 November 2004 for their activities in terms which effectively created a new way for the EU to be represented. The text of the European Council conclusions is worth citing: "It (the European Council) confirmed that the EU and its member states would remain actively engaged – notably through the efforts of France, Germany and the UK and the High Representative – with the objective ...etc..." In the agreement with the Iranians on 15 November, this team were in consequence able to describe themselves as the E3/EU and to commit the EU: "Once

suspension has been verified, the negotiations with the EU on a Trade and Cooperation Agreement will resume. The E3/EU will actively support the opening of Iranian accession negotiations at the WTO”

Like Solana following in the footsteps of David Owen and Carl Bildt in the Balkans, this is a throwback to an earlier precedent: including the Presidency/Council Secretariat/HR/CFSP in the activities of a self-selected group of EU large countries, thereby allowing them to speak for, or at least as if for, the EU. This is what happened at Rambouillet in 1998 in the run up to the Kosovo war; now it has been explicitly formalised over Iran. Is this a future model? Or is it a transitional step towards a point (maybe the entry into force of the constitutional treaty and the formal existence of the Minister) at which the Minister would take over the lead?

The answer depends essentially on the track record which the Minister (supported by his EAS) establishes: it could eventually happen, but it is unlikely to happen quickly. In a case like Iran the nuclear expertise is available probably to no more than about three member states and certainly not the staff of the future Minister, and intelligence sharing probably still has some way to go as well. Perhaps more to the point, the presence of the EU3 in the IAEA and the UN Security Council, and also their (especially British) in-depth relationship with the US, none of which the future Minister can expect to match soon, will ensure the leading role for the EU3 rather than the Minister in such circumstances. The significant aspect is that the European Council has now blessed this kind of approach.

The lesson to draw from this is neither to bewail an apparent absence of CFSP, nor the opposite, to argue that it shows the irrelevance of CFSP. On the contrary, what it shows is the variety of means by which the CFSP can be pursued to greatest effect, namely successful outcomes (which is after all what matters). These now include putting member states with a comparative advantage in the lead to use their clout when it is greater than the clout of the future Minister (or present Presidency). At the same time it is essential that the future Minister be involved even if he is not in the lead. Once confidence in the institution of the Minister has

developed, and the institutional difficulty of the EU not being a member of the UN is overcome (neither of which will happen overnight), then one can hope that the Minister would take charge of such dossiers. Meanwhile he can play an important supporting and confidence building role.

The third case, the Israel/Palestinian problem, is different again. This is another issue on which the HR/CFSP had to wrest a role for himself from successive Presidencies, a rivalry which may not disappear until the Presidency itself disappears with the coming into force of the constitutional treaty. Solana became an actor himself when he accepted a personal invitation from President Mubarak to the Sharm el-Sheikh summit in 2000 when the then French Presidency saw no great point in the EU (and therefore France) attending. Solana subsequently actively represented the EU in negotiation of the Mitchell and Tenet Plans, but saw his role in the Quartet weakened soon after it was created in early 2002 when successive Presidencies (and then the Commission) insisted on taking part as well.

On the other hand the Council routinely now charges the HR/CFSP (and the Commission in its area of competence) to follow up on Israel/Palestine issues. The European Council of 4/5 November, for example, endorsed Solana's proposals for a short term action programme relating to security and Palestinian elections, called on him (and the Commission, which controls the money) to report regularly on the progress of these initiatives and mandated him (to the exclusion of the Presidency as well as the Commission) to seek a broader political perspective by consulting with the key players, "especially the other members of the Quartet" (ie US, Russia and UN), thus giving him another leg-up in the management of at least this part of the CFSP. Moreover there are hints that the next two Presidencies (at the time of writing), Luxembourg and the UK, might be prepared to leave the Quartet to the HR/CFSP, Luxembourg probably out of recognition that he can do a better job than they can, the UK probably because they do not need this to make their influence felt. (They also no doubt see their interest in strengthening the position of the future Minister, on whom they expect to be a

major influence, less in the light of their own Presidency than in the perspective of future weak or maverick Presidencies).

These developments represent an evolution towards putting to the fore the person (once he is Minister) who will bring together the political aspects with the economic instruments controlled by the Commission. With the chairmanship of the Council and the duty to make proposals the Minister can therefore expect to play a leading role in the EU's CFSP on the Middle East. But another recent event demonstrates once again, if demonstration were needed, that he will not necessarily or always play the leading role. As in Iran, the EU 3, in this case singly rather than together, feel on an issue like the Middle East that they have their own separate contribution to make.

The event was Tony Blair's visit to Washington on 12 November. According to the Financial Times he went with a "work-plan" in his pocket to be agreed with George Bush for how to tackle the Middle East agenda, although the details "would not be published". There was evidently no substantive prior consultation with EU partners or the HR/CFSP. They will no doubt have been briefed afterwards in general if not in detail (detailed information on what passes between a British Prime Minister and a US President is vouchsafed only to a very small inner circle) over the usual informal, restricted, off-the-record lunch of the External Affairs Council on 22 November. And the UK line is no doubt that Tony Blair was acting within the framework of existing EU policies (support for the Road Map etc, as set out in the European Council conclusions earlier in the month). Interestingly there have been no complaints about this unilateral UK action, no doubt out of the recognition that if anyone was going to get movement out of George Bush it was Tony Blair, speaking moreover as British Prime Minister, not for the EU.

The United States

One of the most important effects of the Iraq war was the rifts it opened up, or rather exposed, both across the Atlantic and within the EU, thus exposing also the fragility of the CFSP. The predominance of the US on the world stage, the military and political

weakness of the EU and the fifty year dependent relationship with the US in NATO and as the leading western democracy have combined to ensure that the EU's CFSP is essentially a function of relations with the US.

The EU can be effective in foreign policy terms if the Americans are not engaged and are content to leave things to the EU; or if the EU is willing however reluctantly to follow a US lead; or if the EU and the US can agree on a common approach (at least approximately, as so far over Iran). In all these circumstances the decision of the US shapes the EU's role. Equally if Europe and the US are both engaged but pulling in very different directions (or the EU is divided, as over Iraq), the EU and its CFSP are ineffective. (Iran is in a grey area between an agreed common approach and pulling in different directions. It will be an interesting and important test of the trans-Atlantic relationship if it slips towards the latter).

Most Europeans are unhappy, even if they are resigned, to this situation. It can in the end be remedied only if the member states arrive at an understanding about the proper EU stance in the EU-US political relationship, not least between the atavistic Gaullist/autonomist and the British/Atlanticist/loyalist views which Iraq so cruelly ventilated. The public remarks of Chirac and Blair since the US election and in the context of Chirac's visit to the UK on 18-19 November give little hope that a rapprochement on this is near, or indeed possible under present leaders.

Progress can still be made in the other areas where there is EU-US agreement at some level. But even in these areas, agreement is often fragile and could come unstuck: Iran and Israel/Palestine are obvious examples. While NATO remains an essential element in trans-Atlantic relations for Europeans, not least in providing the ultimate security guarantee vital to many EU member states, it is in the EU, not the US-dominated NATO, where the Europeans can forge their policies and bring together political, economic and (to a still limited extent) military capabilities. It is therefore the EU-US rather than the NATO relationship which will be the important determinant of future trans-Atlantic cooperation. Among the Minister's most challenging tasks will thus clearly be managing the

relationship with the US on the one hand and, on the other, conflicting pressures within the EU on how far to acquiesce in or declare independence from US policies unacceptable to at least some member states.

There will always be a hole at the heart of the CFSP until we Europeans have a common approach to how best to influence the policies of a US which bestrides the world stage. There are other holes, for example the weakness of the EU's efforts to give itself a real military capability (although the development of the battle group concept in ESDP will help). Unless and until these holes are filled it would be illusory to think that the EU had a robust "foul-weather" CFSP giving it the voice in the world to which its political rhetoric aspires. But a fair weather CFSP, working only with the US (except where the US does not want to be involved) is not to be despised and can deliver important results, sometimes even with only the reluctant acquiescence of the US (e.g. Iran). The US needs European cooperation too (and may increasingly even realise this).

Conclusion

The creation of the Minister with the authority given to him in the constitutional treaty is a big step forward for the CFSP. Although the different and sometimes conflicting responsibilities will cause him problems as well as empowering him, his authority will give him considerable weight. But he will need to use it cautiously because he will need to command the confidence of the member states, the important ones to create policy in the first place, the others to follow it. This begs the question of who is important: it will often be the EU3, but other combinations are possible for different issues: for example, Belgium in Africa, Poland and others in Eastern Europe.

The Minister will not be the sole initiator or executor of policy. Individual member states will frequently take on this role, as the European Council recognised explicitly over Iran, but he will have to be associated with such initiatives if they are to become EU policies. This variable geometry should be seen as an advantage, not a disadvantage of the CFSP at 25. Nonetheless the evolution of a

robust CFSP must be in the direction of the further steady empowerment of the Minister to initiate, negotiate and act for the EU as he and his supporting EAS (through effective management of his different responsibilities towards the Council, the Commission and the President of the European Council) command increasing confidence among the member states.

Commanding this confidence will be among his greatest challenges. Although the treaty gives him the responsibility to make proposals to the Council, he will need to be careful how he exercises it. When Solana told the FT in July 2003 that "as time goes by I do whatever I want... if you ask permission, you never do anything", a key element was "I know what people think". He can afford to stick his neck out only if he knows, from his bilateral networking, that his head is not going to be chopped off. Skilful networking is going to be crucial to making acceptable to all the networking he must inevitably do more of with the leading players. At the same time his success will depend on his ability (connected as that is with their willingness) to keep within the CFSP framework the large member states with pretensions to conduct policies separately if they so chose. His personal involvement in policy will be crucial to achieving this, not least in the eyes of the smaller member states

His other key challenge is likely to centre on relations with the US. He will have a major contribution to make to tending the relationship both generally and over particular issues. But it will not be easy. Both sides of the Atlantic may, for example, believe genuinely that the death of Arafat opens up new opportunities in the Middle East, so that there is an immediate convergence of interests. But it is not at all fanciful to question how long this will last. The poor future Minister will find himself struggling to produce and maintain both a common EU view and a common, or at least compatible, trans-Atlantic one. He will need a lot of help.

Not least from the UK. It is early days, and the early signs may be hopeful, but it would be optimistic to think that the dominant view in the second Bush Administration will be genuinely supportive of European aspirations for a CFSP: ad hoc coalitions, typically involving the UK, have suited Washington's short-term interests well.

The challenge will be particularly acute for a UK which has always refused to accept the idea of a choice between Europe and the US. Iraq faced the UK with precisely this choice. The UK arguably got away with ducking it because the EU was itself so divided, but equally plausible is that, faced with the choice, the UK chose America and got away with it, also precisely because the EU was so divided. What happened over Iraq could happen over other issues, with possibly tough times ahead for the Atlantic relationship, for the UK and for the Minister.

And what about the UK?

The UK did not originally support the idea of a strong figure in Brussels for the CFSP. Their candidate for the post of HR/CFSP in 1999 was a very distinguished, but nonetheless official-level former ambassador rather than a British Javier Solana. However, once appointed, Solana received strong support from the UK, which did its best to build him up. Recognising his potential importance, the UK has made a point of making able senior British officials available for his staff and put a lot of effort into building up the intelligence capability in Brussels under Solana's control. The UK will no doubt continue to build on this foundation by working closely with Solana, ensuring that he is well briefed and familiar with British views and assuring his participation in EU3 and similar activities. As he and his staff work their way into the job it would be appropriate for him to be put up front more and more as the spokesman for the EU. It must be hoped that the UK will promote this. It does not mean the replacement by Solana of the Foreign Ministers of countries like the UK and France, but it does mean their playing more of a supporting and less of a *prima donna* role. A CFSP for 25 countries will continue to be just that, a common not a single policy, exploiting also the strengths and contacts of the member states. It will be a long time before this process has reached a stage at which the present EU permanent members of the UNSC have enough confidence (let alone humility) to transfer their seats and vetoes to a single EU representative. And there are many slips between cup and lip to be avoided before that, both in the internal development of EU

consensus on foreign policy issues and in the trans-Atlantic relationship. The Minister will be walking on a lot of egg-shells.

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